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Emergency Rules

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of School Personnel (Part CXXXI.203)

In accordance with the provisions of R.S. 17:6(A)(10) and the Administrative Procedure Act (APA), R.S. 49:953(B)(1) et seq., the Board of Elementary and Secondary Education has amended LAC 28:CXXXI in Bulletin 746 —*Louisiana Standards for State Certification of School Personnel*. In June 2019, Educational Testing Services (ETS) regenerated the Praxis Core Academic Skills for Educators: Reading (5713), Writing (5723), and Mathematics (5733) and the School Superintendent Assessment (6991), effective until July 31, 2020. The exercise of the emergency provision is necessary to ensure the ETS-recommended scores and effective dates for these exams take immediate effect. This Declaration of Emergency, effective October 16, 2019, is for a period of 120 days from adoption, or until finally adopted as Rule.

Title 28 EDUCATION

Part CXXXI. Bulletin 746—Louisiana Standards for State Certification of School Personnel Chapter 2. Initial Teacher Certification Subchapter B. Testing Required for Certification Areas §203. Certification Exams and Scores (Formerly §243)

A. ...

1. Core Academic Skills for Educators². Teacher applicants in all content areas must pass all three Praxis core academic skills tests for educators.

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

| Core Academic Skills for Educators | Test # | Score | Effective Date |
|------------------------------------|--------|-------|-------------------------------|
| Reading | 5712 | 156 | Effective 1/1/14 to 7/31/2020 |
| Writing | 5722 | 162 | |
| Mathematics | 5732 | 150 | |

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

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

² NOTE: An ACT composite score of 22 or an SAT combined verbal and math score of 1100 or higher (new SAT) or 1030 or higher (pre-March 2016 SAT) may be used in lieu of PRAXIS 1 PPST exams or core academic skills for educators in reading, writing and math by prospective teachers in Louisiana.

A.2. - D. ...

* * *

E. Administrative and Instructional Support Areas

| Certification Area | Name of Test | Area Test Score |
|----------------------------|---|-------------------------------|
| Mentor Teacher | Louisiana Mentor Teacher Assessment Series—Elementary | 6 |
| | Louisiana Mentor Teacher Assessment Series—Secondary ELA | 4 |
| | Louisiana Mentor Teacher Assessment Series—Secondary Math | |
| | Louisiana Mentor Teacher Assessment Series—Universal | |
| Content Leader | Louisiana Content Leader Assessment Series | 5 |
| Educational Leader—Level 1 | School Leaders Licensure Assessment (1011 or 6011) | 166 (Effective until 7/31/20) |
| | School Leaders Licensure Assessment (6990) | 151 (Effective 9/1/19) |
| Educational Leader—Level 3 | School Superintendent Assessment (6021) | 160 (Effective until 7/31/20) |
| | School Superintendent Assessment (6991) | 162 Current- |
| Guidance Counselor K-12 | Professional School Counselor (0421 or 5421) | 156 |
| School Librarian | Library Media Specialist (0311 or 5311) | 136 |

All PRAXIS scores used for certification must be sent directly from ETS to the state Department of Education electronically, or the original PRAXIS score report from ETS must be submitted with the candidate's application. The mentor teacher certificate may be earned by passing one of the cohort-specific Louisiana mentor teacher assessment series tests.

F. Repealed.

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

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

Shan N. Davis
Executive Director

1911#005

DECLARATION OF EMERGENCY

Office of the Governor Boxing and Wrestling Commission

Boxing and Wrestling Standards—Class B Licensing
(LAC 46:XI.525)

The Louisiana State Boxing and Wrestling Commission does hereby exercise the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B). By this Emergency Rule, the commission will amend Chapter 5, Subchapter B. Class "B" Wrestling to provide small event wrestling promoters relief from the responsibility of verifying bloodwork lab reports. This responsibility was formerly held by ring doctors and/or event coordinators under Chapter 1. General Rules. Due to the promulgation of R.S. 4.83(B) in 2018, Class B events are not required to have a doctor, event coordinator or commissioner in attendance at these events to review and verify bloodwork lab reports to ensure the validity and negative results of HIV, Hepatitis B and C. The commission will provide an avenue for collection of these Class "B" lab reports and establish a database whereupon the commission will become responsible for the review and verification of these lab reports for a fee of \$150 per event. The database will contain no personal medical information. This database will be restricted to the name of the contestant, date of blood testing, the negative or positive results and expiration date so as to track when contestants require new testing every six months in accordance with General Rule §108.A Medical Requirements under this title.

This Emergency Rule is effective November 20, 2019, and will remain in effect for a period of 120 days, unless renewed by the Commissioner or until adoption of the final Rule, whichever occurs first.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Chapter 5. Professional Wrestling

Subchapter B. Class "B" Wrestling

§525. Wrestling Promoters Class "B" Licensing

A. - F. ...

G. Blood work laboratory results for Class "B" contestants, as required by General Rules, §108.A Medical Requirements, will be reviewed and verified by the commission and the results entered into an established database.

1. Class "B" contestant's lab reports will be submitted to the commission directly from the testing physician's laboratory or independent laboratory via hard copy, fax or other electronic submission to confirm negative results and verification of legitimacy.

2. A fee of \$150 per Class "B" event will be collected by the commission from the promoter to cover the costs of this verification process.

AUTHORITY NOTE: Promulgated in accordance with 4:64, 4:65 and 4:83(B)

HISTORICAL NOTE: Promulgated by the Office of the Governor, Boxing and Wrestling Commission, LR 45:541 (April 2019), amended LR 46:

Addie L. Fields
Administrative Assistant

1911#019

DECLARATION OF EMERGENCY

Department of Health Bureau of Health Services Financing

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

The Department of Health, Bureau of Health Services Financing amends LAC 48:I.4431 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 40:2175.1 et seq. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(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 repealed and replaced the provisions governing the licensing standards for abortion facilities in order to incorporate the changes imposed by legislation, and further revise and clarify those provisions (*Louisiana Register*, Volume 41, Number 4).

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

This Emergency Rule is being promulgated in order to continue the provisions of the December 3, 2016 Emergency Rule. This action is being taken to protect the health and welfare of Louisiana citizens by assuring the health and safety of women seeking health care services at licensed abortion facilities.

Effective November 27, 2019, the Department of Health, Bureau of Health Services Financing amends the provisions governing the licensing standards for abortion facilities.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 44. Abortion Facilities

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

§4431. Screening and Pre-Operative Services

A. - E.1. ...

2. Requirements

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

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

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

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

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

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

b. If the pregnant woman certifies in writing that she currently lives 150 miles or more from the nearest licensed outpatient abortion facility that is willing and able

to perform the abortion at the particular woman's stage of pregnancy, then the physician who is to perform the abortion or a qualified person who is the physician's agent shall comply with all of the requirements of §4431.E.2.a at least 24 hours prior to the woman having any part of an abortion performed or induced.

c. - e. Repealed.

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

a. Except as provided in Subparagraph b below, at least 72 hours before the abortion the physician who is to perform the abortion or the referring physician shall provide informed consent to the pregnant woman seeking an abortion, pursuant to all laws, rules and regulations regarding informed consent. The informed consent shall be communicated both orally and in-person, and in writing, and shall be provided in a private room. Documentation of all such informed consent provided shall be maintained in the patient's medical record.

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

I.c. - 3. ...

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

i. - iv. ...

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

4. ...

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

i. - NOTE. Repealed.

b. At least 72 hours before the abortion, the pregnant woman or minor female considering an abortion shall be given a copy of the department's *Point of Rescue*

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

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

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

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

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

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

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

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

5. ...

a. Prior to the abortion, the outpatient abortion facility shall ensure the pregnant woman seeking an abortion has certified, in writing on a form provided by the

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

b. ...

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

6. - 7.b....

8. Disposition of Fetal Remains

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

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

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

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

c. The pregnant woman shall sign a consent form attesting that she has been informed of these options, and shall indicate on the form whether she wants to make arrangements for the disposition of fetal remains or whether she wants the facility to make arrangements for the disposition and/or disposal of fetal remains.

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:700 (April 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 46:

Interested persons may submit written comments to Cecile Castello, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821 or by email to MedicaidPolicy@la.gov. Ms. Castello 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.

Rebekah E. Gee MD, MPH
Secretary

1911#033

DECLARATION OF EMERGENCY

**Department of Health
Bureau of Health Services Financing**

Pharmacy Benefits Management Program
Pharmacy Copayment (LAC 50:XXIX.111)

The Department of Health, Bureau of Health Services Financing amends LAC 50:XXIX.111 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(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, Bureau of Health Services Financing received approval from the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) of a State Plan Amendment (SPA) relative to assessing drug copays to managed care enrollees and compliance with federal cost sharing rules. The department promulgated an Emergency Rule which amended the provisions governing copayment in the Pharmacy Benefits Management Program in order to add a copay tier to allow individuals with a household income of less than or equal to \$800 per month to be charged \$0 drug copays from April 1, 2019-December 31, 2019 to align with the corresponding CMS-approved SPA in compliance with federal regulations and CMS requirements (*Louisiana Register*, Volume 45, Number 4).

This Emergency Rule is being promulgated in order to continue the provisions of the April 1, 2019 Emergency Rule. This action is being taken in order to avoid federal sanctions.

Effective November 29, 2019, the Department of Health, Bureau of Health Services Financing amends the provisions governing copayment in the Pharmacy Benefits Management Program.

**Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XXIX. Pharmacy
Chapter 1. General Provisions
§111. Copayment**

A. - A.1. ...

a. For dates of service April 1, 2019 through December 31, 2019, recipients with a household income of less than or equal to \$800 per month will not be subject to copay.

A.2. - C.4. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 32:1055 (June 2006), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1181 (June 2017), LR 43:1553 (August 2017), LR 46:

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. Steele 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.

Rebekah E. Gee MD, MPH
Secretary

1911#034

DECLARATION OF EMERGENCY

**Department of Health
Office of Public Health**

Registration of Foods, Drugs, Cosmetics and Prophylactic Devices (LAC 49:I.Chapter 5 and LAC 51.VI.301)

The Louisiana Department of Health, Office of Public Health (LDH/OPH), pursuant to the emergency rulemaking authority granted by R.S. 40:4(A)(13), hereby adopts the following Emergency Rule for the protection of public health. This Emergency Rule is promulgated specifically in accordance with R.S. 49:953(B) of the Administrative Procedure Act (R.S. 49:950 et seq.).

The LDH/OPH finds it necessary to make changes to the Louisiana Administrative Code given the need for regulation of the cannabidiol-containing products made legal for sale to consumers under the provisions of Act No. 164 of the 2019 Louisiana Legislature. The following changes will authorize the LDH/OPH the ability to properly register these items, inspect firms that manufacture such items for human consumption, and conduct oversight of labelling, which could affect the health of Louisiana's citizens and visitors. Further, this Emergency Rule will provide the state health officer the ability to make critical decisions that protect human health. Accordingly, the following Emergency Rule, effective November 7, 2019, shall remain in effect for a maximum of 120 days, or until the final Rule is promulgated, whichever occurs first.

This rule amends §501, §503, §509, and §515, repeals §511, and adds new §§517-529 of Chapter 5 of Title 49—Public Health—Food, Drugs, and Cosmetics. Changes to §501 amend typographical errors in the original language and add new definitions. Changes to §503 reflect changes to the name of the unit and the agency since the promulgation of the original language. Changes to §509 reflect the schedule actually being followed for registrations, which matches with the state's fiscal year (July 1 – June 30). Changes to §515 address the deletion of date language for February 1, 1986. §511 referenced a delinquent penalty schedule no longer in use or authorized by state law. §§517-529 are the new industrial-hemp-derived cannabidiol product registration rules.

Additionally, this rule amends §301 of Chapter 3 of Part VI of Title 51—Public Health—Sanitary Code. Changes to

§301 update an adoption-by-reference of federal regulations and add a new rule regarding the inspection of manufacturers of cannabidiol-containing products for human consumption.

Title 49
PUBLIC HEALTH—FOOD, DRUGS, AND
COSMETICS

Part 1. Regulations

Chapter 5. Registration of Foods, Drugs, Cosmetics and Prophylactic Devices

§501. Definitions

[Formerly 49:2.2100]

A. Unless otherwise specifically provided herein, the following words and terms used in this Chapter of Title 49, and all other Chapters of Title 49 which are adopted or may be adopted, are defined for the purposes thereof as follows.

Accrediting Body—for the purposes of this Chapter, the International Organization for Standardization (ISO).

* * *

Cannabidiol—a nonpsychotropic cannabinoid found in *Cannabis sativa* L. and other conspecifics that can have a variety of physiological effects on the human body.

CBD—cannabidiol.

Certificate of Analysis—a document produced by an approved laboratory attesting to the composition of a product.

Certificate of Registration (FD-8)—certificate issued by the department attesting that products produced or distributed by the holder's company have been registered with that entity.

Certificate of IHDCP Registration (FD-8a)—certificate issued by the department attesting that IHDCP produced or distributed by the holder's company have been registered as required

* * *

Department—for the purposes of this Chapter, the Food and Drug/Milk and Dairy Unit of the Office of Public Health, Louisiana Department of Health.

* * *

Dietary Supplement—means a product other than tobacco intended to supplement the diet that is not represented for use as a conventional food, that is not a drug, and that is labeled as a dietary supplement and bears or contains one or more of the following dietary ingredients or a concentrate, metabolite, constituent, extract, or combination thereof: a vitamin, a mineral, a botanical, an amino acid, or a dietary substance for use by man to supplement the diet by increasing the total dietary intake.

* * *

Examination and Investigation Fee—as required by R.S. 40:628, shall be referred to as registration fee

Food—includes all substances and preparations used for or entering into the composition of food, drink, confectionery, chewing gum or condiment for man.

Industrial Hemp—the plant *Cannabis sativa* L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol (THC) concentration of not more than 0.3 percent on a dry weight basis.

Industrial-Hemp-Derived Cannabidiol Products (IHDCP)—any product intended for human use and containing cannabidiol that was made from industrial hemp.

Industrial Hemp-Derived Cannabidiol Products Database—repository of information on products and firms that are registered with the Food and Drug/Milk and Dairy Unit of LDH/OPH that fall into the category of industrial-hemp-derived cannabidiol products.

* * *

Medical Opinion—the opinion, within their respective fields, of the practitioners of any branch of the medical profession, the practice of which is licensed by law in this State.

* * *

QR Code—Quick Response Code, a type of machine-readable, two-dimensional barcode that stores information about a product.

Registration Fee—examination and investigation fee.

* * *

THC—delta-9 tetrahydrocannabinol.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1482(J), R.S. 40:4(A)(13), R.S. 40:5(A)(8)(17) and R.S. 40:604.

HISTORICAL NOTE: Adopted by the Louisiana State Board of Health, September 1968, amended by the Louisiana Department of Health, Office of Public Health, LR 46:

§503. Registration Provisions

[Formerly 49:2.2110]

A. In accordance with the provisions of R.S. 40:627, each manufacturer, packer or proprietor of processed foods, drugs, proprietary or patent medicines, prophylactic devices and cosmetics in packaged form shall register each separate and distinct product annually with the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1482(J), R.S. 40:4(A)(13), R.S. 40:5(A)(8)(17) and R.S. 40:604.

HISTORICAL NOTE: Adopted by the Louisiana State Board of Health, September 1968, amended by the Louisiana Department of Health, Office of Public Health, LR 46:

§509. Product Registration Procedure

[Formerly 49:2.2140]

A. In accordance with the provisions of R.S. 40:627 and 628 and in order to establish revised procedures for the annual registration of products, manufacturers, packers, processors and distributors of all processed foods, proprietary or patent medicines, prophylactic devices and cosmetics in packaged form, whose names appear on the labels, must submit an application for registration of such products on or before July 1 of each year. Certificates of registration will be issued to each firm for a period of one year expiring on June 30 of each year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1482(J), R.S. 40:4(A)(13), R.S. 40:5(A)(8)(17) and R.S. 40:604.

HISTORICAL NOTE: Adopted by the Louisiana State Board of Health, September 1968, amended by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:9 (January 1984), LR 9:562 (August 1983), amended by the Department of Health and Human Resources, Office of Preventive and Public Health Services LR 11:1161 (December 1985), amended by the Louisiana Department of Health, Office of Public Health, LR 46:

§511. Late Registration Penalty Fees

[Formerly 49:2.2150]

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(13), R.S. 40:604, and R.S. 40:627(D).

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Office of Preventive and Public Health Services, September 1968, amended by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:9 (January 1984), LR 9:562 (August 1983), amended by the Department of Health and Human Resources, Office of Preventive and Public Health Services LR 11:1161 (December 1985), repealed by the Louisiana Department of Health, Office of Public Health, LR 46:

**§515. Late Registration Penalty Fee Assessment
[Formerly 49:2.2170]**

A. The late registration penalty fees as established by Act 344 of the 1985 Louisiana Legislature will assess each manufacturer, packer, or proprietor a penalty of \$10 for failure to register each separate and distinct product annually. The penalty assessed shall be in addition to the examination and investigation charge (registration fee). No manufacturer, packer, or proprietor shall be assessed a late registration penalty fee of more than \$100 in any calendar year.

B. ...

C. Late registration penalty fees will be imposed on those firms which fail to submit an application for registration and registration fees on or before July 1 of each year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(13), R.S. 40:604, and R.S. 40:627(D).

HISTORICAL NOTE: Adopted by the Louisiana State Board of Health, September 1968, amended by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:9 (January 1984), LR 9:562 (August 1983), amended by the Department of Health and Human Resources, Office of Preventive and Public Health Services LR 11:1161 (December 1985), amended by the Louisiana Department of Health, Office of Public Health, LR 46:

§517. Registration of Industrial-Hemp-Derived Cannabidiol Products

A. In accordance with the provisions of R.S. 3:1482 as promulgated by the 2019 Legislature, manufacturers or distributors of industrial-hemp-derived cannabidiol products must register each separate and distinct product with the department-annually and initially within 90 days of the effective date of these regulations or prior to marketing the products in the state of Louisiana, whichever comes first.

B. The manufacturer of any product that is not registered within the specified timeframe will be deemed to be in violation of these rules with respect to such product(s).

C. In lieu of the annual examination and administration charge normally collected under R.S. 40:628(B), the applicant for an industrial-hemp-derived cannabidiol product registration must provide (both initially and on or before July 1 of each year) the department with an application form, a cashier's check or money order made payable to the department in the amount of \$50 per each separate and distinct CBD product, specimen copies of labeling in paper or electronic format, and a list of all products the applicant wishes to register with the department. If the packet meets these regulatory requirements, the department will issue to the applicant an FD-8a Certificate of IHDCP (industrial hemp-derived cannabidiol products) Registration and the

application information will be entered into the industrial hemp-derived cannabidiol products database.

D. No person is authorized to distribute any industrial-hemp-derived cannabidiol products in the state of Louisiana unless that person has first obtained a Certificate of IHDCP Registration from the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(13), R.S. 3:1482(J) and R.S. 40:604.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 46:

**§519. Industrial-Hemp-Derived Cannabidiol Products
Labeling Requirements: Certificate of Analysis**

A. In addition to the requirements enumerated in R.S. 40:608, industrial-hemp-derived cannabidiol products must bear labeling that includes a scannable bar code, QR code, or a web address linked to a document or website containing the certificate of analysis for that product.

B. The certificate of analysis must be from a laboratory that is accredited by LDH/OPH.

C. The certificate of analysis must include, at a minimum, the following information:

1. the batch number of the product;
2. the date the batch was received by the laboratory;
3. the date the testing was completed;
4. the laboratory methodology used for each analysis referenced in the report;
5. the amount of THC by dry weight in milligrams;
6. the amount of CBD by dry weight in milligrams;
7. the amount of any detected residual solvent in the product in parts per million;
8. the amount of any detected pesticide residues in the product in parts per million;
9. the amount of any microbiological contaminants in the product in appropriate units; and
10. the amount of any detected heavy metal traces in the product in parts per million.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(13), R.S. 3:1482(J) and R.S. 40:604.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 46:

**§521. Industrial-Hemp-Derived Cannabidiol Products
Labeling Requirements: Disclaimer**

A. Each primary container of industrial-hemp-derived cannabidiol product must bear the following statement: "This product has not been evaluated by the Food and Drug Administration and is not intended to diagnose, treat, cure, or prevent any disease."

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(13), R.S. 3:1482(J) and R.S. 40:604.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 46:

**§523. Industrial-Hemp-Derived Cannabidiol Products
Labeling Requirements: Medical Claims
Prohibited**

A. No product labeling or advertising material for any industrial-hemp-derived cannabidiol product sold or otherwise distributed in the state of Louisiana may bear any implicit or explicit medical claims.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(13), R.S. 3:1482(J) and R.S. 40:604.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 46:

§525. Industrial-Hemp-Derived Cannabidiol Products Labeling Requirements: Dietary Supplements Prohibited

A. No industrial-hemp-derived cannabidiol product may be marketed as a dietary supplement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(13), R.S. 3:1482(J) and R.S. 40:604.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 46:

§527. Penalties for Violations of Requirements to Register Industrial-Hemp-Derived Cannabidiol Products

A. Any person who violates the provisions requiring registration of industrial-hemp-derived cannabidiol products is subject to the penalties provided for by R.S. 3:1484 and other sanctions as provided for by the State Food, Drug, and Cosmetic Law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(13), R.S. 3:1482(J) and R.S. 40:604.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 46:

§529. Exemptions

A. Industrial-hemp-derived cannabidiol products that have been produced in accordance with R.S. 40: 1046 or that are Food and Drug Administration (FDA)-approved pharmaceuticals are not subject to the requirements of this regulation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(13), R.S. 3:1482(J) and R.S. 40:604.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 46:

Title 51

PUBLIC HEALTH—SANITARY CODE

Part VI. Manufacturing, Processing, Packing and Holding of Food, Drugs and Cosmetics

Chapter 3. Current Good Manufacturing Practices in Manufacturing, Processing, Packing or Holding Human Food

§301. General Provisions; Code of Federal Regulations [formerly paragraph 6:039]

A. The criteria in 21 CFR 117, Subpart A, Subpart B and Subpart F (Code of Federal Regulations) shall apply in determining whether the facilities, methods, practices, and controls used in the manufacturing, processing, packing or holding of food are in conformance with or are operated or administered in conformity with good manufacturing practices to assure that food for human consumption is safe and has been prepared, packed and held under sanitary conditions.

B. In accordance with R.S. 3:1468, facilities producing industrial-hemp-derived cannabidiol products intended for human consumption will be inspected under the provisions of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq., and R.S. 3:1468.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1234 (June 2002), amended by the Louisiana Department of Health, Office of Public Health, LR 46:

Interested persons may submit written comments to Michael Vidrine, Director, Sanitarian Services, Office of Public Health, Louisiana Department of Health, P.O. Box 4489, Baton Rouge, LA 70821-4489. He is responsible for responding to inquiries regarding this Emergency Rule.

Jimmy Guidry, MD
State Health Officer
and
Rebekah E. Gee, MD, MPH
Secretary

1911#029

DECLARATION OF EMERGENCY

**Department of Public Safety and Corrections
Uniform Construction Code Council**

Temporary Exemption to Certification Requirement
(LAC 55:VI.901)

The Department of Public Safety and Corrections, Office of State Fire Marshal, Louisiana State Uniform Construction Code Council (LSUCCC) has exercised the emergency provision in accordance with R.S. 49:953(B) of the Administrative Procedure Act, to amend LAC 55:VI.Chapter 9 in the state Uniform Construction Code as authorized by R.S.40:1730.34, R.S. 40:1730.35, R.S. 40:1730.36 and R.S. 40:1730.38. Furthermore, the LSUCCC has found an immediate need to amend LAC 55:VI.901 regarding provisional registrations of inspectors to insure health and safety for the public.

The state of Louisiana has experienced a large shortage of certified inspectors across all regions. The LSUCCC is promulgating this Rule adoption and amendments to provide greater health and safety for the public and those providing inspections of structures. This amendment will also provide for a longer transition period for inspectors who have previously served in the military thus creating a larger pool of potential employees to fill the void. This Emergency Rule was first adopted and published in the April 2019 edition of the *Louisiana Register* (Vol. 45, No. 4). It became effective on March 26, 2019. This Emergency Rule is being adopted to continue those provisions. It was favorably voted on by the Uniform Construction Code Council on May 14, 2019. By signature of the agency head, Chief H. "Butch" Browning, Jr., it was adopted and became effective on June 19, 2019. It was last published in the July edition of the *Louisiana Register* (Vol. 45, No. 07) and made effective for the maximum period allowed under the Act (120 days). The LSUCCC is promulgating and adopting this Rule by signature of the agency head, effective October 16, 2019, for publication in the November edition of the *Louisiana Register* (Vol. 45, No. 11). It shall be in effect for the maximum period allowed under the Act (120 days) or until adoption of the final Rule, whichever occurs first.

The public welfare dictates that these changes be implemented immediately through the adoption of the Emergency Rule to promote greater access to more

inspectors and to insure safety to existing facilities undergoing renovations and for new proposed facilities.

Title 55

PUBLIC SAFETY

**Part VI. Uniform Construction Code Enforcement
Chapter 9. Temporary Exemption to Certification Requirement**

§901. Employment after January 1, 2007

A. Upon employment or if currently employed and promoted to a specific certification by a parish, municipality, or other political subdivision, an individual must be granted a provisional “F” certificate of registration without certification by a recognized code organization or testing agency, provided that such individual is under the supervision of a registered code enforcement officer who is certified by the International Code Council. Provisional “F” certifications shall be as follows.

1. A provisional “F” certification shall be valid for 12 months from date of hire or promotion.

2. A provisional “F” certification for veterans shall be valid for 24 months from date of hire or promotion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:293 (February 2007), amended LR 35:2821 (December 2009), repromulgated LR 36:329 (February 2010), amended LR 40:2611 (December 2014), LR 46:

Chief H. “Butch” Browning, Jr.
State Fire Marshal

1911#003

DECLARATION OF EMERGENCY

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

**Modification of the 2019 Private
Recreational Red Snapper Season—Labor Day**

Louisiana’s private recreational red snapper season was previously set by the Wildlife and Fisheries Commission at its regular meeting on May 2, 2019, to be open on weekends only (Friday, Saturday, and Sunday) including the Monday of Memorial Day and the fourth of July beginning on May 24, 2019. The recreational season was further modified to include the Monday of Labor Day (September 2, 2019) and close on September 3, 2019 and then to reopen for five consecutive weekends between September 27, 2019 and October 28, 2019. LA Creel data indicates that harvest rates are such that the state recreational allocation will not be met during the previously announced season and an extension of the season is warranted.

In accordance with the emergency provisions of R.S. 49:953, which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency rules to set finfish seasons, R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, and the authority given to the secretary by the commission at its regular meeting on May 2, 2019, the secretary hereby declares:

The season for the private recreational harvest of red snapper in federal and state waters off Louisiana, previously scheduled to end at 12:01 a.m. on Monday, October 28, 2019, will resume at 12:01 a.m. on Friday, November 1, 2019 and remain open on weekends only (Friday, Saturday, and Sunday) until further notice.

Any closure shall prohibit the possession and/or landing of red snapper in Louisiana waters, except for federally permitted charter boats or commercial Individual Fishing Quota holders operating under federal law during federally established seasons and rules for those vessels.

Jack Montoucet
Secretary

1910#007

DECLARATION OF EMERGENCY

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

**Modification of the 2019 Private Recreational
Red Snapper Season—Veteran’s Day**

Louisiana’s private recreational red snapper season was previously set by the Wildlife and Fisheries Commission at its regular meeting on May 2, 2019, to be open on weekends only (Friday, Saturday, and Sunday) including the Monday of Memorial Day and the fourth of July beginning on May 24, 2019. The recreational season was further modified to include the Monday of Labor Day (September 2, 2019) and close on September 3, 2019 and then to reopen until further notice. During the previous reopening, the Veteran’s Day Holiday was not included. LA Creel data indicate that harvest rates are such that the state recreational allocation will not be met during the previously announced season and an additional day of fishing during a holiday is warranted.

In accordance with the emergency provisions of R.S. 49:953, which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency rules to set finfish seasons, R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, and the authority given to the secretary by the commission at its regular meeting on May 2, 2019, the secretary hereby declares:

The season for the private recreational harvest of red snapper in federal and state waters off Louisiana, previously scheduled to remain open on weekends only (Friday, Saturday, and Sunday) until further notice is modified by adding the Veteran’s Day Holiday (November 11, 2019) as an additional open day of the season.

Any closure shall prohibit the possession and/or landing of red snapper in Louisiana waters, except for federally permitted charter boats or commercial Individual Fishing Quota holders operating under federal law during federally established seasons and rules for those vessels.

Jack Montoucet
Secretary

1911#030

Rules

RULE

Office of the Governor Capital Area Ground Water Conservation Commission

Pumpage Fees (LAC 56:V.1107)

The Board of Commissioners of the Capital Area Ground Water Conservation District, which consists of the Parishes of Ascension, East and West Baton Rouge, East and West Feliciana, and Pointe Coupee, increased the pumping charges for non-exempt ground water users (from \$10 per million gallons of water pumped to \$20 per million gallons of water pumped). The board has determined that this increase is necessary to fund remediation of projected saltwater intrusion into groundwater in the Capital Area. The Capital Area Groundwater Conservation District plans to install several exploratory wells 2,000 feet below the surface (2,000-foot sand) to determine the location of saltwater and the best location for a saltwater scavenger well. This action is in accordance with Louisiana Revised Statutes 38:3076(14) and 38:3079. This Rule is hereby adopted on the day of promulgation.

Title 56

PUBLIC WORKS

Part V. Capital Area Ground Water Conservation Commission

Chapter 11. Determination of and Payment of Accounts

§1107. Pumpage Fee

A. The pumping charges for ground water users shall be \$20 per million gallons and is to be paid quarterly.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3076(14) and 38:3079.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Capital Area Ground Water Conservation Commission, LR 1:291 (July 1975), amended LR 10:592 (August 1984) effective January 1, 1985, repromulgated LR 33:2649 (December 2007), amended LR 34:435 (March 2008), effective April 1, 2008, LR 39:486 (March 2013), LR 42:403 (March 2016), LR 45:1580 (November 2019).

Anthony J. Duplechin, PG
Executive Director

1911#013

RULE

Office of the Governor Coastal Protection and Restoration Authority

Coastal Mineral Agreements (LAC 43:XXXI.Chapter 2)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 41:1702 (D), the Coastal Protection and Restoration Authority has adopted Chapter 2 of Title 43, Part XXXI of the Louisiana Administrative Code to implement

the provisions of R.S. 41:1702(D), which allows the executive director to enter into agreements with coastal landowners in order to facilitate the development, design engineering, implementation, operation, maintenance, or repair of integrated coastal protection projects by the Coastal Protection and Restoration Authority under R.S. 49:214.1 et seq. or other applicable law or projects for the Atchafalaya Basin Program. In exchange, the executive director of CPRA may establish in favor of such owner the perpetual, transferrable ownership of all subsurface mineral rights to the then-existing coast or shore line. Such agreements may also provide for a limited or perpetual alienation or transfer, in whole or in part, to such owner of subsurface mineral rights owned by the state relating to the emergent lands that emerge from water bottoms that are subject to such owner's right of reclamation in exchange for the owner's compromise of his ownership and reclamation rights within such area and for such time as the executive director deems appropriate and in further exchange for the owner's agreement to allow his existing property to be utilized in connection with an integrated coastal protection project to the extent deemed necessary by the executive director. This Rule is hereby adopted on the day of promulgation.

Title 43

NATURAL RESOURCES

Part XXXI. Coastal Protection and Restoration Authority

Chapter 2. Coastal Mineral Agreements

§201. Purpose and Authority

A. Purpose

1. The purpose of this Chapter is to enable the executive director to protect the state of Louisiana and its citizens from coastal and wetland degradation, hurricanes, and flooding by entering into voluntary coastal mineral agreements with certain landowners to obtain real property and rights in real property, in order to facilitate the development, design, or implementation of plans or projects for coastal conservation, restoration, protection, or management, including hurricane protection or flood control.

2. This Chapter sets forth the procedures pursuant to which the executive director may enter into such coastal mineral agreements.

B. Authorized Agreements

1. The executive director may enter into a coastal mineral agreement under this Chapter:

a. with any person who owns land contiguous to and abutting navigable water bottoms, the territorial sea, and the seashore belonging to the state and who has the right to reclaim eroded land, in order to facilitate an integrated coastal protection project; or

b. in relation to the acquisition of land by an acquiring authority from any person, for the principal purpose of facilitating an integrated coastal protection project.

2. Pursuant to a coastal mineral agreement under this Chapter:

a. the state may acquire ownership of, servitudes over, and other interests in existing land, other consideration or performance of certain actions, and reclamation rights in relation to eroded land;

b. an acquiring authority may acquire ownership of, servitudes over, and other interests in existing land or emergent land;

c. the executive director may establish in certain landowners limited or perpetual, transferrable or non-transferrable ownership of subsurface mineral rights in existing land, and may convey to certain landowners limited or perpetual, transferrable or non-transferrable ownership of subsurface mineral rights in emergent land.

3. It is the intention of these regulations, and any agreement entered into pursuant to this Chapter, that any mineral interests established or conveyed pursuant to such agreements and any exercise thereof are and must be subordinate to integrated coastal protection, as defined in R.S. 49:214.2, including but not limited to coastal conservation, restoration, protection, and management, hurricane protection, and flood control plans or projects.

AUTHORITY NOTE: Promulgated in accordance with R.S. 41:1702.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Coastal Protection and Restoration Authority, LR 45:1580 (November 2019).

§203. Definitions

A. The following definitions shall apply for purposes of this Chapter, unless specifically defined otherwise.

Acquiring Authority—as defined by R.S. 31:149.

Acquired Land—ownership of, or other rights in, existing or emergent land acquired or proposed to be acquired by an acquiring authority pursuant to an agreement under this Chapter.

Agreement—an agreement entered into pursuant to this Chapter, as authorized by R.S. 41:1702. Such an agreement may be referred to as a coastal mineral agreement.

Integrated Coastal Protection Project—as defined by R.S. 49:214.2.

CPRA—Louisiana Coastal Protection and Restoration Authority.

Emergent Land—as defined by R.S. 41:1702(D)(2)(e).

Eroded Land—land lost through erosion, compaction, subsidence, or sea level rise occurring on and after July 1, 1921; or any land lost by erosion, compaction, subsidence, or sea level rise on the landward side of the coast of the Gulf of Mexico, as that coast is defined in the decree of the United States Supreme Court dated June 16, 1975, in *United States v. State of Louisiana*, No. 9 Original (Tidelands Case), regardless of whether the erosion occurred before July 1, 1921.

Executive Director—executive director of the Louisiana Coastal Protection and Restoration Authority or his designee.

Existing Land—land, including non-navigable water bottoms, owned by an owner as of the effective date of the agreement.

Facilitate—enable, assist in, further, or remove an impediment to the development, design, implementation, or maintenance of an integrated coastal protection project.

Owner—a person who owns land or non-navigable water bottoms affected or proposed to be affected by an agreement. In the case of undivided interests, the owners of

all such undivided interests shall be considered as the owner for purposes of this Chapter, unless otherwise approved by the executive director.

Reclamation Right—the potential right to seek reclamation or recovery of eroded land and any such appurtenant rights, including oil, gas, and mineral rights, as provided and limited by R.S. 41:1702(B).

AUTHORITY NOTE: Promulgated in accordance with R.S. 41:1702.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Coastal Protection and Restoration Authority, LR 45:1581 (November 2019).

§205. Provisions Applicable to all Agreements

A. Discretion of the Executive Director

1. Subject to approval of any agreement by the House and Senate Committees on Natural Resources, the executive director shall have complete and final discretion regarding whether to enter into any agreement, and if so, regarding the terms of the agreement, including but not limited to the location and configuration of lands, water bottoms, or subsurface mineral rights affected or conveyed by the agreement and the nature and extent of any interests affected, established, or conveyed by the agreement.

2. An agreement may contain any term that is within any authority of the executive director, when the executive director determines that inclusion of the term is in the best interests of the state.

B. Determination of Boundaries

1. The owner shall consult with the administrator of the Office of State Lands to determine whether a boundary for existing or emergent land is disputed as between the state, the owner, and any other owners that may be affected by the agreement.

2. In the event of a disputed boundary between the state and other owners, the executive director may require a boundary determination pursuant to R.S. 41:1131-1136, whether as a prerequisite to negotiating or entering into an agreement, as a means of finalizing or updating a boundary for emergent land, or for any other situation when a boundary is disputed.

C. Required Terms. Any agreement shall include the following:

1. identification of the ownership and boundaries of lands or water bottoms affected by the agreement;

2. legal descriptions of the boundaries of existing land and eroded land affected by the agreement, acquired land acquired pursuant to the agreement, lands as to which the owner compromises its reclamation rights pursuant to the agreement, and subsurface mineral rights established, compromised, or conveyed pursuant to the agreement;

3. plat depicting lands, water bottoms, and boundaries of existing land or eroded land affected by the agreement. Unless otherwise agreed by the executive director, the plat shall be prepared by a surveyor currently registered by and in good standing with the Louisiana Professional Engineering and Land Surveying Board and shall depict and label the following:

a. location and boundaries of existing land, eroded land, and water bottoms affected by the agreement, as of the most current data available, showing Louisiana grid coordinates of all corners and angle points and identifying the source of data used;

b. location and boundaries of any acquired land acquired pursuant to the agreement, showing Louisiana grid coordinates of all corners and angle points and identifying the source of data used;

c. location and boundaries of any lands as to which the owner compromises its reclamation rights pursuant to the agreement, showing Louisiana grid coordinates of all corners and angle points and identifying the source of data used;

d. location and boundaries of any subsurface mineral rights established or conveyed pursuant to the agreement, showing Louisiana grid coordinates of all corners and angle points and identifying the source of data used;

e. ownership of existing land, water bottoms, acquired land, and subsurface mineral rights affected by the agreement, both prior to and as affected by the agreement. The last owners of eroded land affected by the agreement, immediately prior to its erosion, shall also be identified.

f. existing shorelines, as of the most current data available, and identifying the source of the data used;

g. shorelines or coastline as of July 1, 1921 or as of the earliest time for which data is available, identifying the date and source of the data used;

h. coast of the Gulf of Mexico, as that coast is defined in the decree of the United States Supreme Court dated June 16, 1975, in *United States v. State of Louisiana*, No. 9 Original (Tidelands Case);

i. all parish, town, city, and similar boundary lines within or in the vicinity of the lands or water bottoms affected by the agreement;

j. all roads within or in the vicinity of the lands or water bottoms affected by the agreement;

k. graphic scale, north arrow, and township, section, and range; and

l. any other matter required by the executive director;

4. stipulation that the acquired land shall remain available for the principal purposes of the acquisition and that the state may enforce the stipulation by specific performance and by mandatory and/or prohibitory injunction. For a type 2 agreement, the acquiring authority will pay all of the state's reasonable attorney fees, expenses, and costs involved in enforcing this stipulation if the acquiring authority fails to enforce the stipulations as determined by CPRA.

D. Negotiation of Agreements. The executive director may negotiate an agreement by any means and in any manner permissible under law that he deems appropriate and in the best interests of the state.

1. The executive director may designate a person, section, or division within the CPRA to receive requests for agreements.

2. The executive director may designate a person, section, or division within the CPRA to negotiate each agreement.

3. The executive director may notify an owner that he seeks an agreement, and he may request a meeting to negotiate the proposed agreement. Such notification may, but need not be, in writing.

4. If any person possesses or reasonably appears to the executive director to possess an interest in existing land or

eroded land that may be affected by the agreement, the executive director may include such person in the negotiations and any agreement.

E. Suspensive Conditions. An agreement or term thereof may be subject to a suspensive condition, and in such cases the agreement or term shall be of no force or effect until the condition occurs. Where a suspensive condition is imposed by operation of law, it need not be stated in the agreement. For example, the establishment or conveyance of ownership of subsurface mineral rights in emergent land pursuant to an agreement must be contingent upon the emergence of such land. The parties should explicitly agree as to whether the terms and/or other consideration provided in the agreement constitute sufficient cause for the parties' mutual undertakings.

F. Resolutive Conditions. An agreement or term thereof may be subject to a resolutive condition, and in such cases the agreement or term shall be of no force or effect upon occurrence of the resolutive condition. Where a resolutive condition is imposed by operation of law, it need not be stated in the agreement. For example, ownership of subsurface mineral rights in emergent land established or conveyed pursuant to an agreement terminate upon the re-erosion of such land; except the effects of R.S. 9:1151 et seq. shall not be affected thereby. The parties should explicitly agree as to whether the terms and/or other consideration provided in the agreement constitute sufficient cause for the parties' mutual undertakings.

G. Use of Surface. Unless otherwise agreed, any person granted a perpetual, transferrable ownership of subsurface mineral rights pursuant to an agreement shall have a perpetual, transferrable servitude to use the surface of any such land for the purposes of locating, accessing, extracting, and transporting those subsurface minerals with the same freedom, and subject to the same restrictions, as an owner of the surface. However, the parties may agree to compromise this right; and no such right may be exercised so as to impair, contravene, and/or interfere with the integrity, features, and/or purposes of any integrated coastal protection project.

H. Provision of Information. Any owner or acquiring authority sought to be included in an agreement shall provide all information deemed necessary by the executive director to consider and reach final decisions regarding any matter addressed in this Chapter.

I. Notice of Final Decision. If the executive director makes a final decision not to enter into a proposed agreement, he shall mail written notice of his final decision, designated as such, to any person requesting the agreement at such person's address as provided to the executive director. Such notice shall be sent by certified mail, return receipt requested.

J. Payments in Lieu of Taxes. The executive director may require a provision in any agreement that the owner or acquiring authority shall pay to the political subdivision or parish governing authority a certain amount in lieu of taxes to be paid to that governmental entity as to existing land conveyed to the state or an acquiring authority or to eroded land rights acquired by the state. The payments in lieu of taxes shall not exceed the amount that would have been paid in accordance with the local property tax assessments prior to entering into an agreement. The amount and duration of

the payments shall be negotiated by the parties, and the executive director may consult with the political subdivision or parish governing authority in relation thereto.

K. Limitation to Coastal Area. Agreements under this Chapter shall pertain only to lands and water bottoms within the coastal area as defined at R.S. 49:214.2. However, the executive director may waive this limitation in extraordinary circumstances, if he determines that adequate measures are included in the agreement or otherwise available to the CPRA to protect the public interest in the lands and water bottoms affected by the agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 41:1702.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Coastal Protection and Restoration Authority, LR 45:1581 (November 2019).

§207. Agreements to Facilitate Integrated Coastal Protection Projects (Type 1 Agreements)

A. Required Determinations. The executive director may enter into an agreement under this Section (also referred to as a type 1 agreement) with an owner when the executive director determines:

1. that an integrated coastal protection project would likely be facilitated by acquiring ownership of, servitudes over, and/or other interests in existing land owned by the owner holding reclamation rights; and/or that an integrated coastal protection project would likely be facilitated by acquiring any rights in eroded land claimed by an owner holding reclamation rights; and

2. that the person contracting with the state is an owner who holds marketable title to the property or property rights to be conveyed by him, and/or to property providing him with reclamation rights. This requirement may be satisfied by a title opinion;

B. Rights Authorized to be Obtained. Pursuant to an agreement under this Section, the state may obtain or receive ownership of, servitudes over, and/or other interests in existing land that may affect or may be affected by an integrated coastal protection project, any other consideration or performance of any action that may affect or may be affected by an integrated coastal protection project, and/or compromise of ownership and reclamation rights within such area and for such time as the executive director deems appropriate in relation to an integrated coastal protection project.

1. In the case of an agreement providing for a limited or perpetual alienation or transfer, in whole or in part, to an owner of subsurface mineral rights owned by the state relating to emergent land that emerges from water bottoms that are subject to the owner's reclamation rights, the agreement shall require the owner to compromise his claim of ownership and reclamation rights at a minimum for the time the land meets the definition of emergent land pursuant to R.S. 41:1702, and in further exchange for the owner's agreement to allow his existing land, in whole or in part, to be utilized in connection with an integrated coastal protection project, to the extent deemed necessary by the executive director.

2. In the case of an integrated coastal protection project involving a barrier island, the executive director may require the owner to transfer title to all or a portion of the island in exchange for any subsurface mineral rights acquired by the owner.

C. Rights authorized to be established or conveyed. Pursuant to an agreement under this Section, the executive director may do one or more of the following:

1. establish in an owner holding reclamation rights the limited or perpetual, transferrable or non-transferrable ownership of subsurface mineral rights in the owner's existing land to the then-existing coast or shore line;

2. convey to an owner holding reclamation rights the limited or perpetual, transferrable or non-transferrable ownership of subsurface mineral rights owned by the state in emergent land that emerges from eroded land subject to the owner's reclamation rights;

3. convey or provide any other consideration for the agreement that is within any authority of the executive director.

D. Discretion of the Executive Director. An agreement under this Section may contain any term that is within any authority of the executive director, when the executive director determines that inclusion of the term is in the best interests of the state. In particular, the executive director may define any subsurface mineral right established or conveyed pursuant to an agreement under this Section in any manner that he deems appropriate and in the best interests of the state, including but not limited to the following respects:

1. whether to convey ownership of such mineral rights in any portion of the emergent land that emerges from water bottoms subject to the owner's reclamation rights, and to define any such portion;

2. whether to make ownership of such mineral rights in any portion of the emergent land perpetual or limited, and to define the duration of a limited conveyance;

3. whether to make ownership of such mineral rights in any portion of the emergent land transferrable or non-transferrable;

4. whether to establish in any portion of the owner's existing land such perpetual or limited, transferrable or non-transferrable mineral rights, the ownership of which is not affected by any future erosion, compaction, subsidence, or sea level rise;

5. whether to convey full ownership or an undivided interest in such mineral rights, and to define the extent of any such undivided interest.

E. Emergent Land. Any conveyance of subsurface mineral rights in emergent land shall be suspended until actual emergence of the land and fulfillment of the following requirements. Unless for purposes of reclamation by the owner to recover land lost through erosion, the state shall not alienate the surface rights to emergent land.

1. Upon the emergence of emergent land, the owner shall submit verification of the emergence to the executive director and the administrator of the office of state lands, including a legal description of the emergent land claimed by the owner, and a plat and aerial photography thereof. The plat shall be prepared by a surveyor currently registered by the Louisiana Professional Engineering and Land Surveying Board.

2. With the approval of the attorney general, the owner and the governor shall enter into an emergent land boundary addendum to the agreement, agreeing to the boundary between the emergent land and the remaining water bottoms.

a. The administrator of the Office of State Lands shall consult with the executive director to determine the extent to which the emergent land is reasonably permanent.

b. In the event of disputed boundaries between the state and other owners, the executive director may require a boundary determination pursuant to R.S. 41:1131-1136.

c. No definitive boundary shall be fixed nor shall mineral rights be vested unless and until proof reasonably satisfactory to the executive director is made that the land is emergent land as defined in this Chapter.

d. Any emergent land boundary addendum shall include a final plat showing the emergent land as agreed by the owner and the administrator of the office of state lands or as determined by the boundary determination. The plat shall be prepared by a surveyor currently registered by the Louisiana Professional Engineering and Land Surveying Board.

e. Any emergent land boundary addendum shall include a legal description of the boundaries of the emergent land.

f. The commissioner of the Division of Administration shall also be a party to any such emergent land boundary addendum.

3. Upon execution of an emergent land boundary addendum by all parties thereto, the administrator of the Office of State Lands shall provide a fully-executed copy to each person that is a party thereto and to the commissioner of the Division of Administration.

a. The owner shall record the emergent land boundary addendum in the conveyance records of all parishes in which the emergent land is located.

b. Recording of an emergent land boundary addendum in the conveyance records of all parishes in which the emergent land is located shall constitute public notice thereof for all purposes.

c. The owner recording the emergent land boundary addendum shall immediately provide certified copies thereof to the executive director and the administrator of the Office of State Lands.

4. Any conveyance of subsurface mineral rights in emergent land by an agreement shall be effective as of the effective date of the emergent land boundary addendum.

5. Any conveyance of subsurface mineral rights in emergent land shall be subject to and such rights shall be encumbered with any right-of-way or servitude grant, or any mineral, geothermal, geopressure, or any other lease granted by the state for a lawful purpose while the emergent land was an eroded or subsided area, the rights of the state or lessee thereunder to be in no manner abrogated or affected by the agreement and to remain free and clear of any claim by the owner for compensation out of the proceeds of the grant or lease or otherwise.

6. In the event a portion of emergent land subject to an agreement no longer meets the definition of emergent land, the conveyance of subsurface mineral rights for that portion of emergent land, whether for a term or in perpetuity, to the owner shall terminate and revert back to the state; except the provisions of R.S. 9:1151 et seq. shall not be affected thereby. The agreement shall remain in effect for those portions of emergent land that continue to meet the definition of emergent land.

F. Initiation by Owner. An owner may request an agreement under this Section from the executive director. Unless otherwise agreed, any such request shall be in writing and shall state and fully explain the following:

1. the land, water bottoms, and subsurface mineral interests that the owner seeks to include in the Agreement. A plat (which may but need not be a survey) depicting all such land, water bottoms, and subsurface mineral interests shall be attached;

2. the reasons that the owner asserts that an agreement is appropriate;

3. The basis upon which the owner asserts that he qualifies for an agreement under this Section. Copies of documentation evidencing the owner's title to the land or water bottoms sought to be included in the agreement and to land providing the owner with reclamation rights, shall be attached. A title opinion may satisfy this requirement.

4. Draft proposed memorandum of understanding stating the general terms sought for the agreement, including but not limited to all consideration, undertakings, performances, or concessions sought from the executive director or any interest owner or claimant in relation to the acquisition; and any consideration, undertaking, performance, or concession intended to be provided or made by the owner.

5. CD-ROM containing the proposed memorandum of understanding in Microsoft Word format or other form of documentation or format approved by the executive director.

6. The identity of all persons owning or believed by the owner to own any interest affecting the land or water bottoms sought to be included in the agreement, the nature and extent of the interest, and contact information for such person, regardless of whether the owner believes the interest to be relevant or existing. The owner shall make a thorough search of the public records and any other relevant source of knowledge for such interests. Copies of all documents indicating the existence or extent of such an interest shall be attached.

7. The identity of all persons holding or believed by the owner to hold a claim adverse to the owner in relation to the land or water bottoms sought to be included in the agreement, the nature and extent of the claim, and contact information such holder, regardless of whether the owner believes the claim to be relevant or meritorious. The owner shall make a thorough search of the public records and any other relevant source of knowledge for such claims. Copies of all documents indicating the existence or extent of such a claim shall be attached.

8. Contact information for the person seeking the agreement, and designation of a single point of contact regarding the agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 41:1702.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Coastal Protection and Restoration Authority, LR 45:1583 (November 2019).

§209. Agreements to Facilitate Integrated Coastal Protection Projects Through Acquisitions (Type 2 Agreements)

A. Required Determinations. The executive director may enter into an agreement under this section (also referred to as

a type 2 agreement) with an owner as an acquiring authority, or with an acquiring authority and an owner, when the executive director determines:

1. that an integrated coastal protection project would likely be facilitated by the proposed acquisition of land from the owner;

2. that the principal purpose of entering into the agreement would be to facilitate an integrated coastal protection project by the state, its political subdivisions, or by the state and federal government;

3. that the purported owner is an owner who holds marketable title to the property or property rights to be conveyed by him, and/or to property providing him with reclamation rights. This requirement may be satisfied by a title opinion; and

4. that the purported acquiring authority is an acquiring authority. It is specifically contemplated that the state or any of its subdivisions, departments, or agencies may be an acquiring authority and enter into agreements under this Section to acquire land for the principal purpose of facilitating an integrated coastal protection project.

B. Rights Authorized to be Obtained. Pursuant to an agreement under this Section, the state may obtain or receive any interest, consideration, or benefit that the state may obtain or receive pursuant to an agreement under Section 207(B) of this Chapter.

C. Rights Authorized to be Established or Conveyed. Pursuant to an agreement under this Section, the executive director may establish, convey, or provide any interest, consideration, or benefit that the executive director may establish, convey, or provide pursuant to an agreement under §207.C of this Chapter.

D. Discretion of the Executive Director. Pursuant to an agreement under this Section, the executive director may define any subsurface mineral right established or conveyed pursuant to the agreement in any manner that the executive director may define a subsurface mineral right established or conveyed pursuant to an agreement under §207.D of this Chapter.

E. Emergent Land. Any conveyance of subsurface mineral rights in emergent land pursuant to an Agreement under this Section shall be effective only upon actual emergence of the land and fulfillment of the requirements for conveyance of such rights, as required pursuant to an agreement under §207.E of this Chapter.

F. Acquisition by Acquiring Authority. Pursuant to an agreement under this Section, an acquiring authority may obtain ownership of any of the owner's existing land, an undivided interest therein, or any other interest therein, subject to the limitations imposed by this Chapter and R.S. 41:1702, any limitations imposed by the agreement, and/or any subsurface mineral rights established or conveyed by the agreement. If an agreement under this Section is in the form of, or constitutes part of, an act of gratuitous donation of immovable property to the state, acceptance by the state of such property shall be subject to the requirements of R.S. 41:151 or its successor, if applicable, regarding determination by the commissioner of the Division of Administration whether accepting the donation is in the best interests of the state and negotiation of the terms and conditions of the donation, and approval by the House

Committee on Natural Resources and the Senate Committee on Natural Resources.

G. Required Considerations. Before entering into an agreement under this Section, the executive director may consider the nature, extent, and conditions of public access to and use of the surface lands and waters that will be permitted by the acquiring authority on the land and water bottom acquired, including for navigation, boating, commercial and recreational fishing, hunting, trapping, nature observation and study, and other traditional activities that are consistent with the principal purposes of the acquisition.

H. Additional Required Terms. In addition to any other terms required by this Chapter, an agreement under this Section shall contain the following terms:

1. identification of the principal purposes of entering into the agreement;

2. identification of all mineral rights in the acquired land or affected by the agreement and the holders thereof upon execution of the agreement, and the manner in which any such mineral rights may be exercised;

3. stipulation that mineral rights shall not be exercised so as to impair, contravene, or interfere with any integrated coastal protection project or the principal purpose of the acquisition, that the state may use specific performance and executive procedure to enforce this stipulation, and that the acquiring authority will pay all of the state's reasonable attorney fees, expenses, and costs involved in enforcing this stipulation;

4. identification of all permanent easements, servitudes, rights-of-way, and rights of use necessary to facilitate the principal purposes of the acquisition, and the holders thereof, upon execution of the agreement. These shall include but are not limited to those necessary for construction, operation, maintenance, repair, replacement, and rehabilitation of any projects or cooperative agreements undertaken by the state or a political subdivision for coastal protection, conservation, restoration, or management or by the state and federal governments pursuant to state or federal law, including but not limited to, the Coastal Wetlands Planning, Protection and Restoration Act, the Coastal Zone Management Act, the Water Resources Development Act, the Coastal Impact Assistance Program, and the North American Wetlands Conservation Act;

5. identification of any other easement, servitude, right-of-way, or right of use as may be determined by the executive director to be necessary regarding public access and use, and the holders thereof upon execution of the agreement;

6. indemnity and hold harmless provision in favor of the state and any other public entity affected by the agreement, by the acquiring authority and the holder of any mineral interest upon execution of the agreement, except for the negligence or actions of the public entity, its employees, agents, contractors, and assigns;

7. stipulation regarding the nature, extent and conditions of public access to and use of the surface lands and waters that will be permitted by the acquiring authority on the land and water bottom acquired, including for navigation, boating, commercial and recreational fishing, hunting, trapping, nature observation and study, and other

traditional activities that are consistent with the principal purposes of the acquisition. The agreement shall also include a stipulation that the state may use specific performance to enforce this stipulation, and that the acquiring authority will pay all of the state's reasonable attorney fees, expenses, and costs involved in enforcing this stipulation;

8. agreements involving an acquiring authority that is not CPRA shall include:

a. a requirement that the acquiring authority determine the immediate and long-term financial and management implications of the agreement and that it secure and maintain the dedicated and/or operating funds needed to manage the property, including funds for liability insurance, maintenance, improvements, monitoring, enforcement, and other costs and prevent any use of the property that will impair, contravene, and/or interfere with the integrity and sustainability of the property;

b. a requirement that the acquiring authority inventory the natural and cultural features of the land acquired pursuant to an agreement prior to developing a management plan that identifies its conservation goals for the land and how it plans to achieve them, create and establish a management plan for the land, and permit on the land only activities that are compatible with the conservation goals, stewardship principles, and public benefit mission of the acquiring authority and the management plan;

c. a requirement that the acquiring authority mark the boundaries and regularly monitor the land acquired pursuant to an agreement for potential management problems (such as trespass, misuse or overuse, vandalism, or safety hazards) and take appropriate action to rectify such problems;

d. a requirement that the acquiring authority perform administrative duties in a timely and responsible manner, including establishing policies and procedures, keeping essential records, filing forms, paying insurance, paying any taxes and/or securing appropriate tax exemptions, budgeting and maintaining files;

e. a requirement that the acquiring authority keep affected and interested parties – including neighbors immediately adjacent to the acquired land, individuals who are directly or indirectly affected, as well as those who have expressed an interest in the agreement or the acquired land, informed about its ownership and management of the acquired land pursuant to an agreement;

f. a requirement that the acquiring authority maintain its certification as a certified land conservation organization under the applicable CPRA rules and regulations and a provision that upon revocation of the certification, the land conservation organization shall be obligated to transfer or convey all of its right, title and interest in and to the coastal land, the reclaimable land and the emergent land to another certified land conservation organization designated by the owner, his heirs, successors or assigns, or if none is designated within a reasonable time set by the executive director, by the executive director. If no other reasonably qualified certified land conservation organization will agree to accept such interests, then the certified land conservation organization shall be obligated to transfer or convey such rights to the state;

g. a restriction of the acquiring authority from transferring or otherwise conveying the land acquired pursuant to an agreement to anyone other than the state or another acquiring authority;

9. agreements involving the state as an acquiring authority shall include a restriction prohibiting the state from transferring or otherwise conveying the land acquired pursuant to an agreement to anyone other than an acquiring authority.

