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Executive Orders

EXECUTIVE ORDER JBE 21-05

Flags at Half-Staff—Michael Hanley O’Keefe

WHEREAS, Michael Hanley O’Keefe, a former distinguished member of the Louisiana Legislature, died at the age of 89 on Sunday, January 31, 2021;

WHEREAS, he is survived by his two children and three grandchildren;

WHEREAS, he served his nation honorably in the Military Police of the U.S. Army in Fort Hood, Texas;

WHEREAS, he served his state and his home of New Orleans in the Louisiana Legislature for twenty-three years, first elected to the State Senate in 1959, and serving for six terms until 1984;

WHEREAS, in 1960, he introduced the first bill to integrate Louisiana’s public school system; and in his early career he often stood out as a lone voice in state government against segregationist policies;

WHEREAS, after the adoption of the Louisiana Constitution of 1974, he became the first Senate President elected by his peers, and he served in that capacity until his retirement from politics; and

WHEREAS, Michael O’Keefe’s public service as a lawmaker to the State of Louisiana will long be remembered.

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

SECTION 1: As an expression of respect for Michael Hanley O’Keefe, the flags of the United States and the State of Louisiana shall be flown at half-staff over the State Capitol from sunrise until sunset on Saturday, February 6, 2021.

SECTION 2: This Order is effective upon signature and shall remain in effect until sunset, Saturday, February 6, 2021.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana in the City of Baton Rouge, on this 4th day of February, 2021.

John Bell Edwards
Governor

ATTEST BY
THE GOVERNOR
R. Kyle Aroin
Secretary of State
2103#05

Emergency Rules

DECLARATION OF EMERGENCY

**Board of Regents
Office of Student Financial Assistance**

Scholarship/Grant Programs—COVID-19 Exceptions;
Dual Enrollment Calculus; Chafee Educational
and Training Voucher Grade Reporting
(LAC 28:IV.703, 1809, and 2103)

The Board of Regents is exercising the emergency provisions of the Administrative Procedure Act, R.S. 49:950 et seq., to amend the rules of the Scholarship/Grant programs [R.S. 17:3021-3025, R.S. 3041.10-3041.15, R.S. 17:3042.1.1-3042.8, R.S. 17:5001 et seq., and R.S. 56:797.D(2)].

This rulemaking implements COVID-19 as a circumstance for which students may request an exception to the continuous, full time, and earned annual hours requirements for TOPS. In addition, this rulemaking adds two dual enrollment calculus courses as TOPS core curriculum equivalent courses and provides that the calculus courses will be graded on a 5.0 scale for the purpose of calculating a student's TOPS high school GPA. Finally, this rulemaking adds a provision that proprietary and cosmetology schools should report to LOSFA whether a student receiving a Chafee Educational and Training Voucher is making satisfactory academic progress rather than reporting hours attempted, hours earned, and quality points for the purpose of determining whether a student meets the continuing eligibility requirements for the program.

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

This Declaration of Emergency is effective on February 24, 2021, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act. (SG21196ER)

Title 28 EDUCATION

Part IV. Student Financial Assistance—Higher Education Scholarship and Grant Programs Chapter 7. Taylor Opportunity Program for Students (Tops) Opportunity, Performance, And Honors Awards

§703. Establishing Eligibility

- A. - A.5.a.ii.(f)(iii). ...
(iv). Dual Enrollment Courses

TOPS Core Course	Dual Enrollment	
	Common Course Name	Common Course Code
Advanced Math–Pre Calculus	Trigonometry	CMAT 1223
Advanced Math-Functions and Statistics	Introductory Statistics	CMAT 1303
Algebra III	College Algebra	CMAT 1213
Arabic	Elementary Arabic I Elementary Arabic II	CARB 1013/1014 CARB 1023/1024
Art	Art History I or II Art Structure/2-D Design Beginning Drawing	CART 2103/2113 CART 1113 CART 2203
Biology I	General Biology I General Biology I (Science Majors)	CBIO 1013 CBIO 1033
Biology II	General Biology I General Biology I (Science Majors) General Biology II General Biology II (Science Majors) Human Anatomy & Physiology I Human Anatomy & Physiology I (Lec/Lab) Human Anatomy & Physiology II Human Anatomy & Physiology II (Lec/Lab)	CBIO 1013 CBIO 1033 CBIO 1023 CBIO 1043 CBIO 2213 CBIO 2214 CBIO 2223 CBIO 2224
Calculus	Applied Calculus Calculus I Calculus II Differential Calculus I Integral Calculus I	CMAT 2103 CMAT 2113-5 CMAT 2123-5 CMAT 2113 CMAT 2116
Chemistry I	General Chemistry Survey I Chemistry I Chemistry I (Science Majors)	CCEM 1013 CCEM 1103 CCEM 1123
Chemistry II	General, Organic and Biochemistry General Chemistry Survey I Chemistry I Chemistry I (Science Majors) Chemistry II Chemistry II (Science Majors)	CCEM 1003 CCEM 1013 CCEM 1103 CCEM 1123 CCEM 1113 CCEM 1133
Earth Science	Physical Geology Historical Geology	CGEO 1103 CGEO 1113
Economics	Economic Principles Macroeconomics Microeconomics	CECN 2113 CECN 2213 CECN 2223
English III	English Composition I English Composition II American Literature I American Literature II Major American Writers	CENL 1013 CENL 1023 CENL 2153 CENL 2163 CENL 2173
English IV	English Composition I English Composition II British Literature I British Literature II Major British Writers World Literature I World Literature II Major World Writers Introduction to Fiction Introduction to Literature Introduction to Poetry and/or Drama	CENL 1013 CENL 1023 CENL 2103 CENL 2113 CENL 2123 CENL 2203 CENL 2213 CENL 2223 CENL 2303 CENL 2323 CENL 2313
Environmental Science	Environmental Science	CEVS 1103

TOPS Core Course	Dual Enrollment	
	Common Course Name	Common Course Code
Fine Arts Survey	Exploring the Arts Introduction to Visual Arts Dance Appreciation Music Appreciation	CART 1013 CART 1023 CDNC 1013 CMUS 1013
French	Elementary French I Elementary French II Intermediate French I Intermediate French II	CFRN 1013/1014 CFRN 1023/1024 CFRN 2013/2014 CFRN 2023
German	Elementary German I Elementary German II Intermediate German I Intermediate German II	CGRM 1013/1014 CGRM 1023/1024 CGRM 2013 CGRM 2023
History Of Religion	World Religions	CPHL 2213
Latin	Elementary Latin I Elementary Latin II Intermediate Latin I Intermediate Latin II	CLTN 1013/1014 CLTN 1023/1024 CLTN 2013 CLTN 2023
Physical Science	Physical Science I	CPHY 1023
Physics I	Physics I (Algebra/Trigonometry Based) Physics I (Lecture and Lab) Physics I (Calculus Based)	CPHY 2113 CPHY 2114 CPHY 2133
Pre-Calculus	Algebra and Trigonometry	CMAT 1233
Probability and Statistics	Introductory Statistics	CMAT 1303
Spanish	Elementary Spanish I Elementary Spanish II Intermediate Spanish I Intermediate Spanish II	CSPN 1013/1014 CSPN 1023/1024 CSPN 2013/2014 CSPN 2023
Theatre (Performance)	Acting I or II Introduction to Theatre	CTHE 2103/2113 CTHE 1013
US Government or Civics	Introduction to American Government Introduction to State and Local Government Introduction to Comparative Government	CPOL 2013 CPOL 2113 CPOL 2213
US History	American History I or II	CHIS 2013/2023
Western Civilization	Western Civilization I or II	CHIS 1013/1023
World Geography	World Regional Geography	CGRG 2113
World History	World Civilization I or II	CHIS 1113/1123