I. Initiation by Acquiring Authority or Owner. An acquiring authority or owner may request an agreement under this Section from the executive director. Unless otherwise agreed, any such request shall be in writing and shall state and fully explain the following:

1. the land proposed to be acquired by the acquiring authority and/or the land, water bottoms, and subsurface mineral interests sought to be included in the agreement. A plat depicting all such land, water bottoms, and subsurface mineral interests shall be attached;

2. the reasons that the acquiring authority or owner asserts that an agreement is appropriate;

3. the basis upon which the acquiring authority or owner asserts that the owner qualifies for an agreement under this Section. Copies of documentation evidencing the owner's title to the land or water bottoms sought to be included in the agreement, and to land providing the owner with reclamation rights, shall be attached. A title opinion may satisfy this requirement;

4. draft proposed memorandum of understanding stating the general terms sought for the agreement, including but not limited to all consideration, undertakings, performances, or concessions sought from the executive director or any interest owner or claimant in relation to the acquisition; any consideration, undertaking, performance, or concession intended to be provided or made by the acquiring authority or owner; and the nature, extent, and conditions of public access to and use of the surface lands and waters that will be permitted by the acquiring authority on the land and water bottom acquired, including for navigation, boating, commercial and recreational fishing, hunting, trapping, nature observation and study, and other traditional activities that are consistent with the principal purposes of the acquisition;

5. CD-ROM containing the proposed memorandum of understanding in Microsoft Word format or any other form of documentation or format approved by the executive director;

6. the identity of all persons owning or believed by the acquiring authority or owner to own any interest affecting the land or water bottoms sought to be included in the agreement, the nature and extent of the interest, and contact information for such person, regardless of whether the acquiring authority or owner believes the interest to be relevant or existing. The acquiring authority or owner shall make a thorough search of the public records and any other relevant source of knowledge for such interests. Copies of all documents indicating the existence or extent of such an interest shall be attached;

7. the identity of all persons holding or believed by the acquiring authority or owner to hold a claim adverse to

the owner in relation to the land or water bottoms sought to be included in the agreement, the nature and extent of the claim, and contact information such holder, regardless of whether the acquiring authority or owner believes the claim to be relevant or meritorious. The acquiring authority or owner shall make a thorough search of the public records and any other relevant source of knowledge for such claims. Copies of all documents indicating the existence or extent of such a claim shall be attached;

8. any other contract executed or proposed by the acquiring authority or the owner in relation to the agreement sought from the executive director. A copy or draft of any such contract shall be attached;

9. documentation of the certification of the acquiring authority as a certified land conservation organization shall be attached, with respect to an entity asserting that it is an acquiring authority by virtue of such certification;

10. contact information for the person seeking the agreement, and designation of a single point of contact regarding the agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 41:1702.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Coastal Protection and Restoration Authority, LR 45:1584 (November 2019).

§211. Publication, Approval, Execution, and Recordation of Agreement

A. Publication. When the executive director proposes to execute any agreement under this chapter, the executive director shall publish the proposed agreement as provided in the Administrative Procedures Act, R.S. 49:953. The agreement shall be published in the *Louisiana Register* at least once, the first publication of which shall be at least 100 days before the legislative bodies may act on it.

B. Review by Legislative Committees. At least 100 days after the first publication of the proposed agreement, the executive director shall submit it for review and approval to the House and the Senate Committees on Natural Resources.

C. Execution or Renegotiation by the Executive Director. Upon approval by the House and Senate Committees on Natural Resources, the executive director may execute the agreement.

1. If the House or Senate Committee on Natural Resources disapproves the agreement or request amendments, the executive director may renegotiate the agreement so as to meet the objections or amendments identified by such committee. The executive director may elect to discontinue negotiations and decline to enter into the agreement.

2. Upon successful renegotiation, the executive director shall republish and resubmit the renegotiated Agreement to the House and Senate Natural Resources Committees as set forth above.

D. Execution by the Commissioner. The commissioner of the Division of Administration shall also be a party to any agreement under this Chapter.

E. Recordation. Upon execution of an agreement by all parties thereto, the executive director shall provide a fully-executed copy of the agreement to each person that is a party thereto and the commissioner of the Division of Administration.

1. The owner or acquiring authority shall record the agreement in the conveyance records of all parishes in which property affected by the agreement is located.

2. Recording of an agreement in the conveyance records of all parishes in which the property affected by the agreement is located shall constitute public notice thereof for all purposes.

3. The owner or acquiring authority recording the agreement shall immediately provide certified copies thereof to the executive director and the administrator of the Office of State Lands.

AUTHORITY NOTE: Promulgated in accordance with R.S. 41:1702.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Coastal Protection and Restoration Authority, LR 45:1587 (November 2019).

§213. Judicial Review

A. Any person aggrieved either by a substantive agency decision made pursuant to the provisions of this Chapter, including interlocutory decisions relating to boundaries and determinations of areas reclaimed, or by a failure of the agency to render such decisions timely, may seek immediate judicial review of the agency action. Proceedings for review of decisions by the CPRA may be instituted by filing a petition in the Nineteenth Judicial District Court within 30 days after mailing of notice of the final decision by the executive director. Any party may be granted a trial de novo if requested in the petition instituting the judicial review.

AUTHORITY NOTE: Promulgated in accordance with R.S. 41:1702.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Coastal Protection and Restoration Authority, LR 45:1587 (November 2019).

Lawrence B. Haase
Executive Director

1911#001

RULE

Office of the Governor Department of Veterans Affairs

Commission; Educational Aid; Veterans Homes;
Assistance Fund (LAC 4:VII.Chapter 9)

Under the authority of R.S. 29:252-261, 288-290, 295, 381-391, R.S. 36:781-787, and R.S. 46:121-123, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary has amended Department of Veterans Affairs regulations, LAC 4:VII.901-990.

These updates, the repeal of Section 941, and adoption of Section 990 bring the Louisiana Administrative Code rules related to the Department of Veterans Affairs in line with updates enacted to statutes since 2012, the last time that the Department of Veterans Affairs promulgated new rules. These updates include allowing the secretary to have the ability to waive certain fees related to state veteran homes and cemeteries only in very unusual financial hardship circumstances demonstrated by veterans or their dependents. The repeal of one Section was because the Department of

Veterans Affairs no longer uses domiciliary resident fees under the updated U.S. Department of Veterans Affairs veteran benefits structure.

These updates concern the Veterans Affairs Commission (LAC 4:VII.902 and 907), State Educational Aid Program (LAC 4:VII.917, 919, 921 and 923), Veterans Homes (LAC 4:VII.937, 939, 942 (proposing repealing), 945, 947, 949, 951, 951, 955), and Military Family Assistance Fund (LAC 4:VII.961, 965, 967, 969, 973, 977, and 987). LDVA has adopted one new rule, (LAC 4:VII.990) to provide for fees charged under R.S. 29:295, related to state veterans cemeteries. This Rule is hereby adopted on the day of promulgation.

Title 4
ADMINISTRATION
Part VII. Governor's Office

Chapter 9. Veterans' Affairs

Subchapter A. Veterans' Affairs Commission

§902. Powers and Duties of the Secretary

A. - A.2. ...

3. Organize, plan, supervise, direct, administer, execute, and be responsible for the functions and programs vested in the department, in the manner and to the extent provided by law, including but not limited to:

a. - e. ...

f. educational support, including State Approving Agency operations and the LaVetCorps campus veteran center program;

g. the Gold Star Family Support Program;

h. Military Family Assistance Fund administration;

A.3.i.- 4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:781 and 783-786.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, Veterans Affairs Commission, LR 38:1015 (April 2012), amended by the Office of the Governor, Department of Veterans Affairs, LR 45:1588 (November 2019).

§907. Meetings

A. - F. ...

G. The secretary of veterans affairs shall keep adequate records and minutes of official actions and distribute copies to each member as soon as practical.

H. The commission shall meet semi-annually with the secretary and his staff for the purpose of reviewing the overall operation and upgrading of the department.

I. No meeting of the commission shall exceed a maximum of two days.

J. Two-day meetings or weekend meetings of the commission are not to be scheduled unless there is valid justification and/or unusual circumstances.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:253 and R.S. 36:781.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans' Affairs, LR 7:486 (October 1981), amended by the Office of the Governor, Department of Veterans Affairs, Veterans Affairs Commission, LR 38:1016 (April 2012), amended by the Office of the Governor, Department of Veterans Affairs, LR 45:1588 (November 2019).

Subchapter B. State Educational Aid Program

§917. Eligibility

A. Application must be made through the Parish Veterans Service Office. In order to be eligible to receive

educational benefit under R.S. 29:288 et seq., the following criteria must be met.

1. In the case of a member of the armed forces of the United States of America who has been killed in action or died in active service from other causes or who is missing in action or who is a prisoner of war, or in the case of a veteran who died as a result of a service-connected disability incurred during a wartime period as determined by the United States Department of Veteran Affairs, that service member's or veteran's children or surviving spouse may apply for educational benefits under R.S. 29:288 et seq.

2. In the case of a living veteran who has been rated 90 percent or above service-connected disabled by evaluation according to the United States Department of Veterans Affairs rating schedule or a living veteran who has been determined to be unemployable as a result of a service-connected disability by evaluation of the United States Department of Veterans Affairs Rating Schedule, that veteran's children may apply for educational benefits under R.S. 29:288 et seq.

3. The qualified deceased veteran must have been a Louisiana resident for at least one year immediately preceding his entry into service.

4. The qualified living veteran must have been a resident of Louisiana for at least two years immediately preceding admission of the child into a training institution.

5. Any child applicant applying for these educational benefits must be not less than 16 nor more than 25 years of age, and marriage is not a bar to the program. Child applicants must meet the dependence requirements of the United States Department of Veterans Affairs pursuant to 38 CFR §3.57 and §3.204 through §3.211.

6. The spouse has no age limit but must use the benefit within 10 years of the date eligibility is established. Remarriage is a bar to this benefit. Dissolution of the remarriage does not re-establish eligibility. Program termination for a remarried surviving spouse will be the end of the semester in which the marriage takes place.

7. The eligible student must attend school on a full-time basis and maintain all academic and other enrollment standards established by the school.

8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:288, R.S. 29:254.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans' Affairs, LR 7:485 (October 1981), amended LR 13:743 (December 1987), LR 19:1565 (December 1993), LR 23:1685 (December 1997), LR 26:2211 (November 1999), amended by the Office of the Governor, Department of Veterans Affairs, Veterans Affairs Commission, LR 38:1017 (April 2012), amended by the Office of the Governor, Department of Veterans Affairs, LR 45:1588 (November 2019).

§919. Fee Exemption Certificate

A. A fee exemption certificate must be issued to each eligible applicant upon completion of his/her processed claim in the administrative office, Department of Veterans' Affairs, reflecting exemption from payment of all tuition and school-imposed fees for the forthcoming school semester or term.

B. The registration certificate must be signed by a school official indicating date of enrollment and returned by the student or his/her designee to the administrative office, Department of Veterans' Affairs, within 45 days after the

beginning of the semester, in order to receive a possible payment of cash subsistence allowance for the semester pursuant to R.S. 29:289, provided that funds have been appropriated for that purpose.

C. If the student transfers from one school to another, the original fee exemption certificate may be taken to the new school, or the student may request from the administrative office the issuance of another fee exemption to be used at his/her next school.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:288.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans' Affairs, LR 7:485 (October 1981) amended by the Office of the Governor, Department of Veterans Affairs, LR 45:1588 (November 2019).

§921. Maximum of Four Years

A. Tuition exemptions under R.S. 29:288 et seq. and possible payments of cash subsistence allowances under R.S. 29:289 may be given for a maximum of four years of education, to be completed in not more than five years from the beginning date of the first semester for which educational benefits are approved by the Department of Veterans' Affairs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:288.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans' Affairs, LR 7:485 (October 1981), amended by the Office of the Governor, Department of Veterans Affairs, LR 45:1589 (November 2019).

§923. Not Covered

A. Fees assessed by the student body on themselves, such as yearbook, weekly paper, are not exempt. Free registration does not cover books, supplies, room and board, etc.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:288.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans' Affairs, LR 7:486 (October 1981), amended by the Office of the Governor, Department of Veterans Affairs, LR 45:1589 (November 2019).

Subchapter C. Veterans' Homes

§937. Admission Requirements

A. For admission to a Louisiana State Veterans Home, a veteran must be a resident of Louisiana. State residence is not mandatory if applicant is referred from an in-state United States Department of Veterans Affairs Medical Center, or by a Louisiana Department of Veterans Affairs veterans assistance counselor. The veteran must be recommended by the home administrator and approved for admission.

B. ...

C. The veteran must undergo a medical examination prior to admission and, as a result, it must be confirmed that he/she does not have a communicable disease, does not require medical or hospital care for which the home is not equipped to provide, and does not have violent traits which may prove dangerous to the physical well-being of the other residents or employees.

D. ...

E. The veteran, or party responsible for his/her financial matters, must agree to pay the full resident care and maintenance fee. The administrator, with authorization from the secretary, may waive or defer any charge that exceeds the veteran's income.

F. An applicant for admission to the veteran home must not have criminal charges pending against him/her.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:254.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans' Affairs, LR 9:411 (June 1983), repromulgated LR 9:549 (August 1983), amended LR 11:34 (January 1985), LR 13:86 (February 1987), LR 13:161 (March 1987), LR 13:570 (October 1987), LR 18:269 (March 1992), LR 21:801 (August 1995), amended by the Office of the Governor, Department of Veterans Affairs, Veterans Affairs Commission, LR 38:1017 (April 2012), amended by the Office of the Governor, Department of Veterans Affairs, LR 45:1589 (November 2019).

§939. Care and Maintenance Fees

A. Care and maintenance fees will be based on total family income. This includes income from all sources (including but not limited to Social Security, United States Department of Veterans Affairs pension/compensation, private pension, account balances and interest from bank accounts or savings accounts, and/or interest bearing accounts/investments).

B. In no case will the fee charged to the resident be more than the actual cost of care, as determined by the secretary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:384, R.S. 29:254.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Veterans' Affairs, LR 9:411 (June 1983), repromulgated LR 9:549 (August 1983), amended LR 11:34 (January 1985), LR 13:86 (February 1987), LR 13:161 (March 1987), LR 21:801 (August 1995), amended by the Office of the Governor, Department of Veterans Affairs, Veterans Affairs Commission, LR 38:1017 (April 2012), amended by the Office of the Governor, Department of Veterans Affairs, LR 45:1589 (November 2019).

§941. Domiciliary Resident Fees

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:261, R.S. 29:384.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Veterans' Affairs, LR 9:411 (June 1983), repromulgated LR 9:549 (August 1983), amended LR 11:34 (January 1985), LR 13:86 (February 1987), LR 13:161 (March 1987), LR 21:801 (August 1995), repealed LR 45:1589 (November 2019).

§945. Mandatory Election for Benefits

A. Residents must apply for all monetary benefits to which they may be entitled from both the state and federal government. Any increase, as a result thereof, must be applied to care and maintenance fees until maximum cost of care is reached.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:261, R.S. 29:384.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Veterans' Affairs, LR 9:411 (June 1983), repromulgated LR 9:549 (August 1983), amended LR 11:34 (January 1985), LR 13:86 (February 1987), LR 13:161 (March 1987), LR 21:802 (August 1995), LR 45:1589 (November 2019).

§947. Fee Payable in Advance after Admission

A. Care and maintenance fees are payable one month in advance. These fees are due before the tenth of each month. A portion of a month will be prorated according to the number of days stay. Residents will not be charged care and maintenance fees for periods of hospital confinement in excess of 10 days unless they desire that a bed be held until they return. For periods of leave from the home, care and

maintenance fees are payable as arranged with the home administrator or his designee. Residents who are unable to pay charges in advance will be allowed to prorate the advance month fee over a 12-month period, until the month of entry fee is current.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:254, R.S. 29:384.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Veterans' Affairs, LR 9:411 (June 1983), repromulgated LR 9:549 (August 1983), amended LR 11:34 (January 1985), LR 13:86 (February 1987), LR 13:161 (March 1987), LR 21:802 (August 1995), amended by the Office of the Governor, Department of Veterans Affairs, Veterans Affairs Commission, LR 38:1017 (April 2012), amended by the Office of the Governor, Department of Veterans Affairs, LR 45:1589 (November 2019).

§949. Fees Adjusted

A. Care and maintenance fees will be adjusted when it has been established that there is a change in the veteran's total family income. The home reserves the right to obtain updated income information from the resident or his/her responsible party (signed authority at admission by patient, and/or responsible party, or any other source). The home also reserves the right to establish retroactive charges effective to the date a change of income occurs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:261, R.S. 29:384.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Veterans' Affairs, LR 9:411 (June 1983), repromulgated LR 9:549 (August 1983), amended LR 11:34 (January 1985), LR 13:86 (February 1987), LR 13:161 (March 1987), LR 21:802 (August 1995), LR 45:1590 (November 2019).

§951. Additional Fees

A. In addition to the regular care and maintenance fees collected, if less than the maximum monthly amount, and the patient has an accumulation of funds, either through additional recurring income or through one or more deposits into bank or savings accounts, in excess of \$500, if single, and \$7,500, if married, the patient resident will be assessed an amount that would bring his care and maintenance fees up to the maximum allowable per month until their funds are reduced to the above stated balance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:261, R.S. 29:384.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Veterans' Affairs, LR 9:411 (June 1983), repromulgated LR 9:549 (August 1983), amended LR 11:34 (January 1985), LR 13:86 (February 1987), LR 13:161 (March 1987), LR 21:802 (August 1995), LR 45:1590 (November 2019).

§953. Home Administrator Authority When Incorrect Income Given

A. The home administrator, when provided incorrect total family income information, will avail himself of all state laws to recoup all monies that should be made available to the home for care and maintenance fees, retroactive to the time that these monies became available for the resident's use while he/she was residing at a Louisiana state veterans' home.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:261, R.S. 29:384.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Veterans' Affairs, LR 9:411 (June 1983), repromulgated LR 9:549 (August 1983), amended LR 11:34 (January 1985), LR 13:86 (February 1987), LR 13:161 (March 1987), LR 21:802 (August 1995), LR 45:1590 (November 2019).

§955. Unusual Financial Circumstances

A. All residents at a veterans home who feel they have unusual financial circumstances/hardships can request relief and consideration of a waiver or deferment of care and maintenance fees. Residents may apply for this consideration through the home administrator. All requests must include documentation demonstrating the financial circumstance or hardship claimed. The home administrator will forward the request, with an appropriate recommendation, to the secretary for approval or disapproval.

B. All waivers or deferments that are in force will be re-evaluated annually on anniversary month. The home administrator will make a report of re-evaluation, with recommendations on each case, to the secretary for further consideration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:254.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Veterans' Affairs, LR 9:411 (June 1983), repromulgated LR 9:549 (August 1983), amended LR 11:34 (January 1985), LR 13:86 (February 1987), LR 13:161 (March 1987), LR 21:802 (August 1995), amended by the Office of the Governor, Department of Veterans Affairs, Veterans Affairs Commission, LR 38:1018 (April 2012), amended by the Office of the Governor, Department of Veterans Affairs, LR 45:1590 (November 2019).

Subchapter D. Military Family Assistance Program Fund

§961. Authority

A. Rules and regulations are hereby established by the Military Family Assistance Board by order of the Military Family Assistance Act, R. S. 46:121 et seq., Act 151 of the 2005 Louisiana Legislature and amended by Act 676 of the 2008 Louisiana Legislature, Act 256 and 877 of the 2010 Louisiana Legislature, Acts 156 and 281 of the 2012 Louisiana Legislature, Acts 185 and 402 of the 2016 Louisiana Legislature, Acts 3 and 60 of the 2017 Louisiana Legislature, and Act 206 of the 2018 Louisiana Legislature.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:121 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, LR 37:1606 (June 2011), amended LR 45:1590 (November 2019).

§965. Definitions

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

Activated Military Personnel or *Activated Military Person*—a person domiciled in Louisiana for civilian purposes, names Louisiana as home of residence (HOR) for military purposes, and who is a member of a reserve component of the United States Army, Navy, Air Force, Marine Corps, or Coast Guard, including the Louisiana National Guard, and called to active federal service in excess of 30 days or who is a member of the Louisiana National Guard and called to active state service pursuant to Louisiana R.S. 29:7, or who is a veteran of the United States Army, Navy, Air Force, Marine Corps, or Coast Guard, as defined in R.S. 46:121.

Application—a written request for financial assistance from the Military Family Assistance Fund made on the form

captioned Military Family Assistance Fund Application, together with documents related thereto.

Eligible Applicant—activated military personnel or a family member of activated military personnel as defined in R.S. 46:121.

Fund Committee—the committee comprised of three board members appointed by the chairman of the board to assist in administering the Louisiana Military Family Assistance Fund which committee shall also serve as an appellate body for all claims of \$1500 or less before a final appeal is made to the full board.

Honorably Discharged Active-Duty Military Personnel—a person domiciled in Louisiana who was on full-time active duty in the military service of the United States and received an honorable discharge.

Third Party Administrator—the Louisiana Department of Veterans Affairs Benefits Division, or a designee of the Secretary of the Louisiana Department of Veterans Affairs.

Veteran—means any service member of the United States Armed Forces who has met any of the following conditions:

a. completed either 24 months of continuous active duty or the full period of not less than 90 days for which he or she was ordered to active duty, other than active duty for training, and received either an honorable discharge or a general discharge under honorable conditions.

b. completed at least 90 days of active duty and has been discharged under the specific authority of 10 U.S.C. §1171 or §1173, or has been determined to have a compensable service-connected disability.

c. has received a discharge with less than 90 days of service for a service-connected disability.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:121 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, LR 37:1607 (June 2011), amended LR 45:1590 (November 2019).

§967. Eligibility

A. To be eligible for a grant from the Military Family Assistance Fund, an individual must be either an activated military person or the family member of an activated military person as defined in R.S. 46:121.

B. The activated military person must have served in excess of 30 consecutive days of active duty since September 11, 2001, before the activated military person or any family member may submit an application for assistance to the Military Family Assistance Fund.

C. Pursuant to R.S. 46:121, a veteran who applies for assistance from the Military Family Assistance Fund must be a current resident of Louisiana.

D. The Military Family Assistance Fund is a payer of last resort. All applicants shall seek assistance from other available sources prior to making application to the Military Family Assistance Fund. Other available sources include, but are not limited to, Army Emergency Relief, Air Force Aid Society, Navy-Marine Corps Relief Society, Coast Guard Mutual Assistance, Salvation Army, American Red Cross, and Veterans' Emergency Assistance.

E. The approval authority may, in its sole discretion, waive the requirement to seek assistance from other

available sources when unusual or exigent circumstances make such application impractical or unlikely to produce results in a timely manner or when the applicant shows that the circumstances are such that other potential sources of funds are inapplicable to the particular circumstances.

F. Requests for assistance from the Military Family Assistance Fund shall not be bifurcated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:121 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, LR 37:1607 (June 2011), amended LR 45:1591 (November 2019).

§969. Application Process

A. Eligible Applicant Responsibilities

1. All requests for assistance shall be made through a completed Military Family Assistance Fund Application.

2. - 3. ...

4. Applications for assistance from the Military Family Assistance Fund shall include copies of applications for other types of assistance filed by the applicant.

5. Applications, together with all supporting documents, may be faxed to the MFA Fund third party administrator, may be submitted electronically or online through the Military Family Assistance Fund application submission process provided on the Department of Veterans Affairs website, or may be mailed to: Department of Veterans Affairs, Attn: MFA Third Party Administrator, P.O. Box 94095, Baton Rouge, LA 70804-9095.

6. An application for assistance from the Military Family Assistance Fund shall be considered made as of the date that it is received by the third party administrator.

7. If an individual acts on behalf of an eligible applicant in preparing and submitting the application, a copy of a fully executed power of attorney authorizing the individual preparing and submitting the application to act on the eligible applicant's behalf must be submitted as an attachment to the application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:121 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, LR 37:1607 (June 2011), amended LR 45:1591 (November 2019).

§973. Award Amounts

A. ...

B. One uniform maximum dollar amount that may be awarded on behalf of an activated military person for a one-time lump sum award shall be \$700. With respect to one-time lump sum awards, the following shall apply.

1. An eligible applicant may be awarded an additional one-time lump sum award for cost directly related to a service related death or an injury with a greater than 50 percent residual disability.

2. One-time lump sum awards are in addition to, and not in lieu of, need-based awards.

3. A one-time lump sum award may be made only when extenuating circumstances are present. Extenuating circumstances include, but are not limited to:

a. the circumstance in which the injured military person is recuperating in a location away from home that necessitates travel by family members to visit with the injured military person. Costs associated with transportation, lodging, meals, and other related matters not covered by any other source to enable family members to visit an activated

military person with a service related injury with a greater than 50 percent residual disability, whether the extent of the disability has been determined at the time application is made or is reasonably anticipated to result in a greater than 50 percent residual disability at the time application is made, may be requested;

b. the circumstance in which the funeral of an activated military person necessitates travel by family members to attend the funeral. Costs associated with transportation, lodging, meals, and other related matters not covered by any other source to enable family members to attend the funeral of an activated military person may be requested;

c. the circumstance in which the absence of family members to visit the injured activated military person or attend the funeral of the activated military person creates financial needs for the care of a home, pets, children, or others when the financial need is not covered by any other source;

d. such other extenuating circumstances as may be determined on a case-by-case basis by the fund committee.

4. Family members of activated military personnel who are listed as missing in action or prisoner of war by the U.S. Department of Defense shall be eligible for the lump sum award. The activated military person must be listed as missing in action or a prisoner of war on or after September 11, 2001.

C. With respect to grants for transportation and other related costs of activated military personnel, the following shall apply.

1. One transportation request shall be approved per person per period of mobilization, and pay no greater than \$500 per applicant.

2. The utilization of the lowest cost fare and group rates with other applicants, where practicable, shall be encouraged.

3. The awarded amount shall be subtracted from the maximum dollar amount of \$10,000 per applicant per 12-month period.

4. Consideration for assistance will be limited to activated military personnel whose deployment is for overseas only.

5. Requests for assistance must have the approval from the adjutant general and/or commanding officer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:121 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, LR 37:1608 (June 2011), amended LR 45:1591 (November 2019).

§977. Third Party Administrator

A. - D. ...

E. For all need-based applications received, regardless of the dollar amount of the request, the third party administrator shall make a determination on the following issues:

1. that all awards are on behalf of activated military personnel as defined in R.S. 46:121;

2. that all awards are made pursuant to a claim that is made by an eligible applicant;

3. that all awards are need-based. The third party administrator, fund committee or Military Family Assistance Board may consider a claim need-based if all of the following apply:

a. - b. ...

c. the undue hardship can be directly or indirectly related to the activation of the military person or honorable discharge of the active-duty military person;

d. - e. ...

f. the applicant or family member has made reasonable attempts to secure alternative funding through another program, recognizing that the approval authority in its discretion accorded under these rules may waive the requirement for that applicant to have sought this alternative funding.

F. - R. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:121 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, LR 37:1609 (June 2011), amended LR 45:1592 (November 2019).

§987. Waivers

A. Prior to the approval of a claim, applications and the identity of eligible applicants and their related military personnel shall be confidential unless expressly waived by the eligible applicant in writing. The filing of an appeal before the fund committee or the board shall be considered a waiver of the identity of eligible applicants and their related military personnel or veterans.

B. Once a claim is approved, the identity of the eligible applicant, related activated military personnel or veterans, and any person filing the application on behalf of the eligible applicant, and the amount approved shall be public record.

C. Applications, the identity of applicants and their related military personnel or veterans, and all records of the board, the fund committee and the third party administrator related thereto, shall be available prior to any approval of the application, to necessary parties including but not limited to, the legislative auditor, the legislative oversight committee for rules and annual reports, and such other parties as necessary for prudent administration of the Military Family Assistance Program and verification of elements of the application.

D. The board, the fund committee, and the third party administrator are expressly authorized to make public data concerning the number of applications received, the amount of claims approved, the geographic areas of the state from which such applications are received and approved, the number of disapproved applications, and the amount of funds in the Military Family Assistance Fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:121 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, LR 37:1611 (June 2011), amended LR 45:1592 (November 2019).

Subchapter E. Veterans' Cemeteries

§990. Fee Waivers

A. The secretary of the department may waive all or part of the fee charged under R.S. 29:295 for burying spouses and dependent children in Louisiana veterans' cemeteries if unusual financial circumstances or hardships exist. Family members who believe they have unusual financial circumstances or hardships may request relief and consideration of a waiver of the burial fee for the deceased spouse or dependent child. Family members may apply for this consideration through the cemetery director. The application must include appropriate documentation to

support a finding that an unusual financial circumstance or hardship exists. If the cemetery director determines that the application and supporting documentation reflect that an unusual financial circumstance or hardship exists, then the director will forward the request with an appropriate recommendation to the secretary for approval or disapproval to waive the fee in whole or in part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:121 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, LR 45:1592 (November 2019).

Joey Strickland
Secretary

1911#025

RULE

Office of the Governor Division of Administration Racing Commission

Ambulance (LAC 35:III.5713)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 4:148, the Racing Commission formally adopts LAC 35:III.5713. The Rule amendments will impact racing associations in Louisiana by requiring them to provide two ambulances during racing hours, one during training hours, each properly equipped to provide emergency medical services and transport, including advanced life support equipment. In addition, the Rule requires that, if both ambulances are being used for transport, the association cannot conduct a race until one is replaced. The Rule also requires racing associations to designate an area that a helicopter can land in the occurrence one is required to transport an injured participant. This Rule is hereby adopted on the day of promulgation.

Title 35

HORSE RACING

Part III. Personnel, Registration and Licensing

Chapter 57. Associations' Duties and Obligations §5713. Ambulance

A. Each association shall provide two ambulances during its racing hours and one ambulance during training hours. During such time, the ambulance shall be ready for duty, properly equipped to provide emergency medical services and transport, including advanced life support equipment, a registered paramedic, a certified emergency medical technician, and shall have immediate access to the racing strip. If both the ambulances are being used to transport individual(s), the association shall not conduct a race, or allow horses with riders on the racetrack until at least one of the ambulances is replaced.

B. Unless otherwise approved by the commission or the stewards, an ambulance shall follow the field at a safe distance during the running of races.

C. The ambulance shall be parked at an entrance to the racing strip except when the ambulance is being used to

transport an individual or when it is following the field during the running of a race.

D. Each association shall also provide a designated area that a helicopter can land in the case where a helicopter is required to transport an injured participant.

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

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 9:546 (August 1983), amended by the Office of the Governor, Division of Administration, Racing Commission, LR 44:914 (May 2018), LR 45:1593 (November 2019).

Charles A. Gardiner III
Executive Director

1911#011

RULE

Office of the Governor Division of Administration Racing Commission

Pick Five or Pick Six (LAC 35:XIII.11001 and 11003)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 4:148, the Racing Commission has repealed LAC 35:XIII.11001 and 11003. The repeal of LAC 35:XIII.Chapter 110 "Pick Five or Pick Six" will be replaced by the administrative rule LAC 35:XIII.Chapter 116, "Pick N", which provides similar exotic wagers as the current LAC 35:XIII.Chapter 110 "Pick Five or Pick Six". LAC 35:XIII.Chapter 116, "Pick N", not only provides for a similar wager as the current Pick Five or Pick Six, but additional possible wagers that the track can structure in a manner that they believe will increase the wagering by the betting public on the horse races. This Rule is hereby adopted on the day of promulgation.

Title 35

HORSE RACING

Part XIII. Wagering

Chapter 110. Pick Five or Pick Six

§11001. Pick Five

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1, R.S. 4:149.2, and R.S. 4:149.3.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 38:1408 (June 2012), repealed LR 45:1593 (November 2019).

§11003. Pick Six

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1, R.S. 4:149.2, and R.S. 4:149.3.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 39:2493 (September 2013), repealed LR 45:1593 (November 2019).

Charles A. Gardiner III
Executive Director

1911#020

RULE
Office of the Governor
Division of Administration
Racing Commission

Pick N (LAC 35:XIII.Chapter 116)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 4:148, the Racing Commission has amended LAC 35:XIII.11601, 11609, and 11625. The Racing Commission has repealed LAC 35:XIII.11611, 11613, and 11621. The rule is an amendment of the pari-mutuel wager, Pick N, wherein a bettor picks the winning horse in a variable number of consecutive horse races. The rule allows for the licensed racetrack, when applying for its operating license, to apply to utilize one of the nine methods set forth in the Pick N rule, specifically §11609. These nine different methods each provide a different manner of carryover pool and the pay outs. This Rule is hereby adopted on the day of promulgation.

Title 35
HORSE RACING
Part XIII. Wagering

Chapter 116. Pick N

§11601. Description; Selection; Principle

A. The Pick N is a form of pari-mutuel wagering where N is a varying number of races exceeding three races. Bettors select the first horse in each of N consecutive races designated as the Pick N by the permit holder. The principle of a Pick N is in effect a contract by the purchaser of a Pick N ticket to select the winners of each of the N races designated as the Pick N. The sale of Pick N tickets other than from pari-mutuel machines shall be deemed illegal and is prohibited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1 and R.S. 4:149.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 28:1014 (May 2002), amended LR 34:869 (May 2008), LR 45:1594 (November 2019).

§11609. Procedure

A. The Pick N requires selection of the first-place finisher in each of a designated number of contests. The association shall submit their request for Pick N pool wagering in writing to the commission at the time of application for race dates and include the request in their wagering format application. The association must obtain written approval from the commission concerning the scheduling of Pick N contests, the designation of one of the methods prescribed in Subsection B, and the amount of any cap to be set on the carryover. Any changes to the approved Pick N format require prior approval from the commission at the time of application for race dates.

B. The Pick N pool shall be apportioned under one of the following methods.

1. Method 1, Pick N with Carryover. The net Pick N pool and carryover, if any, shall be distributed as a single price pool to those who selected the first-place finisher in each of the Pick N contests, based upon the official order of finish. If there are no such wagers, then a designated percentage of the net pool shall be distributed as a single

price pool to those who selected the first-place finisher in the greatest number of Pick N contests; and the remainder shall be added to the carryover. Where there is no correct selection of the first-place finisher in at least one of the Pick N contests, based upon the official order of finish, the day's net pool shall be refunded and the previous carryover pool amount, if any, shall be carried over to the next scheduled corresponding pool.

2. Method 2, Pick N with 100 percent Carryover. The net Pick N pool and carryover, if any, shall be distributed as a single price pool to those who selected the first-place finisher in each of the Pick N contests, based upon the official order of finish. If there are no such wagers, then 100 percent of that day's net pool shall be added to the carryover. Where there is no correct selection of the first-place finisher in at least one of the Pick N contests, based upon the official order of finish, the day's net pool shall be refunded and the previous carryover pool amount, if any, shall be carried over to the next scheduled corresponding pool.

3. Method 3, Pick N with Minor Pool and Carryover. The major share of the net Pick N pool and the carryover, if any, shall be distributed to those who selected the first-place finisher in each of the Pick N contests, based upon the official order of finish. The minor share of the net Pick N pool shall be distributed to those who selected the first-place finisher in the second greatest number of Pick N contests, based upon the official order of finish. If there are no wagers selecting the first-place finisher of all Pick N contests, the minor share of the net Pick N pool shall be distributed as a single price pool to those who selected the first-place finisher in the greatest number of Pick N contests; and the major share shall be added to the carryover. Where there is no correct selection of the first-place finisher in at least one of the Pick N contests, based upon the official order of finish, the day's net pool shall be refunded and the previous carryover pool amount, if any, shall be carried over to the next scheduled corresponding pool.

4. Method 4, Pick N with No Minor Pool and No Carryover. The net Pick N pool shall be distributed as a single price pool to those who selected the first-place finisher in the greatest number of Pick N contests, based upon the official order of finish. If there are no winning wagers, the pool is refunded.

5. Method 5, Pick N with Minor Pool and No Carryover. The major share of the net Pick N pool shall be distributed to those who selected the first place finisher in the greatest number of Pick N contests, based upon the official order of finish. The minor share of the net Pick N pool shall be distributed to those who selected the first-place finisher in the second greatest number of Pick N contests, based upon the official order of finish. If there are no wagers selecting the first-place finisher in a second greatest number of Pick N contests, the minor share of the net Pick N pool shall be combined with the major share for distribution as a single price pool to those who selected the first-place finisher in the greatest number of Pick N contests. If the greatest number of first-place finishers selected is one (1), the major and minor shares are combined for distribution as a single price pool. If there are no winning wagers, the pool is refunded.

6. Method 6, Pick N with Minor Pool and No Carryover. The major share of net Pick N pool shall be

distributed to those who selected the first-place finisher in each of the Pick N contests, based upon the official order of finish. The minor share of the net Pick N pool shall be distributed to those who selected the first-place finisher in the second greatest number of Pick N contests, based upon the official order of finish. If there are no wagers selecting the first-place finisher in all Pick N contests, the entire net Pick N pool shall be distributed as a single price pool to those who selected the first-place finisher in the greatest number of Pick N contests. If there are no wagers selecting the first-place finisher in a second greatest number of Pick N contests, the minor share of the net Pick N pool shall be combined with the major share for distribution as a single price pool to those who selected the first-place finisher in each of the Pick N contests. If there are no winning wagers, the pool is refunded.

7. Method 7, Pick N with Carryover and “Unique Winning Ticket” Provision. The net Pick N pool and carryover, if any, shall be distributed to the holder of a unique winning ticket that selected the first-place finisher in each of the Pick N contests, based upon the official order of finish. If there is no unique ticket selecting the first-place finisher in each of the Pick N contests, or if there are no wagers selecting the first-place finisher of all Pick N contests, the minor share of the net Pick N pool shall be distributed as a single price pool to those who selected the first-place finisher in the greatest number of Pick N contests, and the major share shall be added to the carryover. Associations may suspend previously approved unique winning ticket wagering with the prior approval of the commission. Any carryover shall be held until the suspended unique winning ticket wagering is reinstated. Where there is no correct selection of the first-place finisher in at least one of the Pick N contests, based upon the official order of finish, the day’s net pool shall be refunded and the previous carryover pool amount, if any, shall be carried over to the next scheduled corresponding pool. In obtaining authorization for operating the Pick N pool under this subsection, associations must clearly identify which definition under Subsection L will be relied upon for determining the existence of a unique winning ticket.

8. Method 8, Pick N with the Pool Split into Three Shares, One Share Having a Carryover. The share percentages are determined by the pool host and approved by the commission. The first share of the net Pick N pool and the carryover, if any, shall be distributed to those who selected the first-place finisher in each of the Pick N contests, based upon the official order of finish. The second share of the net Pick N pool shall be distributed to those who selected (N-1) of the Pick N contests, based upon the official order of finish and a third share of the Pick N pool shall be distributed to those who selected (N-2) of the Pick N contests, based upon the official order of finish. If there are no wagers selecting the first-place finisher of all Pick N contests, the first share shall be added to the carryover. If there are no wagers selecting (N-1) of the Pick N contests, this second share shall be added to the carryover. If there are no wagers selecting (N-2) of the Pick N contests, this third share shall be added to the carryover. Where there is no correct selection of the first-place finisher in at least one of the Pick N contests, based upon the official order of finish,

the day’s net pool shall be refunded and the previous carryover pool amount, if any, shall be carried over to the next scheduled corresponding pool.

9. Method 9, Pick N with the pool split into three shares, with Carryovers, and a Unique Winning Ticket Provision: The share percentages are determined by the pool host and approved by the commission. The first share of the net Pick N pool and the first share carryover, if any, shall be distributed to those who selected the first-place finisher in each of the Pick N contests, based upon the official order of finish. The second share of the net Pick N pool shall be distributed to those who selected the first-place finisher in the second greatest number of Pick N contests, based upon the official order of finish. If there are no wagers selecting the first-place finisher of all Pick N contests, the second share of the net Pick N pool shall be distributed as a single price pool to those who selected the first-place finisher in the greatest number of Pick N contests, and the first share shall be added to the first share carryover. The third share and the third share carryover, if any, shall be distributed to the holder of a unique winning ticket that selected the first-place finisher in each of the Pick N contests, based upon the official order of finish. If there is no unique winning ticket selecting the first-place finisher in each of the Pick N contests, the third share shall be added to the third share carryover. For greater certainty, the holder of a unique winning ticket shall receive both the first share, and first share carryover, if any as well as the third share, and the third share carryover, if any. Where there is no correct selection of the first-place finisher in at least one of the Pick N contests, based upon the official order of finish, the day’s net pool shall be refunded and the previous carryover pool(s) amount(s), if any, shall be carried over to the next scheduled corresponding pool. In obtaining authorization for operating the Pick N pool under this subsection, associations must clearly identify which definition under paragraph 16(b) will be relied upon for determining the existence of a unique winning ticket.

C. If there is a dead heat for first in any of the Pick N contests involving:

1. contestants representing the same betting interest, the Pick N pool shall be distributed as if no dead heat occurred;

2. contestants representing two or more betting interests, the Pick N pool shall be distributed as a single price pool with each winning wager receiving an equal share of the profit.

D. If a wagering interest is “scratched” for a Pick N contest, or is designated to run for purse money only, the association shall use the actual favorite, as evidenced by total amounts wagered in the Win pool at the host association for the contest at the close of wagering on that contest, and shall be substituted for the scratched betting interest for all purposes, including pool calculations. In the event that the Win pool total for two or more favorites is identical, the substitute selection shall be the betting interest with the lowest program number. The totalizator shall produce reports showing each of the wagering combinations with substituted betting interests which became winners as a result of the substitution, in addition to the normal winning combination.

E. Subject to Subsection I, J or L, the Pick N pool shall be cancelled and all Pick N wagers for the individual performance shall be refunded if:

1. at least three contests included as part of a Pick 4 N, Pick 5 N or Pick 6 N are cancelled or declared no contest;
2. at least four contests included as part of a Pick 7 N, Pick 8 N or Pick 9 N are cancelled or declared no contest;
3. at least five contests included as part of a Pick 10 N are cancelled or declared no contest.

F. Subject to Subsection I, J or L, if at least one contest included as part of a Pick N is cancelled or declared no contest, but not more than the number specified in Subsection E of this Section, the net pool shall be distributed as a single price pool to those whose selection finished first in the greatest number of Pick N contests for that performance. Such distribution shall include the portion ordinarily retained for the Pick N carryover but not the carryover from previous performances.

G. If the condition of the course warrants a change of racing surface in any of the legs of the Pick N races, and such change was not known to the public prior to the closing of wagering for the Pick N pool, the stewards shall declare the changed leg(s) a no contest for Pick N wagering purposes only.

H. The Pick N carryover may be capped at a designated level approved by the commission so that if, at the close of any performance, the amount in the Pick N carryover equals or exceeds the designated cap, the Pick N carryover will be frozen until it is won or distributed under other provisions of this rule. After the Pick N carryover is frozen, 100 percent of the net pool, part of which ordinarily would be added to the Pick N carryover, shall be distributed to those whose selection finished first in the greatest number of Pick N contests for that performance. Any request for a designated cap shall be submitted to the commission in writing at the time of application for race dates and included in the wagering format application.

I. Any request for permission to distribute the Pick N carryover on a specific performance shall be submitted to the commission in writing at the time of application for race dates and included in their wagering format application. The request must be for a specified date.

J. Should the Pick N carryover be designated for distribution on a specified date and performance in which there are no wagers selecting the first-place finisher in each of the Pick N contests, the entire pool shall be distributed as a single price pool to those whose selection finished first in the greatest number of Pick N contests. The Pick N carryover shall be designated for distribution on a specified date and performance only under the following circumstances:

1. upon written approval from the commission as provided in Subsection H of this Section;
2. on the closing performance of the meet or split meet.

K. Unless otherwise stated in writing by the commission under Subsection I, on the last Pick N race on the final day of the meeting, the net pool, including any applicable carryover, shall be distributed as a single price pool to those who selected the first-place finisher in the greatest number of Pick N contests, based upon the official order of finish.

L. As it relates to any distribution method under Subsection B of this Subsection, which contains a unique winning ticket provision:

1. a written request for permission to distribute the Pick N unique winning ticket carryover on a specific performance shall be submitted to the commission in writing at the time of application for race dates and included in their wagering format application.. The request must contain justification for the distribution, an explanation of the benefit to be derived, and the intended date and performance for the distribution. Should the Pick N unique winning ticket net pool and any applicable carryover be designated for distribution on a specified date and performance in which there is no unique winning ticket, the entire pool shall be distributed as a single price pool to those who selected the first-place finisher in the greatest number of Pick N contests;

2. associations must clearly identify which selection under Subparagraphs a and b below will be relied upon for determining the existence of a unique winning ticket:

a. there is one and only one winning ticket that correctly selected the first place finisher in each of the Pick N contests, based upon the official order of finish, to be verified by the unique serial number assigned by the tote company that issued the winning ticket; or

b. the total amount wagered on one and only one winning combination selecting the first-place finisher in each of the Pick N contests, based up on the official order of finish, is equal to the minimum allowable wager.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1 and R.S. 4:149.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 28:1014 (May 2002), amended LR 34:870 (May 2008), LR 45:1594 (November 2019).

§11611. No Winning Ticket

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1 and R.S. 4:149.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 28:1015 (May 2002), amended LR 34:870 (May 2008), repealed LR 45:1596 (November 2019).

§11613. Cancelled Races

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1 and R.S. 4:149.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 28:1015 (May 2002), amended LR 34:870 (May 2008), repealed LR 45:1596 (November 2019).

§11621. Scratches and Non-Starters

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1 and R.S. 4:149.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 28:1015 (May 2002), amended LR 34:870 (May 2008), repealed LR 45:1596 (November 2019).

§11625. Unforeseen Circumstances

A. Should circumstances occur which are not foreseen in these rules, questions arising thereby shall be resolved by the association and when possible, with approval by the commission in accordance with general pari-mutuel

practices. Decisions regarding distribution of the Pick N pools shall be final.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1 and R.S. 4:149.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 28:1015 (May 2002), amended LR 34:871 (May 2008), LR 45:1596 (November 2019).

Charles A. Gardiner III
Executive Director

1911#012

RULE

**Department of Health
Bureau of Health Services Financing**

**Applied Behavior Analysis-Based Therapy Services
Reimbursement Methodology
(LAC 50:XV.703)**

The Department of Health, Bureau of Health Services Financing has amended LAC 50:XV.703 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 1. Applied Behavior Analysis-Based Therapy Services

§703. Reimbursement Methodology

A. ...

B. Effective for dates of service on or after January 1, 2017, ABA rates and codes in effect on December 31, 2016 may be realigned to be consistent with Louisiana commercial rates or ABA codes adopted by the American Medical Association via current procedural terminology (CPT) codes.

1. ...

2. New prior authorizations with a begin date after the promulgation date of these provisions must use the codes in effect prior to January 1, 2017 for those services provided and to be delivered prior to January 1, 2017, and for any services provided after January 1, 2017, the codes in effect at the time of service delivery.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:928 (May 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:662 (April 2017), LR 45:1597 (November 2019).

Rebekah E. Gee MD, MPH
Secretary

1911#040

RULE

**Department of Health
Bureau of Health Services Financing**

**Ground Ambulance Provider Fees and
Enhanced Reimbursements for Qualifying Ground
Ambulance Service Providers
(LAC 48:I.4001 and 50.XXVII.331)**

The Department of Health, Bureau of Health Services Financing has amended LAC 48:I.4001 and 50.XXVII.331 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 46:2625 and 2626, and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

Title 48

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part I. General Administration

Subpart 1. General

Chapter 40. Provider Fees

§4001. Specific Fees

A. Definitions

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

* * *

B. - D. ...

E. Emergency and Non-Emergency Ground Ambulance Services. Effective August 1, 2016, a fee shall be imposed on emergency ground ambulance service providers for emergency ground ambulance services in accordance with R.S. 46:2626. Effective July 1, 2019, this fee shall also include non-emergency ambulance services.

1. The total assessment for the initial state fiscal year in which the assessment is charged shall not exceed the lesser of the following:

a. ...

b. 1 1/2 percent of the net operating revenue of all emergency ground ambulance service providers assessed relating to the provision of emergency and non-emergency ground ambulance transportation.

2. Except for the first year maximum fee of 1 1/2 percent of the net operating revenue, the department shall not impose any new fee or increase any fee on any emergency ground ambulance service provider on or after July 1, 2016, without first obtaining either of the following:

a. ...

b. written agreement of those providers subject to the fee which provide a minimum of 65 percent of the emergency and non-emergency ground ambulance transports.

3. After the initial year of assessment, the assessment shall be a percentage fee, determined at the discretion of the secretary and subject to the provisions below in

collaboration with the express and written mutual agreement of the emergency ground ambulance service providers subject to the assessment and which make up a minimum of 65 percent of all emergency and non-emergency ground ambulance transports in the state of Louisiana.

a. ...

4. Repealed.

F. - F.5. ...

AUTHORITY NOTE: Promulgated in accordance with Chapter 45 of Title 46 as enacted in 1992, 46:2601-2605, redesignated as Chapter 47 of Title 46, containing R.S. 46:2621 to 46:2626 and P.L. 102-234.

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

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXVII. Medical Transportation Program

Chapter 3. Emergency Medical Transportation

Subchapter B. Ground Transportation

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

A. Emergency Medical Transportation

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

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

B. - B.4. ...

C. Payment Methodology

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

2. - 2.a. ...

3. The specific methodology to be used in establishing the enhanced reimbursement payment for ambulance providers is as follows.

a. The department shall identify Medicaid ambulance service providers that qualify to receive enhanced reimbursement Medicaid payments for the provision of emergency and non-emergency ground ambulance transportation services.

b. For each Medicaid ambulance service provider identified to receive enhanced reimbursement Medicaid payments, the department shall identify the emergency and non-emergency ground ambulance transportation services for which the provider is eligible to be reimbursed.

c. For each Medicaid ambulance service provider described in Subparagraph C.3.a of this Section, the department shall calculate the reimbursement paid to the provider for the provision of emergency and non-emergency ground ambulance transportation services identified under Subparagraph C.3.b of this Section.

d. ...

e. For each Medicaid ambulance service provider described in Subparagraph C.3.a of this Section, the department shall subtract an amount equal to the reimbursement calculation for each of the emergency and non-emergency ground ambulance transportation services under Subparagraph C.3.c of this Section from an amount equal to the amount calculated for each of the emergency and non-emergency ground ambulance transportation services under Subparagraph C.3.d of this Section.

f. For each Medicaid ambulance service provider described in Subparagraph C.3.a of this Section, the department shall calculate the sum of each of the amounts calculated for emergency and non-emergency ground ambulance transportation services under Subparagraph C.3.e. of this Section.

g. - h. ...

D. Effective Date of Payment

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

2. After the initial calculation for fiscal year 2015-2016 for emergency ground ambulance transportation services and after the initial calculation for fiscal year 2019-2020 for non-emergency ground ambulance transportation services, the department will rebase the equivalent community rate using adjudicated claims data for services from the most recently completed fiscal year. This calculation may be made annually but shall be made no less than every three years.

E. - E.1. ...

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

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

Rebekah E. Gee MD, MPH
Secretary

1911#041

RULE

Department of Health Bureau of Health Services Financing

Inpatient Hospital Services
Reimbursement Methodology
Outlier Pool Rate Increase
(LAC 50:V.954)

The Department of Health, Bureau of Health Services Financing has amended LAC 50:V.954 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 1. Inpatient Hospital Services

Chapter 9. Non-Rural, Non-State Hospitals

Subchapter B. Reimbursement Methodology

§954. Outlier Payments

A. - I.2. ...

J. Effective on or after July 1, 2019, the outlier pool for admissions during SFY 2019 and subsequent state fiscal years shall cover eligible claims and shall not exceed \$21,092,179 annually. Payment shall be the costs of each hospital's eligible claims less the prospective payment, divided by the sum of all eligible claims costs in excess of payments, multiplied by \$21,092,179.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:519 (March 2010), amended LR 39:3096 (November 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 45:1599 (November 2019).

Rebekah E. Gee MD, MPH
Secretary

1911#042

RULE

Department of Natural Resources Office of Conservation

Fees (LAC 43:XIX.Chapter 7)

Pursuant to power delegated under the laws of the state of Louisiana, and particularly title 30 of the *Louisiana Revised Statutes* of 1950, as amended, the Office of Conservation has amended LAC 43:XIX.701, 703, and 707 (Statewide Order No. 29-R) in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. The action has adopted Statewide Order No. 29-R-19/20 and Forward (LAC 43:XIX, Subpart 2, Chapter 7), which establishes the annual Office of Conservation fee schedule for the collection

of application, production, and regulatory fees, and has replaced the existing Statewide Order No. 29-R-18/19. This Rule is hereby adopted on the day of promulgation.

Title 43

NATURAL RESOURCES

Part XIX. Office of Conservation—General Operations

Subpart 2. Statewide Order No. 29-R

Chapter 7. Fees

§701. Definitions

* * *

BOE—annual barrels oil equivalent. Gas production is converted to BOE by dividing annual mcf by a factor calculated based on the most recent 3-year average of the cost of oil and gas as reported by the Louisiana Department of Natural Resources.

* * *

Surface Mine—for the purposes of this Chapter, a Surface Mine shall be any coal or lignite mine regulated under the authority of the commissioner of conservation.

Surface Mining Fee—a regulatory fee of eight cents per ton on all coal and lignite mined and sold in this state.

Surface Mining Reclamation Fee—an annual reclamation fee of six dollars for each acre of land included within the approved mine permit area.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:542 (August 1988), amended LR 15:551 (July 1989), LR 21:1249 (November 1995), LR 24:458 (March 1998), LR 24:2127 (November 1998), LR 25:1873 (October 1999), LR 26:2302 (October 2000), LR 27:1919 (November 2001), LR 28:2366 (November 2002), LR 29:2499 (November 2003), LR 31:2950 (November 2005), LR 32:2087 (November 2006), LR 33:2461 (November 2007), LR 34:2404 (November 2008), LR 35:2463 (November 2009), LR 36:2567 (November 2010), LR 37:3271 (November 2011), LR 38:2930 (November 2012), LR 39:3099 (November 2013), 40:2266 (November 2014), LR 41:2376 (November 2015), LR 42:1957 (November 2016), LR 43:2191 (November 2017), LR 44:2013 (November 2018), LR 45:1599 (November 2019).

§703. Fee Schedule for Fiscal Year 2019-2020 and Thereafter

A. - D.5. ...

E. Production Fees. Operators of record of capable oil wells and capable gas wells are required to pay according to the requirements of R.S. 30:21.B(1)(a). Based on the required calculation and cap established in said statute, taking into account the production of capable wells for the given year, including credits given to exempt incapable wells, a tiered schedule stating the exact fees due for the particular year will be published annually on the DNR/Conservation website.

F. - G.1. ...

H. Surface Mining and Reclamation Fees

1. Permittees of surface mines for coal or lignite shall pay a fee of eight cents per ton on all coal and lignite, mined in the state and sold, to the secretary of the Department of Revenue on a monthly basis and shall be paid using forms prescribed by the secretary of the Department of Revenue.

2. Permittees of surface mines for coal or lignite shall pay an annual fee of six dollars for each acre of land included within the approved mine permit area. Such fee shall be based upon the number of acres of land within the approved mine permit area on July 1 of each year and shall be payed into the oil and gas regulatory fund of the Office of Conservation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq., R.S. 30:560 and 706.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:543 (August 1988), amended LR 15:552 (July 1989), LR 21:1250 (November 1995), LR 24:458 (March 1998), LR 24:2128 (November 1998), LR 25:1874 (October 1999), LR 26:2304 (October 2000), LR 27:1920 (November 2001), LR 28:2368 (November 2002), LR 29:350 (March 2003), LR 29:2501 (November 2003), LR 30:2494 (November 2004), LR 31:2950 (November 2005), LR 32:2088 (November 2006), LR 33:2461 (November 2007), LR 34:2405 (November 2008), LR 35:2463 (November 2009), LR 36:2569 (November 2010), LR 37:3273 (November 2011), LR 38:2931 (November 2012), LR 39:3099 (November 2013), LR 40:2267 (November 2014), LR 41:2378 (November 2015), LR 42:1958 (November 2016), LR 43: 2191 (November 2017), LR 44:2013 (November 2018), LR 45:1599 (November 2019).

§707. Severability and Effective Date

A. The fees set forth in §703 are hereby adopted as individual and independent rules comprising this body of rules designated as Statewide Order No. 29-R-19/20 and Forward and if any such individual fee is held to be unacceptable, pursuant to R.S. 49:968(H)(2), or held to be invalid by a court of law, then such unacceptability or invalidity shall not affect the other provisions of this order which can be given effect without the unacceptable or invalid provisions, and to that end the provisions of this order are severable.

B. This order (Statewide Order No. 29-R-19/20 and Forward) supersedes Statewide Order No. 29-R-18/19 and any amendments thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:544 (August 1988), amended LR 15:552 (July 1989), LR 21:1251 (November 1995), LR 24:459 (March 1998), LR 24:2128 (November 1998), LR 25:1874 (October 1999), LR 26:2305 (October 2000), LR 27:1921 (November 2001), LR 28:2368 (November 2002), LR 29:2502 (November 2003), LR 30:2494 (November 2004), LR 31:2950 (November 2005), LR 32:2088 (November 2006), LR 33:2462 (November 2007), LR 34:2406 (November 2008), LR 35:2464 (November 2009), LR 36:2570 (November 2010), LR 37:3274 (November 2011), LR 38:2931 (November 2012), LR 39:3100 (November 2013), LR 40:2267 (November 2014), LR 41:2379 (November 2015), LR 42:1959 (November 2016), LR 43: 2191 (November 2017), LR 44:2013 (November 2018), LR 45:1600 (November 2019).

Richard P. Ieyoub
Commissioner

1911#021

RULE

**Department of Natural Resources
Office of Conservation**

Statewide Order No. 29-B
(LAC 43:XIX.501, 507, and 519)

The Department of Natural Resources, Office of Conservation hereby amends LAC 43:XIX, Subpart 1 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the power delegated under the laws of the state of Louisiana. The agency has recently received several inquiries and requests for clarification from the regulated community on the application of the definitions of “Residual” and “Container” as they apply to marine supply vessel permanent cargo tanks and barges. The Rule changes clarify that the commonly employed waste removal practices and waste material quantities remaining thereafter in large marine tanks such as marine supply vessel permanent cargo tanks, closed-top and open barges; are acceptable under the current definitions. This Rule is hereby adopted on the day of promulgation.

Title 43

NATURAL RESOURCES

**Part XIX. Office of Conservation—General Operations
Subpart 1. Statewide Order No. 29-B**

Chapter 5. Off-Site Storage, Treatment and/or Disposal of Exploration and Production Waste Generated from Drilling and Production of Oil and Gas Wells

§501. Definitions

* * *

Container—a sump, storage tank, process vessel, truck, or other receptacle used to store or transport E and P Waste, excluding barges and marine supply vessel permanent cargo tanks.

* * *

Exploration and Production Waste (E and P Waste)—drilling wastes, salt water, and other wastes associated with the exploration, development, or production of crude oil or natural gas wells and which is not regulated by the provisions of, and, therefore, exempt from the Louisiana Hazardous Waste Regulations and the Federal Resource Conservation and Recovery Act, as amended. E and P Wastes include, but are not limited to the following.

| Waste Type | E and P Waste Description |
|------------|--|
| 01 | Salt water (produced brine or produced water), except for salt water whose intended and actual use is in drilling, workover or completion fluids or in enhanced mineral recovery operations, process fluids generated by approved salvage oil operators who only receive oil (BS&W) from oil and gas leases, and nonhazardous natural gas plant processing waste fluid which is or may be commingled with produced formation water |

| Waste Type | E and P Waste Description |
|------------|--|
| 02 | Oil-base drilling wastes (mud, fluids and cuttings) |
| 03 | Water-base drilling wastes (mud, fluids and cuttings) |
| 04 | Completion workover and stimulation fluids |
| 05 | Production pit sludges |
| 06 | Storage tank sludge from production operations, onsite and commercial saltwater disposal facilities, DNR permitted salvage oil facilities (that only receive waste oil [B,S, & W] from oil and gas leases), and sludges generated by service company and commercial facility or transfer station wash water systems |
| 07 | Produced oily sands and solids |
| 08 | Produced formation fresh water |
| 09 | Rainwater from firewalls, ring levees and pits at drilling and production facilities |
| 10 | Washout water and residual solids generated from the cleaning of containers, barges and/or marine supply vessel permanent cargo tanks that transport E and P Waste and are not contaminated by hazardous waste or material; washout water and solids (E and P Waste Type 10) is or may be generated at a commercial facility or transfer station by the cleaning of a container, barge and/or marine supply vessel cargo tank holding a residual amount of E and P Waste |
| 11 | Washout pit water and residual solids from oilfield related carriers and service companies that are not permitted to haul hazardous waste or material. |
| 12 | Nonhazardous Natural gas plant processing waste solids. |
| 13 | (Reserved) |
| 14 | Pipeline test water which does not meet discharge limitations established by the appropriate state agency, or pipeline pigging waste, i.e. waste fluids/solids generated from the cleaning of a pipeline |
| 15 | E and P Wastes that are transported from permitted commercial facilities and transfer stations to permitted commercial treatment and disposal facilities, except those E and P Wastes defined as Waste Types 01 and 06. |
| 16 | Crude oil spill clean-up waste |
| 50 | Salvageable hydrocarbons bound for permitted salvage oil operators |
| 99 | Other E and P Waste not described above (shipment to a commercial facility or transfer station must be pre-approved prior to transport). |

* * *

Residual (for containers)—the de-minimis quantity of E and P Waste (solids or liquids) remaining in a container after offloading, using the practices commonly employed to remove materials from that type of container (e.g., pouring, pumping, and aspirating) and amounting to no more than one inch of residue remaining on the bottom, or no more than three percent by weight of the total capacity of the container if the container is less than or equal to 110 gallons in size, or no more than 0.3 percent by weight of the total capacity of the container if the container is greater than 110 gallons in size.

Residual (for barges and marine supply vessel permanent cargo tanks)—shall be the de-minimis quantity of E and P Waste (solids or liquids) remaining in a barge or marine supply vessel permanent cargo tank using the practices commonly employed to remove materials (e.g., pumping and aspirating) and amounting to no more than the non-fluid, non-pumpable/removable material remaining in a marine supply vessel permanent cargo tank or barge after commonly employed removal practices are complete.

* * *

Sump—a container constructed of steel, fiberglass, sealed concrete, or some other impermeable material utilized for

temporary storage of E and P Waste, including, but not limited to, wash water and solids (sludge) generated by the removal/cleaning of residual amounts of E and P Waste from storage containers, barges and/or marine supply vessel permanent cargo tanks.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2811 (December 2000), amended LR 27:1898 (November 2001), LR 29:937 (June 2003), LR 34:1421 (July 2008), LR 36:2570 (November 2010), LR 43:536 (March 2017), LR 45:1600 (November 2019).

§507. Location Criteria

A. Commercial facilities and transfer stations may not be located in any area:

1. within 1/4 mile of a public water supply water well or within 1,000 feet of a private water supply well for facilities permitted after January 1, 2002;

2. where type A and B facilities and transfer stations, class II disposal wells, storage containers, vessels and E and P waste treatment systems and related equipment are located within 500 feet of a residential, commercial, or public building, church, school or hospital or for any proposed new commercial facility or transfer station where publication of the notice of intent or date of the permit application filed with the Office of Conservation is dated after the promulgation date of this rule, where type A and B facilities and transfer stations, class II disposal wells, storage containers and E and P waste treatment systems and related equipment are located within 1,250 feet of a school, hospital, or public park;

3. - 4.b. ...

5. where permanent E and P Waste storage containers, vessels, land treatment cells, and storm water retention (sediment) ponds are located in a "V" or "A" zone as determined by flood hazard boundary or rate maps and other information published by the Federal Emergency Management Agency (FEMA) unless adequate levees are constructed to at least 1 foot above the 100-year flood elevation as certified by a professional engineer or surveyor and able to withstand the velocity of the 100-year flood. Existing facilities located in a "V" or "A" zone will be required to build facility levees above the 100-year flood elevation as certified by a professional engineer or land surveyor. As conditions change and new data is made available by FEMA, owners of existing commercial facilities and transfer stations will be required to update their facilities accordingly;

A.6. - .D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2817 (December 2000), amended LR 27:1901 (November 2001), LR 29:938 (June 2003), LR 41:951 (May 2015), LR 45:1601 (November 2019).

§519. Permit Application Requirements for Commercial Facilities

A. - C.4.d. ...

5. a detailed schematic diagram of the proposed facility of sufficient scale to show the placement of access roads, buildings, and unloading areas, and the location and identification of all storage tanks, barges, and other

containers/vessels (including design capacities), treatment system/equipment, levees, flowlines, filters, the Class II disposal well(s), and all other equipment and operational features of the storage, treatment and/or disposal system;

6. - 21. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2823 (December 2000), amended LR 27:1905 (November 2001), LR 29:938 (June 2003), LR 36:2570 (November 2010), LR 45:1601 (November 2019).

Richard P. Ieyoub
Commissioner

1911#014

RULE

Department of Public Safety and Corrections Office of Motor Vehicles

Driving Schools (LAC 55:III.143-159)

Under the authority of R.S. 37:3270 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Office of Motor Vehicles, has amended Sections 143, 145, 146, 147, 148, 151, 153, 154, 157 and 159 under Chapter 1 to implement a more comprehensive version of Title 55 as it relates to the rules governing driving schools and the driver education program. In addition to a more comprehensive version of the rules governing driving schools and the driver education program, the Office of Motor Vehicles implements Act 295 of the 2019 Regular Legislative Session regarding when Class "E" temporary instructional permits are required and in providing an exception to ignition interlock requirements for certain applicants for Class "E" temporary instructional permits. This Rule is hereby adopted on the day of promulgation.

Title 55

PUBLIC SAFETY

Part III. Motor Vehicles

§143. Commercial Driving Schools

Chapter 1. Driver's License

Subchapter A. General Requirements

A. Definitions. As used in this Chapter, the following terms have the meanings described below.

Eight-Hour behind the Wheel Course Assessment—a program which shall consist of a minimum of eight hours of instruction with the student as the operator of a dual-controlled motor vehicle. If under the age of 18, the student's parent or guardian may sign, authorizing the instruction. A test is conducted or given at the end of the eight hour driver education course to determine a student's driving ability.

Temporary Instructional Permit—a Class "E" temporary instructional permit (TIP) obtained from OMV prior to the administration of the knowledge test to the student, operating a motor vehicle during on-road skills instruction or to be administered a road skills test.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:402.1(A)(1) and R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 38:1974 (August 2012), amended LR 38:3234 (December 2012), LR 43:1759 (September 2017), LR 45:1602 (November 2019).

§145. Qualifications for Private Driving School Owners and Instructors

A. - A.1. ...

2. be at least 21 years of age and have at least 5 years of full licensure driving experience;

A.3. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:402.1(A)(1) and R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 38:1975 (August 2012), amended LR 43:1761 (September 2017), LR 45:1602 (November 2019).

§147. General Regulations for Private Driving Schools

A. ...

1. The school shall provide a written document to the prospective student detailing the course to be provided and the fee charged for each service. This document may be signed by the parent (if the student is a minor) or a student (if over the age of eighteen) and the school owner. A copy of this document and the paid receipt shall be provided to the person that signs the document.

2. - 6. ...

7. All schools shall post a sign within the classroom stating that anyone who wishes to file a complaint or has a grievance against the school may contact the Training and Certification Unit at the Office of Motor Vehicles, P.O. Box 64886, Baton Rouge, LA, 70896, Attn.: Training and Certification Unit. (225) 925-1795 or at ladrivingschools@dps.la.gov.

8. - 13. ...

B. Surety Bond

1. School owners shall be required to maintain a \$20,000 surety bond while maintaining a license to operate a driving school. In the event of a change of primary or main location of the driving school, a rider to the bond indicating the new address must be obtained and provided to OMV.

B.2. - C.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:402.1(A)(1), R.S. 40:1461 and R.S. 40:1462.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 38:1977 (August 2012), amended LR 40:2604 (December 2014), LR 41:2665 (December 2015), LR 43:1765 (September 2017), LR 45:1602 (November 2019).

§148. Secondary/Alternative School Driver Education Program

A. - A.3.b. ...

4. All instructors shall be approved by DPS and obtain an instructor's license prior to providing instruction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:402.1(A)(1) and R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 38:1978 (August 2012), amended LR 43:1766 (September 2017), LR 45:1602 (November 2019).

§151. Regulations for All Driver Education Providers

A. General Requirements

1. The school owner may designate a representative (licensed instructor or office staff of the school) to oversee and assume responsibility for the operation of the school and to sign school documents, except for the Third Party Tester Agreement. The completed Assignment of Designated Representative form must be on file with DPS.

2. - 28. ...

29. Repealed.

B. Records Regulations

1. A school shall have a commercially established primary location where records shall be kept in a secure manner. Records shall be available for inspection between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Only schools which are currently licensed by June 30, 2012 and currently maintain records at the owner's residence are allowed to do so. If the physical location where records are kept is the owner's residence, the owner agrees to make the records available for inspection. All schools licensed from this point forward will be required to maintain a primary location for the records.

2. - 6.b.i. ...

ii. optional parental/guardian consent for minor applicants, including identification presented;

B.6.b.iii. - C.9. ...

10. Daily quizzes are recommended to measure the effectiveness of instruction during the classroom course. Daily quizzes shall not replace the final test.

C.11. - E.2. ...

3. Once a year DPS shall furnish the school with new versions of the knowledge test. The school shall shred all previous versions of the tests upon receipt of the new updated versions.

E.4. - F.6. ...

G. Temporary Instruction Permit

1. Prior to the administration of a knowledge test in a driver education or pre-licensing course, driving skills instruction in a driver education or pre-licensing course or the administration of a road skills test, a student shall obtain a temporary instructional permit (TIP) from OMV as required by R.S. 32:402.1. School owners will verify that the permit has been obtained and shall make a copy of the TIP to be included in the student's file.

2. In the event that the person applying for a TIP has or has had his driving privileges suspended pursuant to R.S. 32:661 et seq., and the person is required to have an ignition interlock as a condition of reinstatement, then the TIP may be issued for purposes of operating a motor vehicle during the behind the wheel portion of the driver education or pre-licensing course or during the administration of the road skills test without an ignition interlock device being required.

H. - H.1. ...

2. The domiciliary parent/guardian of a minor student may sign the consent prior to any behind the wheel instruction. The consent shall be signed in the presence of the owner or an instructor.

3. - 13. ...

14. Approved scoring criteria shall be standardized, as determined and approved by DPS. Each applicant starts with 100 points. The applicant shall receive 70 points or better to pass the eight-hour behind-the-wheel course.

15. If the driving school instructor suspects that the person is impaired at the time he presents himself for the behind the wheel instruction and training, the driving school instructor shall not conduct the behind the wheel instruction and the driving school instructor shall promptly report the incident to the OMV.

16. Neither the driving school instructor, nor the driving school employing the driving school instructor, shall be liable in any manner to any person who is denied behind the wheel instruction and training except for any partial refund attributable to the behind the wheel portion of the driver education or pre-licensing course.

I. - J.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:402.1(A)(1) and R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 38:1980 (August 2012), amended LR 41:151 (January 2015), amended LR 43:1767 (September 2017), LR 45:1603 (November 2019).

§153. Parental Orientation (Formerly §154)

A. - C. ...

D. In the event the parent is unable to attend the parental responsibility segment, the school may offer the class information online or in a handout that contains all the information that would normally be presented in the class. The parent must initial they have received the information and this must be made part of the student's file. If the class is taken online, confirmation of the online class should also be included in the student's file.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:402.1(A) (1) and R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 38:1985 (August 2012), amended LR 38:3235 (December 2012), LR 43:1772 (September 2017), LR 45:1603 (November 2019).

§157. General Regulations for Third Party Testers

A. - E.10. ...

11. A road skills test shall not be administered to an individual unless the individual is at least of the age of 16 but less than 17 and has held a learner's permit for at least 180 days.

12. If the third party examiner suspects that the person is impaired at the time he presents himself for the administration of a road skills test, the examiner shall not administer the road skills test and the examiner shall promptly report the incident to the OMV.

13. Neither the examiner nor the Third Party Tester employing the examiner shall be liable in any manner to any person who is denied the road skills test except for the refund attributable to the fees charged for a road skills test.

F. - G.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:402.1(A) (1) and R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of

Motor Vehicles, LR 38:1985 (August 2012), amended LR 38:3235 (December 2012), LR 43:1778 (September 2017), LR 45:1603 (November 2019).

§159. Suspension, Revocation, and Penalty Assessment

A. - A.5. ...

6. Each school shall respond to the findings in the compliance review as to how the school shall correct the violations within the prescribed time stated in the compliance review. The response may be sent via email.

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:402.1(A) (1) and R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 43:1780 (September 2017), amended LR 45:1604 (November 2019).

Lt. Col. Jason Starnes
Chief Administrative Officer

1911#017

RULE

**Department of Public Safety and Corrections
Office of State Police**

Towing, Recovery, and Storage
(LAC 55:I.1907)

The Department of Public Safety and Corrections, Office of State Police, in accordance with R.S. 49:950 et seq., Act 103 of the 2019 Regular Session, and R.S. 32:1711 et seq., has amended rules concerning the Schedule of Fines for towing violations, and amended the conditions for suspensions or revocations of a storage license. This Rule is hereby adopted on the day of promulgation.

Title 55

PUBLIC SAFETY

Part I. State Police

Chapter 19. Towing, Recovery, and Storage

Subchapter A. Authority, Exemptions, Definitions, Scope

§1907. Administrative Penalty Assessment; Arbitration; Recovery of Penalties

A. Administrative Penalty Assessment

1. A tow truck owner or operator, an employee or the agent of a tow truck owner or operator, a storage facility owner or operator, an employee or the agent of a storage facility owner or operator, determined by the department to have committed a violation of R.S. 32:1711 et seq., or adopted and promulgated regulations as provided in this Chapter, is subject to legal sanctions being imposed against them. Legal sanctions shall include, but are not limited to, administrative civil penalties, warnings, and suspension and/or revocation of the operator's license, storage inspection license, tow truck license plate.

2. The department shall issue a citation or inspection report for violations of law, rule or regulation which shall specify the offense committed. The citation or inspection report shall provide for the payment of an administrative penalty to the department in an amount prescribed by the department or if a suspension or revocation is being imposed, specify the duration of said suspension or

revocation. The penalty shall be paid or imposed within 45 days of issuance and mailing, by first class mail, of the initial notice of violation, unless within that period the person to whom the citation is issued files a written request for an administrative hearing within the 45 days.

3. All assessed and adjudicated administrative penalties and fees shall be paid to the department and deposited in the towing and storage fund.

4. Schedule of Fines

| Schedule of Fines | |
|---|-------------|
| The following range of fines will be set for violations cited under the corresponding sections. When citing specific violations, the department will set the fine within the corresponding range. | |
| Exemptions and Other Laws (§1903, 1905, and §1909) | \$50-\$500 |
| Code of Conduct (§1911) | \$100-\$500 |
| Tow Truck License Plate (§1913) | \$50-\$500 |
| Insurance Requirements (§1915) | \$50-\$500 |
| Driver's License Required Skills (§1917) | \$50-\$500 |
| Tow Truck Lighting; Equipment (§1919) | \$25-\$100 |
| Required Equipment (§1921) | \$25-\$100 |
| Capacities of Tow Equipment (§1923) | \$100-\$500 |
| Tow Truck Load Limitations (§1925) | \$100-\$500 |
| Inspections by the Department (§1927) | \$100-\$500 |
| Towing Service to Use Due Care (§1929) | \$100-\$500 |
| Vehicles Towed from Private Prop. (§1930) | \$200-\$500 |
| Storage Facility; Licensing Requirements (§1931) | \$100-\$500 |
| Requirements for ORSV (§1933) | \$100-\$500 |
| Owner Notification of Stored Vehicle (§1935) | \$100-\$500 |
| Administrative Fees (§1937) | \$100-\$500 |
| Permits to Sell and Dismantle (§1939) | \$100-\$500 |
| Towing/Storage Facilities Requirement (§1941) | \$50-\$500 |
| Storage Rates (§1943) | \$100-\$500 |
| Gate Fees (§1945) | \$100-\$500 |
| Law Enforcement Rotation Lists (§1947) | \$50-\$500 |

5. Effective December 1, 2019, the suspension of a storage license may be imposed on a third or subsequent violation of the same administrative rule or regulation by a towing or storage facility, its owner, or its employee within a two-year period. Suspensions shall not exceed 30 days, except as provided for in R.S. 49:961(C). Violations of these rules or the Towing and Storage Act during the suspension or a violation of the terms of the suspension shall result in an automatic separate suspension of the storage license. The suspension of a storage license may also be imposed when a towing or storage facility fails to meet the requirements for the issuance of a storage license.

6. Effective December 1, 2019, the revocation of a storage license may be imposed when a storage facility has been issued three or more suspensions.

B. Administrative Hearings

1. A tow truck owner or tow truck operator or a storage facility owner or operator may submit a written request for an administrative hearing within 45 calendar days of the issuance of the initial notice of violation, suspension or revocation.

2. Hearing requests shall be adjudged in accordance with the Administrative Procedure Act.

3. Failure to submit a written request to the department for an administrative hearing within 45 days from the date of the initial notice of violation, suspension, or revocation; or requesting a hearing, being notified by mail

and failing to appear at the scheduled hearing date and location shall constitute a default and the violations, suspension or revocation shall become finally affirmed.

4. In such cases, on or after the forty-sixth day the department shall inform the responsible party by first class mail of the conviction and that he has 30 days from the date of this notice to pay the penalty or the Office of Motor Vehicles shall suspend his driver's license and/or vehicle registration. Suspending the vehicle registration shall mean any registration transaction, including renewal, may be denied.

5. For the purpose of this Part, removal from the Louisiana State Police tow truck rotation list shall not constitute a department action subject to review under Subsection B of this Section. Placement on the Louisiana State Police rotation list is a privilege, not a right. Any tow truck owner may submit a written appeal to the region major requesting a review of an investigation and/or suspension. Review hearings will be held within 10 business days, after a request is made.

C. Forfeiture of Claims

1. Any person who fails to comply with any provision required by these rules and regulations shall be subject to the forfeiture of all claims for monetary charges relating to towing, recovery and storage of the respective vehicle(s), including, but not limited to, the imposition of administrative penalties.

D. Recovery of Administrative Penalties

1. The department in an attempt to recover administrative penalties, may, at its discretion:

a. order the removal of the offending vehicle's license plate or request the Office of Motor Vehicles (OMV) deny the renewal of the offending vehicle's registration, or both:

i. a tow truck license plate removed or denied renewal pursuant to this Part may only be reinstated upon receipt of payment of fines and fees owed the department;

b. recommend the suspension or deny the renewal of a responsible party's driver license, or both:

i. a driver license suspended pursuant to this Part may only be reinstated upon receipt of payment of fines and fees owed the department;

c. order the vehicles of responsible parties not registered in Louisiana be seized until outstanding fines and fees are paid.

2. These actions are not punitive and used only as a mechanism to garner payment of monies lawfully owed the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1714.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Police, LR 32:854 (May 2006), amended LR 35:2201 (October 2009), LR 36:2576 (November 2010), LR 40:797 (April 2014), LR 45:1604 (November 2019).

Lt. Col. Jason Starnes
Chief Administrative Officer

1911#018

RULE

Department of Public Safety and Corrections Office of the State Fire Marshal

Fireworks (LAC 55:V.Chapter 19)

In accordance with the provisions of R.S. 40:1563(F) and R.S. 51:650 et seq. relative to the authority of the Louisiana Office of State Fire Marshal to promulgate and enforce rules pursuant to fireworks and public displays, the Louisiana Department of Public Safety, Office of State Fire Marshal has amended and enacted rules under Title 55, Part V., Chapter 19 Fireworks, in relation to Class C Pyrotechnic Operator Training and Certification, the adoption of the NFPA Fireworks Safety Standards for Class C Public Displays and the requirement of annual inspections for fire extinguishers which are located at retailers, storage facilities and public displays. Modification is needed to allow for standardized training and certification and for the safety of the public. This Rule is hereby adopted on the day of promulgation.

Title 55

PUBLIC SAFETY

Part V. Fire Protection

Chapter 19. Fireworks

§1901. Fireworks/Public Display

A. Pursuant to R.S. 51:655, any person, firm or corporation, or other legal entity desiring a permit for a public display may apply to either the Office of State Fire Marshal, 8181 Independence Blvd., Baton Rouge, LA 70806, or to any certified local authority, which application shall contain the following information and shall be signed by the applicant attesting that the information is accurate:

1. the date, time and place of the public display including the length of time;

2. a site plan detailing the information regarding the discharge and fallout areas as it relates to the proximity of the public and all fire prevention plans and provisions which will be present and in force and available to assure the public safety at the public display;

3. a copy of the license by the Office of State Fire Marshal licensing the manufacturer, importer, distributor, jobber, or retailer who will be supplying and/or conducting the public display to assure the state fire marshal or his certified local authority that the fireworks and the actual presentation and conduct of the public display will not endanger the public safety.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(F) and R.S. 51:650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, the Office of the State Fire Marshal, LR 7:642 (December 1981), amended by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 23:1699 (December 1997), LR 45:1605 (November 2019).

§1902. Class C Pyrotechnic Operator Training and Certification Requirements

A. The purpose of this section is to establish the pre-license training and certification requirements for Class C Pyrotechnic Operators. The state fire marshal shall establish

a training program for the licensure of Class C Pyrotechnic Operators. A license may be granted upon demonstration that the applicant has a satisfactory understanding of the handling and use of Class C fireworks, equipment used for Class C public displays, and the operations of the display as defined herein.

B. Applicants for Class C Pyrotechnic operator licenses are required to meet the certification requirements pursuant to R.S. 51:655, et seq., and these rules. Upon completion of the pre-license training, an applicant is eligible to take the required examination. An applicant for a Class C Pyrotechnic Operator license shall pass an examination prescribed and administered by the Office of State Fire Marshal. Correctly answering 70 percent or more of the questions will be considered a passing score. If the applicant fails on the first attempt, he is eligible to immediately take the examination a second time. If, however, a passing score is not achieved on the second attempt the applicant may only attempt the examination once every 30 calendar days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(F) and R.S.51:650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 45:1605 (November 2019).

§1904. Adoption of NFPA Standard 1123, Code for Fireworks Display

A. For the purpose of establishing the criteria for a Class C Public Display and the associated Class C Public Display Operator license, the state fire marshal adopts the following sections of the 2018 edition of NFPA 1123, *Code for Fireworks Display*:

1. NFPA 1123, Chapter 3, Definitions;
2. NFPA 1123, Chapter 4, Requirements for Display Fireworks Aerial Shells and Equipment;
3. NFPA 1123, Chapter 5, Display Site Selection;
4. NFPA 1123, Chapter 8, Operation of the Display;
5. NFPA 1123, Chapter 10, Qualifications (10.1.2 excepted); and
6. NFPA 1123, Annex D.3, Requirements for Consumer Fireworks, Novelties, and Theatrical Pyrotechnics.

B. All Class C Pyrotechnic Operators shall maintain a copy of the currently adopted edition of NFPA 1123 at all Class C public displays.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(F) and R.S. 51:650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 45:1606 (November 2019).

§1905. Retail Fireworks Sales

A. In addition to the requirements of Louisiana Revised Statutes including but not limited to Louisiana Revised Statutes 51:650, et seq., and more specifically sections 653 and 654, as well as Louisiana Revised Statutes 40:1563, et seq., and more specifically sections 1578.6 and 1605, licensed retail sellers of fireworks are required to comply with the following requirements.

1. There shall be no open flame heating devices in any location from which the sale of fireworks is made at retail.

2. There shall be no sleeping within the facility in which fireworks are sold, offered for sale or stored.

3. In any place where retail fireworks sales are made or offered or retail fireworks are stored there shall be a minimum of one unobstructed exit.

4. The physical facility, such as a fireworks stand, retail fast food outlet or any other similar facility out of which fireworks are sold, offered for sale or stored shall not be located less than 75 feet from any facility or mechanism in which flammable liquids are dispensed and/or stored above ground. Additionally, no fireworks shall be exploded within 75 feet from any facility or mechanism where flammable liquids are dispensed and/or stored above ground.

5. In any retail outlet except those which sell only fireworks, no fireworks shall be stored, displayed, or offered for sale within 10 feet of any required exit unless the fireworks are stored or contained within a container which will resist fire from any outside source.

6. No facility for the retail sale or storage of fireworks shall be located less than 25 feet from a public roadway.

7. All of the wiring in any facility for the retail sale or storage of fireworks shall be in accordance with the National Electric Code.

8. Any facility for the retail sale or storage of fireworks shall have available one serviceable fire extinguisher in accordance with NFPA 10 and L.A.C. 55:V:3001, et seq.

9. In accordance with LAC 55:V:3015.A, all portable fire extinguishers maintained on the premises of any retail location, storage facility, or public display site shall be inspected annually by a contractor who holds a current and valid license from the Office of State Fire Marshal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(F) and R.S. 51:650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 9:691 (October 1983), amended LR 45:1606 (November 2019).

Jason Starnes
Chief Administration Officer

1911#008

RULE Department of Revenue Policy Services Division

Prescription of Refunds Claimed Pursuant to the Federal
Combat-Injured Veterans Tax Fairness Act of 2016
(LAC 61:I.4914)

Under the authority of R.S. 47:1511 and in accordance with the provisions of R.S. 47:1623(G) and the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, has adopted LAC 61:I.4914.

The primary purpose of this regulation is to implement R.S. 47:1623(G), which was enacted by Act 367 of the 2019 Regular Session of the Louisiana Legislature. This Rule is hereby adopted on the day of promulgation.

Title 61
REVENUE AND TAXATION

**Part I. Taxes Collected and Administered by the
Secretary of Revenue**

Chapter 49. Tax Collection

**§4914. Prescription of Refunds Claimed Pursuant to the
Federal Combat-Injured Veterans Tax Fairness
Act of 2016**

A. General. R.S. 47: 1623(G) provides for an extension of the prescriptive period applicable to certain individual income tax refunds. Taxpayers who received a federal income tax refund pursuant to the Combat-Injured Veterans Tax Fairness Act of 2016 are entitled to an extension of prescription on the corresponding Louisiana income tax refund. The extension of prescription only applies to refunds allowed pursuant to the Combat-Injured Veterans Tax Fairness Act of 2016.

B. Combat-Injured Veterans Tax Fairness Act of 2016. On December 16, 2016, the President signed the Combat-Injured Veterans Tax Fairness Act of 2016 into law as Public Law 114-292. Public Law 114-292 provides an extension of the federal statute of limitations for refunds of income tax erroneously paid on lump-sum disability severance payments made by the U.S. Department of Defense. For tax years 1991 through 2016, the Department of Defense erroneously withheld income tax from lump-sum disability severance payments that are exempt from federal income tax pursuant to Section 104(a)(4) of the Internal Revenue Code.

1. Erroneous Withholding. Federal income tax was erroneously withheld from the following Department of Defense payments:

- a. lump-sum disability severance payments for combat-related injuries; and
- b. lump-sum disability severance payments that would qualify as disability compensation from the Department of Veterans Affairs.

2. Required Notice. Public Law 114-292 requires the Department of Defense to provide notice to affected taxpayers whose exempt payments were subjected to erroneous withholding.

3. Federal Extension. Public Law 114-292 provides an extension of the three-year period for claiming a tax refund pursuant to Section 6511(a) of the Internal Revenue Code. The extension is one year after the date the required notice is provided to the taxpayer.

4. Amended Return or Standard Refund Amount

a. Pursuant to IR-2018-148, the Internal Revenue Service allows affected taxpayers, including the surviving relative of a deceased taxpayer, the option of either:

- i. filing an amended federal income tax return for the tax period in which the lump-sum disability severance payments were received to remove the exempt income from gross income; or
- ii. claiming a standard refund amount.

b. The standard refund amounts are as follows:

- i. \$1,750 for tax years 1991 through 2005;
- ii. \$2,400 for tax years 2006 through 2010;
- iii. \$3,200 for tax years 2011 through 2016.

C. Louisiana conformity with federal adjusted gross income. Pursuant to R.S. 47:293(1), Louisiana adjusted gross income means the adjusted gross income that is reportable on the federal income tax return. Thus, lump-sum

disability severance payments that are exempt from federal income tax pursuant to Section 104(a)(4) of the Internal Revenue Code are likewise exempt from Louisiana income tax. Because Louisiana conforms to federal adjusted gross income, exempt lump-sum disability severance payments that were included in a taxpayer's federal adjusted gross income were by default also included in Louisiana adjusted gross income.

D. Prescription of Refunds. Act 367 of the 2019 Regular Session of the Louisiana Legislature enacted R.S. 47: 1623(G), which provides for an extension of the prescriptive period applicable to certain refunds of Louisiana individual income tax. If a taxpayer receives a federal individual income tax refund pursuant to the Combat-Injured Veterans Tax Fairness Act of 2016, prescription is extended for the corresponding Louisiana income tax refund.

1. Length of Extension. The prescriptive period does not expire until after two years from the date of the taxpayer's receipt of the U.S. Department of Defense notice issued pursuant to the Combat-Injured Veterans Tax Fairness Act of 2016. The U.S. Department of Defense notice is deemed to be received on the last day of the month that is printed on the notice. For example, if the date of the U.S. Department of Defense notice is July 20, 2018, then the taxpayer has until July 31, 2020 to request a refund. Taxpayers that did not receive a U.S. Department of Defense notice but received a federal refund pursuant to the Combat-Injured Veterans Tax Fairness Act of 2016 have until July 31, 2020 to request a Louisiana refund.

2. Amended Return or Standard Refund Amount

a. Pursuant to R.S. 47: 1623(G), eligible taxpayers have the option of either:

i. filing an amended Louisiana individual income tax return (Form IT-540) for the tax period in which the lump-sum disability severance payments were received to remove the exempt income from adjusted gross income, or

ii. claiming a standard refund amount by submitting a completed Form R-6185, *Individual Income Tax Refund Claim Pursuant to the Federal Combat-Injured Veterans Tax Fairness Act of 2016*. However, taxpayers are required to make the same election as was made for federal purposes except as provided in paragraph E. For example, if a taxpayer elected to claim the standard refund amount for federal purposes, the taxpayer is required to claim the standard refund amount for Louisiana purposes.

b. The Louisiana standard refund amounts are as follows:

- i. \$326 for tax years 1991 through 2002;
- ii. \$592 for tax years 2003 through 2008;
- iii. \$543 for tax years 2009 through 2010;
- iv. \$637 for tax years 2011 through 2016.

3. Interest. The general provision on interest on refunds provided by R.S. 1624(A)(1) shall apply to refunds issues pursuant to R.S. 47: 1623(G). Pursuant to R.S. 1624(A)(1), interest is allowed on refunds from ninety days after the later of the due date of the return, the filing date of the return or claim for refund on which the overpayment is claimed, or the date the tax was paid.

E. Documentation Required. Taxpayers must attach a copy of the federal form 1040X and a copy of the Department of Defense notice (Letters 6060-A and 6060-D) or other documentation required by the IRS for taxpayers

that did not receive a Department of Defense notice. For the 1991 through 2003 tax periods, taxpayers filing an amended Louisiana individual income tax return (Form IT-540) must attach a copy of the original Louisiana individual income tax return (Form IT-540). Taxpayers who are unable to provide a copy of their original Louisiana return are required to claim the standard refund amount for Louisiana purposes.

F. Survivors of Deceased Veterans. Survivors of veterans who received notice from the Department of Defense that their relative qualified for a tax refund due to the Combat-Injured Veterans Tax Fairness Act of 2016 may submit a claim for refund. Survivors have the option of either filing an amended individual income tax return (Form IT-540) or claiming a standard refund amount. Survivors

must also file Form R-6642, *Statement of Claimant to Refund Due on Behalf of Deceased Taxpayer* unless the person filing the claim is the surviving spouse of the veteran and filed a joint tax return with the veteran for the year the veteran received the lump-sum disability severance payments.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, LR 45:1607 (November 2019).

Kimberly Lewis Robinson
Secretary

1911#028

Notices of Intent

NOTICE OF INTENT

Department of Education Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of School Personnel (LAC 28:CXXXI.203)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 17:6(A)(10), the Board of Elementary and Secondary Education proposes to amend LAC 28:CXXXI, Bulletin 746—Louisiana Standards for State Certification of School Personnel. In June 2019, Educational Testing Services (ETS) regenerated the Praxis Core Academic Skills for Educators: Reading (5713), Writing (5723), and Mathematics (5733) and the School Superintendent Assessment (6991), effective until July 31, 2020. The proposed revisions ensure the ETS-recommended scores and effective dates for these exams take immediate effect.

Title 28 EDUCATION

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

Chapter 2. Initial Teacher Certification Subchapter B. Testing Required for Certification Areas §203. Certification Exams and Scores (Formerly §243)

A. ...

1. Core Academic Skills for Educators². Teacher applicants in all content areas must pass all three Praxis core academic skills tests for educators.

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

| Core Academic Skills for Educators | Test # | Score | Effective Date |
|------------------------------------|--------|-------|-------------------------------|
| Reading | 5712 | 156 | Effective 1/1/14 to 7/31/2020 |
| Writing | 5722 | 162 | |
| Mathematics | 5732 | 150 | |

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

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

² NOTE: An ACT composite score of 22 or an SAT combined verbal and math score of 1100 or higher (new SAT) or 1030 or higher (pre-March 2016 SAT) may be used in lieu

of PRAXIS 1 PPST exams or core academic skills for educators in reading, writing and math by prospective teachers in Louisiana.

A.2. - D. ...

E. Administrative and Instructional Support Areas

| Certification Area | Name of Test | Area Test Score |
|----------------------------|---|-------------------------------|
| Mentor Teacher | Louisiana Mentor Teacher Assessment Series—Elementary | 6 |
| | Louisiana Mentor Teacher Assessment Series—Secondary ELA | 4 |
| | Louisiana Mentor Teacher Assessment Series—Secondary Math | |
| | Louisiana Mentor Teacher Assessment Series—Universal | |
| Content Leader | Louisiana Content Leader Assessment Series | 5 |
| Educational Leader—Level 1 | School Leaders Licensure Assessment (1011 or 6011) | 166 (Effective until 7/31/20) |
| | School Leaders Licensure Assessment (6990) | 151 (Effective 9/1/19) |
| Educational Leader—Level 3 | School Superintendent Assessment (6021) | 160 (Effective until 7/31/20) |
| | School Superintendent Assessment (6991) | 162 Current- |
| Guidance Counselor K-12 | Professional School Counselor (0421 or 5421) | 156 |
| School Librarian | Library Media Specialist (0311 or 5311) | 136 |

All PRAXIS scores used for certification must be sent directly from ETS to the state Department of Education electronically, or the original PRAXIS score report from ETS must be submitted with the candidate’s application. The mentor teacher certificate may be earned by passing one of the cohort-specific Louisiana mentor teacher assessment series tests.

F. Repealed.

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

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

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted,

amended, or repealed a rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No

3. Will the proposed Rule affect the functioning of the family? No

4. Will the proposed Rule affect family earning and family budget? No

5. Will the proposed Rule affect the behavior and personal responsibility of children? No

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes

Poverty Impact Statement

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Poverty Impact Statement on the rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this Section, the word "poverty" means living at or below one hundred percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial authority? No

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes

3. Will the proposed Rule affect employment and workforce development? No

4. Will the proposed Rule affect taxes and tax credits? No

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No

Small Business Analysis

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed rule on small businesses.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the staffing level requirements or qualifications required to provide the same level of service;

2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or

3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments via the U.S. Mail until noon, December 10, 2019, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Bulletin 746—Louisiana Standards for State Certification of School Personnel

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no anticipated impacts to the Department of Education or local school districts as a result of the proposed changes to the Praxis test references which align rules with changes to the Praxis exam effective through July 31, 2020.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no estimated impacts on revenue collections as a result of the proposed policy revisions.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits for directly affected persons or non-governmental groups as a result of the proposed revisions.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed revisions could impact the number of individuals receiving certification based on the Praxis test results, but any such impact is indeterminable at this time.

Beth Scioneaux
Deputy Superintendent
1911#047

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Education Board of Elementary and Secondary Education

Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act (LAC 28:XLIII.101, 153, 450, 508, 904, 1101, 1153, 1508, and 1511)

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 proposes to amend *Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act*. The proposed amendments clarify time limits for formal written complaint

and due process hearing procedures. The proposed amendments also remove the Louisiana Special Education Center as a BESE Special School, in accordance with Act 411 of the 2019 Regular Legislative Session.

Title 28
EDUCATION

**Part XLIII. Bulletin 1706—Implementation of the
Children with Exceptionalities Act**

Subpart 1. Students with Disabilities

Chapter 1. State Eligibility

**Subchapter A. Free Appropriate Public Education
(FAPE)**

§101. Authority and Scope

A. ...

1. In accordance with R.S. 17:1941 et seq., the Board of Elementary and Secondary Education is:

a. responsible for the assurance of a free appropriate public education to all students residing in the state; and

b. directly responsible for the provision of a free appropriate public education to students within the jurisdiction of the Special School District, the Recovery School District, or in a BESE Special School (the Louisiana School for the Visually Impaired or the Louisiana School for the Deaf).

B. - C.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:2036 (October 2008), amended LR 46:

Subchapter J. State Complaint Procedures

§153. Formal Written Complaint Procedures

A. Time Limit; Minimum Procedures. The time limits in this Section commence after LDE receives a signed written complaint filed in accordance with §152 of this Chapter. The LDE will refer the complaint to the LEA superintendent, special education director/supervisor, or ERP representative in accordance with §151 of this Chapter.

1. The LDE will:

a. not commence investigation of a formal written complaint until after the expiration of the 15-day early resolution period described in §151 of this Chapter; but

A.1.b. - K.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:2047 (October 2008), amended LR 36:1500 (July 2010), LR 46:

Chapter 4. Special School District and BESE Special Schools

Subchapter B. BESE Special Schools

§450. BESE Special Schools

A. In accordance with R.S. 17:1943, the state superintendent will supervise and oversee the administration of the BESE special schools. The BESE special schools are Louisiana School for the Deaf (LSD) and Louisiana School for the Visually Impaired (LSVI), and are state-operated schools providing educational programs and services for residential and/or day students.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:2066 (October 2008), amended LR 46:

Chapter 5. Procedural Safeguards

Subchapter A. Due Process Procedures for Parents and Students

§508. Due Process Hearing Request

A. General

1. A party, or the attorney representing a party, files a request for due process hearing by sending a written request for a due process hearing to the LDE. Such request will remain confidential.

2. The party filing a request for a due process hearing must forward a copy of the request for due process hearing to the other party.

3. The time limits in this Section commence after LDE receives the request for a due process hearing. When the LDE receives a written request for a due process hearing, the LDE will provide a copy of the request to the other party. The date the LDE delivers or receives confirmation that the other party has received the request will be the presumptive date of verifying receipt.

4. Within two business days of receipt of a written request, the LDE will transmit the request for due process hearing to the Division of Administrative Law (DAL), who will docket the request and assign a hearing officer.

B. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:2071 (October 2008), amended LR 38:2367 (September 2012), LR 46:

Chapter 9. General

Subchapter B. Definitions used in these Regulations

§904. Abbreviations/Acronyms

ALJ—administrative law judge.

* * *

LSD—Louisiana School for the Deaf.

LSVI—Louisiana School for the Visually Impaired.

* * *

SSD—special school district.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:2089 (October 2008), amended LR 38:2368 (September 2012), LR 46:

Subpart 2. Gifted/Talented Students

Editor's Note: This Subpart has been realigned and amended to coincide with recent Subpart 1 changes and to align with Louisiana Revised Statute 17:1941 et seq. The Rule was published in the September 2010 *Louisiana Register*, pages 2011-2029.

Chapter 11. State Eligibility

§1101. Free Appropriate Public Education

A. ...

B. The state board will be directly responsible for the provision of a free appropriate public education (FAPE) to gifted and talented students, ages 3 through 21 years, who are within the jurisdiction of either the Special School District or in a BESE special schools (Louisiana School for

the Visually Impaired or Louisiana School for the Deaf) unless the student exits with a high school diploma.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1576 (August 2000), amended LR 36:2011 (September 2010), LR 46:

§1153. Formal Written Complaint Procedures

A. Time Limit; Minimum Procedures. The time limits in this Section begin after the LDE receives a signed written complaint filed under §1152. The LDE will refer the complaint to the LEA superintendent, special education director/supervisor, or ERP representative in accordance with §1151.

1. The LDE will:

a. not commence investigation of a formal written complaint until after expiration of the 15-day early resolution period described in §1151; but

A.1.b. - K.1.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:2014 (September 2010), amended LR 46:

Chapter 15 Procedural Safeguards

§1508. Due Process Hearing Request

A. General

1. A party, or the attorney representing a party, files a request for due process hearing by sending a written request for due process hearing to the LDE. Such request will remain confidential.

2. The party filing a request for due process hearing will forward a copy of the request for due process hearing to the other party.

3. The time limits in this Section begin after the LDE receives a written request for a due process hearing.

a. The LDE will provide a copy of the request to the other party.

b. The date the LDE delivers or receives confirmation that the other party has received the request will be the presumptive date verifying receipt.

4. Within three business days of receipt of a written request, the LDE will transmit the request for due process hearing to the Division of Administrative Law (DAL), who will docket the request and assign a hearing officer.

B. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:2021 (September 2010), amended LR 46:

§1511. Impartial Due Process Hearing and Hearing Officer Appointments

A. ...

B. Agency Responsible for Conducting the Due Process Hearing. The due process hearing described in Paragraph A of this Section will be conducted in accordance with the law and LDE regulations.

C. Impartial Hearing Officer. The DAL will designate hearing officers, who:

C.1. - H.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:2023 (September 2010), amended LR 46:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted, amended, or repealed a rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No

3. Will the proposed Rule affect the functioning of the family? No

4. Will the proposed Rule affect family earning and family budget? No

5. Will the proposed Rule affect the behavior and personal responsibility of children? No

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes

Poverty Impact Statement

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this Section, the word "poverty" means living at or below one hundred percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial authority? No

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes

3. Will the proposed rule affect employment and workforce development? No

4. Will the proposed rule affect taxes and tax credits? No

5. Will the proposed rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No

Small Business Analysis

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed rule on small businesses.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments via the U.S. Mail until noon, December 10, 2019, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: **Bulletin 1706** **Regulations for Implementation of the Children with Exceptionalities Act**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There is no anticipated impact to either the Department of Education (LDE) or local school districts as a result of the technical revisions. Current policy includes procedures to resolve written complaints and to request hearings to resolve exceptionality disputes. The proposed changes establish that the timelines for such hearings begin once LDE has received the request, upon expiration of the 15-day early resolution period. Further, Act 411 of 2019 transfers the Louisiana Special Education Center (LSEC) from the Special School District to the Department of Health; technical revisions remove references to the LSEC from BESE policy.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This policy change will have no effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
This policy change will not result in estimated costs and/or benefits to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no estimated effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1911#048

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor Used Motor Vehicle Commission

Used Motor Vehicles
(LAC 46:V.2701, 2801, 2901-2907, 3101, 3701,
3901, 4301, 4401-4405, 4501, and 4701-4710)

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 32:783(E), that Louisiana Used Motor Vehicle Commission proposes to amend Chapter 27 of Title 26 in order to implement recent amendments made in the 2018 Legislative Session.

Specifically, the proposed changes implemented by ACT 435 of the 2018 Legislative Session will change §4404, Post-Licensing Educational/Continuing Seminar. This Rule will change some title changes that still read Recreational and Used Motor Vehicle Commission to Used Motor Vehicle Commission, which should have been corrected previously. Also, there have been some updates which include technical and grammatical changes.

Title 46 PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part V. Automotive Industry

Subpart 2. Used Motor Vehicles

Chapter 27. The Used Motor Vehicle Commission §2701. Meetings of the Commission

- A. ...
- B. Special Meetings. Special meetings shall be held upon call of the chairman by notice given to the members of the Commission at least 48 hours prior to the time the meeting is to be held; such notice may be given by telephone, facsimile, electronic mail or U.S. Mail.
- C. A public comment period shall be held at or near the beginning of each board meeting. shall identify himself and the group, organization or company he represents, if any. There will be a maximum of 30 minutes per item for all public comments to be heard. Additional time can be allowed by the chairman as he deems reasonable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:783(E)(1) and R.S. 42:5(D).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1062 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 15:258 (April 1989), LR 15:1058 (December 1989) LR 18:1116 (October 1992), LR 24:1682 (September 1998), LR 25:1792 (October 1999), amended by the Office of the Governor, Used Motor Vehicle and Parts Commission, LR 28:2351 (November 2002), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:1633 (August 2007), amended by the Office of the Governor, Used Motor Vehicle Commission, LR 36:2288 (October 2010), amended by the Office of the Governor, Used Motor Vehicle Commission, LR (October 2019), LR 46:

Chapter 28. Definitions

§2801. Definitions

- A. *Commission* or *the commission* shall refer to the Louisiana Used Motor Vehicle Commission.
- B. The word *person* as used herein shall mean any natural or juridical person, firm, association, corporation,

trust partnership, limited liability company or any other legal entity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:783(D)(4).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:1633 (August 2007), amended by the Office of the Governor, Used Motor Vehicle Commission, LR (October 2019), LR 46:

Chapter 29. Licenses to be Issued by the Used Motor Vehicle Commission

§2901. Persons to be Licensed

A. Any person enumerated under R.S. 32:784(A) must be licensed by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:784.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1062 (November 1985), amended by Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 24:1682 (September 1998), amended by the Office of the Governor, Used Motor Vehicle and Parts Commission LR 30:436 (March 2004), repromulgated LR 30:792 (April 2004), LR 30:1477 (July 2004), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:1633 (August 2007), amended by the Office of the Governor, Used Motor Vehicle Commission, LR 36:2288 (October 2010), amended by the Office of the Governor, Used Motor Vehicle Commission, LR (October 2019), LR 46:

§2903. Dealer Licenses

A. The dealer license will only be issued in the legal name of the person as identified on the application for dealer license.

B. - F. ...

G. Dealers who rent or who sell on a rent with option to purchase program will be assigned a license number to be prefixed with a "RD" number.

H. Dealers who perform daily rentals will be assigned a "DR" number.

I. Used motor vehicle auctions will be assigned an "AU" number.

J. ...

K. A dealer who has multiple places of business will be allowed from his salesperson's license to sell at all places of business owned by him.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:784.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1062 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 15:258 (April 1989), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:1634 (August 2007), amended by the Office of the Governor, Used Motor Vehicle Commission, LR 36:2288 (October 2010), amended by the Office of the Governor, Used Motor Vehicle Commission, LR (October 2019), LR 46:

§2904. Additional Licensing, Requirements for the Automotive Dismantler and Parts Recycler and Used Parts and Accessories Dealers

A. ...

B. An automotive dismantler and parts recycler may offer a rebuilt, wrecked, abandoned or repairable motor vehicle at wholesale only. If such vehicle is offered for sale at retail, the dismantler will be operating as a used motor vehicle dealer and is subject to licensing requirements and

used motor vehicle dealer rules and regulations thereof. However, an automotive dismantler and parts recycler, duly licensed by the commission, shall have the authority to transfer the certificate of title as dealer under the Louisiana Certificate of Title Law, (i.e., transfer to another dealer without payment of tax). In order to sell a vehicle at retail, an automotive dismantler and parts recycler must be licensed hereunder as a used motor vehicle dealer providing a good and sufficient bond, executed by the applicant as principal by a surety company qualified to do business as surety in the sum of \$50,000.

C. At least one salesperson's license shall be issued for each business. License fees charged and received by the commission shall be the same as for all other salespersons licensed by the commission as described in R.S. 32:781(14).

D. Used parts and accessories are broadly defined as any item removed from a used motor vehicle for the purpose of resale.

E. License fees charged and received by the commission for licenses issued on dealers in this section shall be the same as for all other dealers licensed by this agency.

F. At least one salesperson's license shall be issued for each place of business. License fees charged and received by the commission shall be the same as for all other salesmen licensed by the commission as described in this section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:802.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1063 (November 1985), amended by Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 20:535 (May 1994), promulgated LR 20:645 (June 1994), LR 24:1683 (September 1998), amended LR 25:245 (February 1999), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 30:2481 (November 2004), LR 33:1634 (August 2007), amended by the Office of the Governor, Used Motor Vehicle Commission, LR (October 2019), LR 46:

§2905. Qualifications and Eligibility for Licensure

A. The commission, in determining the qualifications and eligibility of an applicant for a dealer's license, shall:

1. verify that the applicant has an established place of business properly zoned in the municipality;

2. maintain an office reasonably suited to conduct the business of a used motor vehicle dealership and shall have an enclosed building or structure easily accessible to the public at which place the books, records, files and electronic data shall be maintained for inspection, and shall not mean temporary structures such as stands, lean-tos, or tents;

3. have a permanently affixed sign, at a minimum of 16 square feet and subject to local zoning laws, in front of the establishment which denotes that vehicles are offered for sale at the place of business to which the sign is affixed. If two or more dealers share a place of business, each dealer must display his own sign;

4. have a telephone number for the established place of business which number shall be posted or displayed in or at a place accessible to the public;

5. have a bond with an approved carrier in accordance with R.S. 32:791(G);

6. have the required garage liability insurance policy on all vehicles offered for sale or used in any other capacity in demonstrating or utilizing the streets and roadways in accordance with the financial responsibility laws of the state

and for those dealers who conduct the business of daily vehicle rentals, a separate renter's policy is in effect;

7. demonstrate sufficient business integrity, based upon the applicant's experience in the same or similar businesses, his business history, and whether such applicant will devote full or part time to the business;

8. not owe any outstanding fines for or have any pending violations of the commission's laws or rules and regulations;

9. not be an immediate family member of, the former employee of, or a former business associate of a dealer whose license was previously revoked or suspended by the commission, and intends to operate the same or substantially the same business as operated by the revoked licensee, or the revoked licensee will be participating in the business.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:791 and 792.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1062 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission LR 15:258 (April 1989), LR 15:375 (May 1989), LR 24:1682 (September 1998), LR 25:245 (February 1999), amended by the Office of the Governor, Used Motor Vehicle and Parts Commission, LR 30:436 (March 2004), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 30:2480 (November 2004), LR 33:1635 (August 2007), amended by the Office of the Governor, Used Motor Vehicle Commission, LR 37:1405 (May 2011), promulgated LR 37:1612 (June 2011), amended by the Office of the Governor, Used Motor Vehicle Commission, LR (October 2019), LR 46:

§2907. Retail Auctions Operating at a Place of Business Other Than the Establish Place of Business

A. A dealer licensed by the commission to conduct auctions at an established place of business may conduct a public or retail auction for a specified period of time at a place of business other than the dealer's established place of business after receipt of a license for the auction location. A licensed dealer which conducts a public or retail auction at a place of business other than the dealer's established place of business shall include the address and telephone number of dealer's established place of business together with a telephone number to be used during the auction on all signs and bills of sale and shall obtain a public retail auction license for the auction location prior to advertising the auction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:791.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1063 (November 1985), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:1635 (August 2007), amended by the Office of the Governor, Used Motor Vehicle Commission, LR 37:1405 (May 2011), promulgated LR 37:1612 (June 2011), amended by the Office of the Governor, Used Motor Vehicle Commission LR (October 2019), LR 46:

Chapter 31. License for Salesperson

§3101. Qualifications and Eligibility for Licensure

A. The Commission, in determining the qualifications and eligibility of an applicant for a salesperson license, will base its determinations upon the following factors:

1. The applicant's business integrity.
2. A license for a salesperson will not be issued, renewed or endorsed until the employing dealer is licensed and has certified that the applicant for said license is in his

employ and applicant is listed on the insurance statement and covered under the dealer's garage liability insurance policy. All salesperson's licenses will be sent to the dealer for distribution to the respective applicants, and the dealer will determine that all its personnel required to obtain licenses have done so.

B. A salesperson's license shall include the name, address, name of employer, date, signature of the executive director, salesperson's license number prefixed with SM, followed by an electronic number.

C. A salesperson may not hold more than one salesperson's license at any one time or be employed by or sell for, any dealer other than the dealer and at the address designated on the salesperson's license, with the exception that the licensed dealer has more than one place of business. The licensed dealer and licensed salesperson may sell on each place of business properly licensed as additional places of business, provided the additional places of business are in the same name as the principal place of business.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:781(14).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1063 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 15:258 (April 1989), LR 25:245 (February 1999), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 30:2481 (November 2004), LR 33:1635 (August 2007), amended by the Office of the Governor, Used Motor Vehicle Commission, LR 36:2289 (October 2010), amended by the Office of the Governor, Used Motor Vehicle Commission LR (October 2019), LR 46:

Chapter 37. Changes or Closures to be Reported to Commission

§3701. Changes and Closures to be Reported to Commission and Fee Assessment

A. Any changes of address, ownership or employment by a licensee shall:

1. be reported to the commission within three business days of the change.
2. include a fee of \$100 for each time a dealer changes his place of business;
3. require a site inspection performed by a commission compliance investigator.
4. shall complete the commission's closure of business form within three business days prior to closure.

B. The dealer shall notify the commission when a salesperson's employment is terminated by returning the salesperson's license within three business days.

C. Each salesperson shall surrender his identification card to the Commission and obtain a new license for the new place of business before again engaging in the business as a salesperson for another used motor vehicle dealer.

D. Any change which renders no longer accurate any information contained in an application for dealer or automotive dismantler license filed with the commission shall be amended within three business days after the occurrence of the change on the form prescribed by the commission, accompanied by the appropriate fee.

E. Any person who ceases to engage in the business of a used motor vehicle dealer shall:

1. promptly notify the commission of the anticipated closure;

2. shall surrender all licenses associated with the dealership; and

3. the dealer shall list on the form any outstanding certificates of title, any unremitted or unpaid sales tax, and all outstanding temporary markers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:774. B(4)(g).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1064 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 15:259 (April 1989), LR 18:1117 (October 1992), amended by the Office of the Governor, Used Motor Vehicle Commission LR (October 2019), LR 46:

Chapter 39. Business Transactions

§3901. Register of Business Transactions

A. ...

B. Such registers and/or records shall be made available for inspection by the commission or identified law enforcement officers of the state, parish and municipality where the business of the used motor vehicle dealer, automotive dismantler and parts recyclers, salvage pool or salvage disposal sale is located, during reasonable business hours or business days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:757. A-B.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1064 (November 1985), amended by Office of the Governor, Used Motor Vehicle and Parts Commission, LR 28:1588 (July 2002), amended by the Office of the Governor, Used Motor Vehicle Commission LR (October 2019), LR 46:

Chapter 43. License Renewal

§4301. Period for Renewals

A. Completed application packages shall be submitted by November 1 of the year. If applications have not been made for renewal of existing licenses, such licenses shall expire December 31 and it shall be illegal for any person to represent himself as a dealer thereafter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:774.B(4).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1064 (November 1985), amended by the Office of the Governor, Used Motor Vehicle Commission LR (October 2019), LR 46:

Chapter 44. Educational Seminar

§4401. Required Attendance

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:791(B) (3), 802 (D), 811 (B).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Used Motor Vehicle and Parts Commission. LR.28:2351 (November 2002), amended LR 30:436 (March 2004), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:1637 (August 2007), amended by the Office of the Governor, Used Motor Vehicle Commission, LR 36:2289 (October 2010), repealed LR 46:

§4403. Certification

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:791(B) (3), 802 (D), 811 (B).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Used Motor Vehicle and Parts Commission. LR.28:2351 (November 2002), amended LR 30:436 (March 2004), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:1637 (August 2007), repealed LR 46:

§4402. Pre-License Educational Seminar

A. Every applicant for an initial used motor vehicle dealer's license is required to attend a pre-license seminar.

B. The seminar shall be conducted by the employees of the Commission.

C. The seminar will be held at such time and place to be determined by the Commission upon reasonable notice.

D. For the pre-license seminar, the commission shall include materials and discussion on the following areas of law: the Used Motor Vehicle Commission, the Motor Vehicle Sales Finance Law, the Office of Motor Vehicles, the Department of Public Safety and Corrections, the Department of Revenue, and any other information the commission deems necessary to educate attendees and their employees with regard to compliance with the law.

E. The seminar shall not exceed six hours in length.

F. No tests are required for completion of the pre-license educational seminar.

G. Upon applying for a license from the Commission, the applicant must attach a copy of the certificate of completion which:

1. documents that the dealership's owner, partner, officer, or local dealership manager has completed the pre-license seminar; and

2. shall be issued by the commission and shall list the participant's name, his position with the applicant, the name of the dealership, the address of the dealership, the date of completion and the signature of the instructor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:791(B) and 795

HISTORICAL NOTE: Promulgated by the Louisiana Used Motor Vehicle Commission, Office of the Governor, LR 46:

§4404. Post-License Educational/Continuing Seminar

A. Every applicant seeking to renew a used motor vehicle dealer's license is required to attend a post-license/continuing educational seminar prior to renewal of the license.

B. The post-license/continuing educational seminar shall:

1. have a program and materials approved by the commission;

2. focus on developments and changes in the law, rules and regulations and policy and procedures which effect their business and which arise in the two years since the renewal of their license;

3. not exceed four hours in length;

4. be conducted in person or online via the internet; and

5. require attendees or participants to complete a test as follows:

a. the test shall be comprised of 10 questions approved by the commission; and

b. require attendees or participants to obtain a minimum score of 70 percent in order to receive credit for satisfactory completion of the seminar.

C. Any educational institution, private vocational school, correspondence school, or trade association seeking to conduct a post-license/continuing educational seminar must apply to and obtain approval from the Commission prior to providing the post-seminar/continuing educational seminar.

D. To obtain approval to conduct a post-license/continuing educational seminar, the applicant-instructor shall:

1. complete an application in such form and detail as prescribed by the Commission and shall be accompanied by any documentation requested therein; and

2. submit an application fee of \$600.

E. The commission may deny an application of a post-license/continuing educational seminar instructor for any of the following reasons:

1. the applicant has been convicted of forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud, or theft, or has been convicted of a felony or crime involving moral turpitude in any court of competent jurisdiction;

2. an application contains a false statement of material fact;

3. a professional license or has been revoked; or

4. the applicant fails to meet the minimum requirements.

F. The commission shall approve or deny any post-license/continuing educational seminar instructor application within 45 days after receipt. Incomplete applications, or a request from the commission for additional information, may be cause for delay beyond 45 days.

G. Once approved, the post-license/continuing education seminar instructor will be given a certificate as issued by the commission.

H. No fee for a post-license/continuing education seminar may be charged unless the seminar is approved by the commission.

I. The certificate of the post-license/continuing educational seminar instructor is valid for only two years from the date of approval and must be reapproved every two years.

J. The certificate of the post-license/continuing educational seminar instructor may be revoked or suspended for good cause upon 30 days written notice.

K. The post-license/continuing educational seminar instructor shall issue a uniform certificate of completion to all attendees and participants who successfully completed the course on a form approved by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:791(B) and 795

HISTORICAL NOTE: Promulgated by the Louisiana Used Motor Vehicle Commission, Office of the Governor, LR 46:

§4405. Educational Program

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:791(B)(3), 802(D), 811(B).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Used Motor Vehicle and Parts Commission, LR 28:2352 (November 2002), repromulgated LR 28:2511 (December 2002), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:1637 (August 2007), amended by the Office of the Governor, Used Motor Vehicle Commission, LR 36:2289 (October 2010), repealed LR 46:

Chapter 45. Complaints

§4501. Complaints

A. All complaints made to the commission must be made on the complaint form provided by the commission.

B. All complaints shall include documents which support the complainant's claim.

C. The commission shall mark each complaint received on the date it is received which shall designate the date upon which the complaint is filed.

D. The commission shall assign a case number for each complaint received.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:776(A)(3).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1065 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 15:260 (April 1989), amended by the Office of the Governor, Used Motor Vehicle and Parts Commission, LR 30:1019 (May 2004), amended by the Office of the Governor, Used Motor Vehicle Commission, LR 46:

Chapter 47. Procedure for Adjudications before the Used Motor Vehicle Commission

§4701. General Provisions on Hearings

[Formerly §4707]

A. Notice of Hearing. The notice of hearing shall comply with the requirements of R.S. 32:785(B)(2).

B. Service of Notice. The notice of hearing shall be served:

1. by a compliance investigator on the licensee either personally or at its place of business on the licensee's employee (if service is made in this manner, the compliance investigator shall sign the acknowledgment of service); or

2. through the office by certified or registered mail (the return receipt shall serve as acknowledgment of service);

3. the return of service shall be filed into the case record.

C. Discovery. The Louisiana Code of Civil Procedure, Articles 1420 et seq., shall apply to all requests of discovery. Discovery shall be timely and give a reasonable opportunity to respond.

D. Preliminary Motions and Exceptions. No preliminary motions or exceptions shall be considered by the Commission unless filed five days prior to the hearing.

E. Subpoenas

1. Subpoenas shall be issued in accordance with R.S. 32:785(B)(3).

2. Subpoenas may be issued for the purpose of assisting in the investigation of any alleged violation or dispute which is before the commission.

3. Subpoenas for the attendance of witnesses, and/or for the furnishing of information required by the commission and/or for the production of evidence of records of any kinds shall be issued by the executive director.

4. Subpoenas shall be served by a compliance investigator either personally or by certified mail or registered mail. A return shall be placed in the record designating the manner and date of service as well as the oath the person making the service.

5. Any party to a hearing desiring the attendance of witnesses upon his behalf shall have the right to seek compulsory attendance of such witnesses and the production of relevant documents provided said party has filed a list of names and addresses with the commission at least 10 days prior to the date that the testimony expected to be taken.

6. The party requesting the issuance of a subpoena shall deposit with the executive director a sum consistent with R.S. 13.3661(B) to cover the costs of the issuance of the subpoena.

F. Conduct and Order of the Hearing

1. The chairman of the commission shall preside over the conduct of the hearing and may set a reasonable time for the presentation of a matter depending on the nature of the case and the complexity of the issues.

2. The chairman may in his discretion sequester witnesses.

3. The chairman shall make rulings on evidentiary matters keeping in mind that the commission shall not be bound by the technical rules of the evidence and may admit material and relevant evidence. The principles underlying the Louisiana Code of Evidence shall serve as a guide to the admissibility of evidence in hearings before the commission. The specific exclusionary rules and other provisions shall be applied only to the extent that they tend to promote the purposes of proceedings before the commission.

4. The hearing shall begin with any stipulation as to the facts or issues.

5. The chairman shall direct the order of witness examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:785.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 32:1222 (July 2006), amended LR 33:1637 (August 2007), amended by the Office of the Governor, Used Motor Vehicle Commission, LR 46:

§4703. Restitution

A. The commission may in its discretion order restitution as follows.

1. The intent of restitution is to restore the complainant to their position as it existed prior to the licensee's violation.

2. Restitution may only be awarded for compensatory or actual loss incurred by the complainant as a direct result of the licensee's violation and shall not be include general damages.

3. The executive director may include restitution within a stipulated order.

4. The commission may order restitution only after a hearing on a violation and only upon proof submitted by the complainant of compensatory or actual loss.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:785(B)(6) and 32:791 (G)(3)(c).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Used Motor Vehicle Commission, LR 46:

§4705. Hearing Committee

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:776.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 32:1222 (July 2006), repealed by the Office of the Governor, Used Motor Vehicle Commission, LR 46:

§4709. Hearings on Application Appeals

A. Any person whose application for license has been denied in accordance with R.S. 32:785(A)(34) shall be provided written notice by certified or registered mail that the application has been denied, the grounds for which the

application has been denied and that the applicant has the right to appeal to the Commission by making a written request for the appeal within 30 days following the receipt of the denial. No appeals will be considered beyond 30 days from the receipt of the denial.

B. Based on the applicant's written request, the commission will assign the appeal to be heard at the next available commission meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:785.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 32:1222 (July 2006), amended LR 33:1637 (August 2007), amended by the Office of the Governor, Used Motor Vehicle Commission, LR (October 2019), LR 46:

§4710. Interlocutory Cease and Desist Orders

A. The executive director may issue an interlocutory cease and desist order:

1. to prohibit and/or enjoin any activity which is a violation of the commission's laws and rules and regulations and poses a threat to the public;

2 upon sufficient proof that a person or licensee has committed or is committing a violation and is posing a threat to the public. All proof must be filed and attached to the interlocutory cease and desist order, and reasons given for the issuance must be assigned.

B. An interlocutory cease and desist order shall be served in the manner prescribed in R.S. 32:785(B)(2)(b) and shall:

1. enjoining a person or licensee from engaging in the prohibited activity for a period of time until the commission holds a hearing to review the validity of the order.

2. notify the party against whom the order is issued that the order will remain in effect until the next commission meeting date.

C. The commission shall hold a hearing at the commission's next available meeting date and upon reasonable notice to the person or licensee alleged to have committed the violation.

D. In lieu of an interlocutory order, the executive director may request that the commission issue an injunction to prohibit or enjoin a person or licensee from either committing or threatening to commit a violation of the Commission's laws and rules and regulations as follows:

E. The injunction shall be issued by the commission only upon notice and hearing to the person or licensee whose conduct is sought to be enjoined or prohibited.

F. The person or licensee shall be provided at least 10 days written notice prior to the hearing on the injunction.

G. The notice shall be served in any manner prescribed in R.S. 32:785(B)(2)(b).

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:786.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:1637 (August 2007), amended by the Office of the Governor, Used Motor Vehicle Commission, LR (October 2019), LR 46:

Family Impact Statement

The proposed Rule does not have any known or foreseeable impact on family formation, stability, and autonomy. In particular, the proposed Rule has no known foreseeable impact on:

1. the stability of the family;

2. the authority and rights of persons regarding education and supervision of their children;
3. the functioning of the family;
4. family earnings and budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

The proposed Rule does have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973(B). In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits’
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Provider Impact Statement

The proposed Rule does not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments, data, opinions, and arguments regarding the proposed changes. Written submissions shall be directed to Derek Parnell, 3132 Valley Creek Drive, Baton Rouge, LA 70808 and must be received no later than noon on the 10th day, December, 2019.

Derek L. Parnell
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Used Motor Vehicles**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There is no anticipated cost to the Used Motor Vehicle Commission or other governmental entities associated with the proposed rule changes which provide technical corrections and codify existing practices into rule. Substantive changes regarding the licensees educational and business practices will not impose additional workload or costs for the Commission

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be an increase in revenue collections of the Commission as a result of a new \$600 application fee for vendors/instructors to conduct post-license continuing education seminars which must be renewed every two years. FY 20 revenue is estimated between \$600 and \$1200. Future revenues are indeterminable at this time and will depend upon

the number of continuing education vendor/instructors who apply.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be a cost to continuing education vendors to receive a seminar instructor certificate. Vendors/Instructors may charge a participant fee for the seminar upon approval of the Commission.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no impact on competition and employment as proposed changes codify existing practices.

Derek L. Parnell
Executive Director
1911#045

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health
Board of Nursing**

Officers of the Board and Meetings of the Board
(LAC 46:XLVII.3303 and 3307)

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 37:917-918, that the Louisiana State Board of Nursing (LSBN) will update LAC XLVII Chapter 33, §§3303 and 3307 by aligning the rules to the bylaws that were revised in 2017. In §3303, LSBN is revising terminology that will allow board officers to serve two years instead of one year. LSBN is defining the role and duties of the president, vice-president and alternate officer of the board. A contingency plan is provided in case of an emergency vacancy or termination of appointment of a board member by the governor while serving as an officer. In §3307, the election of board officers will take place during the first meeting of the year instead of the last meeting of the year. There has been no guarantee that the current board member(s) who served one term will be automatically granted a second term. The composition of the LSBN board has changed with the appointment of consumer members. Previously, we had nine voting members, therefore five members constituted a quorum. Today, we have 11 voting members and six members will constitute a quorum.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

**Part XLVII. Nurses: Practical Nurses
and Registered Nurses**

Subpart 2. Registered Nurses

Chapter 33. General

Subchapter A. Board of Nursing

§3303. Officers of the Board

A. The officers of the board shall consist of a president, a vice-president, and an alternate officer.

B. The three officers are to be elected at the annual meeting, and are to serve for two years, or until their successors have been elected.

C. The alternate officer shall be elected to provide for the seating of a complement of officers in case of an emergency vacancy of the president or vice-president. The elected

alternate shall have no official officer functions unless an emergency vacancy occurs.

D. In the event of the vacancy of the office of president, the vice-president shall serve as president and the alternate shall serve as vice-president to complete the unexpired term of office. A new alternate shall be elected at the next meeting of the board.

E. In the event of the vacancy of the office of the vice-president, the alternate shall serve as vice-president to complete the unexpired term of office. A new alternate shall be elected at the next meeting of the board.

F. The elected officers will serve as the executive committee of the board.

G. The duties of the officers shall be as follows.

1. The president shall preside at all board meetings. (S)he shall appoint all standing and special committees and respective chairs not otherwise provided for, and perform all other duties pertaining to this office. The president shall serve as ex officio member to all standing and special committees. The president may serve as a voting member of any standing and special committee for the purpose of constituting a quorum.

2. The vice-president shall serve as secretary-treasurer to the board. (S)he shall oversee the preparation of an annual budget, assisted by LSBN chief executive officer/ executive director and other staff as needed and will review financial records periodically and present a report at each regular board meeting. (S)he shall preside over all regular or special meetings in the absence of the president or at the request of the president.

H. The officers shall direct the chief executive officer/executive director to carry out functions of the board relative to its statutory requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:914 and R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 7:73 (March 1981), amended by the Department of Health and Hospitals, Board of Nursing, LR 23:962 (August 1997), LR 24:1293 (July 1998), amended by the Department of Health, Board of Nursing, LR 46:

§3307. Meetings of the Board

A. Regular business meetings shall be held at a place and time designated by the board.

B. Regular meetings of the board shall be held at least bi-monthly. The annual meeting shall be held at the first regularly scheduled meeting of the calendar year.

C. Special meetings shall be called by the chief executive officer/executive director or designee at the request of the president, or upon the request of three members of the board.

D. Six members, including one officer, shall constitute a quorum of the board for the purpose of conducting business.

E. Any person wishing to have a special topic added to the agenda for a board meeting shall notify the chief executive officer/executive director, or a designee, at least 21 days prior to the meeting. Items of an emergency nature may be considered at any meeting without prior notice.

F. The chief executive officer/ executive director, or a designee, shall keep a record of all meetings and such records shall be retained as permanent records of the transactions of the board.

G. Meetings of the board for the conduct of regular business and for the formation of policy shall be open to the public in accordance with R.S. 42:4.2 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 7:73 (March 1981), amended by the Department of Health and Hospitals, Board of Nursing, LR 22:104 (February 1996), LR 24:1293 (July 1998), amended by the Department of Health, Board of Nursing, LR 46:

Family Impact Statement

The proposed additions and/or changes to the rules of the board, Louisiana State Board of Nursing 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. a family's earnings and budget;
5. the behavior and personal responsibility of the children; or
6. the family's ability or that of the local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will not have an impact on child, individual, or family poverty in relation to individual or community asset development as described on R.S. 49:973.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will not have an impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments on the proposed Rule to Karen C. Lyon, 17373 Perkins Road, Baton Rouge, LA 70810, or by facsimile to (225) 755-7585. All comments must be submitted by 5 p.m. on or before December 10, 2019.

Dr. Karen Lyon
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Officers of the Board and Meetings of the Board

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes will result in a one-time publication cost of \$300 for the LA State Board of Nursing (LSBN) in FY 20. The proposed rule changes will update LAC XLVII Chapter 33, Sections 3303 and 3307 by aligning the rules to the LSBN's bylaws that were revised in 2017. The proposed rule changes codify existing policies and procedures regarding board officers and meetings.

The proposed rule changes will not result in any additional costs or savings for local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes will not affect revenue collections for state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule changes will not result in any costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes will not affect competition and employment.

Karen C. Lyon
Executive Director
1911#026

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health
Board of Pharmacy**

Cannabis Metered-Dose Inhaler (LAC 46:LIII.2443)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy hereby gives notice of its intent to amend one section of its rules for marijuana pharmacies to add metered-dose inhalers to the list of allowable dosage forms for marijuana products as authorized by Act 284 of the 2019 Legislature. The proposed amendment of §2443.C.1 adds metered-dose inhalers to the existing list of allowable dosage forms for marijuana products.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LIII. Pharmacists

Chapter 24. Limited Service Providers

Subchapter E. Marijuana Pharmacy

§2443. Marijuana Products

A. - B.8. ...

C. Product Dosage Forms

1. The producer shall limit their production of pharmaceutical grade marijuana products to the following dosage forms:

a - e. ...

f. transdermal patches;

g. suppositories; or

h. metered-dose inhalers.

C.2. - E.4.f. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 43:1540 (August 2017), amended LR 46:

Family Impact Statement

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a family impact statement on the Rule proposed for adoption, repeal, or amendment. The following statements will be published in the Louisiana Register with the proposed agency Rule.

1. The Effect on the Stability of the Family. The proposed Rule amendment will have no effect on the stability of the family.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. The proposed Rule amendment will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect on the Functioning of the Family. The proposed Rule amendment will have no effect on the functioning of the family.

4. The Effect on Family Earnings and Family Budget. The proposed Rule amendment will have no effect on family earnings or family budget.

5. The Effect on the Behavior and Personal Responsibility of Children. The proposed Rule amendment will have no effect on the behavior and personal responsibility of children.

6. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. The proposed Rule amendment will have no effect on the ability of the family or a local government to perform the activity as contained in the proposed Rule.

Poverty Impact Statement

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a poverty impact statement on the Rule proposed for adoption, repeal, or amendment.

1. The Effect on Household Income, Assets, and Financial Security. The proposed Rule amendment will have no effect on household income, assets, or financial security.

2. The Effect on Early Childhood Development and Preschool through Postsecondary Education Development. The proposed Rule amendment will have no effect on early childhood development or preschool through postsecondary education development.

3. The Effect on Employment and Workforce Development. The proposed Rule amendment will have no effect on employment or workforce development.

4. The Effect on Taxes and Tax Credits. The proposed Rule amendment will have no effect on taxes or tax credits.

5. The Effect on Child and Dependent Care, Housing, Health Care, Nutrition, Transportation, and Utilities Assistance. To the extent a child has been diagnosed with a medical condition eligible for treatment with therapeutic cannabis products, and to the extent such treatment is responsive to an aerosolized dosage form, the proposed rule change may improve the healthcare of the child by providing a dosage form with a more rapid onset of action compared to oral or topical dosage forms.

Small Business Analysis

In accordance with Section 965 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a regulatory flexibility analysis on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, each of the following methods of reducing the impact of the proposed Rule on small businesses:

1. The Establishment of Less Stringent Compliance or Reporting Requirements for Small Businesses. There are no reporting requirements in the proposed Rule amendment.
2. The Establishment of Less Stringent Schedules or Deadlines for Compliance or Reporting Requirements for Small Businesses. There are no specific reporting requirements for deadlines in the proposed Rule amendment.
3. The Consolidation or Simplification of Compliance or Reporting Requirements for Small Businesses. There are no additional compliance or reporting requirements in the proposed Rule amendment.
4. The Establishment of Performance Standards for Small Businesses to Replace Design or Operational Standards Required in the Proposed Rule. There are no design or operational standards in the proposed Rule amendment.
5. The Exemption of Small Businesses from All or Any Part of the Requirements Contained in the Proposed Rule. There are no exemptions for small businesses.

Provider Impact Statement

In accordance with House Concurrent Resolution No. 170 of the Regular Session of the 2014 Legislature, there is hereby submitted a provider impact statement on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, the following effects on the providers of services to individuals with developmental disabilities:

1. The Effect on the Staffing Level Requirements or Qualifications Required to Provide the Same Level of Service. The proposed Rule amendment will have no effect on the staffing level requirements or the qualifications for that staff to provide the same level of service.
2. The Total Direct and Indirect Effect on the Cost to the Provider to Provide the Same Level of Service. The proposed Rule amendment will have no effect on the cost to the provider to provide the same level of service.
3. The Overall Effect on the Ability of the Provider to Provide the Same Level of service. The proposed Rule amendment will have no effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments, via United States Postal Service or other mail carrier, or in the alternative by personal delivery to Malcolm J Broussard, Executive Director, at the office of the Louisiana Board of Pharmacy, 3388 Brentwood Drive, Baton Rouge, LA 70809-1700. He is responsible for responding to inquiries regarding the proposed Rule amendment.

Public Hearing

A public hearing to solicit comments and testimony on the proposed Rule amendment is scheduled for 9 a.m. on Friday, December 27, 2019. During the hearing, 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 comments is 12 p.m. noon that same day. To request reasonable accommodations for persons with disabilities, please call the board office at 225.925.6496.

Malcolm J Broussard
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Cannabis Metered-Dose Inhaler

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will result in the Louisiana Board of Pharmacy's incurring a one-time SGR cost of \$1,000 for FY 20 to publish the proposed and final rules in the state register. There are no other costs or savings for other local or state governmental units. The proposed rule change allows producers of medical marijuana products to prepare products for use in metered dose inhalers in addition to their other oral or topical dosage forms.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will not affect revenue collections for state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change benefits producers of marijuana products as it will permit, but not require, them to prepare products for use in metered dose inhalers in addition to their other oral or topical dosage forms. Furthermore, the proposed rule change benefits consumers of medical marijuana products by allowing them another method of consumption.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will not affect competition or employment.

Malcolm J. Broussard
Executive Director
1911#050

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Board of Pharmacy

Continuing Education Records
(LAC 46:LIII.507)

In accordance with the provisions of the Administrative Procedure Act (La. R.S. 49:950 et seq.) and the Pharmacy Practice Act (La. R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy hereby gives notice of its intent to amend Section 507 of its rules relative to continuing education for pharmacists. The proposed rule change will repeal the requirement for pharmacists to maintain copies of their continuing education certificates at their primary place of employment, and will instead require pharmacists to maintain records of their continuing education activities with CPE Monitor[®], an electronic repository of continuing education records for pharmacists and pharmacy technicians operated by the National Association of Boards of Pharmacy and the Accreditation Council for Pharmacy Education.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS

Part LIII. Pharmacists

Chapter 5. Pharmacists

§507. Continuing Education Program

A. - B.2. ...

3. *CPE Monitor*—a collaborative service from the National Association of Boards of Pharmacy (NABP) and the Accreditation Council for Pharmacy Education (ACPE) that provides an electronic system for pharmacists and pharmacy technicians to record and track their completed CPE activities.

4. *CPE Unit*—a standard of measurement adopted by the ACPE for the purpose of accreditation of CPE programs. One CPE unit is equivalent to 10 credit hours.

C. Requirements.

1. ...

2. Pharmacists shall maintain individual records of personal CPE activities with CPE Monitor and shall authorize the board's access to their file by recording their Louisiana pharmacist license number within that file, and shall present a copy of their CPE Monitor transcript when requested by the board.

C.3 - D.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 23:1306 (October 1997), amended LR 29:2083 (October 2003), effective January 1, 2004, amended LR 33:1125 (June 2007), amended by the Department of Health, Board of Pharmacy, LR 46:

Family Impact Statement

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a family impact statement on the rule proposed for adoption, repeal, or amendment. The following statements will be published in the Louisiana Register with the proposed agency rule.

1. The Effect on the Stability of the Family. The proposed Rule amendment will have no effect on the stability of the family.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. The proposed Rule amendment will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect on the Functioning of the Family. The proposed Rule amendment will have no effect on the functioning of the family.

4. The Effect on Family Earnings and Family Budget. The proposed Rule amendment will have no effect on family earnings or family budget.

5. The Effect on the Behavior and Personal Responsibility of Children. The proposed Rule amendment will have no effect on the behavior and personal responsibility of children.

6. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. The proposed Rule amendment will have no effect on the ability of the family or a local government to perform the activity as contained in the proposed Rule.

Poverty Impact Statement

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a poverty impact statement on the rule proposed for adoption, repeal, or amendment.

1. The Effect on Household Income, Assets, and Financial Security. The proposed Rule amendment will have no effect on household income, assets, or financial security.

2. The Effect on Early Childhood Development and Preschool through Postsecondary Education Development. The proposed Rule amendment will have no effect on early childhood development or preschool through postsecondary education development.

3. The Effect on Employment and Workforce Development. The proposed Rule amendment will have no effect on employment or workforce development.

4. The Effect on Taxes and Tax Credits. The proposed Rule amendment will have no effect on taxes or tax credits.

5. The Effect on Child and Dependent Care, Housing, Health Care, Nutrition, Transportation, and Utilities Assistance. The proposed Rule amendment will have no effect on child and dependent care, housing, health care, nutrition, transportation, or utilities assistance.

Small Business Analysis

In accordance with Section 965 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a regulatory flexibility analysis on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, each of the following methods of reducing the impact of the proposed Rule on small businesses:

1. The Establishment of Less Stringent Compliance or Reporting Requirements for Small Businesses. There are no reporting requirements in the proposed Rule amendment.

2. The Establishment of Less Stringent Schedules or Deadlines for Compliance or Reporting Requirements for Small Businesses. There are no specific reporting requirements in the proposed Rule amendment.

3. The Consolidation or Simplification of Compliance or Reporting Requirements for Small Businesses. There are no additional compliance or reporting requirements in the proposed Rule amendment.

4. The Establishment of Performance Standards for Small Businesses to Replace Design or Operational Standards Required in the Proposed Rule. There are no design or operational standards in the proposed Rule amendment. There are no design or operational standards in the proposed Rule amendment.

5. The Exemption of Small Businesses from All or Any Part of the Requirements Contained in the Proposed Rule. There are no exemptions for small businesses.

Provider Impact Statement

In accordance with House Concurrent Resolution No. 170 of the Regular Session of the 2014 Legislature, there is hereby submitted a provider impact statement on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, the following effects on the providers of services to individuals with developmental disabilities:

1. The Effect on the Staffing Level Requirements or Qualifications Required to Provide the Same Level of Service. The proposed Rule amendment will have no effect

on the staffing level requirements or the qualifications for that staff to provide the same level of service.

2. The Total Direct and Indirect Effect on the Cost to the Provider to Provide the Same Level of Service. The proposed Rule amendment will have no effect on the cost to the provider to provide the same level of service.

3. The Overall Effect on the Ability of the Provider to Provide the Same Level of service. The proposed Rule amendment will have no effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments, via United States Postal Service or other mail carrier, or in the alternative by personal delivery to Malcolm J Broussard, Executive Director, at the office of the Louisiana Board of Pharmacy, 3388 Brentwood Drive, Baton Rouge, Louisiana 70809-1700. He is responsible for responding to inquiries regarding the proposed rule amendment.

Public Hearing

A public hearing to solicit comments and testimony on the proposed rule amendment is scheduled for 9 a.m. on Friday, December 27, 2019. During the hearing, 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 comments is 12 p.m. noon that same day. To request reasonable accommodations for persons with disabilities, please call the Board office at 225.925.6496.

Malcolm J Broussard
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Continuing Education Records

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes will require the Louisiana Board of Pharmacy to publish the proposed and final rules in the state register, resulting in a one-time cost of \$2,000 for FY 20. There are no other costs or savings for other local or state governmental units. The proposed rule change alters continuing education recordkeeping requirements for pharmacists in Louisiana.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes will not affect revenue collections for state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule changes affects pharmacists required to comply with continuing education requirements to maintain licensure. The proposed rule changes repeal the current requirement for a pharmacist to maintain copies of their continuing education certificates at their primary place of employment, and instead require a pharmacist to maintain records of their continuing education activities with CPE Monitor®, an electronic repository of continuing education records for pharmacists and pharmacy technicians operated by the National Association of Boards of Pharmacy and the Accreditation Council for Pharmacy Education. There is no cost to the pharmacist or to the Board to participate in CPE Monitor®.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes will not affect competition or employment.

Malcolm J. Broussard
Executive Director
1911#057

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Board of Pharmacy

Controlled Substance License for Third Party Logistics Providers (LAC 46:LIII.Chapter 27)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy hereby gives notice of its intent to amend several sections within Chapter 27 of its rules relative to controlled substances. Act 186 of the 2018 Legislature amended the state controlled substance law to require the licensure of third party logistics providers, which elect to distribute controlled substances to authorized entities within the state. The proposed changes in §2701 insert definitions of third party logistics providers and reverse distributors and make other technical changes. The proposed changes in §2705 add third party logistics providers to the list of entities required to obtain a state controlled substance license to engage in certain activities with controlled substances. The proposed change in §2707 is a technical change in licensing procedures. The proposed changes in §§2731, 2733, 2735, 2741, and 2751 add third party logistics providers to the list of entities required to keep certain types of records for their activities with controlled substances.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LIII. Pharmacists

Chapter 27. Controlled Dangerous Substances

Subchapter A. General Provisions

§2701. Definitions

A. Words not defined in this Chapter shall have their common usage and meaning as stated in the *Merriam-Webster's Collegiate Dictionary—Tenth Edition*, as revised, and other similarly accepted reference texts. As used in this Chapter, the following terms shall have the meaning ascribed to them in this Section unless the context clearly indicates otherwise:

* * *

Department—the Louisiana Department of Health.

* * *

Distributor or Wholesaler—a facility authorized by law and licensed by the Louisiana Board of Drug and Device Distributors to engage in the distribution of drugs or devices, including controlled substances.

* * *

Reverse Distribute—to acquire controlled substances from another registrant or law enforcement for the purpose of:

- a. return to the registered manufacturer or another registrant authorized by the manufacturer to accept returns on the manufacturer's behalf; or
- b. destruction.

Reverse Distributor—is a person registered by the DEA as a reverse distributor.

* * *

Supplier—any person registered by the DEA who is entitled to fill order forms for controlled substances.

Third-Party Logistics Provider—a person who provides or coordinates warehousing, facilitation of delivery, or other logistic services for a legend drug or legend device in interstate or intrastate commerce on behalf of a manufacturer, distributor, or dispenser of a legend drug or legend device but does not take ownership of the legend drug or legend device nor have responsibility to direct the sale or disposition of the legend drug or legend device.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 34:2127 (October 2008), amended by the Department of Health, Board of Pharmacy, LR 46:

Subchapter B. Licenses

§2705. Licenses and Exemptions

A. Every person who conducts research with, manufactures, distributes, procures, possesses, prescribes, or dispenses any controlled dangerous substance within this state, including third-party logistics providers, or who proposes to engage in the research, manufacture, distribution, procurement, possession, prescribing, or dispensing of any controlled dangerous substance within this state shall obtain a controlled dangerous substance (CDS) license from the board prior to engaging in such activities. Only persons actually engaged in such activities are required to obtain a CDS license; related or affiliated persons, e.g., stockholder in manufacturing corporation, who are not engaged in such activities, are not required to be licensed. The performance of such activities in the absence of a valid CDS license shall be a violation of R.S. 40:973 and this Part.

B. - C.3. ...

4. A physician in possession of the appropriate credential issued by the Louisiana State Board of Medical Examiners may apply for and be issued a CDS license to authorize the prescription or recommendation of the following controlled substances classified in Schedule I: marijuana, tetrahydrocannabinols, and synthetic derivatives of tetrahydrocannabinols; provided however that such prescriptions or recommendations shall only be authorized for therapeutic use in compliance with R.S. 40:1046.

D. - E. ...

F. Manufacturers, Distributors and Third-Party Logistics Providers

1. The issuance of a CDS license to a manufacturer, and the renewal thereof, shall require the possession of a valid and verifiable license or other credential from the Food and Drug Control Unit of the Office of Public Health in the Louisiana Department of Health, or its successor. Further, the applicant shall submit to an initial and periodic inspection by the board or its designee.

2. The issuance of a CDS license to a distributor, and the renewal thereof, shall require the possession of a valid

and verifiable license or other credential from the Food and Drug Control Unit of the Office of Public Health in the Louisiana Department of Health, as well as the Louisiana Board of Drug and Device Distributors, or their successors. Further, the applicant shall submit to an initial and periodic inspection by the board or its designee.

3. The issuance of a CDS license to a third-party logistics provider, and the renewal thereof, shall require the possession of a valid and verifiable license or other credential from the Louisiana Board of Drug and Device Distributors.

4. The sale or transportation of controlled substances within the State of Louisiana by manufacturers, distributors and third-party logistics providers located outside the State of Louisiana shall require the possession of a valid CDS license issued by the board prior to the engagement of such activities.

G. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 34:2129 (October 2008), amended LR 39:312 (February 2013), amended by the Department of Health, Board of Pharmacy, LR 46:

§2707. Licensing Procedures

A. Application for Initial Issuance of CDS License

1. - 3. ...

4. Applicants not in possession of a valid and verifiable license or other credential from a standing professional board of the State of Louisiana, or from the Department of Health, Bureau of Health Services Financing, Health Standards, or their successors, shall submit to a criminal history record check upon request by the board. The applicant shall pay for the cost of the criminal history record check. The board shall evaluate the findings of the report of the criminal history record check prior to the issuance of the CDS license.

A.5 - D.5.e. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 34:2131 (October 2008), amended by the Department of Health, Board of Pharmacy, LR 43:957 (May 2017), amended by the Department of Health, Board of Pharmacy, LR 46:

Subchapter E. Recordkeeping Requirements

§2731. General Information

A. - B.4. ...

* * *

5. Each manufacturer, distributor, third-party logistics provider, importer, exporter, narcotic treatment program and compounder for narcotic treatment program shall maintain inventories and records of controlled substances as follows:

B.5.a. - C.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 34:2139 (October 2008), amended by the Department of Health, Board of Pharmacy, LR 46:

§2733. Inventory Requirements

A. - C.1.b.iv. ...

D. Inventories of Manufacturers, Distributors, Third-Party Logistics Providers, Dispensers, Researchers,

Importers, Exporters, and Chemical Analysts. Each person registered or authorized to manufacture, distribute, dispense, import, export, provide logistics services, conduct research or chemical analysis with controlled substances and required to keep records shall include in the inventory the information listed below.

1. - 1.d.iii. ...

2. Inventories of Distributors and Third-Party Logistics Providers. Except for reverse distributors covered in this Section, each person authorized to distribute controlled substances shall include in the inventory the same information required of manufacturers pursuant to this Section.

3. - 5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 34:2141 (October 2008), amended by the Department of Health, Board of Pharmacy, LR 46:

§2735. Continuing Records

A. - A.4. ...

B. Records for Manufacturers, Distributors, Third-Party Logistics Providers, Dispensers, Researchers, Importers, and Exporters

1. - 1.b.ix. ...

2. Records for Distributors and Third-Party Logistics Providers. Each person authorized to distribute controlled substances shall maintain records with the same information required of manufacturers pursuant to this Section.

B.3. - F.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 34:2142 (October 2008), amended by the Department of Health, Board of Pharmacy, LR 46:

§2741. Distribution

A. A distributor or third-party logistics provider handling controlled substances in Schedules I or II shall maintain complete and accurate records of the original copies of all order forms received and filled for orders of controlled substances within these schedules. This file shall be kept separate from the licensee's other business and professional records and shall be kept in this file a minimum of two years from the date the order was filled.

B. A distributor or third-party logistics provider handling controlled substances in Schedules III, IV, and V shall maintain complete and accurate records of all distributions for a minimum of two years from the date of each distribution. These records shall contain the full name, address, and registration number, if any, of the recipient, the common or established name of the controlled substance, its dosage, form, and strength, amount, and date of distribution.

C. A distributor or third-party logistics provider shall not sell or distribute drugs or drug devices except to a person or facility authorized by law or regulation to procure or possess drugs or drug devices.

D. A distributor or third-party logistics provider shall maintain and follow a written procedure to assure the proper handling and disposal of returned goods.

E. A distributor or third-party logistics provider shall maintain a written policy for handling recalls and withdrawals of products due to:

1 - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 34:2147 (October 2008), amended by the Department of Health, Board of Pharmacy, LR 46:

§2751. Distributions and Transfers of Controlled Substances

A. - A.3. ...

B. Distribution to Supplier, Third-Party Logistics Provider, or Manufacturer

1. - 2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 34:2157 (October 2008), amended by the Department of Health, Board of Pharmacy, LR 46:

Family Impact Statement

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a family impact statement on the Rule proposed for adoption, repeal, or amendment. The following statements will be published in the *Louisiana Register* with the proposed agency Rule.

1. The Effect on the Stability of the Family. The proposed Rule amendment will have no effect on the stability of the family.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. The proposed Rule amendment will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect on the Functioning of the Family. The proposed Rule amendment will have no effect on the functioning of the family.

4. The Effect on Family Earnings and Family Budget. The proposed Rule amendment will have no effect on family earnings or family budget.

5. The Effect on the Behavior and Personal Responsibility of Children. The proposed Rule amendment will have no effect on the behavior and personal responsibility of children.

6. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. The proposed Rule amendment will have no effect on the ability of the family or a local government to perform the activity as contained in the proposed Rule.

Poverty Impact Statement

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a poverty impact statement on the Rule proposed for adoption, repeal, or amendment.

1. The Effect on Household Income, Assets, and Financial Security. The proposed Rule amendment will have no effect on household income, assets, or financial security.

2. The Effect on Early Childhood Development and Preschool through Postsecondary Education Development.

The proposed Rule amendment will have no effect on early childhood development or preschool through postsecondary education development.

3. The Effect on Employment and Workforce Development. The proposed Rule amendment will have no effect on employment or workforce development.

4. The Effect on Taxes and Tax Credits. The proposed Rule amendment will have no effect on taxes or tax credits.

5. The Effect on Child and Dependent Care, Housing, Health Care, Nutrition, Transportation, and Utilities Assistance. The proposed Rule amendment will have no effect on child and dependent care, housing, health care, nutrition, transportation, or utilities assistance.

Small Business Analysis

In accordance with Section 965 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a regulatory flexibility analysis on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, each of the following methods of reducing the impact of the proposed Rule on small businesses:

1. The Establishment of Less Stringent Compliance or Reporting Requirements for Small Businesses. The reporting requirements in the proposed Rule changes mirror current federal rules.

2. The Establishment of Less Stringent Schedules or Deadlines for Compliance or Reporting Requirements for Small Businesses. The scheduled and deadlines in the proposed rule changes mirror current federal rules.

3. The Consolidation or Simplification of Compliance or Reporting Requirements for Small Businesses. The reporting requirements in the proposed rule changes mirror current federal rules.

4. The Establishment of Performance Standards for Small Businesses to Replace Design or Operational Standards Required in the Proposed Rule. The design and operational standards in the proposed rule changes mirror current federal rules.

5. The Exemption of Small Businesses from All or Any Part of the Requirements Contained in the Proposed Rule. There are no exemptions for small businesses.

Provider Impact Statement

In accordance with House Concurrent Resolution No. 170 of the Regular Session of the 2014 Legislature, there is hereby submitted a provider impact statement on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, the following effects on the providers of services to individuals with developmental disabilities:

1. The Effect on the Staffing Level Requirements or Qualifications Required to Provide the Same Level of Service. The proposed Rule amendment will have no effect on the staffing level requirements or the qualifications for that staff to provide the same level of service.

2. The Total Direct and Indirect Effect on the Cost to the Provider to Provide the Same Level of Service. The proposed Rule amendment will have no effect on the cost to the provider to provide the same level of service.

3. The Overall Effect on the Ability of the Provider to Provide the Same Level of service. The proposed Rule

amendment will have no effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments, via United States Postal Service or other mail carrier, or in the alternative by personal delivery to Malcolm J Broussard, Executive Director, at the office of the Louisiana Board of Pharmacy, 3388 Brentwood Drive, Baton Rouge, LA 70809-1700. He is responsible for responding to inquiries regarding the proposed Rule amendment.

Public Hearing

A public hearing to solicit comments and testimony on the proposed Rule amendment is scheduled for 9 a.m. on Friday, December 27, 2019. During the hearing, 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 comments is 12 p.m. noon that same day. To request reasonable accommodations for persons with disabilities, please call the board office at 225.925.6496.

Malcolm J Broussard
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Controlled Substance License for Third Party Logistics Providers

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes will require the Louisiana Board of Pharmacy (LBP) to publish the proposed and final rules in the state register, at a cost of \$2,000 for FY 20. There are no other costs or savings for other local or state governmental units. The proposed rule changes implement new controlled dangerous substance (CDS) licensure procedures for third party logistics providers.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes will not affect revenue collections for state or local governmental units. Third party logistics providers currently transporting controlled dangerous substances in Louisiana are presently required to have CDS licenses and to remit the associated \$50 license fee. LBP presently classifies third party logistics providers in their own category for existing CDS licenses and does not establish a new license. Therefore, it is not anticipated that the proposed rule changes will affect revenue collections in the aggregate.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Act 186 of the 2018 Legislature amended the state controlled substance law to add third party logistics providers to the list of entities required to obtain a controlled substance license before engaging in certain activities with controlled substances. The proposed rule changes will implement the legislation by establishing a license type for third party logistics providers that elect to distribute controlled substances. Third party logistics providers are currently licensed in the licensure database as distributors, but the proposed rule changes will identify third party logistics providers separately. The costs and recordkeeping requirements will be the same as those currently required of distributors.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)

The proposed rule changes will not affect competition or employment.

Malcolm J. Broussard
Executive Director
1911#055

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health
Board of Pharmacy**

Correctional Center Pharmacy
(LAC 46:LIII.Chapter 18 and 2303)

In accordance with the provisions of the Administrative Procedure Act (La. R.S. 49:950 et seq.) and the Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy hereby gives notice of its intent to amend Chapter 18—Penal Pharmacy and Section 2303—Nonresident Pharmacy Requirements of its rules. Act 310 of the 2016 Legislature expanded the authority for the return and reuse of prescription drugs from those dispensed to an offender in the custody of the state department of public safety and corrections to include those offenders in the custody of local law enforcement agencies. The board proposes to amend Sections 1801 and 2303 to implement the legislation. In addition, the board proposes to change the word ‘penal’ to ‘correctional center’ throughout Chapter 18 and Section 2303 and to make other technical changes.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LIII. Pharmacists

Chapter 18. Correctional Center Pharmacy

§1801. Correctional Center Pharmacy Permit

A. A correctional center pharmacy permit shall be required to operate a pharmacy located within a correctional center owned and/or operated by the Louisiana Department of Public Safety and Corrections or its successor (hereinafter “the department”), or a local law enforcement agency, to provide medications and pharmacy care for offenders residing in that correctional center or another correctional center owned and operated by the department or local law enforcement agency. The pharmacy in the correctional center may also provide medications and pharmacy care to offenders assigned to that facility and residing at home or another housing location.

B. In the event a pharmacy located within the state but outside a correctional center intends to provide medications and pharmacy care on a contractual basis to offenders residing in, or assigned to, a correctional center owned and/or operated by the department or local law enforcement agency that pharmacy shall first obtain a correctional center pharmacy permit.

C. In the event a nonresident pharmacy intends to provide medications and pharmacy care on a contractual basis to offenders residing in, or assigned to, a correctional center owned and/or operated by the department or local law enforcement agency, or to any offender in the custody of the department or local law enforcement agency shall first obtain a nonresident correctional center pharmacy permit,

and further, shall comply with the provisions of this Chapter with the exception of acquiring a separate correctional center pharmacy permit.

AUTHORITY NOTE Promulgated in accordance with R.S. 37:1226.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 38:1236 (May 2012), amended LR 39:3074 (November 2013), amended by the Department of Health, Board of Pharmacy, LR 46:

§1803. Permit Application Procedures

A. Application for Initial Issuance of Permit

1. The applicant for a correctional center pharmacy permit shall complete the application form supplied by the board and submit it with the required attachments and appropriate fees, as set forth in R.S. 37:1184, to the board.

2. - 5. ...

B. Application for Renewal of Permit

1. Without respect to the date of initial issuance, a correctional center pharmacy permit shall expire at midnight on December 31 of every year, unless surrendered, suspended, or revoked sooner in accordance with the Pharmacy Practice Act or this Part.

2. A correctional center pharmacy shall not operate with an expired permit.

B.3. - D.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1226.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 38:1236 (May 2012), amended by the Department of Health, Board of Pharmacy, LR 46:

§1805. Maintenance of Permit

A. A correctional center pharmacy permit is valid only for the entity to whom it is issued and shall not be subject to sale, assignment or other transfer, voluntary or involuntary, nor shall a permit be valid for any premises other than the business location for which it is issued.

B. The owner of the pharmacy shall appoint a Louisiana-licensed pharmacist as the pharmacist-in-charge of the permit. The owner of the pharmacy and the pharmacist-in-charge shall comply with the provisions of Section 1105 of this Part.

C. A pharmacy contemplating permanent closure of its prescription department shall comply with the provisions of Section 1133 of this Part.

D. A pharmacy contemplating a change in ownership shall comply with the provisions of Section 1135 of this Part.

E. A pharmacy contemplating a change in location shall comply with the provisions of Section 1137 of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1226.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 38:1236 (May 2012), amended by the Department of Health, Board of Pharmacy, LR 46:

§1807. Prescription Department Requirements

A. The prescription department of a correctional center pharmacy shall comply with the minimum specifications identified in Section 1103 of this Part, and further, the specifications provided for the correctional center pharmacy permit may not be held or used by any other pharmacy permit.

B. To ensure adequate access to medications and pharmacy care, the prescription department of a correctional center pharmacy shall be open for business a minimum of 10

hours per week, with said business hours posted at the pharmacy entrance.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1226.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 38:1237 (May 2012), amended LR 39:3074 (November 2013), amended by the Department of Health, Board of Pharmacy, LR 46:

§1809. Drug Distribution Control

A. The pharmacist-in-charge shall be responsible for the safe and efficient procurement, receipt, storage, distribution, control, accountability, and patient administration and management of all drugs used in the correctional center. The administration and staff of the facility shall cooperate with the pharmacist-in-charge in meeting drug control requirements in ordering and accounting for drugs.

1. ...

2. The pharmacist-in-charge shall be responsible for making and keeping pharmacy records in compliance with the provisions of Sections 1119 through 1129 of this Part.

3. The procurement, storage, security, and recordkeeping of controlled substances shall be in compliance with the provisions of Chapter 27 of this Part.

B. The pharmacy may utilize automated medication systems but only in compliance with Chapter 12 of this Part.

C. The pharmacy located within a correctional center may utilize drug cabinets located outside the prescription department of that facility to provide access to a limited inventory of medications when the prescription department is closed.

1. A drug cabinet is intended solely for the proper and safe storage of needed drugs when the pharmacy is closed, and such drugs shall be available for emergency use only by authorized facility personnel.

2. - 6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1226.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 38:1237 (May 2012), amended by the Department of Health, Board of Pharmacy, LR 46:

§1813. Emergency Drug Kit Permit

A. A correctional center pharmacy located outside a correctional center intending to use one more emergency drug kits within the correctional center shall first obtain an EDK permit from the board.

B. Application for Initial Issuance of Permit

1. The correctional center pharmacy shall apply to the board for the permit.

2. - 4. ...

C. Application for Renewal of Permit

1. Without respect to the date of initial issuance, an EDK permit shall expire at midnight on June 30 of every year, unless relinquished, surrendered, suspended, or revoked sooner in accordance with the Pharmacy Practice Act or this Part.

2. ...

3. The correctional center pharmacy shall complete the renewal application form supplied by the board and submit it with any required attachments and appropriate fees on or before the expiration date.

C.4. - D.4. ...

E. Maintenance of Permit

1. EDK permits are specific to a correctional center and to a correctional center pharmacy and they are not transferable.

2. In the event multiple kits are required for a correctional center, a separate permit shall be required for each EDK.

3. The original EDK permit shall be displayed in the correctional center pharmacy supplying the EDK, and a copy of the permit shall be maintained in the room or area where the EDK is located.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1226.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 38:1237 (May 2012), amended by the Department of Health, Board of Pharmacy, LR 46:

§1815. Emergency Drug Kit Requirements

A. The EDK shall be tamper-evident, shall be maintained in a secure enclosure located within the correctional center, and shall be available for emergency use by authorized personnel only.

B. The EDK shall be clearly labeled to indicate it is an emergency drug kit, and further, the attached exterior label shall identify the inventory of contents as well as contact information for the correctional center pharmacy responsible for maintaining the kit.

C. - D. ...

E. The correctional center and correctional center pharmacy shall maintain policies and procedures to implement and maintain these requirements. These policies and procedures may be maintained in written or electronic format and shall be available for review by the board or its agents.

F. When an authorized prescriber issues an order for the administration of a drug contained within the EDK, the order and proof of use shall be delivered in written or electronic format to the correctional center pharmacy; further, such records shall contain the following minimum information:

1 - 6. ...

G. The correctional center pharmacy shall inspect the EDK periodically, but in no event more than 30 days after the previous inspection. Proper documentation of these inspections, EDK inventory, and all records of use shall be maintained by the correctional center pharmacy and available for review by the board or its agents.

H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1226.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 38:1238 (May 2012), amended by the Department of Health, Board of Pharmacy, LR 46:

§1817. Drug Donations to Correctional Center

Pharmacies

A. A correctional center pharmacy may accept the donation of a prescription drug, except a controlled substance, previously dispensed to another patient provided the following procedures are satisfied:

1. The physical transfer of the donated drug shall be accomplished by an individual authorized to do so by the correctional center pharmacy.

2. An inventory list of the drugs being donated shall accompany the drugs received in the correctional center

pharmacy; the list shall contain, at a minimum, the name and strength of the drug, the quantity received, and expiration date. The correctional center pharmacy receiving the donated drugs shall maintain this list as an acquisition record.

3. The correctional center pharmacy shall not knowingly accept the donation of any expired drugs. In the event expired drugs are received by a correctional center pharmacy, the pharmacist-in-charge shall destroy them as required by law.

4. - 5. ...

B. The pharmacist-in-charge of the correctional center pharmacy receiving donated drugs shall be responsible for determination of suitability of the drug product for reuse.

1. - 3. ...

C. Once accepted by the correctional center pharmacy, under no circumstances may the donated drugs be transferred to another location.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1226.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 38:1238 (May 2012), amended by the Department of Health, Board of Pharmacy, LR 46:

§1819. Medication Use Procedures

A. ...

B. All drugs dispensed by the pharmacy or held for administration to offenders at the facility shall be packaged in appropriate containers that comply with the relevant standards of the USP.

C. The compounding of drug preparations shall comply with the relevant standards of the USP, as well as the provisions of Sections 2531 through 2535 of this Part.

D. All drugs dispensed by the pharmacy, intended for use within the correctional center, shall be labeled as to identify the offender's name and location as well as the drug name and strength. Further, compounded preparations shall include the expiration date or beyond-use date, initials of the preparer, and initials of the pharmacist performing the final check on the label.

E. Drugs dispensed by the correctional center pharmacy may be returned to that correctional center pharmacy for reuse, in accordance with good professional practice procedures, subject to the following limitation.

1. Drugs returned to the pharmacy for re-use shall not be further distributed to another entity.

2. Drugs that may be dispensed only to patients registered with the drug manufacturer in accordance with federal Food and Drug Administration (FDA) requirements shall not be accepted for return or re-dispensed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1226.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 38:1239 (May 2012), amended by the Department of Health, Board of Pharmacy, LR 46:

Chapter 23. Nonresident Pharmacy

§2303. Nonresident Pharmacy Requirements

A. The nonresident pharmacy shall hold a current pharmacy permit in good standing in the state(s) in which it is located and/or practicing pharmacy.

B. ...

C. Every nonresident pharmacy doing business in Louisiana by dispensing and delivering prescription drugs and devices to Louisiana residents shall designate a resident

agent and a registered office in Louisiana for the service of process.

D. Every nonresident pharmacy doing business in Louisiana by dispensing and delivery prescription drugs and devices to offenders in the custody of the Louisiana Department of Public Safety and Corrections or local law enforcement agency shall obtain and maintain a nonresident correctional center pharmacy permit, and further, shall comply with the provisions of Chapter 18 of this Part, with the single exception of the necessity for acquiring a separate correctional center pharmacy permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182 and R.S. 37:1226.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 18:1380 (December 1992), effective January 1, 1993, amended LR 29:2100 (October 2003), effective January 1, 2004, amended LR 39:3074 (November 2013), amended by the Department of Health, Board of Pharmacy, LR 46:

Family Impact Statement

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a family impact statement on the Rule proposed for adoption, repeal, or amendment. The following statements will be published in the *Louisiana Register* with the proposed agency Rule.

1. The Effect on the Stability of the Family. The proposed Rule amendment will have no effect on the stability of the family.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. The proposed Rule amendment will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect on the Functioning of the Family. The proposed Rule amendment will have no effect on the functioning of the family.

4. The Effect on Family Earnings and Family Budget. The proposed Rule amendment will have no effect on family earnings or family budget.

5. The Effect on the Behavior and Personal Responsibility of Children. The proposed Rule amendment will have no effect on the behavior and personal responsibility of children.

6. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. The proposed Rule amendment will have no effect on the ability of the family or a local government to perform the activity as contained in the proposed Rule.

Poverty Impact Statement

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a poverty impact statement on the Rule proposed for adoption, repeal, or amendment.

1. The Effect on Household Income, Assets, and Financial Security. The proposed Rule amendment will have no effect on household income, assets, or financial security.

2. The Effect on Early Childhood Development and Preschool through Postsecondary Education Development. The proposed Rule amendment will have no effect on early childhood development or preschool through postsecondary education development.

3. The Effect on Employment and Workforce Development. The proposed Rule amendment will have no effect on employment or workforce development.

4. The Effect on Taxes and Tax Credits. The proposed Rule amendment will have no effect on taxes or tax credits.

5. The Effect on Child and Dependent Care, Housing, Health Care, Nutrition, Transportation, and Utilities Assistance. The proposed Rule amendment will have no effect on child and dependent care, housing, health care, nutrition, transportation, or utilities assistance.

Small Business Analysis

In accordance with Section 965 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a regulatory flexibility analysis on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, each of the following methods of reducing the impact of the proposed Rule on small businesses:

1. The Establishment of Less Stringent Compliance or Reporting Requirements for Small Businesses. There are no specific reporting requirements in the proposed Rule amendment.

2. The Establishment of Less Stringent Schedules or Deadlines for Compliance or Reporting Requirements for Small Businesses. There are no specific schedules for deadlines in the proposed Rule amendment.

3. The Consolidation or Simplification of Compliance or Reporting Requirements for Small Businesses. There are no additional compliance or reporting requirements in the proposed Rule amendment.

4. The Establishment of Performance Standards for Small Businesses to Replace Design or Operational Standards Required in the Proposed Rule. There are no design or operational standards in the proposed Rule amendment.

5. The Exemption of Small Businesses from All or Any Part of the Requirements Contained in the Proposed Rule. There are no exemptions for small businesses.

Provider Impact Statement

In accordance with House Concurrent Resolution No. 170 of the Regular Session of the 2014 Legislature, there is hereby submitted a provider impact statement on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, the following effects on the providers of services to individuals with developmental disabilities:

1. The Effect on the Staffing Level Requirements or Qualifications Required to Provide the Same Level of Service. The proposed rule amendment will have no effect on the staffing level requirements or qualifications required to provide the same level of service.

2. The Total Direct and Indirect Effect on the Cost to the Provider to Provide the Same Level of Service. The proposed rule amendment will have no effect on the cost to the provider to provide the same level of service.

3. The Overall Effect on the Ability of the Provider to Provide the Same Level of Service. The proposed rule amendment will have no effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments, via United States Postal Service or other mail carrier, or in the alternative by personal delivery to Malcolm J Broussard, Executive Director, at the office of the Louisiana Board of Pharmacy, 3388 Brentwood Drive, Baton Rouge, LA 70809-1700. He is responsible for responding to inquiries regarding the proposed Rule amendment.

Public Hearing

A public hearing to solicit comments and testimony on the proposed Rule amendment is scheduled for 9 a.m. on Friday, December 27, 2019. During the hearing, 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 comments is 12 p.m. noon that same day. To request reasonable accommodations for persons with disabilities, please call the board office at 225.925.6496.

Malcolm J Broussard
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Correctional Center Pharmacy

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes will require the Louisiana Board of Pharmacy to publish the proposed and final rules in the state register, resulting in a one-time cost of \$2,000 for FY 20. There are no other costs or savings for other state governmental units. The rule amendments implement Act 310 of the 2018 Regular Session, which allows local law enforcement agencies to return prescription drugs prescribed to offenders for reuse where applicable.

The proposed rule changes may result in a savings for local law enforcement agencies housing offenders. To the extent a local law enforcement agency provides prescription drugs to an offender, and to the extent any of those dispensed prescription drugs are eligible for return and reuse by the dispensing pharmacy for a refund, it is possible the local law enforcement agency could realize a reduction in its expenditures for such services. There are a number of variables which complicate any estimate of such savings, including the number of offenders, the number of offenders receiving prescription drugs, and which of those dispensed prescription drugs are eligible for return and reuse. Therefore, any savings is indeterminable.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes will not affect revenue collections for state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

To the extent private pharmacies dispensing drugs to local law enforcement agencies have products returned for reuse and issue a partial refund, it is assumed that pharmacies would realize a revenue reduction equal to any savings realized by local law enforcement agencies (see Part I). There are a number of variables which complicate any estimate of such revenue reduction, including the number of offenders, the number of offenders receiving prescription drugs, and which of those dispensed prescription drugs are eligible for return and

reuse. Therefore, any reduced revenue is indeterminable. However, because returned products may be reused in other prescriptions, pharmacies may only realize a delay in revenue collections.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes will not affect competition. To the extent a pharmacy serving the offender community realizes an expansion of their market, the proposed rule amendments may increase employment opportunities in those pharmacies.

Malcolm J. Broussard
Executive Director
1911#062

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health
Board of Pharmacy**

Delays of Licensure Examinations
(LAC 46:LIII.503 and 903)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy hereby gives notice of its intent to amend Sections 503 and 903 of its rules relative to licensure examinations for pharmacists and pharmacy technicians. The proposed rule amendments will repeal the existing one-year delay following the third failure of a licensing examination for both pharmacists and pharmacy technicians.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LIII. Pharmacists

Chapter 5. Pharmacists

§503. Examination

A. ...

B. Re-Examination. In the event the candidate fails the examination, the candidate may repeat the examination in compliance with the test administrator's policy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2083 (October 2003), effective January 1, 2004, amended by the Dept. of Health, Board of Pharmacy, LR 46:

Chapter 9. Pharmacy Technicians

§903. Pharmacy Technician Candidates

A. - C.5. ...

D. Examination

1. ...

2. In the event the candidate fails the examination, the candidate may repeat the examination in compliance with the test administrator's policy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1212.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 30:2485 (November 2004), effective January 1, 2005, amended LR 39:1777 (July 2013), amended by the Department of Health, Board of Pharmacy, LR 43:2496 (December 2017), effective January 1, 2018, repromulgated LR 44:49 (January 2018), amended LR 46:

Family Impact Statement

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a family impact statement on the Rule proposed for adoption, repeal, or amendment. The following statements will be published in the *Louisiana Register* with the proposed agency Rule.

1. The Effect on the Stability of the Family. The proposed Rule amendment will have no effect on the stability of the family.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. The proposed Rule amendment will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect on the Functioning of the Family. The proposed Rule amendment will have no effect on the functioning of the family.

4. The Effect on Family Earnings and Family Budget. The proposed Rule amendment may allow the applicant for a pharmacist license or pharmacy technician certificate to achieve licensure earlier, which may allow the earning of a higher salary than that for an unlicensed person, which in turn may improve family earnings and family budget.

5. The Effect on the Behavior and Personal Responsibility of Children. The proposed Rule amendment will have no effect on the behavior and personal responsibility of children.

6. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. The proposed Rule amendment will have no effect on the ability of the family or a local government to perform the activity as contained in the proposed Rule.

Poverty Impact Statement

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a poverty impact statement on the Rule proposed for adoption, repeal, or amendment.

1. The Effect on Household Income, Assets, and Financial Security. The proposed Rule Amendment may allow the applicant for a pharmacist license or pharmacy technician certificate to achieve licensure earlier, which may allow the earning of a higher salary than that for an unlicensed person, which in turn may improve household income, assets, and financial security.

2. The Effect on Early Childhood Development and Preschool through Postsecondary Education Development. The proposed Rule amendment will have no effect on early childhood development or preschool through postsecondary education development.

3. The Effect on Employment and Workforce Development. The proposed Rule amendment allows the applicant for a pharmacist license or pharmacy technician certificate to achieve licensure earlier, which may improve the opportunity for employment and workforce development.

4. The Effect on Taxes and Tax Credits. The proposed Rule amendment will have no effect on taxes or tax credits.

5. The Effect on Child and Dependent Care, Housing, Health Care, Nutrition, Transportation, and Utilities Assistance. The proposed Rule amendment will have no

effect on child and dependent care, housing, health care, nutrition, transportation, or utilities assistance.

Small Business Analysis

In accordance with Section 965 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a regulatory flexibility analysis on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, each of the following methods of reducing the impact of the proposed Rule on small businesses:

1. The Establishment of Less Stringent Compliance or Reporting Requirements for Small Businesses. There are no reporting requirements in the proposed Rule amendment.

2. The Establishment of Less Stringent Schedules or Deadlines for Compliance or Reporting Requirements for Small Businesses. There are no specific schedules for deadlines in the proposed Rule amendment.

3. The Consolidation or Simplification of Compliance or Reporting Requirements for Small Businesses. There are no additional compliance or reporting requirements in the proposed Rule amendment.

4. The Establishment of Performance Standards for Small Businesses to Replace Design or Operational Standards Required in the Proposed Rule. There are no design or operational standards in the proposed Rule amendment.

5. The Exemption of Small Businesses from All or Any Part of the Requirements Contained in the Proposed Rule. There are no exemptions for small businesses.

Provider Impact Statement

In accordance with House Concurrent Resolution No. 170 of the Regular Session of the 2014 Legislature, there is hereby submitted a provider impact statement on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, the following effects on the providers of services to individuals with developmental disabilities:

1. The Effect on the Staffing Level Requirements or Qualifications Required to Provide the Same Level of Service. The proposed Rule amendment will have no effect on the staffing level requirements or the qualifications for that staff to provide the same level of service.

2. The Total Direct and Indirect Effect on the Cost to the Provider to Provide the Same Level of Service. The proposed Rule amendment will have no effect on the cost to the provider to provide the same level of service.

3. The Overall Effect on the Ability of the Provider to Provide the Same Level of service. The proposed Rule amendment will have no effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments, via United States Postal Service or other mail carrier, or in the alternative by personal delivery to Malcolm J Broussard, Executive Director, at the office of the Louisiana Board of Pharmacy, 3388 Brentwood Drive, Baton Rouge, LA 70809-1700. He is responsible for responding to inquiries regarding the proposed Rule amendment.

Public Hearing

A public hearing to solicit comments and testimony on the proposed Rule amendment is scheduled for 9 a.m. on Friday, December 27, 2019. During the hearing, 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 comments is 12 p.m. noon that same day. To request reasonable accommodations for persons with disabilities, please call the board office at 225.925.6496.

Malcolm J Broussard
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Delays of Licensure Examinations

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes will require the Louisiana Board of Pharmacy to publish the proposed and final rules in the state register, resulting in a one-time cost of \$2,000 for FY 20. There are no other costs or savings for other local or state governmental units. The proposed rule changes amend procedures for retaking pharmacist and pharmacy technician licensing examinations.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes will not affect revenue collections for state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule changes repeal the existing one year delay to retake a licensure examination following the third failure of said examination for both pharmacists and pharmacy technicians. The proposed rule amendments will allow the applicant for a pharmacist license or a pharmacy technician certificate to retake a failed licensure examination at a frequency approved by the test administrator, which is presently one month from the date of the previous failed examination. The removal of the one-year delay after the third failed attempt at an exam may advance when potential licensees pay fees to test administrators to take examinations, but will not significantly alter the amount paid in the aggregate.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

To the extent a pharmacist or pharmacy technician is able to pass the licensure examination and achieve licensure earlier than currently allowed, the proposed rule amendments may improve the ability of the licensee to compete for employment opportunities.

Malcolm J. Broussard
Executive Director
1911#059

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Board of Pharmacy

Dispensing of Prescription Refills (LAC 46:LIII.2519)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy hereby gives notice of its intent to amend Section 2519 of its rules for the dispensing of prescription refills. The proposed amendments of Section 2519 will make two

changes. The first will create a new Subsection B to prohibit the dispensing of prescription refills not authorized or approved by the patient or caregiver, with such prohibition not applicable to prescriptions dispensed to patients residing in a long-term care facility. The second will make a technical change in Subsection D.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS

Part LIII. Pharmacists

Chapter 25. Prescriptions, Drugs, and Devices

Subchapter B. Prescriptions

§2519. Prescription Refills; Medication Synchronization and Refill Consolidation

A. ...

B. Refill Requests. Prescription refills authorized by the prescriber shall not be dispensed in the absence of a patient or caregiver's request or approval. This prohibition shall not apply to refills authorized by the prescriber which are to be dispensed to a patient residing in a long term care facility.

C. Controlled Dangerous Substances

1. The refilling of a prescription for a drug listed in Schedule II is prohibited.

2. A prescription for a drug listed in Schedule III, IV, or V may be refilled up to five times, if so indicated at the time issued.

D. Medication Synchronization and Refill Consolidation. These terms refer to a service which a pharmacist may perform for his patient, at the request of the patient, wherein he may proactively adjust the medication dispensing quantity and/or the refill schedule of a prescription in order to manage the patient's medication therapy, with the goal of improved medication adherence by the patient.

1. For the performance of this service, the pharmacist may adjust the dispensing quantity and/or the refill schedule originally ordered by the prescriber; however, the pharmacist shall not exceed the total quantity prescribed [dispensing quantity multiplied by the total number of fills authorized (original plus refills)], or what is otherwise allowed by law.

2. With respect to prescriptions for controlled substances where refills have been authorized, pharmacists may utilize partial fills, as described in §2747.C.5 of this Part, but may not exceed the dispensing quantity noted on the original prescription.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2104 (October 2003), effective January 1, 2004, amended LR 33:1133 (June 2007), amended LR 42:1519 (September 2016), amended by the Department of Health, Board of Pharmacy, LR 46:

Family Impact Statement

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a family impact statement on the Rule proposed for adoption, repeal, or amendment. The following statements will be published in the *Louisiana Register* with the proposed agency Rule.

1. The Effect on the Stability of the Family. The proposed Rule amendment will have no effect on the stability of the family.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. The proposed Rule amendment will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect on the Functioning of the Family. The proposed Rule amendment will have no effect on the functioning of the family.

4. The Effect on Family Earnings and Family Budget. The proposed Rule amendment will have no effect on family earnings or family budget.

5. The Effect on the Behavior and Personal Responsibility of Children. The proposed Rule amendment will have no effect on the behavior and personal responsibility of children.

6. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. The proposed Rule amendment will have no effect on the ability of the family or a local government to perform the activity as contained in the proposed Rule.

Poverty Impact Statement

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a poverty impact statement on the Rule proposed for adoption, repeal, or amendment.

1. The Effect on Household Income, Assets, and Financial Security. The proposed Rule amendment will have no effect on household income, assets, or financial security.

2. The Effect on Early Childhood Development and Preschool through Postsecondary Education Development. The proposed Rule amendment will have no effect on early childhood development or preschool through postsecondary education development.

3. The Effect on Employment and Workforce Development. The proposed Rule amendment will have no effect on employment or workforce development.

4. The Effect on Taxes and Tax Credits. The proposed Rule amendment will have no effect on taxes or tax credits.

5. The Effect on Child and Dependent Care, Housing, Health Care, Nutrition, Transportation, and Utilities Assistance. The proposed Rule amendment will have no effect on child and dependent care, housing, health care, nutrition, transportation, or utilities assistance.

Small Business Analysis

In accordance with Section 965 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a regulatory flexibility analysis on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, each of the following methods of reducing the impact of the proposed Rule on small businesses:

1. The Establishment of Less Stringent Compliance or Reporting Requirements for Small Businesses. The proposed amendment requires an inspection of the premises for the proposed marijuana pharmacy prior to issuing the permit awarded by the Board. There are no reporting requirements in the proposed Rule amendment.

2. The Establishment of Less Stringent Schedules or Deadlines for Compliance or Reporting Requirements for Small Businesses. There are no specific schedules for deadlines in the proposed Rule amendment.

3. The Consolidation or Simplification of Compliance or Reporting Requirements for Small Businesses. There are no additional compliance or reporting requirements in the proposed Rule amendment.

4. The Establishment of Performance Standards for Small Businesses to Replace Design or Operational Standards Required in the Proposed Rule. There are no design or operational standards in the proposed Rule amendment.

5. The Exemption of Small Businesses from All or Any Part of the Requirements Contained in the Proposed Rule. There are no exemptions for small businesses.

Provider Impact Statement

In accordance with House Concurrent Resolution No. 170 of the Regular Session of the 2014 Legislature, there is hereby submitted a provider impact statement on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, the following effects on the providers of services to individuals with developmental disabilities:

1. The Effect on the Staffing Level Requirements or Qualifications Required to Provide the Same Level of Service. The proposed Rule amendment will have no effect on the staffing level requirements or the qualifications for that staff to provide the same level of service.

2. The Total Direct and Indirect Effect on the Cost to the Provider to Provide the Same Level of Service. The proposed Rule amendment will have no effect on the cost to the provider to provide the same level of service.

3. The Overall Effect on the Ability of the Provider to Provide the Same Level of service. The proposed Rule amendment will have no effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments, via United States Postal Service or other mail carrier, or in the alternative by personal delivery to Malcolm J Broussard, Executive Director, at the office of the Louisiana Board of Pharmacy, 3388 Brentwood Drive, Baton Rouge, LA 70809-1700. He is responsible for responding to inquiries regarding the proposed Rule amendment.

Public Hearing

A public hearing to solicit comments and testimony on the proposed Rule amendment is scheduled for 9 a.m. on Friday, December 27, 2019. During the hearing, 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 comments is 12 p.m. noon that same day. To request reasonable accommodations for persons with disabilities, please call the board office at 225.925.6496.

Malcolm J Broussard
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Dispensing of Prescription Refills

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes will result in a one-time \$2,000 expense in FY 20 for the Louisiana Board of Pharmacy to

publish the proposed and final rules in the state register. There are no other costs or savings for other local or state governmental units. The proposed rule changes prohibit pharmacies from dispensing prescription refills without authorization from a patient.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

To the extent a state or local governmental unit operates a pharmacy and dispenses automatic prescription refills without patient authorization, the proposed rule changes may decrease their revenue. The extent to which this would occur is unknown, therefore, any potential revenue decrease is indeterminable, though likely marginal.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed changes affect pharmacies, as they prohibit them from dispensing automatic prescription refills to patients that were not authorized or approved by the patient or caregiver, except for patients residing in a long-term care facility. Some pharmacies automatically enroll patients in automatic prescription refill services with the goal of improving medication adherence; the proposed rule changes will require the pharmacy to obtain patient authorization to continue such services. To the extent a pharmacy is unable to dispense prescription refills without patient authorization, the proposed rule changes may decrease their revenue. The extent to which this would occur is unknown, therefore any potential revenue decrease is indeterminable, though likely marginal.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule amendments will not affect competition or employment.

Malcolm J. Broussard
Executive Director
1911#060

Evan Brousseau
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health
Board of Pharmacy**

Drug Disposal by Pharmacies
(LAC 46:LIII.1503, 1519, 2503, 2517, 2701, and 2749)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy hereby gives notice of its intent to amend several sections of its rules to authorize pharmacies to accept returns of previously dispensed drugs for disposal, and to establish standards for the destruction of certain types of drugs. The proposed amendment of §1503 is a technical amendment. The proposed amendment of §1519 permits a hospital pharmacy to accept drug returns for disposal, and further, requires compliance with certain federal standards for the disposal of controlled substances and for hazardous drugs. The proposed amendment of §2503 applies the same requirements to all other types of pharmacies. The proposed amendment of §2517 inserts the same set of requirement in this section for the dispensing of prescription drugs. The proposed amendment of §2701 is a technical amendment. The proposed amendment of §2749 specifies the disposal standards for controlled substances.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS

Part LIII. Pharmacists

§1503. Definitions

A. As used in this Chapter, the following terms shall have the meaning ascribed to them in this Section:

CFR—Code of Federal Regulations

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2093 (October 2003), effective January 1, 2004, amended LR 33:1132 (June 2007), amended LR 39:1282 (May 2013), amended LR 40:2256 (November 2014), effective January 1, 2015, amended LR 41:2147 (October 2015), by the Department of Health, Board of Pharmacy, LR 46:

§1519. Drug Returns; Drug Disposal

A. In a hospital with a permitted hospital pharmacy on site, unused drugs may be returned to the pharmacy for re-dispensing in accordance with good professional practice standards.

B. When a patient or his designee wishes to return previously dispensed prescription drugs to a pharmacy for disposal, the pharmacy shall inform the patient or his designee of the disposal mechanisms available to him. In the event the pharmacy elects to accept such previously dispensed products for disposal, the pharmacy shall comply with the following requirements.

1. From the time of receipt of such products until the time of disposal, the pharmacy shall quarantine such products to keep them separate from its active dispensing stock and shall take appropriate security measures to prevent the theft or diversion of such products.

2. The pharmacy shall comply with the provisions of 21 CFR §1317 or its successor for the pharmacy's disposal of controlled substances and other non-hazardous waste pharmaceuticals.

3. The pharmacy shall comply with the provisions of 40 CFR §261 or its successor for the pharmacy's disposal of hazardous waste pharmaceuticals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 29:2094 (October 2003), effective January 1, 2004, amended by the Department of Health, Board of Pharmacy, LR 46:

Chapter 25. Prescriptions, Drugs, and Devices

Subchapter A. General Requirements

§2503. Drug Returns; Drug Disposal

A. Unless otherwise allowed by law, drugs dispensed on prescription to a patient shall not be accepted for return, exchange, or re-dispensing by any pharmacist or pharmacy after such drugs have been removed from the pharmacy premises where they were dispensed.

B. When a patient or his designee wishes to return previously dispensed prescription drugs to a pharmacy for disposal, the pharmacy shall inform the patient or his designee of the disposal mechanisms available to him. In the event the pharmacy elects to accept such previously dispensed products for disposal, the pharmacy shall comply with the following requirements.

1. From the time of receipt of such products until the time of disposal, the pharmacy shall quarantine such products to keep them separate from its active dispensing stock and shall take appropriate security measures to prevent the theft or diversion of such products.

2. The pharmacy shall comply with the provisions of 21 CFR §1317 or its successor for the pharmacy's disposal of controlled substances and other non-hazardous waste pharmaceuticals.

3. The pharmacy shall comply with the provisions of 40 CFR §261 or its successor for the pharmacy's disposal of hazardous waste pharmaceuticals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2102 (October 2003), effective January 1, 2004, amended by the Department of Health, Board of Pharmacy, LR 46:

§2517. Prescription Dispensing; Equivalent Drug Product Interchange; Drug Returns; Drug Disposal

A. - C. ...

D. When a patient or his designee wishes to return previously dispensed prescription drugs to a pharmacy for disposal, the pharmacy shall inform the patient or his designee of the disposal mechanisms available to him. In the event the pharmacy elects to accept such previously dispensed products for disposal, the pharmacy shall comply with the following requirements:

1. From the time of receipt of such products until the time of disposal, the pharmacy shall quarantine such products to keep them separate from its active dispensing stock and shall take appropriate security measures to prevent the theft or diversion of such products.

2. The pharmacy shall comply with the provisions of 21 CFR §1317 or its successor for the pharmacy's disposal of controlled substances and other non-hazardous waste pharmaceuticals.

3. The pharmacy shall comply with the provisions of 40 CFR §261 or its successor for the pharmacy's disposal of hazardous waste pharmaceuticals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2104 (October 2003), effective January 1, 2004, amended by the Department of Health, Board of Pharmacy, LR 43:2162 (November 2017), LR 46:

Chapter 27. Controlled Dangerous Substances

Subchapter A. General Provisions

§2701. Definitions

A. Words not defined in this Chapter shall have their common usage and meaning as stated in the Merriam-Webster's Collegiate Dictionary—Tenth Edition, as revised, and other similarly accepted reference texts. As used in this Chapter, the following terms shall have the meaning ascribed to them in this Section unless the context clearly indicates otherwise.

* * *

CFR—Code of Federal Regulations

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 34:2127 (October 2008), amended by the Department of Health, Board of Pharmacy, LR 46:

Subchapter F. Production, Distribution, and Utilization §2749. Disposal of Controlled Substances

A. - C. ...

D. When a patient or his designee wishes to return previously dispensed controlled dangerous substances to a pharmacy for destruction, the pharmacy shall accept such products previously dispensed by that pharmacy and may accept such products previously dispensed by another pharmacy, but only for destruction.

1. From the time of receipt of such products until the time of destruction, the pharmacy shall quarantine such products to keep them separate from its active dispensing stock and shall take appropriate security measures to prevent the theft or diversion of such products.

2. The pharmacy shall comply with the provisions of 21 CFR §1317 or its successor for the pharmacy's disposal of controlled substances.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 34:2157 (October 2008), amended by the Department of Health, Board of Pharmacy, LR 46:

Family Impact Statement

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a family impact statement on the Rule proposed for adoption, repeal, or amendment. The following statements will be published in the *Louisiana Register* with the proposed agency Rule.

1. The Effect on the Stability of the Family. The proposed Rule amendment will have no effect on the stability of the family.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. The proposed Rule amendment will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect on the Functioning of the Family. The proposed Rule amendment will have no effect on the functioning of the family.

4. The Effect on Family Earnings and Family Budget. The proposed Rule amendment will have no effect on family earnings or family budget.

5. The Effect on the Behavior and Personal Responsibility of Children. The proposed Rule amendment will have no effect on the behavior and personal responsibility of children.

6. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. The proposed Rule amendment will have no effect on the ability of the family or a local government to perform the activity as contained in the proposed Rule.

Poverty Impact Statement

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a poverty impact statement on the Rule proposed for adoption, repeal, or amendment.

1. The Effect on Household Income, Assets, and Financial Security. The proposed Rule amendment will have no effect on household income, assets, or financial security.

2. The Effect on Early Childhood Development and Preschool through Postsecondary Education Development. The proposed Rule amendment will have no effect on early childhood development or preschool through postsecondary education development.

3. The Effect on Employment and Workforce Development. The proposed Rule amendment will have no effect on employment or workforce development.

4. The Effect on Taxes and Tax Credits. The proposed Rule amendment will have no effect on taxes or tax credits.

5. The Effect on Child and Dependent Care, Housing, Health Care, Nutrition, Transportation, and Utilities Assistance. The proposed Rule amendment will have no effect on child and dependent care, housing, health care, nutrition, transportation, or utilities assistance.

Small Business Analysis

In accordance with Section 965 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a regulatory flexibility analysis on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, each of the following methods of reducing the impact of the proposed Rule on small businesses:

1. The Establishment of Less Stringent Compliance or Reporting Requirements for Small Businesses. There are no reporting requirements in the proposed Rule amendment.

2. The Establishment of Less Stringent Schedules or Deadlines for Compliance or Reporting Requirements for Small Businesses. There are no specific schedules for deadlines in the proposed Rule amendment.

3. The Consolidation or Simplification of Compliance or Reporting Requirements for Small Businesses. There are no additional compliance or reporting requirements in the proposed Rule amendment.

4. The Establishment of Performance Standards for Small Businesses to Replace Design or Operational Standards Required in the Proposed Rule. The standards for the disposal of controlled substances and hazardous drugs are federal in origin and apply to all pharmacies and other types of healthcare providers.

5. The Exemption of Small Businesses from All or Any Part of the Requirements Contained in the Proposed Rule. There are no exemptions for small businesses.

Provider Impact Statement

In accordance with House Concurrent Resolution No. 170 of the Regular Session of the 2014 Legislature, there is hereby submitted a provider impact statement on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, the following effects on the providers of services to individuals with developmental disabilities:

1. The Effect on the Staffing Level Requirements or Qualifications Required to Provide the Same Level of Service. The proposed Rule amendment will have no effect on the staffing level requirements or the qualifications for that staff to provide the same level of service.

2. The Total Direct and Indirect Effect on the Cost to the Provider to Provide the Same Level of Service. The proposed Rule amendment will have no effect on the cost to the provider to provide the same level of service.

3. The Overall Effect on the Ability of the Provider to Provide the Same Level of service. The proposed Rule

amendment will have no effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments, via United States Postal Service or other mail carrier, or in the alternative by personal delivery to Malcolm J Broussard, Executive Director, at the office of the Louisiana Board of Pharmacy, 3388 Brentwood Drive, Baton Rouge, LA 70809-1700. He is responsible for responding to inquiries regarding the proposed Rule amendment.

Public Hearing

A public hearing to solicit comments and testimony on the proposed Rule amendment is scheduled for 9 a.m. on Friday, December 27, 2019. During the hearing, 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 comments is 12 p.m. noon that same day. To request reasonable accommodations for persons with disabilities, please call the board office at 225.925.6496.

Malcolm J Broussard
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Drug Disposal by Pharmacies

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes will require the Louisiana Board of Pharmacy to publish the proposed and final rules in the state register, at a cost of \$2,000 for FY 20. There are no other costs or savings for other local or state governmental units. The proposed rule changes will require all pharmacies to advise consumers of their drug disposal options and will allow pharmacies to accept drug returns for disposal purposes.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes will not affect revenue collections for state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule changes will require all pharmacies to advise consumers of their drug disposal options and will allow pharmacies to accept drug returns for disposal purposes. For pharmacies electing to accept drug returns for disposal, the proposed rule changes require compliance with federal standards relative to the disposal of controlled substances and hazardous drugs. To the extent pharmacies electing to accept drugs for disposal are unable to comply with the aforementioned requirements, such as quarantining products returned for disposal, they may incur unknown though likely marginal costs to be able to properly accept returned products.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes will not affect competition or employment.

Malcolm J. Broussard
Executive Director
1911#053

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Board of Pharmacy

Investigational Drugs (LAC 46:LIII.1529 and 2505)

In accordance with the provisions of the Administrative Procedure Act (La. R.S. 49:950 et seq.) and the Pharmacy Practice Act (La. R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy hereby gives notice of its intent to amend §1529 and §2505 of its rules relative to investigational drugs. The proposal for §1529 will create a new section of rules in Chapter 15, Hospital Pharmacy, which will permit hospital pharmacies participating in clinical drug studies to dispense investigational and other commercially available drug products to patients enrolled in such studies even if those patients are not registered patients of the hospital. The proposed amendment for §2505 will establish minimum standards for all pharmacies participating in clinical drug studies with investigational drugs.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LIII. Pharmacists

Chapter 15. Hospital Pharmacy

§1529. Investigational Drugs

A. Where the hospital pharmacy is a participant in one or more investigational drug studies, the pharmacy may dispense investigational drug products as well as commercially available drug products to patients enrolled in a study, whether or not the patient is a registered patient of the hospital.

AUTHORITY NOTE: Promulgated in accordance with R.S.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 46:

Chapter 25. Prescriptions, Drugs, and Devices

Subchapter A. General Requirements

§2505. Investigational Drugs

A. The pharmacist shall conduct, participate in, and support medical and pharmaceutical research appropriate to the goals, objectives, and resources of the facility.

B. The pharmacist shall ensure the development of policies and procedures for the appropriate use of investigational drugs; such policies shall be consistent with the applicable federal rules pertaining to investigational drugs.

1. The use of investigational drugs shall be authorized by the principal investigator, or his authorized clinician.

2. The pharmacist shall ensure the development of a central repository for the acquisition and maintenance of essential information and the dissemination of that information to all personnel tasked with procurement, storage, dispensing, or administration of investigational drugs.

3. The pharmacist shall retain a copy of the research protocol in the pharmacy; the dispensing pharmacist shall review the protocol prior to dispensing the investigational drug.

4. The dispensing label for investigational drugs shall comply with the provisions of this Chapter; in addition, the label shall bear the phrase “For Investigational Use Only” or a similar caution.

C. The pharmacist shall store investigational drugs in the pharmacy separate from the active dispensing stock of approved drugs.

1. The storage location shall be consistent with the environmental standards for temperature, humidity, and light indicated by the manufacturer.

2. The storage location shall be secured against improper access or diversion.

D. The pharmacist shall maintain a perpetual inventory record for each investigational drug, with such record to contain, at a minimum, the following data elements:

1. drug’s name, dosage form, strength, lot number, and expiration date;

2. name, address, and telephone name of the study sponsor;

3. protocol number;

4. identification of dispensing pharmacist; and

5. disposition of any remaining drug supply

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2102 (October 2003), effective January 1, 2004, amended by the Department of Health, Board of Pharmacy, LR 46:

Family Impact Statement

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a family impact statement on the Rule proposed for adoption, repeal, or amendment. The following statements will be published in the *Louisiana Register* with the proposed agency Rule.

1. The Effect on the Stability of the Family. The proposed Rule amendments will have no effect on the stability of the family.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. The proposed Rule amendment will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect on the Functioning of the Family. The proposed Rule amendment will have no effect on the functioning of the family.

4. The Effect on Family Earnings and Family Budget. The proposed Rule amendment will have no effect on family earnings or family budget.

5. The Effect on the Behavior and Personal Responsibility of Children. The proposed Rule amendment will have no effect on the behavior and personal responsibility of children.

6. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. The proposed Rule amendment will have no effect on the ability of the family or a local government to perform the activity as contained in the proposed Rule.

Poverty Impact Statement

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a

poverty impact statement on the Rule proposed for adoption, repeal, or amendment.

1. The Effect on Household Income, Assets, and Financial Security. The proposed Rule amendment will have no effect on household income, assets, or financial security.

2. The Effect on Early Childhood Development and Preschool through Postsecondary Education Development. The proposed Rule amendment will have no effect on early childhood development or preschool through postsecondary education development.

3. The Effect on Employment and Workforce Development. The proposed Rule amendment will have no effect on employment or workforce development.

4. The Effect on Taxes and Tax Credits. The proposed Rule amendment will have no effect on taxes or tax credits.

5. The Effect on Child and Dependent Care, Housing, Health Care, Nutrition, Transportation, and Utilities Assistance. The proposed Rule amendment will have no effect on child and dependent care, housing, health care, nutrition, transportation, or utilities assistance.

Small Business Analysis

In accordance with Section 965 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a regulatory flexibility analysis on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, each of the following methods of reducing the impact of the proposed Rule on small businesses:

1. The Establishment of Less Stringent Compliance or Reporting Requirements for Small Businesses. The proposed Rule will allow hospital pharmacies to dispense both investigational and commercially-available drug products to patients enrolled in clinical drug studies in which they participate, which is a reduction of the current restriction on hospital pharmacies which limits their dispensing of drug products to hospital patients. The proposed amendment for investigational drugs will establish minimum standards for all pharmacies electing to participate in clinical drug studies. These standards reflect current best practices and comply with federal requirements applicable to the handling of investigational drugs.

2. The Establishment of Less Stringent Schedules or Deadlines for Compliance or Reporting Requirements for Small Businesses. There are no specific reporting requirements in the proposed rule amendment.

3. The Consolidation or Simplification of Compliance or Reporting Requirements for Small Businesses. There are no specific reporting requirements in the proposed rule amendment.

4. The Establishment of Performance Standards for Small Businesses to Replace Design or Operational Standards Required in the Proposed Rule. There are no design standards in the proposed rule amendment. The operational standard complies with the federal standards applicable to the handling of investigational drugs.

5. The Exemption of Small Businesses from All or Any Part of the Requirements Contained in the Proposed Rule. There are no exemptions for small businesses.

Provider Impact Statement

In accordance with House Concurrent Resolution No. 170 of the Regular Session of the 2014 Legislature, there is hereby submitted a provider impact statement on the Rule

proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, the following effects on the providers of services to individuals with developmental disabilities:

1. The Effect on the Staffing Level Requirements or Qualifications Required to Provide the Same Level of Service. To the extent pharmacies participating in clinical drug studies are not compliant with the proposed minimum standards, the pharmacy will need to either acquire an appropriate staffing level or discontinue their participation in such activities.

2. The Total Direct and Indirect Effect on the Cost to the Provider to Provide the Same Level of Service. To the extent pharmacies participating in clinical drug studies are not compliant with the proposed minimum standards, the pharmacy will need to acquire additional staffing, which may incur additional costs for the provider.

3. The Overall Effect on the Ability of the Provider to Provide the Same Level of Service. The proposed Rule amendment will have no effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments, via United States Postal Service or other mail carrier, or in the alternative by personal delivery to Malcolm J Broussard, Executive Director, at the office of the Louisiana Board of Pharmacy, 3388 Brentwood Drive, Baton Rouge, LA 70809-1700. He is responsible for responding to inquiries regarding the proposed Rule amendment.

Public Hearing

A public hearing to solicit comments and testimony on the proposed Rule amendment is scheduled for 9 a.m. on Friday, December 27, 2019. During the hearing, 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 comments is 12 p.m. noon that same day. To request reasonable accommodations for persons with disabilities, please call the Board office at 225.925.6496.

Malcolm J Broussard
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Investigational Drugs

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes will require the Louisiana Board of Pharmacy to publish the proposed and final rules in the state register, resulting in a one-time cost of \$2,000 for FY 20. There are no other costs or savings for other local or state governmental units. The proposed rule changes further outline policies for participation in clinical drug studies with investigational drugs for hospitals and pharmacies.

To the extent local governmental units operate pharmacies, and to the extent they elect to participate in clinical drug studies, such pharmacies may need additional financial and human resources to comply with the recordkeeping requirements for investigational drug studies. All pharmacies electing to participate in clinical drug studies with investigational drugs will be required to comply with minimum

standards applicable to the handling of investigational drugs, including storing investigational drugs separately from active dispensing stocks, perpetual inventory records of investigational drugs, and adherence to federal policies and procedures for the use of investigational drugs. As a result, the aggregate cost for hospitals and pharmacies operated by local governments choosing to participate in such studies is indeterminable and will vary with the level of such activity.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes will not affect revenue collections for state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule changes will affect pharmacies electing to participate in clinical drug studies with investigational drugs. Hospital pharmacies electing to participate in clinical drug studies with investigational drugs will be permitted, but not required, to dispense those drugs to all patients enrolled in the studies regardless of whether they are registered patients of the hospital. All pharmacies electing to participate in clinical drug studies with investigational drugs will be required to comply with minimum standards applicable to the handling of investigational drugs, including storing investigational drugs separately from active dispensing stocks, perpetual inventory records of investigational drugs, and adherence to federal policies and procedures for use of investigational drugs. Those activities require human and other resources, the cost of which will vary with each pharmacy depending on their level of activity with such studies. As a result, the aggregate cost for hospitals and pharmacies choosing to participate in such studies is indeterminable.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule amendments will not affect competition or employment.

Malcolm J. Broussard
Executive Director
1911#064

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Board of Pharmacy

License Transfer for Pharmacy Technicians
(LAC 46:LIII.903 and 905)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy hereby gives notice of its intent to amend §903 and §905 of its rules relative to pharmacy technicians. The proposed Rule change in §903 will remove the requirement that pharmacy technicians licensed and practicing in another state obtain a pharmacy technician candidate registration. The proposed Rule change in §905 will authorize pharmacy technicians licensed and practicing in another state to apply for a pharmacy technician certificate in this state provided they can demonstrate successful completion of a board-approved pharmacy technician certification examination and at least one year of practice in that state.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS

Part LIII. Pharmacists

Chapter 9. Pharmacy Technicians

§903. Pharmacy Technician Candidates

A. - A.2.c.i. ...

ii. Proof of successful completion of a board-approved technician certification examination, and further, proof of successful completion of a high school approved by a state department of education or an equivalent degree of education, as evidenced by a valid and legible copy of a diploma, transcript, or other appropriate credential.

A.2.d. - D.2.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1212.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 30:2485 (November 2004), effective January 1, 2005, amended LR 39:1777 (July 2013), amended by the Department of Health, Board of Pharmacy, LR 43:2496 (December 2017), effective January 1, 2018, repromulgated LR 44:49 (January 2018), amended LR 46:

§905. Pharmacy Technician Certificate

A. - A.3.b. ...

c. In the event the applicant has been licensed, registered, or otherwise credentialed by another state board of pharmacy and has been practicing for at least one year as a pharmacy technician in that state, the applicant shall demonstrate successful completion of a board-approved pharmacy technician certification examination.

A.4 - B.6.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1212.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 30:2486 (November 2004), effective January 1, 2005, amended LR 38:1235 (May 2012), LR 39:1777 (July 2013), amended by the Department of Health, Board of Pharmacy, LR 43:2497 (December 2017), effective January 1, 2018, amended LR 46:

Family Impact Statement

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a family impact statement on the Rule proposed for adoption, repeal, or amendment. The following statements will be published in the *Louisiana Register* with the proposed agency Rule.

1. The Effect on the Stability of the Family. The proposed Rule amendment will have no effect on the stability of the family.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. The proposed Rule amendment will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect on the Functioning of the Family. The proposed Rule amendment will have no effect on the functioning of the family.

4. The Effect on Family Earnings and Family Budget. The proposed Rule amendment may allow a pharmacy technician licensed and practicing in another state to obtain their pharmacy technician certificate in this state sooner than is currently permitted, which may allow the earning of a higher salary than that for a pharmacy technician candidate,

which in turn may improve family earnings and family budget.

5. The Effect on the Behavior and Personal Responsibility of Children. The proposed Rule amendment will have no effect on the behavior and personal responsibility of children.

6. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. The proposed Rule amendment will have no effect on the ability of the family or a local government to perform the activity as contained in the proposed Rule.

Poverty Impact Statement

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a poverty impact statement on the Rule proposed for adoption, repeal, or amendment.

1. The Effect on Household Income, Assets, and Financial Security. The proposed Rule changes may allow a pharmacy technician licensed and practicing in another state to obtain their pharmacy technician certificate in this state sooner than is currently permitted, which may allow the earning of a higher salary than that for a pharmacy technician candidate, which in turn may improve household income, assets, and financial security.

2. The Effect on Early Childhood Development and Preschool through Postsecondary Education Development. The proposed Rule amendment will have no effect on early childhood development or preschool through postsecondary education development.

3. The Effect on Employment and Workforce Development. The proposed Rule changes allow a pharmacy technician licensed and practicing in another state to obtain their pharmacy technician certificate in this state sooner than is currently permitted, which may improve their opportunity for employment as a pharmacy technician.

4. The Effect on Taxes and Tax Credits. The proposed Rule amendment will have no effect on taxes or tax credits.

5. The Effect on Child and Dependent Care, Housing, Health Care, Nutrition, Transportation, and Utilities Assistance. The proposed Rule amendment will have no effect on child and dependent care, housing, health care, nutrition, transportation, or utilities assistance.

Small Business Analysis

In accordance with Section 965 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a regulatory flexibility analysis on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, each of the following methods of reducing the impact of the proposed Rule on small businesses:

1. The Establishment of Less Stringent Compliance or Reporting Requirements for Small Businesses. There are no reporting requirements in the proposed Rule amendment.

2. The Establishment of Less Stringent Schedules or Deadlines for Compliance or Reporting Requirements for Small Businesses. There are no specific schedules for deadlines in the proposed Rule amendment.

3. The Consolidation or Simplification of Compliance or Reporting Requirements for Small Businesses. There are no additional compliance or reporting requirements in the proposed Rule amendment.

4. The Establishment of Performance Standards for Small Businesses to Replace Design or Operational Standards Required in the Proposed Rule. There are no design or operational standards in the proposed Rule amendment.

5. The Exemption of Small Businesses from All or Any Part of the Requirements Contained in the Proposed Rule. There are no exemptions for small businesses.

Provider Impact Statement

In accordance with House Concurrent Resolution No. 170 of the Regular Session of the 2014 Legislature, there is hereby submitted a provider impact statement on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, the following effects on the providers of services to individuals with developmental disabilities:

1. The Effect on the Staffing Level Requirements or Qualifications Required to Provide the Same Level of Service. The proposed Rule amendment will have no effect on the staffing level requirements or the qualifications for that staff to provide the same level of service.

2. The Total Direct and Indirect Effect on the Cost to the Provider to Provide the Same Level of Service. The proposed Rule amendment will have no effect on the cost to the provider to provide the same level of service.

3. The Overall Effect on the Ability of the Provider to Provide the Same Level of service. The proposed Rule amendment will have no effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments, via United States Postal Service or other mail carrier, or in the alternative by personal delivery to Malcolm J Broussard, Executive Director, at the office of the Louisiana Board of Pharmacy, 3388 Brentwood Drive, Baton Rouge, LA 70809-1700. He is responsible for responding to inquiries regarding the proposed Rule amendment.

Public Hearing

A public hearing to solicit comments and testimony on the proposed Rule amendment is scheduled for 9 a.m. on Friday, December 27, 2019. During the hearing, 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 comments is 12 p.m. noon that same day. To request reasonable accommodations for persons with disabilities, please call the board office at 225.925.6496.

Malcolm J Broussard
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: License Transfer
for Pharmacy Technicians**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes will require the Louisiana Board of Pharmacy to publish the proposed and final rules in the state register, resulting in a one-time cost of \$2,000 for FY 20. There are no other costs or savings for other local or state governmental units. The proposed rule changes amend license

transfer policies for pharmacy technicians licensed in other states seeking to practice in Louisiana.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes will not affect revenue collections for state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule changes will affect pharmacy technicians licensed and practicing in another state for at least one year who are seeking to transfer their license to Louisiana. The proposed rule changes will remove the current requirement such technicians first obtain a pharmacy technician candidate registration and earn 600 hours of practice in Louisiana, and will authorize them to obtain their pharmacy technician certificate upon demonstration of successful completion of a board-approved pharmacy technician certification examination, potentially allowing them to receive licensure more quickly.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

To the extent a pharmacy technician licensed and practicing in another state is able to obtain their pharmacy technician certificate in this state sooner than is currently permitted, the proposed rule change may improve their ability to compete for employment as a pharmacy technician in this state.

Malcolm J. Broussard
Executive Director
1911#058

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health
Board of Pharmacy**

Licensing of Marijuana Pharmacies (LAC 46:LIII.2447)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy hereby gives notice of its intent to amend §2447 of its rules for marijuana pharmacies. The proposed amendment for §2447 will clarify the licensing procedure for marijuana pharmacies to require an inspection of the premises prior to the issuance of the permit that was awarded by the board.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LIII. Pharmacists

Chapter 24. Limited Service Providers

§2447. Licensing Procedures

A. Application for Initial Issuance of Permit

1. - 18. ...

19. Upon the approval of an application, the board shall award the marijuana pharmacy permit and state controlled dangerous substance license to the applicant. Upon completion of a satisfactory inspection of the pharmacy premises, the board shall issue the marijuana pharmacy permit and state controlled dangerous substance license to the applicant awarded the permit.

A.20. - D.9. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 43:1544 (August 2017), amended LR 46:

Family Impact Statement

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a family impact statement on the Rule proposed for adoption, repeal, or amendment. The following statements will be published in the *Louisiana Register* with the proposed agency Rule.

1. The Effect on the Stability of the Family. The proposed Rule amendment will have no effect on the stability of the family.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. The proposed Rule amendment will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect on the Functioning of the Family. The proposed Rule amendment will have no effect on the functioning of the family.

4. The Effect on Family Earnings and Family Budget. The proposed Rule amendment will have no effect on family earnings or family budget.

5. The Effect on the Behavior and Personal Responsibility of Children. The proposed Rule amendment will have no effect on the behavior and personal responsibility of children.

6. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. The proposed Rule amendment will have no effect on the ability of the family or a local government to perform the activity as contained in the proposed Rule.

Poverty Impact Statement

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a poverty impact statement on the Rule proposed for adoption, repeal, or amendment.

1. The Effect on Household Income, Assets, and Financial Security. The proposed Rule amendment will have no effect on household income, assets, or financial security.

2. The Effect on Early Childhood Development and Preschool through Postsecondary Education Development. The proposed Rule amendment will have no effect on early childhood development or preschool through postsecondary education development.

3. The Effect on Employment and Workforce Development. The proposed Rule amendment will have no effect on employment or workforce development.

4. The Effect on Taxes and Tax Credits. The proposed Rule amendment will have no effect on taxes or tax credits.

5. The Effect on Child and Dependent Care, Housing, Health Care, Nutrition, Transportation, and Utilities Assistance. The proposed Rule amendment will have no effect on child and dependent care, housing, health care, nutrition, transportation, or utilities assistance.

Small Business Analysis

In accordance with Section 965 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a regulatory flexibility analysis on the Rule proposed for adoption, repeal, or amendment. This will certify the agency

has considered, without limitation, each of the following methods of reducing the impact of the proposed Rule on small businesses:

1. The Establishment of Less Stringent Compliance or Reporting Requirements for Small Businesses. The proposed amendment requires an inspection of the premises for the proposed marijuana pharmacy prior to issuing the permit awarded by the board. There are no reporting requirements in the proposed Rule amendment.

2. The Establishment of Less Stringent Schedules or Deadlines for Compliance or Reporting Requirements For Small Businesses. There are no specific schedules for deadlines in the proposed Rule amendment.

3. The Consolidation or Simplification of Compliance or Reporting Requirements for Small Businesses. There are no additional compliance or reporting requirements in the proposed Rule amendment.

4. The Establishment of Performance Standards for Small Businesses to Replace Design or Operational Standards Required in the Proposed Rule. There are no design or operational standards in the proposed Rule amendment.

5. The Exemption of Small Businesses from All or Any Part of the Requirements Contained in the Proposed Rule. There are no exemptions for small businesses.

Provider Impact Statement

In accordance with House Concurrent Resolution No. 170 of the Regular Session of the 2014 Legislature, there is hereby submitted a provider impact statement on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, the following effects on the providers of services to individuals with developmental disabilities:

1. The Effect on the Staffing Level Requirements or Qualifications Required to Provide the Same Level of Service. The proposed Rule amendment will have no effect on the staffing level requirements or the qualifications for that staff to provide the same level of service.

2. The Total Direct and Indirect Effect on the Cost to the Provider to Provide the Same Level of Service. The proposed Rule amendment will have no effect on the cost to the provider to provide the same level of service.

3. The Overall Effect on the Ability of the Provider to Provide the Same Level of service. The proposed Rule amendment will have no effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments, via United States Postal Service or other mail carrier, or in the alternative by personal delivery to Malcolm J Broussard, Executive Director, at the office of the Louisiana Board of Pharmacy, 3388 Brentwood Drive, Baton Rouge, LA 70809-1700. He is responsible for responding to inquiries regarding the proposed Rule amendment.

Public Hearing

A public hearing to solicit comments and testimony on the proposed Rule amendment is scheduled for 9 a.m. on Friday, December 27, 2019. During the hearing, 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 comments is 12 p.m. noon that same

day. To request reasonable accommodations for persons with disabilities, please call the board office at 225.925.6496.

Malcolm J Broussard
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Licensing of Marijuana Pharmacies**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will require a one-time expenditure of \$2,000 in FY 20 for the Louisiana Board of Pharmacy (LBP) to publish the proposed and final rule amendment. There are no other costs or savings to state or local governmental units. The proposed rule change clarifies LBP policy regarding the award of a permit to a marijuana pharmacy after inspection of the premises.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will not affect revenue collections for state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change clarifies the licensing procedure for marijuana pharmacies to specify the requirement for an inspection of the premises prior to issuing the marijuana pharmacy permit awarded by the LBP. This procedure is consistent with all types of pharmacy permits issued by the LBP. There is no separate fee for the inspection, as the cost is included in the application fee.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will not affect competition or employment.

Malcolm J. Broussard
Executive Director
1911#066

Evan Brasseaux
Staff Director
Legislative Fiscal Office

**NOTICE OF INTENT
Department of Health
Board of Pharmacy**

Partial Fills of Schedule II Prescriptions (LAC 46:LIII.2747)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy hereby gives notice of its intent to amend Section 2747 of its rules for controlled substances. Act 32 of the 2018 Legislature amended the controlled substance law to permit the dispensing of partial fills of prescriptions for all medications listed in Schedule II as opposed to only opiate medications listed in Schedule II previously allowed. The proposed Rule change will implement the legislation and allow pharmacists to dispense partial fills of prescriptions for all medications listed in Schedule II consistent with federal and state law.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LIII. Pharmacists

**Chapter 27. Controlled Dangerous Substances
Subchapter F. Production, Distribution, and Utilization
§2747. Dispensing Requirements**

A. - B.4.c.iv. ...

5. Partial Filling of Prescription

a. The partial filling of a prescription for a controlled substance listed in Schedule II is permissible with the following limitations:

i. When the pharmacist is unable to supply the full quantity called for in a written (or emergency oral) prescription, he shall make a notation of the quantity supplied on the face of the written prescription (or written record of the emergency oral prescription). The remaining portion of the prescription may be dispensed within 72 hours of the first partial filling; however, if the remaining portion is not or cannot be filled within the 72-hour period, the pharmacist shall notify the prescriber. No further quantity shall be dispensed beyond 72 hours without a new prescription.

ii. When a partial fill is requested by the patient or the practitioner who wrote the prescription, the pharmacist may dispense any quantity less than the total quantity prescribed. The total quantity dispensed in all partial fillings shall not exceed the total quantity prescribed. No partial filling may be dispensed more than 30 days after the date on which the prescription was written.

B.5.b. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 34:2152 (October 2008), amended LR 41:685 (April 2015), amended by the Department of Health, Board of Pharmacy, LR 46:

Family Impact Statement

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a family impact statement on the Rule proposed for adoption, repeal, or amendment. The following statements will be published in the *Louisiana Register* with the proposed agency Rule.

1. The Effect on the Stability of the Family. The proposed Rule amendment will have no effect on the stability of the family.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. The proposed Rule amendment will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect on the Functioning of the Family. The proposed Rule amendment will have no effect on the functioning of the family.

4. The Effect on Family Earnings and Family Budget. The proposed Rule amendment will have no effect on family earnings or family budget.

5. The Effect on the Behavior and Personal Responsibility of Children. The proposed Rule amendment will have no effect on the behavior and personal responsibility of children.

6. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. The proposed Rule amendment will have no effect on the ability of the family or a local government to perform the activity as contained in the proposed Rule.

Poverty Impact Statement

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a poverty impact statement on the Rule proposed for adoption, repeal, or amendment.

1. The Effect on Household Income, Assets, and Financial Security. The proposed Rule amendment will have no effect on household income, assets, or financial security.

2. The Effect on Early Childhood Development and Preschool through Postsecondary Education Development. The proposed Rule amendment will have no effect on early childhood development or preschool through postsecondary education development.

3. The Effect on Employment and Workforce Development. The proposed Rule amendment will have no effect on employment or workforce development.

4. The Effect on Taxes and Tax Credits. The proposed Rule amendment will have no effect on taxes or tax credits.

5. The Effect on Child and Dependent Care, Housing, Health Care, Nutrition, Transportation, and Utilities Assistance. The proposed Rule amendment will have no effect on child and dependent care, housing, health care, nutrition, transportation, or utilities assistance.

Small Business Analysis

In accordance with Section 965 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a regulatory flexibility analysis on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, each of the following methods of reducing the impact of the proposed Rule on small businesses:

1. The Establishment of Less Stringent Compliance or Reporting Requirements for Small Businesses. There are no reporting requirements in the proposed Rule amendment.

2. The Establishment of Less Stringent Schedules or Deadlines for Compliance or Reporting Requirements for Small Businesses. There are no specific schedules for deadlines in the proposed Rule amendment.

3. The Consolidation or Simplification of Compliance or Reporting Requirements for Small Businesses. There are no additional compliance or reporting requirements in the proposed Rule amendment.

4. The Establishment of Performance Standards for Small Businesses to Replace Design or Operational Standards Required in the Proposed Rule. There are no design or operational standards in the proposed Rule amendment.

5. The Exemption of Small Businesses from All or Any Part of the Requirements Contained in the Proposed Rule. There are no exemptions for small businesses.

Provider Impact Statement

In accordance with House Concurrent Resolution No. 170 of the Regular Session of the 2014 Legislature, there is

hereby submitted a provider impact statement on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, the following effects on the providers of services to individuals with developmental disabilities:

1. The Effect on the Staffing Level Requirements or Qualifications Required to Provide the Same Level of Service. The proposed Rule amendment will have no effect on the staffing level requirements or the qualifications for that staff to provide the same level of service.

2. The Total Direct and Indirect Effect on the Cost to the Provider to Provide the Same Level of Service. The proposed Rule amendment will have no effect on the cost to the provider to provide the same level of service.

3. The Overall Effect on the Ability of the Provider to Provide the Same Level of service. The proposed Rule amendment will have no effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments, via United States Postal Service or other mail carrier, or in the alternative by personal delivery to Malcolm J Broussard, Executive Director, at the office of the Louisiana Board of Pharmacy, 3388 Brentwood Drive, Baton Rouge, LA 70809-1700. He is responsible for responding to inquiries regarding the proposed Rule amendment.

Public Hearing

A public hearing to solicit comments and testimony on the proposed Rule amendment is scheduled for 9 a.m. on Friday, December 27, 2019. During the hearing, 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 comments is 12 p.m. noon that same day. To request reasonable accommodations for persons with disabilities, please call the board office at 225.925.6496.

Malcolm J Broussard
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Partial Fills of Schedule II Prescriptions

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will require the Louisiana Board of Pharmacy to publish the proposed and final rules in the state register, resulting in a one-time cost of \$2,000 for FY 20. There are no other costs or savings for other local or state governmental units. The proposed rule change permits pharmacists to dispense partial fills of prescriptions for all medications listed in Schedule II.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will not affect revenue collections for state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Act 32 of the 2018 Regular Session amended the state controlled substance law to permit pharmacists to dispense partial fills of prescriptions for all medications listed in Schedule II instead of only the opiate medications listed in Schedule II, and to do so in a manner consistent with federal

law. The proposed rule change implements the 2018 legislation. When requested by either the prescriber or the patient, the pharmacist may dispense partial fills of such prescriptions, but shall dispense all partial fills no later than 30 days after the date the prescription was issued. The patient may benefit from having less medication on hand to manage. The patient may also benefit from a reduced acquisition cost for a partial fill; however, it is possible the total cost of all partial fills may be higher than the cost of dispensing the entire amount prescribed.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will not affect competition or employment.

Malcolm J. Broussard
Executive Director
1911#056

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Board of Pharmacy

Pharmacy Compounding (LAC 46:LIII.2535)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy hereby gives notice of its intent to amend the section of its rules containing standards for pharmacy compounding. The proposed amendment of Paragraph A.2 updates the references to federal law and rule. The proposed amendment of Subsection F updates the standards for compounding copies of commercially available products consistent with recent guidance information from the federal Food and Drug Administration.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LIII. Pharmacists

Chapter 25. Prescriptions, Drugs, and Devices

§2535. General Standards

A. Compounding Practices. Compounded medications may be prepared using prescription medications, over-the-counter medications, chemicals, compounds, or other components.

1. ...

2. All compounding shall be accomplished utilizing accepted pharmacy techniques, practices, and equipment, and in compliance with the Federal Food, Drug and Cosmetic Act of 1938 as subsequently amended, the current edition of Title 21 of the Code of Federal Regulations (CFR), and all relevant chapters of the 2014 edition of the United States Pharmacopeia-National Formulary (USP 37-NF 32).

A.2.a. - E.4. ...

F. Compounding Copies of Commercial Drug Products.

1. Copies of commercial drug products contain the same active pharmaceutical ingredient(s) in the same, similar, or easily substitutable dosage strength which can be used by the same route of administration. Changes in strength of less than 10 percent from the commercial drug product shall not be considered significant enough to warrant the preparation of a copy of a commercial drug

product. In the event a prescriber determines a change in the formulation of a commercial drug product is necessary to produce a significant clinical difference for the patient and that determination is documented on the prescription, the pharmacy may prepare a variation of the commercial drug product, provided:

a. the prescriber's determination shall identify both the relevant change requested and the clinically significant difference the change will produce for the patient; and

b. the pharmacy does not prepare copies of commercial drug products regularly or in inordinate amounts.

2. A pharmacy may prepare a copy of a commercial drug product when that product has been discontinued and is no longer marketed, or the product appears on the drug shortage list maintained by the federal Food and Drug Administration, or the product is temporarily unavailable as demonstrated by invoice or other communication from the distributor or manufacturer.

G - G.2.i. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 23:1316 (October 1997), amended LR 29:2105 (October 2003), effective January 1, 2004, amended LR 41:97 (January 2015), amended LR 42:891 (June 2016), LR 46:

Family Impact Statement

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a family impact statement on the Rule proposed for adoption, repeal, or amendment. The following statements will be published in the *Louisiana Register* with the proposed agency Rule.

1. The Effect on the Stability of the Family. The proposed Rule amendment will have no effect on the stability of the family.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. The proposed Rule amendment will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect on the Functioning of the Family. The proposed Rule amendment will have no effect on the functioning of the family.

4. The Effect on Family Earnings and Family Budget. The proposed Rule amendment will have no effect on family earnings or family budget.

5. The Effect on the Behavior and Personal Responsibility of Children. The proposed Rule amendment will have no effect on the behavior and personal responsibility of children.

6. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. The proposed Rule amendment will have no effect on the ability of the family or a local government to perform the activity as contained in the proposed Rule.

Poverty Impact Statement

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a poverty impact statement on the Rule proposed for adoption, repeal, or amendment.

1. The Effect on Household Income, Assets, and Financial Security. The proposed Rule amendment will have no effect on household income, assets, or financial security.

2. The Effect on Early Childhood Development and Preschool through Postsecondary Education Development. The proposed Rule amendment will have no effect on early childhood development or preschool through postsecondary education development.

3. The Effect on Employment and Workforce Development. The proposed Rule amendment will have no effect on employment or workforce development.

4. The Effect on Taxes and Tax Credits. The proposed Rule amendment will have no effect on taxes or tax credits.

5. The Effect on Child and Dependent Care, Housing, Health Care, Nutrition, Transportation, and Utilities Assistance. The proposed Rule amendment will have no effect on child and dependent care, housing, health care, nutrition, transportation, or utilities assistance.

Small Business Analysis

In accordance with Section 965 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a regulatory flexibility analysis on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, each of the following methods of reducing the impact of the proposed Rule on small businesses:

1. The Establishment of Less Stringent Compliance or Reporting Requirements for Small Businesses. There are no reporting requirements in the proposed Rule amendment.

2. The Establishment of Less Stringent Schedules or Deadlines for Compliance or Reporting Requirements for Small Businesses. There are no specific schedules for deadlines in the proposed Rule amendment.

3. The Consolidation or Simplification of Compliance or Reporting Requirements for Small Businesses. There are no additional compliance or reporting requirements in the proposed Rule amendment.

4. The Establishment of Performance Standards for Small Businesses to Replace Design or Operational Standards Required in the Proposed Rule. The standards for the compounding of drugs are federal in origin and apply to all pharmacies.

5. The Exemption of Small Businesses from All or Any Part of the Requirements Contained in the Proposed Rule. There are no exemptions for small businesses.

Public Comments

Interested persons may submit written comments, via United States Postal Service or other mail carrier, or in the alternative by personal delivery to Malcolm J Broussard, Executive Director, at the office of the Louisiana Board of Pharmacy, 3388 Brentwood Drive, Baton Rouge, LA 70809-1700. He is responsible for responding to inquiries regarding the proposed Rule amendment.

Public Hearing

A public hearing to solicit comments and testimony on the proposed Rule amendment is scheduled for 9 a.m. on Friday, December 27, 2019. During the hearing, 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 comments is 12 p.m. noon that same

day. To request reasonable accommodations for persons with disabilities, please call the board office at 225.925.6496.

Malcolm J Broussard
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Pharmacy Compounding

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes will require the Louisiana Board of Pharmacy to publish the proposed and final rules in the state register, at a cost of \$2,000 for FY 20. There are no other costs or savings for other local or state governmental units. The proposed rule changes update standards for compounding copies of commercially available product to align with current guidance from the Food and Drug Administration (FDA).

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes will not affect revenue collections for state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule changes benefits pharmacists, as they update references to current federal law and rule. The standards for the compounding of commercially available products clarify the current limitation of compounding by stating that the strength of the active ingredient must change by more than 10 percent for the compounded preparation to be recognized as an authorized copy of a commercially available product. The proposed rule changes also remove a private website as a source of information for drugs in shortage, in favor of the website maintained for that purpose by the federal Food and Drug Administration. To the extent a pharmacy compounds copies of commercially available products with changes in strength of the active ingredient of less than 10 percent, the proposed rule changes will require the pharmacy to terminate such activity.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes will not affect competition or employment.

Malcolm J. Broussard
Executive Director
1911#052

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Board of Pharmacy

Pharmacy Immunizations (LAC 46:LIII.521)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy hereby gives notice of its intent to amend §521 of its rules for pharmacists administering immunizations. The proposed amendment for §521(F) will require the immunizing pharmacist or his designee to report the

immunization to the state immunization registry within 72 hours following the immunization. A new subsection §521(H) will establish minimum staffing and equipment standards for pharmacies hosting immunization activities.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LIII. Pharmacists

Chapter 5. Pharmacists

Subchapter B. Professional Practice Procedures

§521. Prescription Orders to Administer Medications

A. - E.2. ...

F. Vaccines.

1. The pharmacist shall maintain and furnish the following information to the practitioner within 24 hours of the administration:

- a. name and address of the patient;
- b. age of the patient, if under fourteen years of age;
- c. name of the patient's primary care physician as provided by the patient or patient's agent;
- d. name, manufacturer, and lot number of the vaccine administered;
- e. amount administered;
- f. date of vaccine administration;
- g. site of vaccine administration;
- h. route of administration; and
- i. name, address, and telephone number of the pharmacist administering the vaccine.

2. The immunizing pharmacist or his designee shall report the immunization to the state immunization registry within 72 hours of the administration of the immunization.

G. ...

H. Pharmacies hosting immunization activities, as well as pharmacists administering immunizations in a location other than a pharmacy, shall comply with the following minimum standards:

1. There shall be sufficient staffing available for the pharmacist to administer the immunization and monitor the patient afterward without distraction from other responsibilities.

2. To facilitate emergency management of anaphylactic reactions, there shall be adequate supplies of medication and equipment, as well as pre-determined procedures for the arrangement of emergency medical services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2085 (October 2003), effective January 1, 2004, amended LR 34:1409 (July 2008), amended by the Department of Health, Board of Pharmacy, LR 46:

Family Impact Statement

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a family impact statement on the Rule proposed for adoption, repeal, or amendment. The following statements will be published in the Louisiana Register with the proposed agency Rule.

1. The Effect on the Stability of the Family. The proposed Rule amendment will have no effect on the stability of the family.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. The proposed Rule amendment will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect on the Functioning of the Family. The proposed Rule amendment will have no effect on the functioning of the family.

4. The Effect on Family Earnings and Family Budget. The proposed Rule amendment will have no effect on family earnings or family budget.

5. The Effect on the Behavior and Personal Responsibility of Children. The proposed Rule amendment will have no effect on the behavior and personal responsibility of children.

6. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. The proposed Rule amendment will have no effect on the ability of the family or a local government to perform the activity as contained in the proposed Rule.

Poverty Impact Statement

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a poverty impact statement on the rule proposed for adoption, repeal, or amendment.

1. The Effect on Household Income, Assets, and Financial Security. The proposed Rule amendment will have no effect on household income, assets, or financial security.

2. The Effect on Early Childhood Development and Preschool through Postsecondary Education Development. The proposed Rule amendment will have no effect on early childhood development or preschool through postsecondary education development.

3. The Effect on Employment and Workforce Development. The proposed Rule amendment will have no effect on employment or workforce development.

4. The Effect on Taxes and Tax Credits. The proposed Rule amendment will have no effect on taxes or tax credits.

5. The Effect on Child and Dependent Care, Housing, Health Care, Nutrition, Transportation, and Utilities Assistance. The proposed Rule amendment will have no effect on child and dependent care, housing, health care, nutrition, transportation, or utilities assistance.

Small Business Analysis

In accordance with Section 965 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a regulatory flexibility analysis on the rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, each of the following methods of reducing the impact of the proposed Rule on small businesses:

1. The Establishment of Less Stringent Compliance or Reporting Requirements for Small Businesses. The proposed rule amendment requires the immunizing pharmacist or his designee to report immunizations to the state immunization registry within 72 hours of the immunization. The board has determined that the public health and safety provided by the information in the immunization registry precludes a less stringent timeline.

2. The Establishment of Less Stringent Schedules or Deadlines for Compliance or Reporting Requirements for Small Businesses. The board has determined that 72 hours is

sufficient time for a pharmacy to report an immunization to the state registry.

3. The Consolidation or Simplification of Compliance or Reporting Requirements for Small Businesses. The board does not control the data elements required to be reported to the state immunization registry, therefore, there is no simplification of that process.

4. The Establishment of Performance Standards for Small Businesses to Replace Design or Operational Standards Required in the Proposed Rule. The proposed rule amendment establishes staffing and equipment standards for pharmacies hosting immunization activities. The standards ensure a pharmacy is adequately staffed and equipped to safely administer immunizations.

5. The Exemption of Small Businesses from All or Any Part of the Requirements Contained in the Proposed Rule. There are no exemptions for small businesses.

Provider Impact Statement

In accordance with House Concurrent Resolution No. 170 of the Regular Session of the 2014 Legislature, there is hereby submitted a provider impact statement on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, the following effects on the providers of services to individuals with developmental disabilities:

1. The Effect on the Staffing Level Requirements or Qualifications Required to Provide the Same Level of Service. To the extent pharmacies hosting immunization activities are inadequately staffed to safely host immunization activities, the pharmacy will need to either acquire an appropriate staffing level or discontinue the immunization activities.

2. The Total Direct and Indirect Effect on the Cost to the Provider to Provide the Same Level of Service. To the extent pharmacies hosting immunization activities are inadequately staffed to safely host immunization activities, the pharmacy will need to acquire additional staffing, which may incur additional costs for the provider.

3. The Overall Effect on the Ability of the Provider to Provide the Same Level of Service. The proposed rule amendments may or may not affect the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments, via United States Postal Service or other mail carrier, or in the alternative by personal delivery to Malcolm J Broussard, Executive Director, at the office of the Louisiana Board of Pharmacy, 3388 Brentwood Drive, Baton Rouge, LA 70809-1700. He is responsible for responding to inquiries regarding the proposed rule amendment.

Public Hearing

A public hearing to solicit comments and testimony on the proposed rule amendment is scheduled for 9 a.m. on Friday, December 27, 2019. During the hearing, 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 comments is 12 noon that same day. To request reasonable accommodations for persons with disabilities, please call the board office at 225.925.6496.

Malcolm J Broussard
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Pharmacy Immunizations

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes will require the Louisiana Board of Pharmacy to publish the proposed and final rules in the state register, resulting in a one-time cost of \$2,000 for FY 20. There are no other costs or savings for other local or state governmental units. The proposed rule changes amend procedures for pharmacists administering immunizations.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes will not affect revenue collections for state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule changes require pharmacies conducting immunization activities to provide adequate staffing and minimum equipment and procedures to safely administer immunizations. To the extent a pharmacy is not already compliant with those standards, they may incur additional, indeterminable costs for personnel or equipment. The proposed rule changes require the immunizing pharmacist or his designee to report the immunization within 72 hours of the immunization to the state immunization registry; to the extent the pharmacist is not already compliant with that standard, they will be required to adjust their workflow to meet that timeline.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes will not affect competition or employment.

Malcolm J. Broussard
Executive Director
1611#065

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Board of Pharmacy

Pharmacy Records
(LAC 46:LIII.Chapters 11, 15, 17, and 25)

In accordance with the provisions of the Administrative Procedure Act (La. R.S. 49:950 et seq.) and the Pharmacy Practice Act (La. R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy hereby gives notice of its intent to amend portions of four chapters of its rules, primarily with respect to pharmacy records, but also with a large number of technical revisions relating to editorial style. The impetus for the new rules is Act 602 of the 2018 Legislature, which added the term "chart order" to the pharmacy law and authorizes their use in pharmacies.

The proposed substantive changes in Chapter 11 include deletion of the requirement for pharmacies to maintain printed versions of the Louisiana Board of Pharmacy Laws and Regulations in §1103.K, deletion of the requirement for the pharmacist-in-charge affidavit to be notarized in §1105.J, insertion of the term "chart order" and its statutory definition in §1119, insertion of provisions authorizing use of chart orders in various types of pharmacy records in §1123 and §1124, deletion of Subsection M in §1123 and the terms

“inpatient prescription” and “dispensing of drug pursuant to an inpatient prescription” in §1124, all of which had been necessary due to the absence of chart orders in the Board’s rules, insertion of a new §1145 enabling remote access to prescription records and chart orders in pharmacies, and insertion of a new §1147 enabling a pharmacy to share chart orders with certain pharmacies.

The proposed substantive changes in Chapter 15 include deletion of the term “hospital prescription” and “dispensing of a drug pursuant to a hospital prescription”, both of which had been necessary due to the absence of chart orders in the Board’s rules, deletion of §1507 which is now duplicative of the same two-year practice requirement for pharmacists-in-charge for all pharmacies and now found in §1105, and deletion of §1527 relative to remote access to medical orders, the content of which is being relocated to the new §1145 in Chapter 11.

The proposed substantive changes in Chapter 17 removes the requirement in §1711 for the emergency drug kit (EDK) permit to be conspicuously displayed at the provider pharmacy as long as it is readily retrievable, and insertion of a new Subsection E in §1711 enabling the relinquishment of an EDK permit when the pharmacy intends to cancel it prior to the next renewal.

The proposed substantive changes in Chapter 25 inserts the term “chart orders” and its statutory definition in §2511, makes provisions for the use of chart orders in pharmacy records in §2511 and §2513, and inserts a new Subsection F in §2511 enabling procedures for pharmacists to record changes in incomplete prescriptions and chart orders.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LIII. Pharmacists

Chapter 11. Pharmacies

Subchapter A. General Requirements

§1103. Prescription Department Requirements

A. - B. ...

C. Square Footage. A prescription department that is new or remodeled on or after January 1, 2004 shall be not less than 300 total square feet, and shall be inaccessible to the public.

D. Prescription Counter. A prescription counter on which to compound or dispense medications shall have a working surface of not less than a minimum of 24 total square feet. The minimum unobstructed free working surface shall be kept clear at all times for the compounding or dispensing of prescriptions.

E. Prescription Aisle Space. The aisle space behind the prescription counter shall be not less than 30 inches in width.

F. - J. ...

K. References. The current edition of the *Louisiana Board of Pharmacy Laws and Regulations* shall be maintained and readily available within the prescription department of a pharmacy. The pharmacy shall maintain access to current and appropriate reference materials pertinent to the pharmacy practice, including but not limited to, pharmacology, drug interactions, dosing, toxicity, and patient counseling.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1310 (October 1997),

amended LR 29:2087 (October 2003), effective January 1, 2004, amended LR 39:315 (February 2013), amended by Department of Health, Board of Pharmacy, LR 46:

§1105. Pharmacist-in-Charge

A. - I.3. ...

J. Affidavit of Responsibility and Duties. The designated pharmacist-in-charge shall sign an affidavit on a form supplied by the board indicating his understanding and acceptance of the duties and responsibilities of a pharmacist-in-charge. This document shall be submitted to the board for inclusion in the pharmacist’s record in the board office.

K. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1310 (October 1997), amended LR 29:2088 (October 2003), effective January 1, 2004, amended LR 38:1239 (May 2012), amended by Department of Health, Board of Pharmacy, LR 46:

§1109. Pharmacist Temporary Absence

A. - E. ...

F. If at any time the pharmacist deems it necessary to leave the on-site facility, the pharmacy shall be closed in accordance with Section 1111 of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1311 (October 1997), amended LR 27:2237 (December 2001) effective January 1, 2002, amended LR 29:2088 (October 2003), effective January 1, 2004, amended by Department of Health, Board of Pharmacy, LR 46:

§1113. Mechanical Drug Dispensing Devices

A. Dispensing of prescription drugs directly to a patient or caregiver by mechanical devices or machine is prohibited. This prohibition shall not apply to automated medication systems as defined and provided for in Chapter 12 of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1311 (October 1997), amended LR 29:2089 (October 2003), effective January 1, 2004, amended by Department of Health, Board of Pharmacy, LR 46:

§1115. Advertising

A. False, fraudulent, deceptive, or misleading advertising as prohibited by R.S. 37:1241 of the Pharmacy Practice Act and this Section shall include, but is not limited to, any public misrepresentation done or made with the knowledge, whether actual or constructive, that is untrue or illegal, or is said to be done falsely when the meaning is that the party is in fault for its error. Actual or constructive knowledge as used in this context shall include intentionally, negligently, mistakenly, or accidentally representing an untrue fact.

B. - C. ...

D. No advertising shall include any reference, direct or indirect, to any controlled dangerous substance as provided for in Schedules II, III, IV, or V of R.S. 40:964. The provision of coupons or vouchers for controlled substances through authorized prescribers, which accompany legitimate prescriptions for such controlled substances issued to patients, shall not be prohibited by this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1311 (October 1997),

amended LR 29:2089 (October 2003), effective January 1, 2004, amended LR 33:1131 (June 2007), amended by the Department of Health, Board of Pharmacy, LR 46:

§1119. Definitions

A. As used in this Chapter, the following terms shall have the meaning ascribed to them in this Section:

Chart Order—a lawful order entered on the electronic or paper chart or medical record of an inpatient or resident of an institutional facility by a practitioner or his licensed healthcare designee for a drug or device and shall be considered a prescription drug order provided it contains the following:

1. full name of the patient;
2. date of issuance;
3. name, strength, and dosage form of the drug prescribed;
4. directions for use;
5. name of the prescribing practitioner;
6. the prescribing practitioner's written or electronic signature or the written or electronic signature of the practitioner's licensed healthcare designee, who shall be a licensed nurse, pharmacist, or physician practicing in a long-term care facility. The licensed healthcare designee shall be authorized to document a chart order in the patient's medical record on behalf of the prescribing practitioner pending the prescribing practitioner's signature, or to communicate a prescription to a pharmacy whether telephonically, by facsimile transmission, or electronically.

Department—the Louisiana Department of Health or its successor.

Medical Order—a lawful order of a practitioner that may or may not include a prescription.

* * *

Prescription or Prescription Drug Order—an order from a practitioner authorized by law to prescribe for a drug or device that is patient-specific and is communicated by any means to a pharmacist in a permitted pharmacy, and is to be preserved on file as required by law or regulation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1312 (October 1997), amended LR 29:2090 (October 2003), effective January 1, 2004, amended LR 40:2252 (November 2014), effective January 1, 2015, amended by the Department of Health, Board of Pharmacy, LR 46:

§1121. General Requirements

A. - A.1. ...

2. All records required by the laws and regulations of the board shall be provided to the board, or its agents, within 72 hours of request, unless a shorter period is required, as determined by the board or its agent.

3. The failure to produce any pharmacy records requested by the board or its agent within 72 hours of such request shall substantiate a violation of R.S. 37:1241(A)(22).

B. - B.1. ...

2. *Disposition Records*—drugs dispensed pursuant to prescription drug orders or chart orders, administered pursuant to medical orders, or distributed pursuant to purchase orders, and

3. *Inventory Records*—drugs in current possession.

C. Retention. Except as provided in Section 1123 of this Part, all records required by this Part and by Louisiana law shall be retained for a minimum of two years from the most

recent transaction. The failure to retain such records for at least two years shall substantiate a violation of R.S. 37:1229.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1312 (October 1997), amended LR 29:2090 (October 2003), effective January 1, 2004, amended LR 40:2252 (November 2014), effective January 1, 2015, amended by the Department of Health, Board of Pharmacy, LR 46:

§1123. Records of Prescription Drug Orders and Chart Orders

A. - A.4. ...

B. A pharmacy may use one of the following types of pharmacy information systems:

1. a system that utilizes the original hard copy prescription or chart order to document the initial dispensing, but utilizes a computerized system to dispense refills that does not document the positive identification of the pharmacist responsible for the practice of pharmacy. In order to document positive identification, this system shall require the manual signature or initials of a pharmacist on a hard copy record as specified in Paragraph E of this Section.

2. an electronic recordkeeping system that complies with the provisions of 21 CFR 1311 et seq. and documents the positive identification of the pharmacist responsible for the practice of pharmacy. Such systems shall provide for routine backups at least once per day.

C. All pharmacy information systems shall be capable of providing immediate retrieval (via display and hard copy printout or other mutually agreeable transfer media) of patient profile information for all prescriptions drug orders and chart orders dispensed within the previous two years. This information shall include the following minimum data:

1. ...

2. date of issuance of the original prescription drug order or chart order by the prescriber;

3. - 8. ...

9. the pharmacist responsible for prescription information entered into the computer system, the pharmacist responsible for prospective drug utilization review as defined in Section 515 of this Part, and the pharmacist responsible for dispensing;

10. ...

11. the refill history of the prescription as defined in Subsection D of this Section.

D. The refill history of the prescription record maintained in the pharmacy information system shall include, but is not limited to:

D.1. - D.4. ...

5. the pharmacist responsible for prospective drug utilization review as defined in Section 515 of this Part, and the pharmacist responsible for dispensing each refill;

D.6. - E. ...

F. Backup Support System

1. ...

2. In the event the pharmacy information system experiences down time, a record of all refills dispensed during such time shall be recorded and then entered into the pharmacy information system as soon as it is available for use. During the time the pharmacy information system is not available, prescriptions drug orders and chart orders may only be refilled if, in the professional judgment of the

pharmacist, the number of refills authorized by the prescriber has not been exceeded.

G. A pharmacy purging a pharmacy information system of prescription records shall develop a method of recordkeeping capable of providing retrieval (via display, hard copy printout, or other mutually agreeable transfer media) of information for all prescriptions drug orders or chart orders filled or refilled within the previous two years. This information shall include, at a minimum, the following data:

1. - 2. ...

3. date of issuance of the original prescription drug order or chart order by the prescriber;

4. - 10. ...

11. total number of refills dispensed to date for that prescription drug order or chart order;

G.12. - H.3. ...

I. Prescriptions drug orders and chart orders entered into a pharmacy information system but not dispensed shall meet all of the following requirements:

I.1. - I.3. ...

J. With respect to oral prescriptions received in the pharmacy and then transcribed to written form in the pharmacy, or written prescriptions drug orders or chart orders received by facsimile in the pharmacy, or written prescriptions drug orders or chart orders presented to the pharmacy, a pharmacy may use an electronic imaging system to preserve such prescriptions, but only if:

1. the system is capable of capturing, storing, and reproducing the exact image of a prescription, including the reverse side of the prescription form and its annotations;

2. - 5. ...

K. Filing and Retention of Prescription Forms

1. Written prescription drug order or chart order forms (including transcriptions of verbal prescriptions received in the pharmacy, prescriptions drug orders or chart orders received by facsimile in the pharmacy, as well as written prescription drug order or chart order forms presented to the pharmacy shall be assembled and stored in prescription number sequence. Prescriptions for controlled dangerous substances listed in Schedule II shall be filed separately from all other prescriptions. Where multiple medications are ordered on a single prescription form and includes one or more controlled dangerous substances listed in Schedule II, then such forms shall be filed with other Schedule II prescriptions. These original hard copy prescription drug order and chart order forms shall be retained in the prescription department for a minimum of two years following the most recent transaction.

2. For those pharmacies utilizing an electronic imaging system as described in Subsection J of this Section, written prescription drug order forms may be assembled and stored in prescription number sequence, or in the alternative, a date scanned sequence. Further, these original hard copy prescriptions drug orders shall be retained in the prescription department for a minimum of one year following the most recent transaction.

3. Prescription drug order and chart order forms received as an electronic image or electronic facsimile

directly within the pharmacy information system shall be retained within the information system for a minimum of two years following the most recent transaction. Further, the pharmacy may produce a hard copy of the prescription drug order form but shall not be required to do so merely for recordkeeping purposes.

4. Electronic prescriptions drug orders and chart orders, those generated electronically by the prescriber, transmitted electronically to the pharmacy, and then received electronically directly into the pharmacy information system, shall be retained within the information system for a minimum of two years following the most recent transaction. The pharmacy may produce a hard copy of the prescription drug order or chart order, but shall not be required to do so merely for recordkeeping purposes.

L. - L.1.a.vi. ...

b. The patient's drug therapy record, which shall contain at least the following information for all the prescriptions drug orders and chart orders that were filled at the pharmacy:

L.1.b.i - L.1.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1312 (October 1997), amended LR 29:2090 (October 2003), effective January 1, 2004, amended LR 36:755 (April 2010), amended LR 40:2253 (November 2014), effective January 1, 2015, amended by the Department of Health, Board of Pharmacy, LR 46:

§1124. Records of Pharmacy Services for Patients in Licensed Healthcare Facilities Other than Hospitals

A. Definitions

* * *

Positive Identification—

a. has the same meaning as defined in Section 1119 of this Chapter, except that a specific facility having a closed electronic drug record keeping system may be permitted to use identifiers utilizing both a password combined with a personal identifier to document the positive identification of each user for the prescribing and administration of a drug, provided the pharmacist-in-charge has determined:

i. - v. ...

b. all of the above notwithstanding, however, positive identification as defined in Section 1119 of this Chapter shall always be used to document the:

i. - iii. ...

B. - B.1. ...

2. Inventories. The pharmacist-in-charge shall be responsible for the performance of an annual inventory of all controlled dangerous substances within his span of control, in compliance with the provisions of Section 2733 of this Part.

B.3. - B.3.b.ii.(d). ...

iii. Records of drugs dispensed to patients for use outside the facility shall be maintained in compliance with Section 1123 of this Chapter.

c. A record of all drugs compounded or prepackaged for use only within a healthcare facility, which shall include at least the following:

B.3.c.i. - B.3.e.iii. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 40:2255 (November 2014), effective January 1, 2015, amended by Department of Health, Board of Pharmacy, LR 46:

§1145. Remote Access to Prescription Drug Orders, Medical Orders, and Chart Orders

A. Notwithstanding any provision of rules to the contrary, nothing shall prohibit a Louisiana-licensed pharmacist who is an employee of or under contract with a pharmacy in Louisiana from accessing that pharmacy's dispensing information system from a location other than the pharmacy in order to process prescription drug orders, medical orders, or chart orders, but only when all of the following conditions are satisfied:

1. the pharmacy establishes controls to protect the privacy and security of confidential records;
2. the pharmacist does not engage in the receiving of written prescription drug orders or medical orders or chart orders or the maintenance of such orders; and
3. no part of the pharmacy's dispensing information system is duplicated, downloaded, or removed from the pharmacy's dispensing information system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 46:

§1147. Starter Doses for Patients in Licensed Healthcare Facilities

A. Definitions

Starter Dose Order—a prescription drug order or chart order transmitted by a vendor pharmacy to a starter dose pharmacy for the purpose of obtaining medication for a patient in a licensed health care facility.

Starter dose pharmacy—a Louisiana-licensed pharmacy that dispenses a starter dose of medication to a patient in a licensed health care facility pursuant to a starter dose order.

Vendor Pharmacy—a Louisiana-licensed pharmacy which has a contract with a licensed health facility to dispense medications to patients within that facility.

B. A vendor pharmacy may share a chart order with a starter dose pharmacy without the necessity of transferring such order, for the purpose of authorizing the starter dose pharmacy to dispense starter doses of medication to a patient in a licensed health care facility under the following circumstances:

1. the vendor pharmacy has secured authorization from the facility to utilize a starter dose pharmacy;
2. the vendor pharmacy is in possession of a valid chart order and is unable to furnish the medication ordered in a timely manner; and
3. the vendor pharmacy and starter dose pharmacy maintain records of all chart orders and starter dose orders for a period of not less than two years following date of transmission of such orders.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 46:

Chapter 15. Hospital Pharmacy

§1501. Cross References

A. For all regulations that apply to permitted hospital pharmacies concerning pharmacy practices and records not specifically stated in this Chapter, refer to Chapters 11 and 25 of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:808 (October 1988), effective January 1, 1989, amended LR 29:2093 (October 2003), effective January 1, 2004, amended LR 38:1235 (May 2012), amended by Department of Health, Board of Pharmacy, LR 46:

§1503. Definitions

A. As used in this Chapter, the following terms shall have the meaning ascribed to them in this Section:

Hospital Off-Site Satellite Pharmacy—a pharmacy located within a hospital licensed by the Louisiana Department of Health, or its successor, the location of which is physically separate from the location of the provider pharmacy.

Hospital Pharmacy—a pharmacy department permitted by the board and located in a hospital licensed pursuant to R.S. 40:2100 *et seq.* For the purposes of this Chapter, a hospital pharmacy is one example of a primary care treatment modality pharmacy.

Positive Identification—

1. has the same meaning as defined in Section 1119 of this Part, except that a specific hospital having a closed electronic drug record keeping system may be permitted to use identifiers utilizing both a password combined with a personal identifier to document the positive identification of each user for the prescribing and administration of a drug, provided the pharmacist-in-charge has determined:

1.a. - 1.e. ...

2. All of the above notwithstanding, however, *positive identification* as defined in Section 1119 of this Part shall always be used to document the:

2.a. - 2.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2093 (October 2003), effective January 1, 2004, amended LR 33:1132 (June 2007), amended LR 39:1282 (May 2013), amended LR 40:2256 (November 2014), effective January 1, 2015, amended LR 41:2147 (October 2015), amended by Department of Health, Board of Pharmacy, LR 46:

§1505. Hospital Pharmacy Permit

A. A hospital pharmacy permit shall be required to operate a pharmacy department located within a hospital for registered patients in a hospital. The permit shall be applied for, and renewed, in the manner prescribed by the board in Chapter 11 of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2093 (October 2003), effective January 1, 2004, amended LR 33:1132 (June 2007), amended by Department of Health, Board of Pharmacy, LR 46:

§1507. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2093 (October 2003), effective January 1, 2004, repealed by the Department of Health, Board of Pharmacy, LR 46:

§1509. Drug Distribution Control

A. - A.3.b.ii.(d). ...

iii. Records of drugs dispensed to patients for use outside the hospital shall be maintained in compliance with Section 1123 of this Part.

A.3.c. - A.3.e.iii. ...

B. Automated Medication Systems. A hospital pharmacy may use one or more automated medication systems in compliance with the provisions of Chapter 12 of this Part.

1. When the pharmacy uses an electronic product verification process as described in Section 1217 of this Part, and in the absence of any subsequent human intervention in the automated drug product selection process, the pharmacist-in-charge may elect to forego manual checks of drug products selected in that manner, provided however, that such selection by the pharmacist-in-charge shall require an initial quality assurance validation followed by an ongoing quality review at intervals no greater than 90 days since the previous review, all conducted by a pharmacist.

2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 29:2093 (October 2003), effective January 1, 2004, amended LR 40:2257 (November 2014), effective January 1, 2015, amended LR 41:1488 (August 2015), amended by Department of Health, Board of Pharmacy, LR 46:

§1525. Hospital Off-Site Satellite Pharmacy

A. - B.4. ...

5. When the hospital off-site satellite pharmacy is closed or there is no pharmacist on duty, other individuals shall not have access to the hospital off-site satellite pharmacy except for temporary absences as provided for in Chapter 11 of this Part.

6. - 6.b....

7. The hospital off-site satellite pharmacy shall comply with the recordkeeping provisions identified in Chapter 11 of this Part.

8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 39:1283 (May 2013), amended by Department of Health, Board of Pharmacy, LR 46:

§1527. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 41:2147 (October 2015), repealed by the Department of Health, Board of Pharmacy, LR 46:

Chapter 17. Institutional Pharmacy
Subchapter A. General Requirements

§1701. Cross References

A. For all regulations that apply to permitted institutional pharmacies concerning pharmacy practices and records not specifically stated in this Chapter, refer to Chapter 11 of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2094 (October 2003), effective January 1, 2004, amended by Department of Health, Board of Pharmacy, LR 46:

§1703. Definitions

A. As used in this Chapter, the following terms shall have the meaning ascribed to them in this Section:

* * *

Long Term Care Facility—a nursing home, retirement center, mental care, or other facility or institution that provides extended health care to a residential patient, including but not limited to health care facilities licensed by the Department of Health.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2094 (October 2003), effective January 1, 2004, amended by Department of Health, Board of Pharmacy, LR 46:

§1705. Institutional Pharmacy Permit

A. An institutional pharmacy permit shall be required to operate a pharmacy department located within an institutional facility, other than a hospital or penal institution, for residents or patients of that institutional facility. The permit shall be applied for, and renewed, in the manner prescribed by the board in Chapter 11 of this Part.

B. Pharmacies operated within a hospital shall be operated in accordance with Chapter 15 of this Part.

C. Pharmacies operated within a correctional center shall be operated in accordance with Chapter 18 of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2095 (October 2003), effective January 1, 2004, amended LR 39:313 (February 2013), amended by Department of Health, Board of Pharmacy, LR 46:

Subchapter B. Emergency Drug Kits

§1711. Emergency Drug Kit Permit

A. - B.5. ...

6. The original EDK permit shall be readily retrievable at the provider pharmacy. A copy of the EDK permit shall be maintained in the room where the EDK is located.

C. - D. ...

E. Cancellation Prior to Renewal. In the event the facility or provider pharmacy elects to cancel the permit prior to the renewal date, the pharmacy shall relinquish the permit to the board office no later than 10 days following the date of cancellation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 29:2095 (October 2003), effective January 1, 2004, amended by the Department of Health Board of Pharmacy, LR 46:

§1713. Emergency Drug Kit Requirements

A. - H. ...

I. Inspection.

1. The provider pharmacy shall inspect the EDK every 30 days, plus or minus five days. Proper documentation of these inspections, EDK inventory, and all records of use shall be maintained and made available to the board upon request.

I.2 - J.11. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 29:2096 (October 2003), effective January 1, 2004, amended LR 39:312 (February 2013), amended by Department of Health, Board of Pharmacy, LR 46:

Subchapter C. Drug Abuse Treatment Center Pharmacies

§1717. Cross References

A. For all regulations that apply to drug abuse treatment center pharmacies concerning pharmacy practices not specifically stated in this subchapter, refer to Chapter 11 of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 29:2096 (October 2003), effective January 1, 2004, amended by Department of Health, Board of Pharmacy, LR 46:

§1719. Definitions

A. As used in this Subchapter, the following terms shall have the meaning ascribed to them in this Section:

* * *

Drug Abuse Treatment Center—any establishment, facility, or institution, public or private, whether operated for profit or not, which primarily offers, or purports to offer, maintain, or operate facilities for the residential or outpatient diagnosis, care, treatment, or rehabilitation of two or more non-related individuals, who are patients as defined herein, excluding, however, any hospital or mental hospital otherwise licensed by the Department of Health.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 29:2096 (October 2003), effective January 1, 2004, amended by Department of Health, Board of Pharmacy, LR 46:

§1721. Drug Abuse Treatment Center Pharmacy Permit

A. A drug abuse treatment center pharmacy permit shall be required to operate a pharmacy department located within a drug abuse treatment facility for patients of that facility. The permit shall be applied for, and renewed, in the manner prescribed by the board in Chapter 11 of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 29:2097 (October 2003), effective January 1, 2004, amended by Department of Health, Board of Pharmacy, LR 46:

§1725. Records and Reports of Drug Abuse Treatment Centers

A. All persons licensed by the Department of Health to operate a drug abuse treatment center and who possess a Drug Enforcement Administration (DEA) registration to purchase, possess, and use CDS shall keep the following records:

A.1. - B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 29:2097 (October 2003), effective January 1, 2004, amended by Department of Health, Board of Pharmacy, LR 46:

Chapter 25. Prescriptions, Drugs, and Devices

Subchapter A. General Requirements

§2507. Veterinary Prescription Drugs

A. - B. ...

C. Labeling Requirements. Veterinary prescription drugs shall be dispensed in an appropriate container, and in addition to the labeling requirements in Chapter 11 of this Part, shall contain the following information:

C.1. - C.2. ...

D. Prescription Form Requirements. Prescriptions issued by a licensed veterinarian shall conform to Section 2511 of this Chapter.

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2102 (October 2003), effective January 1, 2004, amended by Department of Health, Board of Pharmacy, LR 46:

Subchapter B. Prescriptions and Chart Orders

§2511. Prescriptions and Chart Orders

A. Definitions. As used in this Chapter, the following terms shall have the meaning ascribed to them in this Section:

Chart Order—a lawful order entered on the electronic or paper chart or medical record of an inpatient or resident of an institutional facility by a practitioner or his licensed healthcare designee for a drug or device and shall be considered a prescription drug order provided it contains the following:

1. full name of the patient;
2. date of issuance;
3. name, strength, and dosage form of the drug prescribed;
4. directions for use;
5. name of the prescribing practitioner;
6. the prescribing practitioner's written or electronic signature or the written or electronic signature of the practitioner's licensed healthcare designee, who shall be a licensed nurse, pharmacist, or physician practicing in a long-term care facility. The licensed healthcare designee shall be authorized to document a chart order in the patient's medical record on behalf of the prescribing practitioner pending the prescribing practitioner's signature, or to communicate a prescription to a pharmacy whether telephonically, by facsimile transmission, or electronically.

* * *

B. - C.5.d. ...

6. Chart orders and forms used by pharmacists to record telephoned or transferred prescriptions are exempt from the format requirements listed above.

D. - E.1. ...

F. Completion of Prescription Orders and Chart Orders. In the event a pharmacist receives a prescription order or chart order lacking certain required information, the pharmacist may consult with the prescriber to clarify the prescriber's intent. Following a consultation with the prescriber and the appropriate documentation thereof on the order:

1. A pharmacist may add the following data elements on the order:

- a. patient's address; or
- b. drug dosage form. or

2. A pharmacist may record changes in the following data elements on the order:

- a. patient's address;
- b. drug strength;
- c. quantity prescribed; or
- d. directions for use.

3. A pharmacist shall never add or make changes to the following data elements on the order:

- a. patient's name;
- b. date of issue;
- c. drug name (except for generic interchange as permitted by law); or
- d. prescriber signature.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2102 (October 2003), effective January 1, 2004, amended LR 41:98 (January 2015), amended LR 41:2147 (October 2015), amended by the Department of Health, Board of Pharmacy, LR 43:2162 (November 2017), amended by Department of Health, Board of Pharmacy, LR 46:

§2513. Receipt and Verification of Prescription Drug Orders and Chart Orders

A. Receipt of a Prescription.

1. Written. A pharmacist may receive and dispense a prescription drug order or chart order that has been written and/or signed by the practitioner.

2. Oral. A pharmacist may receive and dispense a prescription drug order or chart order that has been orally communicated by the practitioner when the order has been reduced to hard copy.

3. ...

B. Verification. Verification of the accuracy and authenticity of any prescription drug order or chart order is the responsibility of the pharmacist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2103 (October 2003), effective January 1, 2004, amended by Department of Health, Board of Pharmacy, LR 46:

§2519. Prescription Refills; Medication Synchronization and Refill Consolidation

A. - C.1. ...

2. With respect to prescriptions for controlled substances where refills have been authorized, pharmacists

may utilize partial fills, as described in Section 2747.C.5 of this Part, but may not exceed the dispensing quantity noted on the original prescription.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2104 (October 2003), effective January 1, 2004, amended LR 33:1133 (June 2007), amended LR 42:1519 (September 2016), amended by the Department of Health, Board of Pharmacy, LR 46:

§2521. Emergency Refills

A. Using sound professional judgment, a pharmacist may refill adequate medication for a 72-hour regimen when an emergency for medication has been adequately demonstrated and the prescribing practitioner is not available.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2104 (October 2003), effective January 1, 2004, amended by the Department of Health, Board of Pharmacy, LR 46:

Family Impact Statement

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a family impact statement on the Rule proposed for adoption, repeal, or amendment. The following statements will be published in the Louisiana Register with the proposed agency Rule.

1. The Effect on the Stability of the Family. The proposed Rule amendment will have no effect on the stability of the family.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. The proposed Rule amendment will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect on the Functioning of the Family. The proposed Rule amendment will have no effect on the functioning of the family.

4. The Effect on Family Earnings and Family Budget. The proposed Rule amendment will have no effect on family earnings or family budget.

5. The Effect on the Behavior and Personal Responsibility of Children. The proposed Rule amendment will have no effect on the behavior and personal responsibility of children.

6. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. The proposed Rule amendment will have no effect on the ability of the family or a local government to perform the activity as contained in the proposed Rule.

Poverty Impact Statement

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a poverty impact statement on the Rule proposed for adoption, repeal, or amendment.

1. The Effect on Household Income, Assets, and Financial Security. The proposed Rule amendment will have no effect on household income, assets, or financial security.

2. The Effect on Early Childhood Development and Preschool through Postsecondary Education Development. The proposed Rule amendment will have no effect on early

childhood development or preschool through postsecondary education development.

3. The Effect on Employment and Workforce Development. The proposed Rule amendment will have no effect on employment or workforce development.

4. The Effect on Taxes and Tax Credits. The proposed Rule amendment will have no effect on taxes or tax credits.

5. The Effect on Child and Dependent Care, Housing, Health Care, Nutrition, Transportation, and Utilities Assistance. The proposed Rule amendment will have no effect on child and dependent care, housing, health care, nutrition, transportation, or utilities assistance.

Small Business Analysis

In accordance with Section 965 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a regulatory flexibility analysis on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, each of the following methods of reducing the impact of the proposed Rule on small businesses:

1. The Establishment of Less Stringent Compliance or Reporting Requirements for Small Businesses. There are no reporting requirements in the proposed Rule amendment.

2. The Establishment of Less Stringent Schedules or Deadlines for Compliance or Reporting Requirements for Small Businesses. There are no specific schedules for deadlines in the proposed Rule amendment.

3. The Consolidation or Simplification of Compliance or Reporting Requirements for Small Businesses. There are no specific reporting requirements in the proposed Rule amendment.

4. The Establishment of Performance Standards for Small Businesses to Replace Design or Operational Standards Required in the Proposed Rule. The proposed Rule amendment will simplify recordkeeping requirements in all pharmacies.

5. The Exemption of Small Businesses from All or Any Part of the Requirements Contained in the Proposed Rule. There are no exemptions for small businesses.

Provider Impact Statement

In accordance with House Concurrent Resolution No. 170 of the Regular Session of the 2014 Legislature, there is hereby submitted a provider impact statement on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, the following effects on the providers of services to individuals with developmental disabilities:

1. The Effect on the Staffing Level Requirements or Qualifications Required to Provide the Same Level of Service. The proposed Rule amendment will have no effect on the staffing level requirements or the qualifications for that staff to provide the same level of service.

2. The Total Direct and Indirect Effect on the Cost to the Provider to Provide the Same Level of Service. The proposed Rule amendment will have no effect on the cost to the provider to provide the same level of service.

3. The Overall Effect on the Ability of the Provider to Provide the Same Level of service. The proposed Rule amendment will have no effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments, via United States Postal Service or other mail carrier, or in the alternative by personal delivery to Malcolm J Broussard, Executive Director, at the office of the Louisiana Board of Pharmacy, 3388 Brentwood Drive, Baton Rouge, LA 70809-1700. He is responsible for responding to inquiries regarding the proposed Rule amendment.

Public Hearing

A public hearing to solicit comments and testimony on the proposed Rule amendment is scheduled for 9 a.m. on Friday, December 27, 2019. During the hearing, 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 comments is 12 p.m. noon that same day. To request reasonable accommodations for persons with disabilities, please call the board office at 225.925.6496.

Malcolm J Broussard
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Pharmacy Records

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes will require the Louisiana Board of Pharmacy (LBP) to publish the proposed and final rules in the state register, at a cost of \$5,000 for FY 20. Furthermore, the LBP anticipates a nominal reduction in printing costs from no longer having to provide printed copies of the pharmacy law book to pharmacies statewide free of charge, as the book is now available in electronic format on the LBP's website. For reference, the LBP only mails a printed copy of the pharmacy law book when a new pharmacy receives a permit and only issued 195 copies of the book in FY 19. Therefore, the LBP does not anticipate a significant cost savings.

In addition, the proposed rule changes update recordkeeping requirements to include chart orders, in compliance with Act 602 of 2018 and make provisions for the use of chart orders in various types of pharmacy records. The proposed rule amendments further enable remote access to such records from outside the pharmacy; remove the notarization requirement for affidavits signed by pharmacists-in-charge acknowledging acceptance of the position's duties; amend policies for the display and relinquishing of an emergency drug kit (EDK) permit; and make technical changes.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes are not anticipated to affect revenue collections for state or local governmental units. While the proposed rule changes provide a process for the relinquishing of an EDK permit, the LBP does not anticipate the number of active EDK permits to significantly change as a result, as the relinquishing of a permit would only occur when switching from one EDK provider to another prior to permit renewal. For reference, EDK permits have an annual fee of \$25 paid to the LBP.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule changes update recordkeeping requirements to include chart orders for the dispensing of

prescription medications in compliance with Act 602 of 2018. The use of chart orders allows hospitals and long-term care facilities to dispense medication without a hard copy prescription. The proposed changes include provisions for the use of chart orders in various types of pharmacy records, and further, enable remote access to such records from outside the pharmacy.

The removal of the notarization requirement for the form used by the pharmacist-in-charge of a pharmacy may reduce operational costs for the pharmacy. The proposed rule change requiring EDK permits to be readily available rather than conspicuously displayed may result in a marginal savings for facilities and/or provider pharmacies. Furthermore, the proposed rule change allowing for relinquishing of an EDK permit prior to renewal is not anticipated to result in significant savings for pharmacies, as the LBP does not anticipate the number of active EDK permits to significantly change.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes will not affect competition or employment.

Malcolm J. Broussard
Executive Director
1911#051

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Board of Pharmacy

Rulemaking Procedures (LAC 46:LIII.113)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy hereby gives notice of its intent to promulgate a new §113 to establish rules relative to rulemaking procedures. The Administrative Procedure Act requires agencies to establish rules describing a process for the public to petition the agency to adopt or amend rules. The proposed new section of rules describes a process for the public to request the Board to engage in rulemaking.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LIII. Pharmacists

Chapter 1. Introduction

§113. Rulemaking Procedures

A. Petitions from Interested Persons

1. All petitions, whether requesting the adoption, amendment, or repeal of a rule shall be submitted in written form on plain white bond paper which is letter size (8 1/2" by 11"). The text shall be framed with a margin of at least one inch on all sides, shall have a pitch of not less than 10 characters per inch, and shall be double-spaced; provided however that quotations may be single-spaced as may other matter customarily presented in that manner.

2. The petition shall include the name, address, telephone number and email address of the petitioner as well as any organization the petitioner represents.

3. The petition shall explain the reason(s) for the requested action as well as what results would be expected

from such action. The petition shall provide an estimate of the revenues and expenditures expected if the requested action is adopted,

4. The petition shall be considered by the board at its next regular meeting provided the complete petition is received at least 30 days prior to that meeting.

B. Board Initiatives

1. The board may refer topics to the Regulation Revision Committee, either during a board meeting or through the president in the interim between board meetings.

C. Administrative Procedure Act

1. When the board approves a regulatory proposal for rulemaking, the board shall comply with the Administrative Procedure Act at R.S. 49:950 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:953.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 46:

Family Impact Statement

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a family impact statement on the Rule proposed for adoption, repeal, or amendment. The following statements will be published in the *Louisiana Register* with the proposed agency Rule.

1. The Effect on the Stability of the Family. The proposed Rule amendment will have no effect on the stability of the family.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. The proposed Rule amendment will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect on the Functioning of the Family. The proposed Rule amendment will have no effect on the functioning of the family.

4. The Effect on Family Earnings and Family Budget. The proposed Rule amendment will have no effect on family earnings or family budget.

5. The Effect on the Behavior and Personal Responsibility of Children. The proposed Rule amendment will have no effect on the behavior and personal responsibility of children.

6. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. The proposed Rule amendment will have no effect on the ability of the family or a local government to perform the activity as contained in the proposed Rule.

Poverty Impact Statement

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a poverty impact statement on the Rule proposed for adoption, repeal, or amendment.

1. The Effect on Household Income, Assets, and Financial Security. The proposed Rule amendment will have no effect on household income, assets, or financial security.

2. The Effect on Early Childhood Development and Preschool through Postsecondary Education Development. The proposed Rule amendment will have no effect on early childhood development or preschool through postsecondary education development.

3. The Effect on Employment and Workforce Development. The proposed Rule amendment will have no effect on employment or workforce development.

4. The Effect on Taxes and Tax Credits. The proposed Rule amendment will have no effect on taxes or tax credits.

5. The Effect on Child and Dependent Care, Housing, Health Care, Nutrition, Transportation, and Utilities Assistance. The proposed Rule amendment will have no effect on child and dependent care, housing, health care, nutrition, transportation, or utilities assistance.

Small Business Analysis

In accordance with Section 965 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a regulatory flexibility analysis on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, each of the following methods of reducing the impact of the proposed Rule on small businesses:

1. The Establishment of Less Stringent Compliance or Reporting Requirements for Small Businesses. There are no reporting requirements in the proposed Rule amendment.

2. The Establishment of Less Stringent Schedules or Deadlines for Compliance or Reporting Requirements for Small Businesses. There are no specific schedules for deadlines in the proposed Rule amendment.

3. The Consolidation or Simplification of Compliance or Reporting Requirements for Small Businesses. There are no additional compliance or reporting requirements in the proposed Rule amendment.

4. The Establishment of Performance Standards for Small Businesses to Replace Design or Operational Standards Required in the Proposed Rule. There are no design or operational standards in the proposed Rule amendment.

5. The Exemption of Small Businesses from All or Any Part of the Requirements Contained in the Proposed Rule. There are no exemptions for small businesses.

Provider Impact Statement

In accordance with House Concurrent Resolution No. 170 of the Regular Session of the 2014 Legislature, there is hereby submitted a provider impact statement on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, the following effects on the providers of services to individuals with developmental disabilities:

1. The Effect on the Staffing Level Requirements or Qualifications Required to Provide the Same Level of Service.. The proposed Rule amendment will have no effect on the staffing level requirements or the qualifications for that staff to provide the same level of service.

2. The Total Direct and Indirect Effect on the Cost to the Provider to Provide the Same Level of Service. The proposed Rule amendment will have no effect on the cost to the provider to provide the same level of service.

3. The Overall Effect on the Ability of the Provider to Provide the Same Level of service. The proposed Rule amendment will have no effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments, via United States Postal Service or other mail carrier, or in the alternative by personal delivery to Malcolm J Broussard,

Executive Director, at the office of the Louisiana Board of Pharmacy, 3388 Brentwood Drive, Baton Rouge, LA 70809-1700. He is responsible for responding to inquiries regarding the proposed Rule amendment.

Public Hearing

A public hearing to solicit comments and testimony on the proposed Rule amendment is scheduled for 9 a.m. on Friday, December 27, 2019. During the hearing, 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 comments is 12 p.m. noon that same day. To request reasonable accommodations for persons with disabilities, please call the board office at 225.925.6496.

Malcolm J Broussard
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Rulemaking Procedures

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule will require the Louisiana Board of Pharmacy (LBP) to publish the proposed and final rules in the state register, resulting in a one-time expense of \$2,000 for FY 20. There are no other costs or savings for other local or state governmental units. The proposed rule describes a procedure for the public to request the LBP to engage in rulemaking on a certain topic.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will not affect revenue collections for state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule will benefit members of the public, as it describes a procedure for them to request the LBP to engage in rulemaking on a certain topic.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will not affect competition or employment.

Malcolm J. Broussard
Executive Director
1911#054

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Board of Pharmacy

Telepharmacy Dispensing Sites
(LAC 46:LIII.2425)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy hereby gives notice of its intent to amend §2425 of its rules for telepharmacy dispensing sites. Two changes are proposed: the first will amend the eligibility criteria for such permits to require the nearest pharmacy to be at least 15 miles away instead of the current 20 miles, and the second

will require the telepharmacy dispensing site to convert its permit to a regular community pharmacy permit in the event the dispensing activity averages more than 100 prescriptions per day. This provision is proposed to replace the current provision that requires the telepharmacy dispensing site to close permanently when another pharmacy opens within a 20-miles radius of the telepharmacy or to convert the telepharmacy permit to a regular community pharmacy permit whenever another regular pharmacy opens within the restricted radius.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS

Part LIII. Pharmacists

Chapter 24. Limited Service Providers

Subchapter C. Telepharmacy Services

§2425. Telepharmacy Dispensing Site

A. General Requirements

1. At the time of its opening, there shall be no other pharmacies licensed by the board within 15 miles (driving distance) of the location of the telepharmacy dispensing site. This mileage restriction shall not apply if a demonstration of need is presented to the board and a waiver to the mileage restriction is deemed appropriate.

2. - 7. ...

B. Licensing Procedure

1. - 5. ...

6. In the event a telepharmacy dispensing site is dispensing more than 100 prescriptions per day based on a six month average, the telepharmacy dispensing site shall convert its permit to a community pharmacy permit prior to the expiration date of the telepharmacy dispensing site permit.

C. - E.4.d. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 41:2149 (October 2015), amended by the Department of Health, Board of Pharmacy, LR 46:

Family Impact Statement

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a family impact statement on the Rule proposed for adoption, repeal, or amendment. The following statements will be published in the *Louisiana Register* with the proposed agency Rule.

1. The Effect on the Stability of the Family. The proposed rule amendments will have no effect on the stability of the family.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. The proposed rule amendments will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect on the Functioning of the Family. The proposed rule amendments will have no effect on the functioning of the family.

4. The Effect on Family Earnings and Family Budget. The proposed rule amendments will have no effect on family earnings or family budget.

5. The Effect on the Behavior and Personal Responsibility of Children. The proposed rule amendments

will have no effect on the behavior and personal responsibility of children.

6. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. The proposed rule amendments will have no effect on the ability of the family or a local government to perform the activity as contained in the proposed Rule.

Poverty Impact Statement

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a poverty impact statement on the Rule proposed for adoption, repeal, or amendment.

1. The Effect on Household Income, Assets, and Financial Security. The proposed rule amendments will have no effect on household income, assets, or financial security.

2. The Effect on Early Childhood Development and Preschool through Postsecondary Education Development. The proposed rule amendments will have no effect on early childhood development or preschool through postsecondary education development.

3. The Effect on Employment and Workforce Development. The proposed rule amendments will have no effect on employment or workforce development.

4. The Effect on Taxes and Tax Credits. The proposed rule amendments will have no effect on taxes or tax credits.

5. The Effect on Child and Dependent Care, Housing, Health Care, Nutrition, Transportation, and Utilities Assistance. The proposed rule amendments will have no effect on child and dependent care, housing, health care, nutrition, transportation, or utilities assistance.

Small Business Analysis

In accordance with Section 965 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a regulatory flexibility analysis on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, each of the following methods of reducing the impact of the proposed Rule on small businesses:

1. The Establishment of Less Stringent Compliance or Reporting Requirements for Small Businesses. There are no reporting requirements in the proposed rule amendments.

2. The Establishment of Less Stringent Schedules or Deadlines for Compliance or Reporting Requirements for Small Businesses. There are no specific reporting requirements in the proposed rule amendments.

3. The Consolidation or Simplification of Compliance or Reporting Requirements for Small Businesses. There are no specific reporting requirements in the proposed rule amendments.

4. The Establishment of Performance Standards for Small Businesses to Replace Design or Operational Standards Required in the Proposed Rule. There are no design or operational standards in the proposed rule amendments.

5. The Exemption of Small Businesses from All or Any Part of the Requirements Contained in the Proposed Rule. There are no exemptions for small businesses.

Provider Impact Statement

In accordance with House Concurrent Resolution No. 170 of the Regular Session of the 2014 Legislature, there is hereby submitted a provider impact statement on the Rule proposed for adoption, repeal, or amendment. This will

certify the agency has considered, without limitation, the following effects on the providers of services to individuals with developmental disabilities:

1. The Effect on the Staffing Level Requirements or Qualifications Required to Provide the Same Level of Service. The proposed rule amendments will have no effect on the staffing level requirements or qualifications required to provide the same level of service.

2. The Total Direct and Indirect Effect on the Cost to the Provider to Provide the Same Level of Service. The proposed rule amendments will have no effect on the cost to the provider to provide the same level of service.

3. The Overall Effect on the Ability of the Provider to Provide the Same Level of Service. The proposed rule amendments will have no effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments, via United States Postal Service or other mail carrier, or in the alternative by personal delivery to Malcolm J Broussard, Executive Director, at the office of the Louisiana Board of Pharmacy, 3388 Brentwood Drive, Baton Rouge, LA 70809-1700. He is responsible for responding to inquiries regarding the proposed Rule amendment.

Public Hearing

A public hearing to solicit comments and testimony on the proposed rule amendment is scheduled for 9 a.m. on Friday, December 27, 2019. During the hearing, 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 comments is 12 p.m. noon that same day. To request reasonable accommodations for persons with disabilities, please call the Board office at 225.925.6496.

Malcolm J Broussard
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Telepharmacy Dispensing Sites

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes will require the Louisiana Board of Pharmacy to publish the proposed and final rules in the state register, resulting in a one-time expense of \$2,000 for FY 20. There are no other costs or savings for other local or state governmental units. The proposed rule changes amend policies for the establishment and maintenance of telepharmacy dispensing sites.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes will not affect revenue collections for state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule changes benefit communities without pharmacies within a 15-mile radius, as they alter the service area eligible for a telepharmacy dispensing site by 5 miles, from having no pharmacies within a 20-mile radius to a 15-mile radius. With an improvement in the eligibility criteria, it is possible new telepharmacy dispensing sites may open in 'pharmacy deserts' where there are no or few pharmacies serving the area.

The proposed rule changes may allow for pharmacies to expand their businesses (and as a result, receipts and income) at a reduced cost, as telepharmacy dispensing sites should have more reduced costs of operation compared to regular community pharmacies. Furthermore, the proposed rule amendments delete the provision requiring a telepharmacy dispensing site to close permanently when another pharmacy opens within a 20-mile radius of the telepharmacy. Instead, the proposed amendment requires the telepharmacy dispensing site to convert to a regular community pharmacy when its dispensing activity increases to an average of 100 prescriptions per day. The conversion of a permit from a telepharmacy dispensing site to a community pharmacy should carry no additional permitting costs, as both types of permits have a fee of \$175. However, the conversion of a telepharmacy dispensing site to a community pharmacy may require additional, indeterminable personnel and monetary resources to the extent such a conversion is required.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

To the extent a telepharmacy dispensing site is able to open in an area where there are no other pharmacies located, there may not be any change in competition for pharmacy services; however, the new site may offer new employment opportunities in that location.

Malcolm J. Broussard
Executive Director
1911#063

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Board of Pharmacy

Veterinary Hospital Pharmacy
(LAC 46:LIII.1503 and 1517)

In accordance with the provisions of the Administrative Procedure Act (La. R.S. 49:950 et seq.) and the Pharmacy Practice Act (La. R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy hereby gives notice of its intent to amend Sections 1503 and 1507 of its rules for hospital pharmacies. The proposed amendments of Section 1503 will amend existing definitions of patients to include animals receiving care within a veterinary teaching hospital owned or operated by a public university in the state as well as the existing definition of hospital pharmacy to include a pharmacy located within a veterinary teaching hospital owned or operated by a public university in the state. The proposed amendment of Section 1507 will require the pharmacist-in-charge of a pharmacy located within a veterinary teaching hospital owned or operated by a public university in the state to establish policies and procedures relative to authorized access to the pharmacy after hours.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LIII. Pharmacists

Chapter 15. Hospital Pharmacy

§1503. Definitions

A. As used in this Chapter, the following terms shall have the meaning ascribed to them in this Section:

* * *

Hospital Patient—a person receiving health care services within a hospital facility, or an animal receiving

veterinary care within a veterinary teaching hospital owned or operated by a public university in this state.

Hospital Pharmacy—a pharmacy department permitted by the board and located in a hospital licensed pursuant to R.S. 40:2100 et seq or in a veterinary teaching hospital owned or operated by a public university in this state. For the purposes of this chapter, a hospital pharmacy is one example of a primary care treatment modality pharmacy.

* * *

Registered Patients—a person receiving health care services within a hospital facility, or an animal receiving veterinary care within a veterinary teaching hospital owned or operated by a public university in this state.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2093 (October 2003), effective January 1, 2004, amended LR 33:1132 (June 2007), amended LR 39:1282 (May 2013), amended LR 40:2256 (November 2014), effective January 1, 2015, amended LR 41:2147 (October 2015), amended by the Department of Health, Board of Pharmacy, LR 46:

§1517. Pharmacist Absence/Drug Cabinet

A. Pharmacist Absence. In the absence of a licensed pharmacist, admittance to the pharmacy by unauthorized persons is prohibited. When the pharmacy is closed, a pharmacist shall be on emergency call.

1. Within a veterinary teaching hospital owned or operated by a public university in this state, the pharmacist-in-charge shall approve policies and procedures detailing the person(s) authorized to access the pharmacy after-hours.

B. - B.8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 29:2093 (October 2003), effective January 1, 2004, amended by the Department of Health, Board of Pharmacy, LR 46:

Family Impact Statement

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a family impact statement on the Rule proposed for adoption, repeal, or amendment. The following statements will be published in the Louisiana Register with the proposed agency Rule.

1. The Effect on the Stability of the Family. The proposed Rule amendment will have no effect on the stability of the family.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. The proposed Rule amendment will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect on the Functioning of the Family. The proposed Rule amendment will have no effect on the functioning of the family.

4. The Effect on Family Earnings and Family Budget. The proposed Rule amendment will have no effect on family earnings or family budget.

5. The Effect on the Behavior and Personal Responsibility of Children. The proposed Rule amendment

will have no effect on the behavior and personal responsibility of children.

6. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. The proposed Rule amendment will have no effect on the ability of the family or a local government to perform the activity as contained in the proposed Rule.

Poverty Impact Statement

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a poverty impact statement on the rule proposed for adoption, repeal, or amendment.

1. The Effect on Household Income, Assets, and Financial Security. The proposed Rule amendment will have no effect on household income, assets, or financial security.

2. The Effect on Early Childhood Development and Preschool through Postsecondary Education Development. The proposed Rule amendment will have no effect on early childhood development or preschool through postsecondary education development.

3. The Effect on Employment and Workforce Development. The proposed Rule amendment will have no effect on employment or workforce development.

4. The Effect on Taxes and Tax Credits. The proposed Rule amendment will have no effect on taxes or tax credits.

5. The Effect on Child and Dependent Care, Housing, Health Care, Nutrition, Transportation, and Utilities Assistance. The proposed Rule amendment will have no effect on child and dependent care, housing, health care, nutrition, transportation, or utilities assistance.

Small Business Analysis

In accordance with Section 965 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a regulatory flexibility analysis on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, each of the following methods of reducing the impact of the proposed Rule on small businesses:

1. The Establishment of Less Stringent Compliance or Reporting Requirements for Small Businesses. There are no reporting requirements in the proposed Rule amendment.

2. The Establishment of Less Stringent Schedules or Deadlines for Compliance or Reporting Requirements for Small Businesses. There are no specific reporting requirements in the proposed Rule amendment.

3. The Consolidation or Simplification of Compliance or Reporting Requirements for Small Businesses. There are no specific reporting requirements in the proposed Rule amendments.

4. The Establishment of Performance Standards for Small Businesses to Replace Design or Operational Standards Required in the Proposed Rule. There are no design or operational standards in the proposed Rule amendment.

5. The Exemption of Small Businesses from All or Any Part of the Requirements Contained in the Proposed Rule. There are no exemptions for small businesses.

Provider Impact Statement

In accordance with House Concurrent Resolution No. 170 of the Regular Session of the 2014 Legislature, there is hereby submitted a provider impact statement on the rule proposed for adoption, repeal, or amendment. This will

certify the agency has considered, without limitation, the following effects on the providers of services to individuals with developmental disabilities:

1. The Effect on the Staffing Level Requirements or Qualifications Required to Provide the Same Level of Service. The proposed Rule amendment will have no effect on the staffing level requirements or qualifications required to provide the same level of service.

2. The Total Direct and Indirect Effect on the Cost to the Provider to Provide the Same Level of Service. The proposed Rule amendment will have no effect on the cost to the provider to provide the same level of service.

3. The Overall Effect on the Ability of the Provider to Provide the Same Level of Service. The proposed Rule amendment will have no effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments, via United States Postal Service or other mail carrier, or in the alternative by personal delivery to Malcolm J Broussard, Executive Director, at the office of the Louisiana Board of Pharmacy, 3388 Brentwood Drive, Baton Rouge, Louisiana 70809-1700. He is responsible for responding to inquiries regarding the proposed rule amendment.

Public Hearing

A public hearing to solicit comments and testimony on the proposed rule amendment is scheduled for 9 a.m. on Friday, December 27, 2019. During the hearing, 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 comments is 12 p.m. noon that same day. To request reasonable accommodations for persons with disabilities, please call the Board office at 225.925.6496.

Malcolm J Broussard
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Veterinary Hospital Pharmacy

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes will result in a one-time cost of \$2,000 for FY 20 for the Louisiana Board of Pharmacy to publish the proposed and final rules in the state register. The rule amendments require pharmacists-in-charge of pharmacies in teaching veterinary hospitals located in Louisiana to establish policies and procedures for persons authorized to access the pharmacy after hours. This new requirement would only affect the LSU School of Veterinary Medicine (SVM) and may result in marginal administrative costs for the SVM to establish the aforementioned policies and procedures. There are no costs or savings for local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes will not affect revenue collections for state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule changes apply only to governmental subdivisions and therefore do not affect non-governmental groups or persons.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes will not affect competition or employment.

Malcolm J. Broussard
Executive Director
1911#061

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Federally Qualified Health Centers
Reimbursement Methodology
Mammography Separate Payments
(LAC 50:XI.10703)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:XI.10703 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health, Bureau of Health Service Financing promulgated a Rule which amended the provisions governing the reimbursement methodology for federally qualified health centers (FQHCs) to allow the reimbursement of a separate payment outside of the prospective payment system rate for mammography screening and diagnosis services (*Louisiana Register*, Volume 44, Number 12). The U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) disapproved the corresponding State Plan amendment (SPA) submitted for this Rule. The department now proposes to amend the reimbursement methodology for FQHCs in order to repeal the provisions of the December 20, 2018 Rule due to the CMS-disapproved SPA.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XI. Clinic Services

Subpart 13. Federally-Qualified Health Centers

Chapter 107. Reimbursement Methodology §10703. Alternate Payment Methodology

A. - C. ...

D. Effective for dates of service on or after January 1, 2019, FQHCs shall be reimbursed a separate payment outside of the prospective payment system (PPS) rate for long acting reversible contraceptives (LARCs).

1. Reimbursement for LARCs shall be at the lesser of, the rate on file or the actual acquisition cost for entities participating in the 340B program. Federally qualified health centers eligible for 340B pricing must bill Medicaid at their 340B actual acquisition cost for reimbursement.

1.a. - 2.a. Repealed.

E. - G. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1033 (June 2008), amended by the

Department of Health, Bureau of Health Services Financing, LR 44:1894 (October 2018), LR 44:2162 (December 2018), LR 45:434 (March 2019), amended LR 46:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no effect on family functioning, stability and autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have a no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Small Business Analysis

In compliance with Act 820 of the 2008 Regular Session of the Louisiana Legislature, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule will have no impact on small businesses, as described in R.S. 49:965.2 et seq.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on December 30, 2019.

Public Hearing

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on December 10, 2019. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on December 26, 2019 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after December 10, 2019. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage, which

is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Federally Qualified Health Centers Reimbursement Methodology Mammography Separate Payments

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 19-20. It is anticipated that \$540 (\$270 SGF and \$270 FED) will be expended in FY 19-20 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will have no effect on revenue collections other than the federal share of the promulgation costs for FY 19-20. It is anticipated that \$270 will be collected in FY 19-20 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)

Due to the disapproval of the corresponding State Plan amendment (SPA) by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), this proposed rule amends the reimbursement methodology for federally qualified health centers (FQHCs) in order to repeal the provisions of the December 20, 2018 Rule which allowed a separate payment outside of the prospective payment system (PPS) rate for mammography screening and diagnosis services. Implementation of this proposed rule is necessary to comply with the CMS directive and will not impact recipients or providers, since the December 2018 Rule provisions were not implemented pending approval of the SPA. It is anticipated that implementation of this proposed rule will not result in costs to FQHCs in FY 19-20, FY 20-21 and FY 21-22, but will be beneficial by ensuring that the reimbursement methodology is accurately promulgated in the Louisiana Administrative Code.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Jen Steele
Medicaid Director
1911#035

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing and Office of Behavioral Health

Home and Community-Based Behavioral
Health Services Waiver
Coordinated System of Care Discharge Criteria
(LAC 50:XXXIII.8101 and 8103)

The Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health propose to amend LAC 50:XXXIII.8101 and §8103 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health propose to amend the provisions governing the home and community-based behavioral health services waiver to specify discharge criteria for the Coordinated System of Care (CSoC) program which aligns with federal regulations and current practices, since the current administrative Rule does not address the authority to discharge participants who no longer meet CSoC waiver eligibility requirements.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXXIII. Behavioral Health Services

Subpart 9. Home and Community-Based Services Waiver

Chapter 81. General Provisions

§8101. Introduction

A. The Medicaid Program hereby adopts provisions to provide coverage for behavioral health services rendered to children with mental illness and severe emotional disturbances (SED) by establishing a 1915(b)/(c) home and community-based services (HCBS) waiver, known as the Coordinated System of Care (CSoC) waiver. This HCBS waiver shall be administered under the authority of the Department of Health, in collaboration with the coordinated system of care (CSoC) contractor, which shall be responsible for the necessary operational and administrative functions to ensure adequate service coordination and delivery.

B. - D. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:366 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2361 (November 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 43:323 (February 2017), LR 46:

§8103. Recipient Qualifications

A. The target population for the Home and Community-Based Behavioral Health Services Waiver program shall be Medicaid recipients who:

1. - 3. ...

4. require hospital or nursing facility level of care or are functionally eligible for CSoC, as determined by the department's designated assessment tools and criteria;

A.5. - B. ...

C. Recipients shall be discharged from the waiver program if one or more of the following criteria is met:

1. the recipient met his/her identified goals on the individualized plan of care created by the child and family team process;

2. the recipient relocated out of state;

3. the recipient no longer meets psychiatric hospital or nursing facility level of care or are functionally ineligible for CSoC, as determined by the department's designated assessment tools and criteria;

4. the recipient no longer meets financial eligibility criteria;

5. the recipient or his/her parent or guardian disengaged from services, evidenced by lack of face-to-face contact for 60 consecutive calendar days or more;

6. the recipient is incarcerated for 30 consecutive calendar days or more; or

7. The recipient is residing in a non-home and community based setting for more than 90 consecutive calendar days.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:366 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2361 (November 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 43:324 (February 2017), LR 44:1895 (October 2018), LR 46:

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

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Small Business Analysis

In compliance with Act 820 of the 2008 Regular Session of the Louisiana Legislature, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule will have no impact on small businesses, as described in R.S. 49:965.2 et seq.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on December 30, 2019.

Public Hearing

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on December 10, 2019. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on December 26, 2019 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after December 10, 2019. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Home and Community-Based Behavioral Health Services Waiver Coordinated System of Care Discharge Criteria

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 19-20. It is anticipated that \$756 (\$378 SGF and \$378 FED) will be expended in FY 19-20 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will have no effect on revenue collections other than the federal share of the promulgation costs for FY 19-20. It is anticipated that \$378 will be collected in FY 19-20 for the

federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule amends the provisions governing the home and community-based services waiver to specify discharge criteria for the Coordinated System of Care (CSoC) program which aligns with federal regulations and current practices, since the current administrative Rule does not address the authority to discharge participants who no longer meet CSoC waiver eligibility requirements. Implementation of this proposed Rule will impact recipients that may no longer be eligible for these home and community-based behavioral health waiver services; however, recipients and providers will benefit from clearly identified participation requirements. It is anticipated that implementation of this proposed rule will not result in costs to providers of CSoC waiver services in FY 19-20, FY 20-21 and FY 21-22.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Jan Steele
Medicaid Director
1911#036

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Pregnant Women Extended Services
Substance Use Screening and Intervention Services
Tobacco Cessation
(LAC 50:XV.Chapter 163)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:XV.Chapter 163 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health, Bureau of Health Services Financing proposes to amend the provisions governing extended services for pregnant women in order to implement tobacco cessation services mandated by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services and remove outdated references to the Louisiana Health Assessment Referral and Treatment (LaHART) program.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 13. Pregnant Women Extended Services

Chapter 163. Substance Use Screening and Intervention Services

§16301. General Provisions

A. The department shall provide coverage of medically necessary substance use screening and intervention services rendered to Medicaid-eligible pregnant at the discretion of the medical professional providing care to the pregnant woman.

B. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:794 (April 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 46:

§16303. Scope of Services

A. Screening services shall include the screening of pregnant for:

1. alcohol use;
2. tobacco use;
3. drug use; and/or
4. domestic violence.

B. Intervention services shall include a counseling session, which shall be a minimum of 15-30 minutes in duration, with a health care professional intended to motivate the recipient to develop a plan to moderate or cease their use of alcohol and/or drugs.

C. Service Limits. Substance use screening and intervention services shall be limited to one occurrence per pregnancy, or once every 270 days. Pregnant women may also receive up to eight tobacco cessation counseling sessions per year.

1. If the recipient experiences a miscarriage or fetal death and becomes pregnant within the 270-day period, screening and intervention services shall be reimbursed for the subsequent pregnancy.

D. Tobacco Cessation Counseling and Pharmacotherapy. The department shall provide coverage of diagnostic, therapeutic counseling services and pharmacotherapy for the cessation of tobacco use by pregnant women who use tobacco products or who are being treated for tobacco use. Counseling sessions shall be face-to-face with an appropriate health care professional.

1. Pregnant women may receive four counseling sessions per quit attempt, up to two quit attempts per calendar year. The period of coverage for these services shall include the prenatal period through 60 days postpartum. Services shall be provided:

- a. by or under the supervision of a physician; or
- b. by any other health care professional who is:
 - i. legally authorized to furnish such services under Louisiana state law and is authorized to provide Medicaid coverable services other than tobacco cessation; or
 - ii. legally authorized to provide tobacco cessation services under Louisiana state law and is designated by the secretary of the department to provide 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, Bureau of Health Services Financing, LR 40:794 (April 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 46:

§16305. Reimbursement Methodology

A. Reimbursement for substance use screening and intervention services provided to pregnant women shall be a flat fee based on the appropriate current procedural terminology (CPT) code.

1. No reimbursement shall be made in excess of the established service limits.

B. - C. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:795 (April 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 46:

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

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability or autonomy as described in R.S. 49:972 by reducing prenatal complications and childhood health problems associated with maternal use of tobacco and other substances.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have a positive impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 as it is expected to reduce prenatal complications associated with maternal use of tobacco and other substances.

Small Business Analysis

In compliance with Act 820 of the 2008 Regular Session of the Louisiana Legislature, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule will have no impact on small businesses, as described in R.S. 49:965.2 et seq.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, but may reduce the total direct and indirect cost to the provider to provide the same level of service, and may enhance the provider's ability to provide the same level of service as described in HCR 170 since this proposed Rule may increase payments to providers of substance use screening and intervention services.

Public Comments

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on December 30, 2019.

Public Hearing

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such

request must be received no later than 4:30 p.m. on December 10, 2019. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on December 26, 2019 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after December 10, 2019. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Rebekah E. Gee MD, MPH
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Pregnant Women Extended Services
Substance Use Screening and Intervention Services
Tobacco Cessation**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will result in estimated state general fund programmatic costs of approximately \$31,046 for FY 19-20, \$75,715 for FY 20-21 and \$77,987 for FY 21-22. It is anticipated that \$864 (\$432 SGF and \$432 FED) will be expended in FY 19-20 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 66.40 percent in FY 19-20 and 67.35 percent in FY 20-21 and 67.35 percent in FY 21-22 for the projected non-expansion population, and an FMAP rate of 91.5 percent in FY 19-20 and 90.0 percent in FY 20-21 and 90.0 percent in FY 21-22 for the projected expansion population.

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 \$98,725 for FY 19-20, \$242,943 for FY 20-21 and \$250,231 for FY 21-22. It is anticipated that \$432 will be collected in FY 19-20 for the federal share of the expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 66.40 percent in FY 19-20 and 67.35 percent in FY 20-21 and 67.35 percent in FY 21-22 for the projected non-expansion population, and an FMAP rate of 91.5 percent in FY 19-20 and 90.0 percent in FY 20-21 and 90.0 percent in FY 21-22 for the projected expansion population.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule amends the provisions governing extended services for pregnant women in order to implement tobacco cessation services mandated by the U.S. Department of Health and Human Services, Centers for Medicare and

Medicaid Services and remove outdated references to the Louisiana Health Assessment Referral and Treatment (LaHART) program. This proposed Rule will be beneficial by providing counseling services and pharmacotherapy for pregnant recipients who use tobacco products or are being treated for tobacco use. It is anticipated that implementation of this Rule will increase Medicaid programmatic expenditures by approximately \$128,907 for FY 19-20, \$318,659 for FY 20-21 and \$328,218 for FY 21-22.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Jan Steele
Medicaid Director
1911#037

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health
Bureau of Health Services Financing**

Rural Health Clinics
Reimbursement Methodology
Mammography Separate Payments
(LAC 50:XI.16703)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:XI.16703 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health, Bureau of Health Services Financing promulgated a Rule which amended the provisions governing the reimbursement methodology for rural health clinics (RHCs) to allow the reimbursement of a separate payment outside of the prospective payment system rate for mammography screening and diagnosis services (*Louisiana Register*, Volume 44, Number 12). The U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) disapproved the corresponding State Plan amendment (SPA) submitted for this Rule. The department now proposes to amend the reimbursement methodology for RHCs in order to repeal the provisions of the December 20, 2018 Rule due to the CMS-disapproved SPA.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XI. Clinic Services

Subpart 15. Rural Health Clinics

**Chapter 167. Reimbursement Methodology
§16703. Alternate Payment Methodology**

A. - C. ...

D. Effective for dates of service on or after January 1, 2019, RHCs shall be reimbursed a separate payment outside of the prospective payment system (PPS) rate for long acting reversible contraceptives (LARCs).

1. Reimbursement for LARCs shall be at the lesser of, the rate on file or the actual acquisition cost for entities participating in the 340B program. Rural health clinics

eligible for 340B pricing must bill Medicaid at their 340B actual acquisition cost for reimbursement.

1.a. - 2.a. Repealed.

E. - G. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1036 (June 2008), amended by the Department of Health, Bureau of Health Services Financing, LR 44:1903 (October 2018), LR 44:2168 (December 2018), LR 45:435 (March 2019), amended LR 46:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no effect on family functioning, stability and autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Small Business Analysis

In compliance with Act 820 of the 2008 Regular Session of the Louisiana Legislature, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule will have no impact on small businesses, as described in R.S. 49:965.2 et seq.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on December 30, 2019.

Public Hearing

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on December 10, 2019. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on December 26, 2019 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public

hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after December 10, 2019. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage, which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Rural Health Clinics Reimbursement Methodology Mammography Separate Payments

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 19-20. It is anticipated that \$540 (\$270 SGF and \$270 FED) will be expended in FY 19-20 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will have no effect on revenue collections other than the federal share of the promulgation costs for FY 19-20. It is anticipated that \$270 will be collected in FY 19-20 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)

Due to the disapproval of the corresponding State Plan amendment (SPA) by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), this proposed rule amends the reimbursement methodology for rural health clinics (RHCs) in order to repeal the provisions of the December 20, 2018 Rule which allowed a separate payment outside of the prospective payment system (PPS) rate for mammography screening and diagnosis services. Implementation of this proposed rule is necessary to comply with the CMS directive and will not impact recipients or providers, since the December 2018 Rule provisions were not implemented pending approval of the SPA. It is anticipated that implementation of this proposed rule will not result in costs to RHCs in FY 19-20, FY 20-21 and FY 21-22, but will be beneficial by ensuring that the reimbursement methodology is accurately promulgated in the Louisiana Administrative Code.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Jan Steele
Medicaid Director
1911#038

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing and Office of Behavioral Health

School-Based Health Services—School-Based Applied
Behavior Analysis-Based Therapy Services
(LAC 50:XV.9541 and XXXIII.Chapters 41-45)

The Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health propose to adopt LAC 50:XV.9541 and amend LAC 50:XXXIII.Chapters 41-45 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health have determined that applied behavior analysis-based (ABA) therapy services provided in school settings are covered as school-based health services in the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program. The department now proposes to amend the provisions governing school-based services in order to remove ABA as a school-based behavioral health service and add ABA to the EPSDT school-based health services. This action is being taken to ensure that these provisions are accurately promulgated in the Louisiana Administrative Code.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

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

Chapter 95. School-Based Health Services

Subchapter E. School-Based Applied Behavior Analysis-Based Services

§9541. General Provisions

A. Applied behavior analysis-based (ABA) therapy is the design, implementation, and evaluation of environmental modification using behavioral stimuli and consequences to produce socially significant improvement in human behavior, including the direct observation, measurement, and functional analysis of the relations between environment and behavior. ABA-based therapies teach skills through the use of behavioral observation and reinforcement or prompting to teach each step of targeted behavior.

B. ABA services provided by local education agencies (LEAs) to eligible Medicaid recipients must be medically necessary and included on the recipient's individualized service plan (IEP), a section 504 accommodation plan, an individualized health care plan, an individualized family service plan, or medical need documentation.

C. ABA services rendered in school-based settings must be provided by, or under the supervision of, a behavior analyst who is currently licensed by the Louisiana Behavior Analyst Board, or a licensed psychologist or licensed medical psychologist, hereafter referred to as the licensed professional.

D. Reimbursement. ABA services provided by individuals working within the scope of their license are reimbursable by Medicaid. Services will be reimbursed using the EPSDT cost based methodology for ABA services.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 46:

Part XXXIII. Behavioral Health Services

Subpart 5. School-Based Behavioral Health Services

Chapter 41. General Provisions

§4101. Introduction

A. The Medicaid Program hereby adopts provisions to provide coverage under the Medicaid state plan for school-based behavioral health services rendered to children and youth with behavioral health disorders. These services shall be administered under the authority of the Department of Health.

B. The school-based behavioral health services rendered to children with emotional or behavioral disorders are medically necessary behavioral health services provided to Medicaid recipients in accordance with an individualized education plan (IEP), a section 504 accommodation plan pursuant to 34 C.F.R. §104.36, an individualized health care plan or are otherwise medically necessary.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:400 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2171 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 45:568 (April 2019), LR 46:

§4103. Recipient Qualifications

A. Individuals at least 3 years of age and under the age of 21, who meet Medicaid eligibility and clinical criteria, shall qualify to receive behavioral health services in a setting determined by the IEP.

B. Qualifying children and adolescents must have been determined eligible for Medicaid and behavioral health services covered under Part B of the Individuals with Disabilities Education Act (IDEA), with a written service plan (an IEP, section 504 plan or individualized health care plan (IHP)) which contains medically necessary services recommended by a physician or other licensed practitioner, within the scope of his or practice under state law.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:400 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2172 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 45:568 (April 2019), LR 46:

Chapter 43. Services

§4301. General Provisions

A. The Medicaid Program shall provide coverage for behavioral health services pursuant to §1905(a) of the Social Security Act which are addressed in the IEP, section 504 plan, IHP or otherwise medically necessary, and that correct or ameliorate a child's health condition.

B. Services must be performed by qualified providers who provide school-based behavioral health services as part of their respective area of practice (e.g. psychologist providing a behavioral health evaluation and/or services). Services rendered by certified school psychologists must be supervised consistent with R.S. 17:7.1.

1. Repealed.

C. - E. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:400 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2172 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 45:568 (April 2019), LR 46:

§4303. Covered Services

A. School-based behavioral health services shall include Medicaid-covered services, including treatment and other services to correct or ameliorate an identified mental health or substance use diagnosis. Services are provided by or through a local education agency (LEA) to children with, or suspected of having, a disability and who attend public school in Louisiana.

B. The following school based behavioral health services shall be reimbursed under the Medicaid Program:

1. therapeutic services, including diagnosis and treatment; and
2. substance use.
3. - 4. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:400 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:384 (February 2015), LR 41:2172 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 45:569 (April 2019), LR 46:

§4305. Service Limitations and Exclusions

A. The Medicaid Program shall not cover school based behavioral health services performed solely for educational purposes (e.g. academic testing). Only services that are reflected in the IEP, section 504 plan, IHP (as determined by the assessment and evaluation) or otherwise medically necessary shall be covered.

B. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:401 (February 2012), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 45:569 (April 2019), LR 46:

Chapter 45. Provider Participation

§4501. Local Education Agency Responsibilities

A. - E. ...

F. Providers shall maintain case records that include, at a minimum:

1. a copy of the treatment plan;
2. a copy of the IEP, IHP, etc.;
3. the name of the child or youth receiving services;
4. the dates of service;

5. the nature, content and units of services provided;
6. the progress made toward functional improvement; and
7. the goals of the treatment plan.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:401 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:385 (February 2015), LR 41:2172 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 45:569 (April 2019), LR 46:

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

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Small Business Analysis

In compliance with Act 820 of the 2008 Regular Session of the Louisiana Legislature, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule will have no impact on small businesses, as described in R.S. 49:965.2 et seq.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on December 30, 2019.

Public Hearing

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on

December 10, 2019. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on December 26, 2019 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after December 10, 2019. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Rebekah E. Gee MD, MPH
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: School-Based Health Services
School-Based Applied Behavior
Analysis-Based Therapy Services**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 19-20. It is anticipated that \$1,188 (\$594 SGF and \$594 FED) will be expended in FY 19-20 for the state's administrative expense for promulgation of this proposed rule and the final rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will have no effect on revenue collections other than the federal share of the promulgation costs for FY 19-20. It is anticipated that \$594 will be collected in FY 19-20 for the federal share of the expense for promulgation of this proposed rule and the final rule.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

This proposed rule amends the provisions governing school-based services in order to remove applied behavior analysis-based (ABA) therapy services as school-based behavioral health services and add ABA to the school-based health services covered in the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program. This action is being taken to ensure that these provisions are accurately promulgated in the Louisiana Administrative Code (LAC). It is anticipated that implementation of this proposed rule will not result in costs or benefits to ABA providers in FY 19-20, FY 20-21 and FY 21-22 as this is a technical change to the LAC to correct the placement of school-based ABA provisions.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

This rule has no known effect on competition and employment.

Jen Steele
Medicaid Director
1911#039

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Insurance
Office of the Commissioner**

**Regulation 116—Stop-Loss or Excess Policies of Insurance
(LAC 37:XIII.Chapter 169)**

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby gives notice of its intent to promulgate Regulation 116, Stop-Loss or Excess Policies of Insurance. This regulation has been proposed in order to codify the types of stop-loss or excess policies that can be used by employers sponsoring group health plans and in order to codify the requirements for disclosures under R.S. 22:883.

**Title 37
INSURANCE**

Part XIII. Regulations

**Chapter 169. Regulation 116—Stop-Loss or Excess
Policies of Insurance**

§16901. Purpose

A. The purpose of this regulation is to implement the provisions of Acts 2001, No. 273 of the Louisiana Legislature, Regular Session, as well as to implement the amendments thereto as set forth in Acts 2003, No. 140 of the Louisiana Legislature, Regular Session, Acts 2007, No. 80 of the Louisiana Legislature, Regular Session, and Acts 2010, No. 375 of the Louisiana Legislature, Regular Session.

AUTHORITY NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, in accordance with R.S. 22:2 and 22:883.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§16903. Applicability and Scope

A. This regulation shall apply to employers that sponsor group health plans.

AUTHORITY NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, in accordance with R.S. 22:2 and 22:883.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§16905. Definitions

Group Health Plan—an employee welfare benefit plan as defined in Section 3(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(1)) to the extent that the plan provides medical care as defined in this regulation and including items and services paid for as medical care for employees or their dependents, as defined under the terms of the plan, directly or through insurance, reimbursement, or otherwise, or only to a multiple employer welfare arrangement that is a self-insurer and does not include those multiple employer welfare arrangements that meet the definition in 29 U.S.C. 1002(40).

Medical Care—amounts paid for the diagnosis, cure, mitigation, treatment, or prevention of disease, or amounts paid for the purpose of affecting any stricture or function of the body; transportation primarily for and essential to such medical care; and amounts paid for insurance covering such medical care, as defined in R.S. 22:1061(1)(b).

Paid Contract Basis—allows claims incurred under a “group health plan” during the contract period of a stop-loss or excess policy to be paid during the policy’s twelve-month contract period.

Run-In Contract Basis—allows for reimbursement of claims incurred under a group health plan during a stated period prior to the effective date of the twelve-month contract period of a stop-loss or excess policy and paid during the twelve-month contract period.

Run-Out Contract Basis—allows for reimbursement of claims incurred under a group health plan during the stated twelve-month contract period and paid within a stated period extending at least 90 days after expiration of the twelve-month contract period.

Self-Insurance Plan—any contract, plan, trust, arrangement, or other agreement which is established or maintained to offer or provide health care services, indemnification, or payment for health care services, or health and accident benefits to employees of two or more employers, but which is not fully insured. Any such contract, plan, trust, arrangement, or agreement shall be deemed fully insured only if said services, indemnification, payment, or benefits are guaranteed under a contract or policy of health insurance issued by an insurer authorized to transact business in this state. The term *self-insurance plan* shall not include any arrangement or trust formed under Subpart J of Part I of Chapter 10 of Title 23 of the Louisiana Revised Statutes of 1950 (R.S. 23:1191 et seq.), single employer plans, plans exempt from the state insurance laws under the provisions of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.), except as provided in R.S. 22:463, the Office of Group Benefits, plans of political subdivisions, health maintenance organizations regulated under the Health Management Organization Act, R.S. 22:241 et seq., plans regulated under R.S. 33:1342, 1343, 1346, or 1349, and plans otherwise regulated as insured plans under this Title. A plan of a fraternal benefit society or a labor organization shall not be considered a self-insurance plan for the purposes of this Subpart to the extent that such plan provides health and accident benefits to its members and any of their dependents that are supplemental to those of an employer-provided plan.

Self-Insured Multiple Employer Welfare Arrangement—a multiple employer welfare arrangement as defined in 29 U.S.C. § 1002(40).

Self-Insurer—any entity that makes, provides, or issues a self-insurance plan and is licensed by the LDI.

Stop-Loss or Excess Policy/Policies—insurance covering the losses of an insured above a specific amount or a self-insurer for losses over a stated amount.

Terminal Liability—group health plan that provides an extra ninety days of protection upon termination of the Run-out contract period.

AUTHORITY NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, in accordance with R.S. 22:2 and 22:883.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§16907. Eligible Claims

A. Stop-loss or excess policies are required to contain a provision that eligible claims incurred under the group health plan during the initial contract period shall be covered, provided that proof of payment of the eligible

claims by the group health plan is furnished to the stop-loss or excess insurer within ninety days after the expiration of the stop-loss or excess policy or any later period that is provided in the contract or stop-loss or excess policy.

AUTHORITY NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, in accordance with R.S. 22:2 and 22:883.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§16909. Available Claims Incurred and Paid Contract

Bases

A. The following claims incurred and paid contract bases are available to suit the needs of diverse employers sponsoring group health plans:

1. paid as defined in Section 16903;
2. run-in as defined in Section 16903;
3. run-out as defined in Section 16903;
4. terminal liability as defined in Section 16903.

AUTHORITY NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, in accordance with R.S. 22:2 and 22:883.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§16911 Policy Form Requirements

A. Stop loss or excess policy forms intended to cover the losses of a group health plan must include the following requirements.

1. Eligible claims incurred under the group health plan during the initial contract period will be covered, as long as the “group health plan” submits to the stop loss or excess insurer proof of payment of the eligible claim within 90 days after the expiration of the policy, or within any longer period that is provided in the contract or policy.

2. All applications for stop-loss or excess coverage must include the option to purchase a policy providing coverage on a run-out contract basis. A run-out contract basis extends the claims paid period for at least 90 days beyond expiration of the twelve-month contract term, the period within which claims incurred during the contract term must be submitted and paid.

3. All applications for stop-loss or excess insurance coverage that include the option to purchase a policy providing coverage restricted to claims both incurred and paid during the contract term must contain a form for acceptance or rejection of the ninety-day extension for claims to be submitted and paid, i.e., run-out coverage. To reject such offer, the applicant and the writing producer must both sign and date the application or a supplemental application form containing disclosures such as the following.

a. “It is hereby agreed and understood that the stop-loss [excess] insurance contract selected does not provide reimbursement to the plan sponsor for any expenses incurred under the “group health plan” prior to the beginning of the contract period for stop-loss [excess] insurance or for any expenses paid after expiration of the contract period. Only eligible expenses that are both incurred under the group health plan and paid by the group health plan within the twelve-month contract period for stop-loss [excess] insurance are reimbursable under the contract selected.”

4. All applications for stop-loss or excess insurance including options to purchase a policy providing coverage on a run-in or a paid contract basis must contain a form for

acceptance or rejection. To reject such offer, the applicant and the writing producer must both sign and date the application or a supplemental application containing a disclosure such as the following.

a. "It is hereby agreed and understood that the stop-loss [excess] insurance contract selected does not provide reimbursement to the plan sponsor for any expenses that are not paid by the group health plan within the current contract period, unless the policy is subsequently renewed. Only eligible expenses that are both incurred and paid by the group health plan within the stated contract period are reimbursable under the contract selected."

5. If offered, provisions for terminal liability coverage must extend the period for payment of claims under the group health plan by at least an additional 90 days from termination of the run-out coverage period allowed for incurred claims.

AUTHORITY NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, in accordance with R.S. 22:2 and 22:883.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§16913. Reinsurance/Health Insurance

A. Stop-loss or excess insurance shall not be equivalent to reinsurance, nor shall it be referred to as a contract or policy of health insurance under R.S. 22:452(1)(a).

AUTHORITY NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, in accordance with R.S. 22:2 and 22:883.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§16915. Due Diligence

A. Stop loss or excess insurers shall exercise due diligence in ascertaining the legitimacy or authority of the underlying group health plan before issuing coverage. This shall include but not be limited to ensuring that the underlying plan is not a self-insured multiple employer welfare arrangement pursuant to 29 U.S.C. §1002(40), unless the underlying plan is authorized to do business in this state as a self-insurer and meets the requirements of R.S. 22:452.

AUTHORITY NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, in accordance with R.S. 22:2 and 22:883.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§16917. Additional Requirements for Stop-Loss or Excess Insurance

A. Stop loss or excess insurance issued to a self-insurance plan must meet the following requirements.

1. The plan must include a provision stating that aggregate stop-loss or excess coverage and specific stop-loss or excess coverage may only be provided by an insurer licensed to do business in the state of Louisiana.

2. The stop-loss or excess policies must contain provisions to cover incurred, unpaid claims liability in the event of plan termination.

3. The stop-loss or excess insurer shall bear the risk of coverage for any employer participating in the self-insurance plan that becomes insolvent with outstanding contributions due.

4. The stop-loss or excess insurer shall provide coverage with rates not subject to adjustment by the stop-loss or excess insurer during the first 12 months of coverage, unless:

a. there is a change in the benefits provided under the group health plan; and/or

b. enrollment under the group health plan changes by at least 10 percent.

5. A stop loss or excess insurer must submit its proposed stop-loss or excess policy to the Commissioner of the Department of Insurance for review at least 30 days prior to the proposed self-insurance plan's effective date and at least 30 days prior to any subsequent renewal date.

AUTHORITY NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, in accordance with R.S. 22:2 and 22:883.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§16919. Severability

A. If any provision of this regulation, or the applicability thereof, is held invalid, such invalidity shall not affect other provisions, items, or applications of the regulation which can be given effect without the invalid provision, item, or application.

AUTHORITY NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, in accordance with R.S. 22:2 and 22:883.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§16921. Effective Date

A. Regulation 116 shall become effective upon final promulgation in the *Louisiana Register*.

AUTHORITY NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, in accordance with R.S. 22:2 and 22:883.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

Family Impact Statement

1. Describe the Effect of the Proposed Regulation on the Stability of the Family. The proposed amended regulation should have no measurable impact upon the stability of the family.

2. Describe the Effect of the Proposed Regulation on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. The proposed amended regulation should have no impact upon the rights and authority of children regarding the education and supervision of their children.

3. Describe the Effect of the Proposed Regulation on the Functioning of the Family. The proposed amended regulation should have no direct impact upon the functioning of the family.

4. Describe the Effect of the Proposed Regulation on Family Earnings and Budget. The proposed amended regulation should have no direct impact upon family earnings and budget.

5. Describe the Effect of the Proposed Regulation on the Behavior and Personal Responsibility of Children. The proposed amended regulation should have no impact upon the behavior and personal responsibility of children.

5. Describe the Effect of the Proposed Regulation on the Ability of the Family or a Local Government to Perform the Function as Contained in the Rule. The proposed amended regulation should have no impact upon the ability of the family or a local governmental unit to perform the function as contained in the rule.

Poverty Impact Statement

1. Describe the Effect on Household Income, Assets, and Financial Security. The proposed amended regulation should have no effect on household income assets and financial security.

2. Describe the Effect on Early Childhood Development and Preschool through Postsecondary Education Development. The proposed amended regulation should have no effect on early childhood development and preschool through postsecondary education development.

3. Describe the Effect on Employment and Workforce Development. The proposed amended regulation should have no effect on employment and workforce development.

4. Describe the Effect on Taxes and Tax Credits. The proposed amended regulation should have no effect on taxes and tax credits.

5. Describe the Effect on Child and Dependent Care, Housing, Health Care, Nutrition, Transportation and Utilities Assistance. The proposed amended regulation should have no effect on child and dependent care, housing, health care, nutrition, transportation and utilities assistance.

Small Business Analysis

The impact of the proposed regulation on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed regulation that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed regulation on small businesses.

1. Identification and Estimate of the Number of the Small Businesses Subject to the Proposed Rule. The proposed amended regulation should have no measurable impact upon small businesses.

2. The Projected Reporting, Record Keeping, and Other Administrative Costs Required for Compliance with the Proposed Rule, Including the Type of Professional Skills Necessary for Preparation of the Report or Record. The proposed amended regulation should have no measurable impact upon small businesses.

3. A Statement of the Probable Effect on Impacted Small Businesses. The proposed amended regulation should have no measurable impact upon small businesses.

4. Describe any Less Intrusive or Less Costly Alternative Methods of Achieving the Purpose of the Proposed Rule. The proposed amended regulation should have no measurable impact on small businesses; therefore, will have no less intrusive or less cost alternative methods.

Provider Impact Statement

1. Describe the Effect on the Staffing Level Requirements or Qualifications Required to Provide the Same Level of Service. The proposed amended regulation will have no effect.

2. The Total Direct and Indirect Effect on the Cost to the Provider to Provide the Same Level of Service. The proposed amended regulation will have no effect.

3. The Overall Effect on the Ability of the Provider to Provide the Same Level of Service. The proposed amended regulation will have no effect.

Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Such comments must be received no later than December 20, 2019 by close of business or by 4:30 p.m. and should be addressed to Monica Derbes Gibson, Louisiana Department of Insurance, and may be mailed to P.O. Box 94214, Baton Rouge, LA 70804-9214 or faxed to (225) 342-1632. If comments are to be shipped or hand-delivered, please deliver to Poydras Building, 1702 North Third Street, Baton Rouge, LA 70802.

James J. Donelon
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Regulation 116—Stop-loss or Excess Policies of Insurance

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rules will not result in additional costs or savings for state or local governmental units. The proposed regulations codify the provisions for stop-loss or excess policies of insurance that can be used by employers sponsoring group health plans and to codify the requirements for disclosures under R.S. 22:883 that are presently in effect for the LA Dept. of Insurance. The proposed rules codify the provisions of Act 273 of 2001, Act 140 of 2003, Act 80 of 2007, and Act 375 of 2010 of the Louisiana Legislature. Included in the proposed rules are relevant definitions, requirements for stop-loss/excess policies, a definition of eligible claims, policy form requirements, and the types of stop-loss/excess policy contracts available in Louisiana.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rules will not affect revenue collections for state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rules will have no cost to directly affected persons or non-governmental groups. The proposed rule will benefit employers sponsoring "group health plans" in the claim processing of stop-loss or excess policies by having the specific requirements for claim processing align the administrative rules with current statute for clarity. Included in the proposed rules are relevant definitions, requirements for stop-loss/excess policies, a definition of eligible claims, policy form requirements, and the types of stop-loss/excess policy contracts available in Louisiana.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rules will not affect competition or employment.

Nicholas Lorusso
Chief Deputy Commissioner
1911#044

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections Board of Pardons and Committee on Parole

Committee Procedures (LAC 22:XI.504)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950), the Board of Pardons and Parole hereby gives notice of its intent to amend its rules in LAC 22:XI.504. The amendment to §504 allows for parole to be rescinded prior to release under certain situation.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part XI. Committee on Parole

Chapter 5. Meetings and Hearings of the Committee on Parole

§504. General Procedures

A. Minutes. The committee's minutes of public hearings shall include the following information as applicable:

1. name and Department of Corrections (DOC) number of the offender;
2. name of counsel representing the offender (an offender docketed for a public hearing may be represented by counsel);
3. the vote of each member; and
4. the decision of the committee.

B. Votes

1. The vote of each panel member shall be recorded by name and date on the vote sheet.
2. Only those members present shall vote; voting by proxy is prohibited.
3. No vote shall be taken while the panel is in executive session.
4. The panel shall not rescind the original vote without conducting a new hearing, except as provided in §505.L, §513.A.1-3, and §711.
5. The original vote sheet shall remain in the inmate's DOC file and a copy shall be attached to the minutes and maintained in a separate locked file in the committee office.

C. Accuracy of Vote. The chairperson of the panel shall ensure that support staff reviews case records subsequent to voting to assure the accuracy of all documents.

D. Continuance/Recess. A majority vote is required to continue or recess a meeting or hearing. Generally, the matter will be rescheduled for the next month, but may be rescheduled for an earlier date if deemed appropriate by the panel (see §514, Voting/Votes Required).

E. Executive Session. A panel may go into executive session to discuss each offender's case prior to a decision pursuant to the provisions of R.S. 42:6, 42:6.1 and 15:574.12. No vote shall be taken while the panel is in executive session.

F. Observance of Proceedings. The committee may extend invitations to individuals to observe committee proceedings.

G. Testimony. The committee may direct questions to and/or request statements from anyone appearing before the committee.

H. Children Under 12. It is generally inappropriate for children under the age of 12 years, except when the child is a victim and chooses to appear, to be present during any public meeting or hearing of the committee.

I. Space and Security. The number of people supporting or opposing the granting of parole, including victims and/or family members of victims will be limited only by space and security considerations.

J. Meeting/Hearing Schedule. The chairman shall be responsible for schedules of business meetings and public hearings.

1. Such schedules may be changed, only upon prior notice, provided that such changes are made in a timely manner in order to notify all concerned.

2. Such meetings may be rescheduled without notice due to inclement weather, or any other emergency or unforeseen situation.

K. Upon notification by the secretary of the Department of Public Safety and Corrections that an offender has violated the terms of work release granted under §311 or has engaged in misconduct prior to the inmate's release, the committee may rescind its decision to grant parole. In such cases, the inmate shall promptly receive another parole hearing.

1. The board may choose to automatically rescind and change the decision for granting of parole under the below conditions:

- a. subject received a disciplinary report that the board was unaware of at the time of the hearing;
- b. time calculation adjustments, causing the subject to become ineligible for parole or pushing his parole eligibility dates past the allowed grant time frame;
- c. refusing to comply with post and/or prior to release conditions set forth by the panel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Pardons, Committee on Parole, LR 41:44 (January 2015), amended LR 456:

Family Impact Statement

Amendment to the rules has no known impact on family formation, stability or autonomy, as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relations to individual or community asset development as described in R.S. 49:973.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session.

Public Comments

Written comments may be addressed to Elizabeth Traylor, Executive Management Officer, Board of Pardons and Parole, P.O. Box 94304, Baton Rouge, LA 70804 until 4:30 p.m. on December 10, 2019.

Sheryl M. Ranatza
Board Chair

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Committee Procedures

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will not create a fiscal impact on state or local governmental unit expenditures. The purpose for the amendment to LAC 22:XI.504 is to allow parole to be rescinded prior to release under certain situations.

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 as a result of the proposed rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There is no estimated cost and/or economic benefit to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment as a result of the proposed rule change.

Thomas C. Bickham, III
Undersecretary
1911#023

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Office of the State Fire Marshal
Uniform Construction Code Council**

**Temporary Exemption to Certification Requirements
(LAC 55:VI.901)**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, and the provisions of R.S. 40:1730.34, R.S. 40:1730.35, R.S. 40:1730.36 and R.S. 40:1730.38, the Department of Public Safety and Corrections, Office of State Fire Marshal, Louisiana State Uniform Construction Code Council (LSUCCC) proposes to amend the current registration requirements regarding provisional registrations of inspectors. The State of Louisiana has experienced a large shortage of certified inspectors across all regions. The proposed amendment will insure health and safety for the public and for those who provide inspections of structures. The proposed amendment will also provide for a longer transition period for inspectors who have previously served in the military, thus creating a larger pool of potential employees to fill the void.

Title 55

PUBLIC SAFETY

**Part VI. Uniform Construction Code Enforcement
Chapter 9. Temporary Exemption to Certification
Requirement**

§901. Employment after January 1, 2007

A. Upon employment or if currently employed and promoted to a specific certification by a parish, municipality, or other political subdivision, an individual must be granted a provisional "F" certificate of registration without certification by a recognized code organization or testing

agency, provided that such individual is under the supervision of a registered code enforcement officer who is certified by the International Code Council. Provisional "F" certifications shall be as follows.

1. A provisional "F" certification shall be valid for 12 months from date of hire or promotion.

2. A provisional "F" certification for veterans shall be valid for 24 months from date of hire or promotion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:293 (February 2007), amended LR 35:2821 (December 2009), repromulgated LR 36:329 (February 2010), amended LR 40:2611 (December 2014); amended LR 46:

Family Impact Statement

1. The Effect of this Rule on the Stability of the Family. This Rule should not have any effect on the stability of the family.

2. The Effect of this Rule on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. This Rule should not have any effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect of this Rule on the Functioning of the Family. This Rule should not have any effect on the functioning of the family.

4. The Effect of this Rule on Family Earnings and Family Budget. This Rule should not have any effect on family earnings and family budget.

5. The Effect of this Rule on the Behavior and Personal Responsibility of Children. This Rule should not have any effect on the behavior and personal responsibility of children.

6. The Effect of this Rule on the Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rule. This Rule should not have any effect on the ability of the family or local government to perform the function as contained in the proposed rules.

Poverty Statement

1. The impact of the proposed Rule on child, individual, or family poverty has been considered and it is estimated that the proposed action is not expected to have a significant adverse impact on poverty in relation to individual or community asset development as provided in the R.S. 49:973.

2. The agency has considered economic welfare factors and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on poverty.

Small Business Analysis

1. The impact of the proposed Rule on small businesses has been considered and it is estimated that the proposed action is not expected to have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act.

2. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed rule that will accomplish the

objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Provider Impact Statement

The proposed Rule does not impact or affect a "Provider." "Provider" means an organization that provides services for individuals with developmental disabilities as defined in HCR 170 of the 2014 Regular Session of the Legislature. In particular, the proposed Rule has no effect or impact on a "Provider" in regards to:

1. the staffing level requirements or qualifications required to provide the same level of service;
2. the cost to the provider to provide the same level of service;
3. the ability of the provider to provide the same level of service.

Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Such comments should be submitted no later than December 11, 2019 at 4:30 p.m. to Mark Joiner, 8181 Independence Boulevard, Baton Rouge, LA 70806. A public hearing will be scheduled pursuant to R.S. 49:953(A)(1)(a) if needed.

Lt. Colonel Jason Starnes
Deputy Superintendent/Chief Administrative Officer

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Temporary Exemption to Certification Requirements

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes are not anticipated to result in additional costs or savings for state or local governmental units. The proposed rule amends the registration requirement by extending the existing provisional "F" registration from 12 months to 24 months for inspectors who are veterans. The adoption of the proposed rule is anticipated to provide greater access for individuals to fill vacant positions in the inspection industry.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated impact on revenue collections for state or local governments as a result of the proposed rules.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule provides for a longer transition period for Inspectors who have previously served in the military. As a result of this extension, it is anticipated that this proposed rule will create a larger pool of potential employees with military service for local jurisdictions.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is an anticipated positive effect on employment as a result of the proposed rule changes. The proposed rule change is anticipated to provide access to a larger pool of potential employees with military service to local jurisdictions; thereby increasing employment.

Lt. Col. Jason Starnes
Deputy Superintendent/CAO
1911#043

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Transportation and Development Office of Engineering

Louisiana Transportation Research Center (LTRC)
Transportation Training and Education Fund
(LAC 70:XXVII.101)

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 48:105.1, that the Department of Transportation and Development, Office of Engineering, proposes to amend Part XXVII, Chapter 1, of Title 70 entitled "LTRC Transportation Training and Education Fund", to allow for the fund to pay for the expenses of the maintenance and upkeep of the Louisiana Transportation Research Center (LTRC) building, not funded by Louisiana State University, in order to be consistent with the payment of the expenses for the maintenance and upkeep of the LTRC's Transportation and Training Education Center (TTEC) building, and to remove the obsolete fund authorized account agents and fund accounting processes which are now inoperable, due to the closure of the fund checking account and implementation of the current LaGov processes which are systematically in place to cover all fund expenditures.

Title 70

TRANSPORTATION

Part XXVII. Louisiana Transportation Research Center (LTRC)

Chapter 1. LTRC Transportation Training and Education Fund

§101. General Provisions

A. All fees collected shall be deposited in the fund or disbursed from the fund as provided in R.S. 48:105.1 and in the following rules.

B. All monies deposited in the fund in compliance with the statute shall be used to defray the expenses associated with workforce development activities of the Louisiana Transportation Research Center (LTRC) and LTRC's Transportation and Training Education Center (TTEC).

C. Allowable expenses include (but are not limited to):

1. course development and delivery costs for courses organized and managed by LTRC;
2. direct workforce development training costs, such as reimbursement for events or courses organized and managed by LTRC;
3. maintenance and upkeep of the LTRC and TTEC buildings not funded by Louisiana State University;
4. maintenance, upkeep, upgrade, or replacement of the audio visual equipment, to include all software and hardware used by LTRC for workforce development activities, such as classes, conferences, meetings, etc.;
5. purchase, maintenance, upkeep, upgrade, or replacement of computer equipment, including peripherals, used in the development and dissemination of training materials used for workforce development;
6. supplies and other items purchased in direct support of workforce development activities.

- D. Prohibited expenses include:
1. purchase of supplies not directly related to workforce development activities;
 2. any and all travel expenses;
 3. individual membership dues to professional organizations;
 4. conference/meeting/training registration fees;
 5. any form of personal use, such as cash advances, gifts, entertainment-related expenses;
 6. alcohol.

E. Ethics

1. Agents authorized to collect and disburse funds from the account must comply with the regulations relative to ethical conduct under the Code of Governmental Ethics, Chapter 15 of Title 42 of the Louisiana Revised Statutes.

AUTHORITY NOTE: Promulgated by the Louisiana Department of Transportation and Development, Louisiana Transportation Research Center, pursuant to R.S. 48:105.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Transportation and Development, Louisiana Transportation Research Center, LR 37:354 (January 2011), amended LR 46:

Family Impact Statement

Implementation of this proposed Rule 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:

1. The implementation of this proposed Rule will have no known or foreseeable effect on the stability of the family.
2. The implementation of this proposed Rule will have no known or foreseeable effect on the authority and rights of parents regarding the education and supervision of their children.
3. The implementation of this proposed Rule will have no known or foreseeable effect on the functioning of the family.
4. The implementation of this proposed Rule will have no known or foreseeable effect on the family earnings and family budget.
5. The implementation of this proposed Rule will have no known or foreseeable effect on the behavior and personal responsibility of children.
6. The implementation of this proposed Rule will have no known or foreseeable effect on the ability of the family or local government to perform this function.

Poverty Impact Statement

The implementation of this proposed Rule should not have any known or foreseeable impact on child, individual, or family poverty in relation to individual or community asset development as defined by R.S. 49:973. Specifically,

1. The implementation of this proposed Rule will have no known or foreseeable effect on household income, assets, and financial security.
2. The implementation of this proposed Rule will have no known or foreseeable effect on early childhood development and preschool through postsecondary education development.
3. The implementation of this proposed Rule will have no known or foreseeable effect on employment and workforce development.
4. The implementation of this proposed Rule will have no known or foreseeable effect on taxes and tax credits.

5. The implementation of this proposed Rule will have no known or foreseeable effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

The implementation of this proposed Rule on small businesses, as defined in the Regulatory Flexibility Act, has been considered. The proposed Rule is not expected to have a significant adverse impact on small businesses. The department, consistent with health, safety, environmental, and economic welfare factors, has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of the proposed statutes while minimizing the adverse impact of the Rule on small businesses.

Provider Impact Statement

The implementation of this proposed rule change does not have any known or foreseeable impact on a provider as defined by House Concurrent Resolution No. 170 of the 2014 Regular Session of the Louisiana State Legislature. Specifically:

1. The implementation of this proposed Rule change does not have any known or foreseeable impact on the staffing level requirements or qualifications required to provide the same level of service.
2. The implementation of this proposed Rule change does not have any known or foreseeable impact on the total direct and indirect effect on the cost to a provider to provide the same levels of service.
3. The implementation of this proposed Rule change does not have any known or foreseeable impact on the overall effect on the ability of a provider to provide the same level of service.

Public Comments

All interested persons so desiring shall submit oral or written data, views, comments, or arguments no later than 20 days from the date of publication of this notice of intent to Mary Leah Coco, Associate Director, Tech Transfer and Training/LTRC, 4101 Gourrier Avenue Baton Rouge, LA 70808.

Shawn Wilson, Ph.D.
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Louisiana Transportation Research
Center (LTRC) Transportation
Training and Education Fund**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no estimated implementation costs or savings to state or local governmental units associated with the proposed amendments to the rule. The Department of Transportation and Development, Office of Engineering, proposes to amend Part XXVII, Chapter 1, of Title 70 entitled "LTRC Transportation Training and Education Fund", to allow for the fund to pay for the expenses of the maintenance and upkeep of the Louisiana Transportation Research Center (LTRC) building, not funded by Louisiana State University, in order to be consistent with the payment of the expenses for the maintenance and upkeep of the LTRC's Transportation and Training Education Center (TTEC)

building, and to remove the obsolete fund authorized account agents and fund accounting processes which are now inoperable, due to the closure of the fund checking account and implementation of the current LaGov processes which are systematically in place to cover all fund expenditures.

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 as a result of this proposed amendments to the rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no anticipated costs and/or economic benefits to directly affected persons or non-governmental groups as a result of this proposed amended rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment as a result of this proposed amendments to the rule.

Shawn Wilson, Ph.D.
Secretary
1911#006

John D. Carpenter
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Treasury
Office of the Treasurer**

**Fiscal Administrator Revolving Loan Fund
(LAC 71:IX.Chapter 1)**

In accordance with R.S. 39:1357 and the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that rulemaking procedures have been initiated by the Department of Treasury, Office of the Treasurer, to promulgate §101 Definitions, §103 Restricted Use of Funds, §105 Process for Obtaining Loan from the Fund, and §107 Loan Conditions and Repayment in Title 71 (Treasury—Public Funds), Part IX (State Assistance to Local Government) of the Administrative Code.

The proposed Rule applies to requests for loans by political subdivisions from the Fiscal Administrator Revolving Loan Fund for costs and expenses associated with fiscal administration. The proposed Rule will permanently implement the emergency rules implemented by the Treasurer on October 1, 2019. The proposed rules will define the restricted use of the Fiscal Administrator Revolving Loan Fund created by R.S. 39:1357, provide for the application process and the documents that political subdivisions must follow to obtain loans from the Fiscal Administrator Revolving Loan Fund, and the requirements for repayment of approved loans.

Title 71

TREASURY—PUBLIC FUNDS

Part IX. State Assistance to Local Government

Chapter 1. Fiscal Administrator Revolving Loan Fund

§101. Definitions

A. For the purpose of this Chapter, the following shall mean:

Application—formal request for a loan from the fund for the payment of fiscal administration costs.

Court—the state district court ordering the independent fiscal administration of the political subdivision and appointment of a fiscal administrator pursuant to R.S. 39:1351, et seq.

Estimated Costs—the estimated costs and expenses associated with the independent fiscal administration of the political subdivision, including, but not limited to, all costs and expenses incurred by the fiscal administrator, the legislative auditor, the attorney general, the state treasurer, and any other persons engaged in connection with the independent fiscal administration.

Fiscal Administration Costs—the actual costs and expenses associated with the independent fiscal administration of the political subdivision, including, but not limited to, all costs and expenses incurred by the fiscal administrator, the legislative auditor, the attorney general, the state treasurer, and any other persons engaged in connection with the independent fiscal administration.

Fiscal Administrator—the court appointed fiscal administrator pursuant to R.S. 39:1351, et seq.

Fund—the fiscal administrator revolving loan fund, as established in R.S. 39:1357.

Loan—maximum principal amount authorized to the political subdivision from the fund through a loan agreement to the department of treasury for the sole purpose of paying fiscal administration costs.

Loan Agreement—the executed evidence of indebtedness of the political subdivision to repay the loan from the fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1357.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Office of the Treasurer, LR 46:

§103. Restricted Use of Funds

A. The monies within the fund shall only be used for the purpose of paying the costs and expenses associated with the independent fiscal administration of the political subdivision. Such costs and expenses shall include, but not be limited to, all costs and expenses incurred by the fiscal administrator, the legislative auditor, the attorney general, the state treasurer, and any other persons engaged in connection with the independent fiscal administration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1357.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Office of the Treasurer, LR 46:

§105. Process for Obtaining Loan from the Fund

A. After passing the resolution or ordinance as described in R.S. 39:1357(E) and (F), the political subdivision shall transmit an application to the legislative auditor. The application shall be in the form established by the department of treasury.

B. Such application should contain the following:

1. name of the public entity, including:
 - a. names of chief administrative officer and board/council members;
 - b. physical address;
 - c. mailing address;
 - d. email of chief administrative officer; and
 - e. phone number.

2. name of fiscal administrator, including:
 - a. physical address;
 - b. mailing address;
 - c. email;
 - d. phone number;
 - e. date of appointment; and
 - f. certified copy of court order appointing fiscal administrator.

3. a copy of the written report required to be prepared under R.S. 39:1352(B)(1). In the event that the written report has not yet been prepared or was prepared more than a year prior to the application, the application shall contain an estimate of the revenues and expenditures of the political subdivision for the remainder of its current fiscal year and the following fiscal year.

4. current budget of the political subdivision with projected expenditures to fiscal year end;
5. financial statements of the political subdivision;
6. a list of current creditors showing existing balances and payment schedules;
7. a list of assets not identified in financial statements;
8. a list of insurance policies, including insurance company name, policy numbers, and type of insurance;
9. sources of funds and evidence of ability to repay the loan requested by this application;
10. anticipated date for end of fiscal administration;
11. the estimated costs as determined by the political subdivision and fiscal administrator; and
12. the requested maximum principal amount of loan.

C. The legislative auditor in its review and approval of the application shall ensure all financial information is included in the application.

D. Upon approval of the application, the legislative auditor shall forward the application to the state treasurer and attorney general for their review and approval.

E. Upon receiving the approval of the application from the legislative auditor, state treasurer, and attorney general, the attorney general shall file a motion to approve the application with the court.

F. Following issuance of an order by the court approving the political subdivision's application, the political subdivision shall submit, in addition to the requirements of the state bond commission, the following to the state bond commission for its review and approval:

1. the application;
2. a copy of the approvals of the state treasurer, attorney general, legislative auditor, and fiscal administrator;
3. a certified copy of the court order approving the application;
4. a draft of the proposed loan agreement to secure repayment of the loan from the fund;
5. proof of publication of the resolution or ordinance in the official journal of the political subdivision as required in R.S. 39:1357(F); and
6. a copy of a resolution or ordinance adopted by the political subdivision authorizing the fiscal administrator to execute a loan agreement with the department of treasury on behalf of the political subdivision for a loan from the fund setting forth the following:
 - a. maximum principal amount under the loan;
 - b. maximum interest rate;

- c. maximum term of the loan;
- d. repayment schedule of the loan;
- e. security for the loan, if any;
- f. any redemption features of the loan agreement, including a maximum redemption premium, if any.

G. Upon approval from the state bond commission, the fiscal administrator on behalf of the political subdivision shall execute a loan agreement with the department of treasury containing the details set forth in the application and the adopted resolution or ordinance.

H. Payments from the fund shall be made by the department of treasury upon receipt of invoices from the fiscal administrator, approved by the legislative auditor. Such payments shall not exceed the maximum principal amount as established in the loan agreement.

I. Payments from the fund shall be made in the order of approval by the bond commission, absent circumstances where the department of treasury determines that an emergency exists or where the fiscal review committee has adopted a motion prioritizing payments from the fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1357.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Office of the Treasurer, LR 46:

§107. Loan Conditions and Repayment

A. Each loan shall be evidenced by a loan agreement on a form prescribed or approved by the department of treasury.

B. The interest rate on each loan shall be established by the department of treasury and shall be an interest rate that is less than or equal to the market interest rate.

C. The political subdivision shall tender payments to the department of treasury in accordance with the repayment schedule set forth in the loan agreement.

D. The department of treasury shall credit any payments received to the fund for additional lending under this Chapter.

E. The department of treasury may by suit, action, mandamus, or other proceedings, protect and enforce any covenant relating to and the security provided in connection with any indebtedness issued pursuant to R.S. 39:1357, and may by suit, action, mandamus, or other proceedings enforce and compel performance of all of the duties required to be performed by the governing body or officials of any political subdivision hereunder and in any proceedings authorizing the issuance of the loan agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1357.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Office of the Treasurer, LR 46:

Family Impact Statement

In accordance with Section 953 and 972 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal, or amendment.

1. The effect on the stability of the family. We anticipate no effect on the stability of the family.

2. The effect on the authority and rights of parents regarding the education and supervision of their children. We anticipate no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect on the functioning of the family. We anticipate no effect on the functioning of the family.

4. The effect on family earnings and the family budget. We anticipate no effect on family earnings and the family budget.

5. The effect on the behavior and personal responsibility of children. We anticipate no effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed rule. We anticipate no effect on the ability of the family to perform the function as contained in the proposed rule. We anticipate that the proposed rule will assist local governments with obtaining needed financing for fiscal administration costs.

Poverty Impact Statement

In accordance with Section 953 and 973 of Title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, repeal, or amendment.

1. The effect on household income, assets, and financial security. We anticipate no effect on household income, assets, and financial security.

2. The effect on early childhood development and preschool through postsecondary education development. We anticipate no impact on early childhood development or preschool through postsecondary education development.

3. The effect on employment and workforce development. We anticipate no impact on employment and workforce development.

4. The effect on taxes and tax credits. We anticipate no impact on taxes or tax credits.

5. The effect on child and dependent care, housing, healthcare, nutrition, transportation, and utilities assistance. We anticipate no effect on child and dependent care, housing, healthcare, nutrition, transportation, and utilities assistance.

Provider Impact Statement

In accordance with House Concurrent Resolution No. 170 of the Regular Session of the 2014 Legislature, there is hereby submitted a Provider Impact Statement on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, the following effects on the providers of services to individuals with developmental disabilities.

1. The effect on the staffing level requirements or qualifications required to provide the same level of service. We anticipate no effect on the staffing level requirements or the qualifications for that staff to provide the same level of service.

2. The total direct and indirect effect on the cost to the provider to provide the same level of service. We anticipate no impact on the total direct and indirect effect on the cost to the provider to provide the same level of service.

3. The overall effect on the ability of the provider to provide the same level of service. We anticipate no effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments to Renee Free, Department of Treasury, Office of the Treasurer, P.O. Box 44154 Baton Rouge, LA 70804, or by email to RFree@treasury.la.gov. Ms. Free is responsible for responding to inquiries regarding this proposed Rule. The

deadline for receipt of all written comments is Noon CST on Tuesday, December 10, 2019.

John M. Schroder
State Treasurer

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Fiscal Administrator Revolving Loan Fund

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule may create a marginal increase in additional workload for the legislative auditor, the attorney general and state treasurer. Costs associated with any additional workload may be funded by the Fiscal Administrator Revolving Loan Fund or absorbed within existing resources.

The proposed rule defines the restricted use of the Fiscal Administrator Revolving Loan Fund created by R.S. 39:1357, the process political subdivisions must follow for obtaining loans from the Fund, and the requirements for repayment of approved loans. The proposed rule will provide a mechanism for political subdivisions to enter into a loan agreement with the State to borrow monies from the Fiscal Administrator Revolving Loan Fund in order to pay the costs incurred by the court appointed fiscal administrator. The costs incurred by the political subdivision will increase by an indeterminable amount based on length of time a fiscal administrator is appointed, the scope of the work outlined by such administrator, and the magnitude of the political subdivision's fiscal crisis.

The political subdivision will be required to sign a promissory note whose terms will include an interest payment at a rate determined by the treasurer in accordance with R.S. 39:1357(E).

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will allow political subdivisions who are prohibited from receiving state appropriated funds, or federal assistance which passes through the state pursuant to R.S. 39:72.1 until a fiscal administrator is appointed by the court, a means to borrow funds to pay all cost and expenses associated with a court appointed fiscal administrator. The political subdivision will repay borrowed funds to the state at an interest rate determined by the treasurer in accordance with R.S. 39:1357(E).

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule will directly affect the ability of municipalities to address public health, safety and welfare, including issues concerning urgent needed repairs to public water systems. Citizens of impacted political subdivisions may realize economic benefits afforded through stabilized health and safety services.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change is not anticipated to have a direct effect on competition or employment, although stabilizing the fiscal situation of political subdivisions may create enhanced competition and employment opportunities in impacted communities.

Nancy Keaton
Chief of Staff
1911#031

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

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

**Restriction of All Oyster Harvesting on Four New Reefs
(LAC 76:VII.537)**

Notice is hereby given in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 56:332(N), that the Wildlife and Fisheries Commission proposes to amend LAC 76:VII.537 to designate and set aside four new artificial reef sites as recreational reefs, restricting all harvest of oysters.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 5. Oysters

**§537. Establishment of Recreational Reef Sites and
Restriction of Oyster Harvest**

A. The Wildlife and Fisheries Commission hereby establishes the following recreational reef sites as that area within the following coordinates (North America Datum 1983).

1. - 29. ...

- 30. Lake Borgne Reef-Saint Bernard Parish
 - a. 30 degrees 04 minutes 20.28 seconds N
89 degrees 35 minutes 10.32 seconds W
 - b. 30 degrees 04 minutes 20.28 seconds N
89 degrees 35 minutes 02.76 seconds W
 - c. 30 degrees 04 minutes 13.8 seconds N
89 degrees 35 minutes 09.96 seconds W
 - d. 30 degrees 04 minutes 13.80 seconds N
89 degrees 35 minutes 02.40 seconds W
- 31. Grand Banks Reef-Saint Bernard Parish
 - a. 30 degrees 08 minutes 53.16 seconds N
89 degrees 22 minutes 55.56 seconds W
 - b. 30 degrees 08 minutes 53.52 seconds N
89 degrees 22 minutes 48.00 seconds W
 - c. 30 degrees 08 minutes 46.68 seconds N
89 degrees 22 minutes 55.38 seconds W
 - d. 30 degrees 08 minutes 47.04 seconds N
89 degrees 22 minutes 48.00 seconds W
- 32. Cabbage Reef-Saint Bernard Parish
 - a. 30 degrees 08 minutes 02.76 seconds N
89 degrees 14 minutes 53.52 seconds W
 - b. 30 degrees 08 minutes 02.76 seconds N
89 degrees 14 minutes 45.96 seconds W
 - c. 30 degrees 07 minutes 55.92 seconds N
89 degrees 14 minutes 53.16 seconds W
 - d. 30 degrees 07 minutes 56.28 seconds N
89 degrees 14 minutes 45.60 seconds W
- 33. West Karako Bay Reef-Saint Bernard Parish
 - a. 30 degrees 01 minutes 03.36 seconds N
89 degrees 16 minutes 32.88 seconds W
 - b. 30 degrees 01 minutes 03.36 seconds N
89 degrees 16 minutes 25.32 seconds W
 - c. 30 degrees 00 minutes 56.52 seconds N
89 degrees 16 minutes 32.52 seconds W
 - d. 30 degrees 00 minutes 56.88 seconds N
89 degrees 16 minutes 25.32 seconds W

B. No person shall harvest oysters from these recreational reefs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:805.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 41:1309 (July 2015), amended LR 43:91 (January 2017), LR 45:

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent and final Rule, including but not limited to, the filing of the Fiscal and Economic Impact Statement, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Family Impact Statement

In accordance with Act 1183 of 1999 Regular Session of the Louisiana Legislature, the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent. This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Provider Impact Statement

This Rule has no known impact on providers as described in HCR 170 of 2014.

Public Comments

Interested persons may submit written comments relative to the proposed Rule to Ashley Ferguson, Marine Fisheries Biologist DCL-A, Fisheries Extension Section, P. O. Box 98000, Baton Rouge, LA 70898, or via email to aferguson@wlf.la.gov prior to January 2, 2020.

Alfred R. Sunseri
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Restriction of all
Oyster Harvesting on Four New Reefs**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There are no direct, material anticipated implementation costs or savings to the Department of Wildlife & Fisheries or to state or local government units as a result of the proposed rule change to prohibit the commercial harvest of oysters from four proposed public fishing reefs to be established in the coastal waters of Saint Bernard Parish.

Investigative and enforcement costs are not anticipated to increase the budget for those activities stemming from the four new proposed public fishing reefs.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

The potential increase in revenue to LDWF is not anticipated to be material. Any increase in revenue will be a result of fines and fees levied against those persons engaged in the illegal commercial harvesting of oysters on the artificial reefs.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

To the extent that commercial fishermen are currently using the portion of public land to be incorporated into this protected area, this rule change will effect them. It will reduce the over 650 square mile area available for public oyster harvest in the region by approximately 40 acres. LDWF has conducted studies and scans of the area to ensure that the placement of these artificial reefs will be on water bottoms that are currently considered to be unsuitable habitat for the growth and harvesting of oysters. Because little of the water bottoms to be incorporated within the public fishing reefs are currently

suitable for oyster production, the effect on commercial oyster harvesting is expected to be minimal.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment as a result of the rule change.

Bryan McClinton
Undersecretary
1911#022

Evan Brasseaux
Staff Director
Legislative Fiscal Office

Committee Reports

COMMITTEE REPORT

House of Representatives Committee on Ways and Means

Proposed Emergency Rule CBD Product Public Safety Regulations

Editor's Note: This Emergency Rule can be viewed on pages 1155-1162 in the September 20, 2019 edition of the *Louisiana Register*.

November 8, 2019

Pursuant to the provisions of R.S. 49:953, the House Committee on Ways and Means and the Senate Revenue and Fiscal Affairs Committee held a joint meeting on November 6, 2019, to consider the CBD Product Public Safety Regulations emergency rule promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control on September 11, 2019 relating to Act 164 of 2019.

The House Committee on Ways and Means found the proposed emergency rule unacceptable with respect to the Office of Alcohol and Tobacco Control's regulatory authority over any hemp derived products that do not contain CBD. During the joint meeting, both committees present reviewed the provisions of Act 164 that confine the regulatory

authority of the Office of Alcohol and Tobacco Control to "industrial hemp-derived CBD products". The term "industrial hemp-derived CBD products" is defined in Act 164 as "any industrial hemp-derived product or hemp-derived product that contains CBD intended for consumption or topical use".

The committee members examined the phrase "that contains CBD intended for consumption or topical use" from the act and discussed that the phrase modifies the entire definition of "industrial hemp-derived CBD product". The committee clarified that Office of Alcohol and Tobacco Control's regulatory authority encompasses (1) industrial hemp-derived products that contain CBD intended for consumption or topical use and (2) hemp-derived products that contain CBD intended for consumption or topical use.

In accordance with the powers conferred to the committee in the Administrative Procedure Act by R.S. 49:953(B)(4)(a) and 968(D)(3)(a), the committee determined the rule was not in conformity with the intent and scope of the enabling legislation, Act 164. Specifically, the Office of Alcohol and Tobacco Control's regulatory authority was not intended to include industrial hemp-derived products alone.

Representative Neil C. Abramson
Chairman

1911#067

Potpourri

POTPOURRI

Department of Agriculture and Forestry Agricultural Chemistry and Seed Commission

Notice of Public Hearing
Substantive Changes to Proposed Rule:
Agricultural Chemistry and Seed Commission
Industrial Hemp (LAC 7:XIII.Chapter 13)

In accordance with the Administrative Procedure Act, R.S. 49:950, et seq., and pursuant to the authority set forth in R.S. 3:1461 et seq., the Department of Agriculture and Forestry (“Department”) published a Notice of Intent to adopt LAC 7:XIII.1301-1343 regarding the regulation, licensure, and enforcement of the cultivation, processing, and transportation of industrial hemp in the October 20, 2019 edition of the *Louisiana Register*. The Department intends to amend LAC 7:XIII.1303, 1305, 1307, 1309, 1311, 1313, 1315, 1319, 1321, 1327, 1329, 1333, 1335, 1337, and 1341 of the original Notice of Intent by making substantive changes to comply with federal rules and regulations. Additionally, Section 1332 was added to comply with USDA reporting requirements. The following changes are to be incorporated into the Notice of Intent:

Title 7

AGRICULTURE AND ANIMALS

Part XIII. Seeds

Chapter 13. Industrial Hemp

§1303 Definitions

A. - B. ...

Acceptable Industrial Hemp THC Level—when the application of the measurement of uncertainty to the reported delta-9 tetrahydrocannabinol content concentration level on a dry weight basis produces a distribution range that includes 0.3 percent or less.

Certificate of Analysis—an official document issued by a laboratory approved by LDAF which includes, along with other sample information, the unique sample number and THC level test results of the submitted sample.

Controlled Substances Act (“CSA”) —The Controlled Substances Act as codified in 21 U.S.C. 801 et seq.

Delta-9-THC A (“THC-A”)—delta-9-tetrahydrocannabinolic acid.

Denude—Repealed.

Guarantor—an individual, partnership, corporation, company, association, or other legal entity whose name appears on the analysis label of industrial hemp seed.

Key Participants—any person who has a financial interest in the business entity, including but not limited to, members of a limited liability company, a sole proprietor, partners in a partnership, and incorporators or directors of a corporation. A key participant also includes persons at executive levels including but not limited to chief executive officer, chief operating officer, and chief financial officer. A key participant does not include non-executive managers such as farm, field, or shift managers.

Measurement of Uncertainty—the parameter, associated with the result of a measurement, that characterizes the dispersion of the values that could reasonably be attributed to the particular quantity subject to measurement.

Negligence—failure to exercise the level of care that a reasonably prudent person would exercise in complying with the requirements set forth in this Part.

Nonviable Seed—Repealed.

Site Modification Request—Repealed.

USDA—United States Department of Agriculture

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1462 and R.S. 3:1464.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 46:

§1305. Licensing

A. ...

B. Each licensee shall be assigned a license number in the form prescribed by the USDA.

C. The effective dates of all industrial hemp licenses shall be January 1 through December 31 of any given year, and licenses must be renewed annually. Applications for industrial hemp licenses may be submitted to LDAF at any time during the year, and are effective upon approval by LDAF through the end of that year.

D. Applications shall be handled and processed by LDAF and reviewed for approval or denial. Upon completion of the review process, the applicant will be notified of the application status.

E. The licensee shall be responsible for the cost of all licenses and sample testing fees.

F. No unlicensed person who is not employed by a licensee shall grow, cultivate, handle, store, process, or commence transporting industrial hemp at any location within Louisiana. No licensee shall allow any unlicensed person who is not an employee of that licensee to grow, cultivate, handle, store, process, or transport industrial hemp under his or her license.

G. No person under the age of 18 years of age shall be granted a license under this Chapter.

H. No person shall be eligible to obtain a license if the applicant:

1. was convicted of a felony within the ten years immediately preceding the application date.

2. was convicted of a drug-related misdemeanor conviction within the two years immediately preceding the application date;

3. fails to provide all application requirements and documentation; or

4. materially falsifies any information contained in the application.

I. A person applying for multiple licenses must complete a license application and submit the associated fee for each application.

J. The licensee shall submit to LDAF in writing any requests for license modification if there is any change to the information submitted in the application including but not limited to: sale of a business, a change in the key participants producing under a license, or any modifications to any information concerning the licensee's approved fields, greenhouses, indoor growing structures, or any other sites where that licensee stores, processes or handles industrial hemp plants or plant parts. Requests for license modifications shall be submitted to LDAF within 15 days of any change of the information submitted in the application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1462, R.S. 3:1464, and R.S. 3:1465.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 46:

§1307. Seed Producer License

A. - D.4.d. ...

e. the full name, title, and email address of all key participants of the business entity;

f. the full name and mailing address of the registered agent; and

g. the employer identification number.

D.5. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1462, R.S. 3:1464, and R.S. 3:1465.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 46:

§1309. Grower License

A. - C.4.d. ...

e. the full name, title, and email address of all key participants of the business entity;

f. the full name and mailing address of the registered agent; and

g. the employer identification number.

C.5. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1462, R.S. 3:1464, and R.S. 3:1465.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 46:

§1311. Processor License

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

e. the full name, title, and email address of the key participants of the business entity;

f. the full name and mailing address of the registered agent; and

g. the employer identification number.

B.3. ...

C. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1462, R.S. 3:1464, and R.S. 3:1465.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 46:

§1313. Contract Carrier License

A. - C.2.d. ...

e. the full name, title, and email address of the key participants of the business entity;

f. the full name and mailing address of the registered agent; and

g. the employer identification number.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1462, R.S. 3:1464, and R.S. 3:1465.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 46:

§1315. Criminal Background Check

A. ...

B. If the applicant is a business entity, the individual applying for a license, the designated responsible party, and all key participants shall undergo and pay for an annual criminal background check.

C. - C.3. ...

D. LDAF shall not accept a criminal background check report that was issued more than 60 days prior to submission of the application.

E. ...

F. For business entities, substitution of a designated responsible party shall require the submission of a current criminal background check report for the proposed substituted designated responsible party issued within the last 60 days. Licensee must obtain prior written approval from LDAF for the substitution of a designated responsible party.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1464 and R.S. 3:1465.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 46:

§1319. Requirements for Seed Producers and Growers

A. - B. ...

C. A licensee shall submit in writing a completed Harvest/Destruction report to LDAF prior to the intended harvest date or intended destruction date of a failed crop.

D. A licensee shall submit in writing a completed planting report to LDAF for each field, greenhouse, or indoor growing structure within 15 days commencing after the first day of the planting of industrial hemp. The completed planting report shall include, but not limited to, the licensee's USDA Farm Service Agency site identification number.

D.1. ...

E. Representatives of LDAF shall be provided with complete and unrestricted access to all industrial hemp plants, whether growing or harvested, and all land, buildings, and other structures used for the cultivation, handling, and storage of all industrial hemp plants and all locations listed in the license application.

F. ...

G. Repealed.

H. An industrial hemp crop planted or cultivated in a field, greenhouse, or indoor growing structure shall be planted or cultivated in a manner to allow LDAF to collect a representative sample throughout the entire crop. If a crop is not planted or cultivated in such a manner that allows for the collection of a sample throughout the entire crop, then the grower shall make modifications to the crop to allow collection and sampling throughout the entire crop.

I. A licensee shall destroy any unharvested industrial hemp plants contained in a field, greenhouse, or indoor growing structure or any portion thereof resulting from crop failure or that licensee's failure to harvest for any reason. LDAF shall approve the written destruction method of the unharvested industrial hemp plants.

J. A licensee shall monitor and destroy volunteer industrial hemp plants from the licensee's cultivation for a period of three years after cultivation ends.

K. A licensee who fails to timely submit a Harvest/Destruction Report or who harvests a crop prior to a sample being collected by LDAF may be subject to crop destruction and regulatory action up to and including license revocation.

L. Licensed seed producers and growers shall report industrial hemp crop acreage or square footage to the USDA Farm Service Agency and shall provide, at a minimum, the following information:

1. street address and, to the extent practicable, GPS location for each field, greenhouse, or indoor growing structure where industrial hemp will be cultivated;
2. acreage or square footage for each field, greenhouse, or indoor growing structure dedicated to the cultivation of industrial hemp; and
3. LDAF license number.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1464, R.S. 3:1467, and R.S. 3:1468. HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 46:

§1321. Seed Acquisition and Approval

A. - D. ...

E. The guarantor of industrial hemp seed, except persons exempt pursuant to the authority of the Louisiana Seed Law (R.S. 3:1445), who sells, transports, distributes, or offers or handles for sale industrial hemp seed shall have a complete analysis test performed on the seed by a registered seed technologist or an official state seed analyst prior to the seed being sold, distributed, offered, or handled for sale in Louisiana.

F. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1431, R.S. 3:1436, R.S. 3:1445, 3:1463, R.S. 3:1464, R.S. 3:1465, and R.S. 3:1466.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 46:

§1327. Prohibitions

A. - A.11. ...

12. Commingle harvested industrial hemp plant parts from one plot with harvested industrial hemp plant parts from another plot.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1464, R.S. 3:1465, R.S. 3:1466, R.S. 3:1467, R.S. 3:1468, R.S. 3:1470, and R.S. 3:1471.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 46:

§1329. Production Reports

A. Industrial hemp grower, seed producer, and processor licensees shall be required to maintain and submit annual production reports to LDAF on forms provided by LDAF by November 15.

A.1. ...

- a. acreage or square footage planted, harvested, or destroyed;
- b. planting date, harvested date, and varieties grown;
- c. type of industrial hemp plant grown or marketed, including its actual end-use as fiber, seeds, oil, or other uses;
- d. Total amount of industrial hemp sold for processing;
- e. Total dollar value of industrial hemp sold for processing; and
- f. Current industrial hemp plant parts in storage and location of that storage.

A.2. - A.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1464 and R.S. 3:1466.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 46:

§ 1332. Reporting to USDA

A. LDAF shall submit to USDA a report providing the contact information and the status of the license issued for each grower and seed producer. The report shall be submitted by the first of each month. If the first of the month falls on a weekend or holiday, the report is due by the first business day following the due date. The report shall be submitted using a digital format compatible with USDA's information sharing systems, whenever possible. The report shall contain the following information:

1. For each new licensee that is an individual, the report shall include:
 - a. the full name of the individual;
 - b. the license number and status;
 - c. the business address;
 - d. telephone number and email address (if applicable); and
 - e. a legal description and GPS coordinates for each field, greenhouse, indoor growing structure, or site where industrial hemp will be cultivated, handled, or stored .

2. For each new licensee that is a business entity, the report shall include:
 - a. the full name of the business entity;
 - b. the principal business location address;
 - c. license number and status;
 - d. the full name, title, and email address (if applicable) of each person for whom the entity is required to submit a criminal background check; and
 - e. a legal description and GPS coordinates for each field, greenhouse, indoor growing structure, or site where industrial hemp will be cultivated, handled, or stored.

3. For each licensee that was included in a previous report and whose reported information has changed, the report shall include the previously reported information and the new information, including the following:

- a. The status of each grower and seed producer's license;
- b. The period covered by the report;
- c. Indication that there were no changes during the current reporting cycle, if applicable.

B. LDAF shall submit to USDA a report notifying USDA of any occurrence industrial hemp plants or plant parts that exceed the acceptable industrial hemp THC level by the first of each month. If the first of the month falls on a weekend or holiday, the report is due by the first business day following the due date. The report shall be submitted using a digital format compatible with USDA's information sharing systems, whenever possible. The report shall contain the following information:

- 1. The name and address of the licensee;
- 2. Producer license number;
- 3. Location information, such as lot number, location type, and GPS or other location descriptor for the production area subject disposal;
- 4. Information on the agent handling the disposal;
- 5. Disposal completion date;
- 6. Total acreage; and
- 7. Laboratory test results.

C. LDAF shall report to USDA, using a digital format compatible with USDA's information sharing systems, whenever possible, the following information for each sample of industrial hemp tested:

- 1. license number of licensee;
- 2. name of licensee;
- 3. business address of licensee;
- 4. lot identification number for the sample;
- 5. name and DEA registration number of laboratory;
- 6. date of test and report;
- 7. identification of retest; and
- 8. test result.

D. LDAF shall submit an annual Report to USDA, using a digital format compatible with USDA's information sharing systems, whenever possible, by December 15 of each year and the report shall contain the following information:

- 1. total planted acreage;
- 2. total harvested acreage; and
- 3. total acreage disposed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1464.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 46:

§1333. Site Access and Compliance

A. ...

B. LDAF shall conduct inspections, at least annually, of a random sample of licensees to verify that industrial hemp is not being produced in violation of this R.S. 3:1461 et seq., or this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1464 and R.S. 3:1468.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 46:

§1335. THC Sampling and Testing

A. - C. ...

1. Licensees shall submit a Harvest/Destruction Report for each field, greenhouse or indoor growing structure to LDAF prior to harvesting any industrial hemp plants.

2. LDAF will attempt to notify the licensee of the date and approximate time when samples will be collected.

3. The licensee or designated responsible party shall be present during the sample collection.

4. LDAF will collect samples from each plot within any field, greenhouse, or indoor growing structure.

5. LDAF may retain and transport samples of industrial hemp plants and plant parts collected from an industrial hemp licensee as required by the Industrial Hemp Law (R.S. 3:1461 et seq.) and this Chapter.

6. All samples collected by LDAF become the property of the Department and are non-returnable. No compensation shall be owed by LDAF for samples collected under this Chapter.

7. The licensee shall not harvest industrial hemp plants or plant parts prior to samples being collected by LDAF.

8. The licensee shall harvest industrial hemp plants or plant parts within 15 days of the sample collection by LDAF, unless an exception is authorized in writing by LDAF. Should a licensee fail to complete harvest within 15 days and no exception was authorized by LDAF, a resample and retest of the plot shall be performed and the licensee shall be assessed an additional testing fee per sample in an amount not to exceed \$250.00 per sample.

D. ...

1. Quantitative determination of THC levels measured using liquid chromatography with ultraviolet detection (LC-UV) or mass spectral detection if required by matrix interference (LC/MS/MS) shall be the accepted analytical technique to avoid the risk of incomplete decarboxylation, therefore, removing the need for any post-decarboxylation.

2. The testing methodology shall consider the potential conversion of THC-A in industrial hemp into THC and the test result shall measure the total available THC derived from the sum of the THC and THC-A content. Appropriately, the THC-A result will be modified by the molecular weight conversion factor 0.877 prior to summation with THC. The total THC concentration level shall be reported on a dry weight basis.

3. Analytical testing for purposes of detecting the concentration levels of THC shall meet the following standards:

- a. laboratory quality assurance must ensure the validity and reliability of test results;

- b. analytical method selection, validation, and verification must ensure that the testing method used is appropriate (fit for purpose), and that the laboratory can successfully perform the testing;

- c. the demonstration of testing validity must ensure consistent, accurate analytical performance;

d. method performance specifications must ensure analytical tests are sufficiently sensitive for the purposes of detectability requirements of this Part;

e. an effective disposal procedure in accordance with DEA regulations for samples of industrial hemp plants and industrial hemp plant parts that do not meet the requirements of R.S. 3:1461 et seq. or this Part.

f. the measurement of uncertainty shall be estimated and reported with the results.

4. All testing of industrial hemp samples shall be conducted by a laboratory approved by LDAF and registered with the DEA.

5. The results of the THC analysis shall be reported to the licensee and, if tested by an approved third party laboratory, to LDAF.

6. Samples with a THC concentration that do not exceed the acceptable industrial hemp THC level shall be issued a certificate of analysis and require no further action. The plot or harvested plant material from which the sample was obtained shall be released for marketing or further processing.

7. Samples that exceed the acceptable industrial hemp THC level shall be reported by LDAF to the licensee and the licensee may request a resample and retest of the plot or harvested plant material. If no request is made within 10 days of the sample results being reported to the licensee, or the retested sample results exceed the acceptable industrial hemp THC level, then the plot or harvested plant material from which the sample was taken shall be subject to destruction as set forth in Section 1337.

8. No industrial hemp plants or plant parts for which a THC analysis is pending shall be transferred, transported, sold, marketed, or otherwise disposed of until approved by LDAF.

§1337. Destruction

A. All industrial hemp plant parts resulting from a plot or harvested plant material represented by a sample with a THC concentration greater than the acceptable industrial hemp THC level shall be:

1. prohibited from being further handled, processed, or entering the stream of commerce;

2. collected for destruction by a person authorized under the CSA to handle marijuana, such as a DEA-registered reverse distributor, or a duly authorized federal, state or local law enforcement officer; and

3. destroyed in accordance with CSA and DEA regulations. The method of destruction shall be approved by LDAF.

B. The licensee shall submit a completed Harvest/Destruction Report to LDAF prior to destruction.

C. Repealed.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1462, R.S. 3:1464, R.S. 3:1467, and R.S. 3:1468.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 46:

§1341. Corrective Action Plan for Negligent Violations and Mandatory Reporting

A. - A.2. ...

3. Producing industrial hemp exceeding the acceptable hemp THC level. A person that has made reasonable efforts

to grow industrial hemp and produces industrial hemp of containing less than 0.5 percent THC on a dry weight basis shall not be deemed to have committed a negligent violation.

B. - B.2. ...

C. LDAF shall conduct an inspection to determine if the corrective action plan has been implemented as submitted.

D. A person who is found by LDAF to have negligently violated R.S. 3:1461 et seq. and this Chapter three times in a five-year period shall be ineligible to hold an industrial hemp license for a period of five years beginning on the date of the third violation.

E. A person that has negligently violated R.S. 3:1461 et seq. and this Chapter shall not be reported to local, state, or federal government authorities for criminal enforcement action.

F. LDAF shall report a person who is found by LDAF to have violated R.S. 3:1461 et seq. and this Chapter with a culpable mental state greater than negligence to the USDA, United States Attorney General, and the Louisiana Attorney General within 30 days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1464.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 46:

Public Hearing

In accordance with R.S. 49:968(H)(2), a public hearing on the proposed substantive changes will be held on December 20, 2019 at 9:00 a.m., at the Department of Agriculture and Forestry in the Veterans' Memorial Auditorium, 5825 Florida Boulevard, Baton Rouge, LA 70806. Interested persons may submit written comments, data, opinions and arguments regarding the proposed substantive changes. Written submissions must be directed to Dr. Angela Guidry, Industrial Hemp Program Coordinator, Department of Agriculture & Forestry, 5825 Florida Blvd., Baton Rouge, LA 70806 and must be received no later than 4:30 p.m. on the 20th day of December, 2019.

Mike Strain, DVM
Commissioner

1911#046

POTPOURRI

Department of Agriculture and Forestry Board of Veterinary Medicine

Board Nominations, Meeting Dates, and Scheduled Exams

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 January 2020. 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.

Spring/Summer Examination Dates

The Louisiana Board of Veterinary Medicine will administer the state board examination (SBE) for licensure to practice veterinary medicine on the first Tuesday of every

month. Deadline to apply for the SBE is the third Friday prior to the examination date desired. SBE dates are subject to change due to office closure (i.e. holiday, weather).

The board will accept applications to take the North American veterinary licensing examination (NAVLE) which will be administered through the International Council For Veterinary Assessment (ICVA), formerly National Board Of Veterinary Medical Examiners (NBVME), and the National Board Examination Committee (NBEC), as follows:

| Test Window Date | Deadline to Apply |
|----------------------------------|-------------------|
| April 13 - April 25, 2020 | February 1, 2020 |
| Mid-November - Mid-December 2020 | August 1, 2020 |

The board will also accept applications to take the Veterinary Technician National Examination (VTNE), which will be administered through American Association Of Veterinary State Boards (AAVSB), for state registration of veterinary technicians as follows:

| Test Date | Deadline to Apply |
|---------------------------------|-------------------|
| November 15 – December 15, 2019 | October 15, 2019 |
| March 15 – April 15, 2020 | February 15, 2020 |
| July 15 – August 15, 2020 | June 15, 2020 |

Applications for all examinations must be received on or before the deadline. No late application will be accepted. Requests for special accommodations must be made as early as possible for review and acceptance. Applications and information may be obtained from the board office at 301 Main Street, Suite 1050, Baton Rouge, LA 70801, via telephone at (225) 342-2176, and by e-mail at admin@lsbvm.org; application forms and information are also available on the website at www.lsbvm.org.

Board Meeting Dates

The members of the Louisiana Board of Veterinary Medicine will meet at 8:30 a.m. on the following dates in 2020:

- Thursday, February 6, 2020
- Thursday, April 2, 2020
- Thursday, June 4, 2020 (Annual Meeting)
- Thursday, August 6, 2020
- Thursday, October 1, 2020
- Thursday, December 3, 2020

These dates are subject to change, so please contact the board office via telephone at (225) 342-2176 or email at admin@lsbvm.org to verify actual meeting dates.

Jared B. Granier,
Executive Director

1911#002

POTPOURRI

**Department of Civil Service
Board of Ethics**

Notice of Public Hearing

Under the authority of Act No. 454 of the 2018 Regular Session of the Louisiana Legislature, codified as La. R.S. 49:953(C)(2), and in accordance with the provisions of the Louisiana Administrative Procedure Act, RS. 49:950 et seq., the Department of Civil Service, Louisiana Ethics Administration Program gives notice that a public hearing will be held at its offices in the Conference Room, 10th floor of the LaSalle Office Building, 617 North Third Street, Baton Rouge, Louisiana, at 10 a.m. on December 19, 2019 for the purpose of receiving comments from all interested persons regarding any rule of the Louisiana Board of Ethics that the person believes is contrary to law, outdated, unnecessary, overly complex, or burdensome.

Interested persons are invited to attend the hearing and submit oral comments or written comments at the hearing. Comments must be received in writing in order to be submitted to the legislative oversight committees. Additionally, all interested persons are invited to submit written comments to Kristy Gary, Deputy Ethics Administrator, Louisiana Board of Ethics, P.O. Box 4368, Baton Rouge, LA 70821. All written comments must include the name and contact information of the person submitting the comments. Comments must be postmarked no later than Thursday, December 12, 2019.

If reasonable accommodations are required in order to participate in the hearing, please contact the Deputy Ethics Administrator at 225-219-5600 at least five days prior to the scheduled hearing.

Kathleen M. Allen
Ethics Administrator

1911#068

POTPOURRI

**Office of the Governor
Coastal Protection and Restoration Authority**

Notice of Availability of the Deepwater Horizon Oil Spill Louisiana Trustee Implementation Group Draft Restoration Plan #1.3 and Environmental Assessment: Rabbit Island Restoration and Shoreline Protection at Jean Lafitte Historical National Park and Preserve

Action Notice of Availability

Summary In accordance with the Oil Pollution Act of 1990 (OPA), the National Environmental Policy Act of 1969 (NEPA), the Final Programmatic Damage Assessment Restoration Plan and Final Programmatic Environmental Impact Statement (Final PDARP/PEIS), and the Consent Decree, the Federal and State natural resource trustee

agencies for the Louisiana Trustee Implementation Group (LA TIG) have prepared the Louisiana Trustee Implementation Group Draft Restoration Plan/Environmental Assessment #1.3: Rabbit Island Restoration and Shoreline Protection at Jean Lafitte Historical National Park and Preserve (Phase 2 RP/EA #1.3) proposing construction activities to help restore injured resources under two restoration types identified in the Final PDARP/PEIS: “birds” and “habitat projects on federally managed lands”. The two projects were approved for engineering and design (E&D) in a 2017 restoration plan entitled Louisiana Trustee Implementation Group Final Restoration Plan #1: Restoration of Wetlands, Coastal, and Nearshore Habitats; Habitat Projects on Federally Managed Lands; and Birds (Phase 1 RP #1).

The Phase 2 RP/EA #1.3 analyzes design alternatives for the two projects and proposes a preferred design alternative for construction of each. The proposed Rabbit Island project would meet the goal of restoring and conserving birds by restoring 87.8 acres of the island’s original 200-acre footprint for bird habitat. This would be done by raising the elevation of Rabbit Island using dredged fill material from the Calcasieu Ship Channel as the borrow source area. The proposed Jean Lafitte project would protect the shoreline and provide conditions for submerged aquatic vegetation (SAV) to thrive, a nearly continuous rock breakwater would be implemented, with rock elbows protecting fish gaps and existing infrastructure along the eastern shorelines of Lake Cataouatche, Lake Salvador, and Bayou Bardeaux in the Jean Lafitte National Historical Park and Preserve. The northern portion of the rock breakwater would extend approximately 5.3 miles from Bayou Verret to tie into an existing riprap shoreline protection project at Lake Salvador near Couba Island with canal openings and pipeline right-of-way (ROW) access where needed. The southern portion of the proposed rock breakwater would tie into the southernmost end of the pre-existing riprap shoreline protection and extend approximately 2.2 miles to the area near Isle Bonne with pipeline ROW access where necessary. In Phase 2 RP/EA #1.3, the LA TIG is proposing to fund and implement only the southern portion at this time.

Dates

Submitting Comments: We will consider public comments on the draft Phase 2 RP/EA #1.3 received on or before December 20, 2019.

Public Webinar: The LA TIG will host a public webinar on December 2, 2019, at 4:00 p.m. CST. The public may register for the webinar at <https://attendee.gotowebinar.com/register/576465552592329228>.

After registering, participants will receive a confirmation email with instructions for joining the webinar. The presentation will be posted on the web shortly after the webinar is conducted.

Addresses

Obtaining Documents: You may download the draft Phase 2 RP/EA #1.3 from either of the following websites:

<https://www.la-dwh.com>

<https://www.gulfspillrestoration.noaa.gov/restoration-areas/louisiana>

Alternatively, you may request a CD of the draft Phase 2 RP/EA #1.3 (see For Further Information Contact). A hard copy of the Phase 2 RP/EA #1.3 is also available for review during the public comment period at 16 repositories located across the State.

Submitting Comments: You may submit comments on the draft Phase 2 RP/EA #1.3 by one of the following methods:

Via the Web: <http://www.gulfspillrestoration.noaa.gov/restoration-areas/louisiana>

Via U.S. Mail: U.S. Fish and Wildlife Service, P.O. Box 29649, Atlanta, GA 30345. To be considered, mailed comments must be postmarked on or before the comment deadline.

During the Public Webinar: Written comments may be provided by the public during the webinar.

For Further Information Contact Joann Hicks, CPRA, 225-342-5477

Administrative Record

The documents comprising the Administrative Record for the Phase 2 RP/EA #1.3 can be viewed electronically at <https://www.doi.gov/deepwaterhorizon/adminrecord>.

Authority

The authority for this action is the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.), its implementing NRDA regulations found at 15 CFR Part 990, the Louisiana Oil Spill Prevention and Response Act (La. R.S. 30:2451 et seq.), the implementing Natural Resource Damage Assessment Regulations found at La. Admin. Code 43:101 et seq., and NEPA (42 U.S.C. 4321 et seq.).

Lawrence B. Haase
Executive Director

1911#049

POTPOURRI

Office of the Governor
Department of Veterans Affairs

Notice of Public Hearing

Pursuant to Acts 2018, No. 454, codified as R.S. 49:953(C)(2) of the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana Department of Veterans Affairs hereby gives notice that a public hearing will be held on December 20, 2019, at the Louisiana Division of Administrative Law, 1020 Florida St. Baton Rouge, LA 70802, Room 201 at 9 a.m. The purpose of this hearing is to allow any interested person the opportunity to comment on any rule of the agency which the person believes is contrary to law, outdated, unnecessary, overly complex, or burdensome. Oral comments regarding the office’s rules will be considered, but in order to be submitted to the legislative oversight committees, the comment must be received in writing prior to the hearing and must include the name, contact information, and signature of the person submitting the comment. To request reasonable accommodations please call the Division at (225)342-1800. Written comments may be submitted to Julie Baxter Payer, Deputy Secretary,

Louisiana Department of Veterans Affairs, at 602 N. Fifth St,
Baton Rouge, LA 70802.

Julie Baxter Payer
Deputy Secretary

1911#024

POTPOURRI

**Office of the Governor
Licensing Board for Contractors**

Notice of Public Hearing

In compliance with Act 454 of the 2018 Regular Session of the Louisiana Legislature, codified as R.S. 49:953(C)(2), and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana State Licensing Board for Contractors will hold a hearing for the purpose of receiving comments on any rule of the Licensing Board, LAC Title 46, Part XXIX, Contractors, which any interested person believes is contrary to law, outdated, unnecessary, overly complex, or burdensome.

The hearing will take place at the offices of the Louisiana State Licensing Board for Contractors at 600 North Street, Baton Rouge, LA 70802 on December 19, 2019 at 9:30 a.m.

At the hearing, all interested persons will be afforded an opportunity to submit data, views, or arguments, either orally or in writing, regarding these rules only. The Louisiana State Licensing Board for Contractors Law will consider fully all written and oral comments. However, comments must be received in writing in order to be submitted to the legislative oversight committees. Written comments may be submitted in advance of the hearing to Judy Dupuy, Board Administrator, 600 North Street, Baton Rouge, LA 70802. All written comments must include the name, contact information and signature of the person submitting the comments and must be received no later than Wednesday, December 18, 2019.

To request reasonable accommodations for persons with disabilities, please contact Judy Dupuy, Board Administrator, at 225-763-3982 at least three business days prior to the scheduled hearing.

Michael McDuff
Executive Director

1911#010

POTPOURRI

**Department of Natural Resources
Office of Conservation**

Legal Notice of Public Hearing—RLI Insurance Company

Pursuant to provisions of the laws of the State of Louisiana, particularly Title 30 of the Louisiana Revised Statutes of 1950 as amended, and provisions of Statewide Order 29-B (LAC 43:XIX, Subpart 1), notice is hereby given that the Commissioner of Conservation will conduct a public

hearing at 9 a.m., Tuesday, December 17, 2019. The hearing will be held in the LaBelle Hearing Room, first floor, LaSalle Building, 617 North Third Street, Baton Rouge Louisiana.

At such hearing, the commissioner or his designated representative will give any interested person the opportunity to present testimony, facts, oral or written comments relative to a determination as to whether or not RLI Insurance Company is appropriate for providing financial security on behalf of Louisiana operators in compliance with Statewide Order 29-B (LAC 43:XIX, Subpart 1, Chapter 1, Section 104).

All persons having interest in the aforesaid shall take notice thereof.

In accordance with the Americans with Disabilities Act, if you need assistance at the hearing, please contact the Office of Conservation, Executive Division at 617 North Third Street, Baton Rouge, LA 70802 in writing no later than five working days prior to the hearing date.

Richard P. Ieyoub
Commissioner

1911#016

POTPOURRI

**Department of Natural Resources
Office of Conservation**

Legal Notice of Public Hearing—Yellow Rock, LLC

Pursuant to provisions of the laws of the State of Louisiana, particularly Title 30 of the Louisiana Revised Statutes of 1950 as amended, and provisions of Statewide Order 29-B (LAC 43:XIX, Subpart 1), notice is hereby given that the Commissioner of Conservation will conduct a public hearing at 11 A.M., Tuesday, December 17, 2019. The hearing will be held in the LaBelle Hearing Room, first floor LaSalle Building, 617 North Third Street, Baton Rouge Louisiana.

At such hearing, the Commissioner or his designated representative will give YELLOW ROCK, LLC the opportunity to show cause why the following Class II SWD well permits should not be revoked and to give any interested person the opportunity to present testimony, facts, oral or written comments relative to the revocation. The wells are identified as:

Yellow Rock, LLC (Y6303)
Fee SWD Well No. S-4, Serial Number 109963, and
Fee SWD Well No. S-7, Serial Number 110159
Sulphur Mines Field, Calcasieu Parish

Written comments must be received by the Office of Conservation, Injection & Mining Division, Attn: Stephen H. Lee, Director, 617 North Third Street, 8th Floor, Baton Rouge, LA 70802 by 4 p.m., December 17, 2019.

All persons having interest in the aforesaid shall take notice thereof.

In accordance with the Americans with Disabilities Act, if you need assistance at the hearing, please contact the Office

of Conservation, Executive Division at 617 North Third Street, Baton Rouge, LA 70802 in writing no later than five working days prior to the hearing date.

Richard P. Ieyoub
Commissioner

1911#015

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 | Dist rict | Well Name | Well Number | Serial Number |
|-------------------------------|---------------|-----------|---------------------------------|-------------|---------------|
| Billy J Franklin | Monroe | M | Franklin | 001 | 31428 |
| Metairie Energy Company, Inc. | Bayou Choctaw | L | Bcht Frio 4 ra su; Gay Union Co | 011 | 29374 |
| Metairie Energy Company, Inc. | Bayou Choctaw | L | Gay Union Corporation | 017 | 43790 |
| Metairie Energy Company, Inc. | Bayou Choctaw | L | Gay Union Corporation | 025 | 53550 |
| Metairie Energy Company, Inc. | Bayou Choctaw | L | Gay Union Corporation | 026 | 56606 |
| Metairie Energy Company, Inc. | Bayou Choctaw | L | Gay Union Corporation | 029 | 58047 |
| Metairie Energy Company, Inc. | Bayou Choctaw | L | Gay Union Corporation | 037 | 75284 |
| Metairie Energy Company, Inc. | Bayou Choctaw | L | Gay Union Corporation | 038 | 76975 |
| Metairie Energy Company, Inc. | Bayou Choctaw | L | Gay Union Corporation swd | 041 | 81656 |
| Metairie Energy Company, Inc. | Bayou Choctaw | L | Gay Union Corporation | 042 | 83054 |

| Operator | Field | Dist rict | Well Name | Well Number | Serial Number |
|-------------------------------|------------------|-----------|---------------------------------|-------------|---------------|
| Metairie Energy Company, Inc. | Bayou Choctaw | L | Gay Union Corporation | 045 | 89845 |
| Metairie Energy Company, Inc. | Bayou Choctaw | L | Gay Union Corporation | 046 | 92240 |
| Metairie Energy Company, Inc. | Bayou Choctaw | L | Bcht Frio 5 ra su; Gay Union Co | 011-D | 99369 |
| Metairie Energy Company, Inc. | Bayou Choctaw | L | Gay Union Corporation | 051 | 148262 |
| Metairie Energy Company, Inc. | Bayou Choctaw | L | Bcht Frio 4 ra su; Gay Union Co | 053 | 180871 |
| Metairie Energy Company, Inc. | Livingston | L | Aus C ra Sud; Weyerhaeuser A | 001 | 220576 |
| Metairie Energy Company, Inc. | Bayou Choctaw | L | Gay Union Corp | 054 | 240832 |
| Northern Energy Management | Converse | S | Olin C swd | 001 | 72666 |
| Northern Energy Management | Converse | S | Olin C | 002 | 101177 |
| Northern Energy Management | Converse | S | Olin C | 003 | 121562 |
| Northern Energy Management | Fort Jessup | S | Murdock | 001 | 162556 |
| Northern Energy Management | Fort Jessup | S | C E Smith | 001 | 181987 |
| Northern Energy Management | Fort Jessup | S | C E Smith | 002 | 183466 |
| Northern Energy Management | Fort Jessup | S | C E Smith swd | 001 | 186069 |
| Northern Energy Management | Fort Jessup | S | C E Smith | 004 | 186092 |
| Northern Energy Management | Bayou San Miguel | S | Waechter | 001 | 191682 |

| Operator | Field | Dist rict | Well Name | Well Number | Serial Number |
|----------------------------|------------------|-----------|--------------------------|-------------|---------------|
| Northern Energy Management | Fort Jessup | S | C E Smith | 005 | 194434 |
| Northern Energy Management | Converse | S | Olin C | 004 | 203629 |
| Northern Energy Management | Converse | S | Olin C | 006 | 203631 |
| Northern Energy Management | Converse | S | Olin C | 007 | 203632 |
| Northern Energy Management | Converse | S | Olin C | 008 | 203633 |
| Northern Energy Management | Converse | S | Olin C | 010 | 203635 |
| Northern Energy Management | Converse | S | Olin C | 011 | 203636 |
| Northern Energy Management | Converse | S | Olin C | 012 | 203637 |
| Northern Energy Management | Converse | S | Olin C | 013 | 203638 |
| Northern Energy Management | Converse | S | Olin C | 014 | 203639 |
| Northern Energy Management | Converse | S | Olin C | 016 | 203745 |
| Northern Energy Management | Bayou San Miguel | S | Tatum | 001 | 205488 |
| Northern Energy Management | Bayou San Miguel | S | Tatum | 002 | 234279 |
| Northern Energy Management | Converse | S | Olin C Swd | 001 | 971611 |
| Northwind Oil & Gas, LLC | Bayou Choctaw | L | Wilbert Mineral Corp | 003 | 44197 |
| Northwind Oil & Gas, LLC | Bayou Choctaw | L | Wilbert Mineral Corp Swd | 010 | 49362 |
| Northwind Oil & Gas, LLC | Bayou Choctaw | L | Wilbert Mineral Corp | 020 | 64753 |
| Northwind Oil & Gas, LLC | Bayou Choctaw | L | Wilbert Mineral Corp | 023 | 65954 |

| Operator | Field | Dist rict | Well Name | Well Number | Serial Number |
|--------------------------|---------------|-----------|--------------------------|-------------|---------------|
| Northwind Oil & Gas, LLC | Bayou Choctaw | L | Wilbert Mineral Corp | 026 | 67150 |
| Northwind Oil & Gas, LLC | Bayou Choctaw | L | Morley Cypress B | 001 | 71005 |
| Northwind Oil & Gas, LLC | Bayou Choctaw | L | Wilbert Mineral Corp | 034 | 72876 |
| Northwind Oil & Gas, LLC | Bayou Choctaw | L | Wilbert Mineral Corp | 037 | 73874 |
| Northwind Oil & Gas, LLC | Bayou Choctaw | L | Morley Cypress B | 001d | 77414 |
| Northwind Oil & Gas, LLC | Bayou Choctaw | L | Wilbert Mineral Corp | 052 | 80680 |
| Northwind Oil & Gas, LLC | Bayou Choctaw | L | Wilbert Mineral Corp | 054 | 82407 |
| Northwind Oil & Gas, LLC | Bayou Choctaw | L | Wilbert Mineral Corp | 055 | 82842 |
| Northwind Oil & Gas, LLC | Bayou Choctaw | L | Wilbert Mineral Corp | 057 | 88537 |
| Northwind Oil & Gas, LLC | Bayou Choctaw | L | Wilbert Mineral Corp | 057-D | 89566 |
| Northwind Oil & Gas, LLC | Bayou Choctaw | L | Wilbert Mineral Corp | 052-D | 91815 |
| Northwind Oil & Gas, LLC | Bayou Choctaw | L | Wilbert Mineral Corp | 037-D | 94894 |
| Northwind Oil & Gas, LLC | Bayou Choctaw | L | Wilbert Mineral Corp | 060 | 99845 |
| Northwind Oil & Gas, LLC | Bayou Choctaw | L | Wilbert Mineral Corp Swd | 064 | 113730 |
| Northwind Oil & Gas, LLC | Bayou Choctaw | L | Wilbert Mineral Corp | 068 | 120181 |
| Northwind Oil & Gas, LLC | Bayou Choctaw | L | Wilbert Mineral Corp | 069 | 124047 |
| Northwind Oil & Gas, LLC | Bayou Choctaw | L | Wilbert Mineral Corp | 070 | 124378 |
| Northwind Oil & Gas, LLC | Bayou Choctaw | L | Wilbert Mineral Corp | 073 | 127791 |

| Operator | Field | Dist rict | Well Name | Well Number | Serial Number |
|--------------------------|-------------------------------|-----------|---------------------------|-------------|---------------|
| Northwind Oil & Gas, LLC | Bayou Choctaw | L | U 18 Ra Sua;Wilberts | 076 | 138213 |
| Northwind Oil & Gas, LLC | Bayou Choctaw | L | Wilbert Mineral Corp | 078 | 140933 |
| Northwind Oil & Gas, LLC | Bayou Choctaw | L | Wilbert Mineral Corp | 091 | 183344 |
| Northwind Oil & Gas, LLC | Bayou Choctaw | L | Wilbert Mineral Corp | 084 | 192364 |
| Northwind Oil & Gas, LLC | Bayou Choctaw | L | Marlborough Oil & Gas LLC | 002 | 232568 |
| Northwind Oil & Gas, LLC | Bayou Choctaw | L | Marlborough Oil & Gas LLC | 001 | 242829 |
| Northwind Oil & Gas, LLC | Bayou Choctaw | L | Wilbert Mineral Corp | 093 | 242929 |
| Northwind Oil & Gas, LLC | Bayou Choctaw | L | Marlborough Oil & Gas LLC | 003 | 245148 |
| Peerless Oil Company | Wildcat-No La Shreveport Dist | S | Dickson | 005 | 996 |

Richard P. Ieyoub
Commissioner

1911#027

POTPOURRI

Department of Public Safety and Corrections Oil Spill Coordinator's Office

Restoration Planning For Oil Spill

Action Notice of Intent to Conduct Restoration Planning (NOI) for Grand Bay Oil Spill, Plaquemines Parish, LA.

Agencies Louisiana Oil Spill Coordinator's Office, Department of Public Safety and Corrections (LOSCO); Louisiana Coastal Protection and Restoration Authority (CPRA); Louisiana Department of Environmental Quality (LDEQ); Louisiana Department of Natural Resources (LDNR); and Louisiana Department of Wildlife and Fisheries (LDWF) (collectively, the "trustees").

Authorities: The Oil Pollution Act of 1990 (OPA), 33 U.S.C. § 2701 et seq., and the Louisiana Oil Spill Prevention and Response Act of 1991 (OSPRA), R.S. 30:2451 et seq., are the principal federal and state statutes, respectively, authorizing designated federal and state agencies and tribal officials to act on behalf of the public to:

1. assess damages for injuries to natural resources and services resulting from a discharge of oil or the substantial threat of a discharge; and

2. develop and implement a plan for the restoration, rehabilitation, replacement, or acquisition of the equivalent of the injured resources. OPA implementing regulations may be found at 15 CFR Part 990 and OSPRA regulations at LAC 43:XXIX.

By letter dated March 27, 2017, and pursuant to 33 U.S.C. § 2706(b)(3), the Governor of Louisiana designated the trustees to act on behalf of the public under OPA. Lobo Operating, Inc. ("Lobo"), as the owner and/or operator of the facility from which oil was discharged, is the identified responsible party and is therefore liable according to 33 USC §2702 and R.S. 30:2480 for any natural resource damages resulting from the incident.

Purpose As required by 15 CFR §§990.41 and 990.42, the trustees have determined that impacts to natural resources and services resulting from the unauthorized discharge of oil from Lobo's Grand Bay Tank Battery #1 near Venice, LA beginning on or about April 1, 2019 (hereinafter, the "Incident") (La. NRDA case file #LA2019-0401-1830) warrant proceeding with a natural resource damage assessment (NRDA) to pursue restoration for this incident. In accordance with 15 CFR §990.44 and LAC 43:XXIX.123, the trustees are issuing this NOI to inform the public that they are proceeding to the restoration planning phase of the NRDA, during which trustees evaluate information on potential injuries and use that information to determine the need for, type of, and scale of restoration as described in subpart E of 15 C.F.R. Part 990. The trustees will be opening an Administrative Record (AR) pursuant to 15 CFR §990.45 and LAC 43:XXIX.127 to document the basis for the trustees' decisions pertaining to injury assessment and selection of restoration alternatives. The AR can be found at <https://data.losco.org> under "Search Administrative Records".

Summary of Incident On or about April 1, 2019, a bulk line connected to Lobo's Grand Bay Tank Battery #1 near Venice, LA experienced a failure (NRC #1241638, LSP #19-01418). An estimated 20 barrels of crude oil was released into the adjacent waterway and surrounding marsh. Response actions lasted for several weeks and included, among others, hard and sorbent booms, use of scare cannons (to haze wildlife out of impacted areas), various washing techniques, flushing of impacted marsh and use of skimmers to collect pooled oil, cutting and removal of oiled Phragmites australis, and collection and disposal of over 5,300 bags of oily vegetation, trash and debris. Natural resources within the area that provide services to the public were adversely impacted by the discharged oil and response actions, including surrounding coastal herbaceous wetland and wildlife.

The trustees began the Pre-assessment/field investigation Phase of the NRDA in accordance with 15 CFR §990.43 and LAC 43:XXIX.117 to determine if they had jurisdiction to pursue restoration under OPA and OSPRA, and, if so, whether it was appropriate to do so. During the Pre-assessment Phase, the trustees collected and analyzed, and are continuing to analyze, the following:

1. data reasonably expected to be necessary to make a determination of jurisdiction and/or a determination to conduct restoration planning,

2. ephemeral data; and

3. information needed to design or implement anticipated assessment activities as part of the Restoration Planning Phase. Activities included, among other things, collection and review of response information and drone imagery, conducting a Trustee site visit to collect qualitative, quantitative and observational data about oiled habitats and wildlife, and oil sample collection.

Under the NRDA regulations applicable to OPA and OSPRA, the trustees prepare and issue a Notice of Intent to Conduct Restoration Planning (NOI) if they determine conditions that confirm the jurisdiction of the trustees and the appropriateness of pursuing restoration of natural resources have been met. This NOI announces that the trustees have made the determination to proceed with restoration planning to evaluate, assess, quantify, and develop plans for restoring, rehabilitating, replacing, and/or acquiring the equivalent of injured natural resources and losses resulting from the incident. The restoration planning process will include collection of information that the trustees determine is appropriate for identifying and quantifying the injuries and losses of natural resources, including services, and to determine the need for, and the type and scale of restoration alternatives.

Determinations Determination of Jurisdiction: The trustees have made the following findings pursuant to 15 CFR §990.41 and LAC 43:XXIX.101:

1. The incident resulted in the discharge of oil into or upon navigable waters of the United States. Such occurrence constitutes an “incident” within the meaning of 15 CFR §930.30.

2. The incident was not authorized under a permit issued pursuant to federal, state, or local law; was not from a public vessel; and was not from an onshore facility subject to the Trans-Alaska Pipeline Authority Act, 43 USC §1651, et seq.

3. Natural resources under the trusteeship of the trustees have been injured as a result of the incident.

As a result of the foregoing determinations, the trustees have jurisdiction to pursue restoration under OPA and OSPRA.

Determination to Conduct Restoration Planning: The trustees have determined pursuant to 15 CFR §990.42(a) that:

1. Data collected pursuant to 15 CFR §990.43 demonstrate that injuries to natural resources have resulted from the incident, as described above.

2. The response actions did not adequately address the injuries resulting from the incident.

3. Feasible primary and/or compensatory restoration actions exist to address injuries from the incident.

Based upon the foregoing determinations, the trustees intend to proceed with restoration planning for this incident.

Determination to Utilize Expedited Assessment Procedure to Assess Injury: The trustees have made the following findings pursuant to R.S. 30:2480 and LAC 43:XXIX.121.H.4:

1. The incident involved an unauthorized discharge of crude oil, or other oil that in the sole discretion of the

trustees interacts with the environment in a manner similar to crude oil.

2. The incident occurred in the Louisiana coastal area, with oiling conditions and/or response activities as described at LAC 43:XXIX.121.H.4, impacting coastal herbaceous wetland or coastal forested wetland.

3. The incident has limited observable mortality.

4. Restoration activities can be speedily initiated and/or the quantity of oil discharged does not exceed one thousand gallons.

Based upon the foregoing findings, the trustees have determined that utilization of the compensation schedule found at LAC 43:XXIX.121.H.4 and allowed by 15 CFR §990.27(b)(1)(iii) is appropriate. The purpose of utilizing this expedited assessment procedure is to allow prompt initiation of restoration, rehabilitation, replacement, and/or acquisition of an equivalent natural resource without lengthy analysis of the impact on affected natural resources. Rev. Stat. 30:2480.

Public Participation The trustees invite the public to participate in restoration planning for this incident. Public participation in decision-making is encouraged and will be facilitated through a publically available AR (described above) and publication of public notices in the *Louisiana Register*. Opportunities to participate in the process will be provided by the trustees at important junctures throughout the planning process and will include requests for input on restoration alternatives and review of planning and settlement documents. Public participation is consistent with all state and federal laws and regulations that apply to the NRDA process, including Section 1006 of OPA, 33 U.S.C. §2706; the regulations for NRDA under OPA, 15 C.F.R. Part 990; Section 2480 of OSPRA, R.S. 30:2480; and the regulations for NRDA under OSPRA, LAC 43vXXIX, Chapter 1.

For Further Information: For more information please contact the Louisiana Oil Spill Coordinator’s Office, P.O. Box 66614, Baton Rouge, LA 70896, (225) 925-6606 Attn: Gina Muhs Saizan.

Marty J. Chabert
Oil Spill Coordinator

1911#032

POTPOURRI

Department of State

Notice of Public Hearing

Under the authority of Act No. 454 of the 2018 Regular Session of the Louisiana Legislature, codified as R.S. 49:953(C)(2), and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana Department of State gives notice that a public hearing will be held at the Archives Auditorium, first floor, 3851 Essen Ln., Baton Rouge, Louisiana at 9 a.m. on December 16, 2019 for the purpose of receiving comments

from all interested persons regarding any rule of the Louisiana Department of State which the person believes is contrary to law, outdated, unnecessary, overly complex, or burdensome. Interested persons are invited to attend the hearing and submit oral comments or submit their written comments at the hearing.

Additionally, all interested persons are invited to submit written comments via U.S. Mail to Ray Wood, Attorney, Louisiana Department of State, P.O. Box 94125, Baton Rouge, LA 70804-9125. Written comments may also be hand delivered to Ray Wood, Attorney, Louisiana Department of State, 8585 Archives Avenue, Baton Rouge, LA 70809 and must be date stamped by the Louisiana Department of State on the date received. All written public comments must be dated, include the original signature of the person submitting the comments, and must be received in an envelope labeled "ACT 454 Comments" no later than 12 p.m. on December 23, 2019. The Louisiana Department of State will only consider and review those written comments received at the public hearing or those written comments transmitted and timely received via U.S. Mail or hand delivery during the public comment period. The Louisiana Department of State will consider all relevant oral comments received at the public hearing. In order for oral comments to be submitted to the legislative oversight committees, the comments must be submitted to the Louisiana Department of State in writing.

Any individual who needs special assistance in order to attend or speak at this public hearing should notify Carrie Martin, within ten working days prior to the Hearing Date, in writing, at "Louisiana Department of State, Attn: Carrie Martin, P.O. Box 94125, Baton Rouge, LA 70804-9125," or by email at carrie.martin@sos.la.gov. Any questions should be directed to Ray Wood at (225) 362-5115.

R. Kyle Ardoin
Secretary of State

1911#009

POTPOURRI

Workforce Commission Plumbing Board

Notice of Public Hearing

In compliance with Act No. 454 of the 2018 Regular Session of the Louisiana Legislature, codified as R.S. 49:953(C)(2), and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the State Plumbing Board of Louisiana will hold a public hearing for the purpose of receiving comments on any rule of the State Plumbing Board which any interested person believes is contrary to law, outdated, unnecessary, overly complex, or burdensome. The hearing will be held at the office of the State Plumbing Board on Thursday, December 12, 2019 at 10 a.m., 11304 Cloverland Avenue, Baton Rouge, LA 70809.

At the public hearing, all interested persons will be afforded an opportunity to submit data, views, or arguments either orally or in writing regarding these rules only. The State Plumbing Board of Louisiana will consider fully all written and oral comments. Comments must be received in writing in order to be submitted to the legislative oversight committees.

The hearing site is accessible to people using wheelchairs or other mobility aids. If other reasonable accommodations are required in order to participate in the hearings, please contact Ashley Jones Tullier, at (225) 756-3434 at least five business days prior to the scheduled hearing.

Written comments may be submitted in advance of the hearing to Ashley Jones Tullier, State Plumbing Board of Louisiana, 11304 Cloverland Avenue, Baton Rouge, Louisiana 70809. Comments must be postmarked no later than Thursday, December 5, 2019.

Ashley Jones Tullier
Executive Director

1911#004

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