A.5.a.ii.(f).(v). - K.2.d. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:636 (April 1998), amended LR 24:1902 (October 1998), LR 24:2237 (December 1998), LR 25:257 (February 1999), LR 25:655 (April 1999), LR 25:1794 (October 1999), LR 26:64, 67 (January 2000), LR 26:689 (April 2000), LR 26:1262 (June 2000), LR 26:1602 (August 2000), LR 26:1996, 1999, 2001 (September 2000), LR 26:2268 (October 2000), LR 26:2753 (December 2000), LR 27:36 (January 2001), LR 27:702 (May 2001), LR 27:1219, 1219 (August 2001), repromulgated LR 27:1850 (November 2001), amended LR 28:772 (April 2002), LR 28:2330, 2332 (November 2002), LR 29:125 (February 2003), LR 29:2372 (November 2003), LR 30:1162 (June 2004), LR 30:1471 (July 2004), LR 30:2019 (September 2004), LR 31:37 (January 2005), LR 31:2213 (September 2005), LR 31:3112 (December 2005), LR 32:2239 (December 2006), LR 33:435 (March 2007), LR 33:2357 (November 2007), LR 33:2612 (December 2007), LR 34:1389 (July 2008), LR 35:228 (February 2009), LR 36:312 (February 2010), LR 36:490 (March 2010), LR 36:2269 (October 2010), LR 36:2855 (December 2010), LR

37:2987 (October 2011), LR 38:354 (February 2012), LR 38:3158 (December 2012), LR 39:481 (March 2013), LR 39:2485 (September 2013), LR 40:54 (January 2014), LR 41:373 (February 2015), LR 41:657, 664 (April 2015), LR 41:2596, 2599 (December 2015), LR 47:

Chapter 18. Chafee Educational and Training Voucher Program

§1809. Responsibilities of Participating Institutions of Higher Education

A. - C.2. ...

D. Certification of Student Data

1. Upon request by LOSFA, and for the purpose of meeting federal audit requirements for the Chafee Grant, institutions of higher education, except cosmetology and proprietary schools, shall report the following data:

- a. admission and enrollment; and
- b. semester hours attempted; and
- c. semester hours earned; and
- d. semester quality points earned; and
- e. resignation from the institution or withdrawal from all courses.

2. Upon request by LOSFA, and for the purpose of meeting federal audit requirements for the Chafee Grant, a cosmetology or proprietary school shall report whether a student is making satisfactory academic progress in accordance with the school's federal grant aid policy.

E. - E.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031 and R.S. 17:3129.7.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 36:2549 (November 2010), repromulgated by the Board of Regents, Office of Student Financial Assistance, LR 44:556 (March 2018), LR 47:

Chapter 21. Miscellaneous Provisions and Exceptions

§2103. Circumstances Warranting Exception to the Initial and Continuous Enrollment Requirements

A. - E.13.c. ...

14. COVID-19

a. Definition. The student/recipient is unable to enroll in school, to maintain continuous enrollment in school, or to earn the required annual hours due to circumstances related to the COVID-19 pandemic as follows:

- i. you struggle with on-line instruction; or
- ii full time enrollment in on-line instruction is not conducive to your major/course of study; or
- iii. you do not have the appropriate infrastructure, such as internet access, sufficient bandwidth for the number of people attending school/working from home, etc., to attend classes on-line; or
- iv. your parent(s) were unable to work, lost their employment, or worked reduced hours due to mitigation measures implemented to prevent the spread of COVID-19.

b. Certification Requirements. The student/recipient must submit the following documentation:

i. If requesting an exception based on Section 14.a.i. above, a letter from a parent and/or a letter from an academic advisor or dean at your school stating that you struggle with on-line enrollment; or

ii. If requesting an exception based on Section 14.a.ii. above, a letter from an academic advisor or dean at

your school that full time enrollment in on-line instruction is not conducive to your major/course of study; or

iii. If requesting an exception based on Section 14.a.iii. above, a letter from a parent or other documentation that you do not have the appropriate infrastructure at home to attend courses on-line; or

iv. If requesting an exception based on Section 14.a.iv. above, a letter from your parent/parents as well as a letter from their employer stating that the parent/parents were unable to work, lost their employment, or worked reduced hours due to mitigation measures implemented to prevent the spread of COVID-19.

c. Length of Exception—available for the fall semester/quarter of 2020 through the fall semester of 2021/winter quarter of 2021-2022.

F. - H.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:5001 et seq., and R.S. 17:3050.1-3050.4.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), amended LR 23:1648 (December 1997), repromulgated LR 24:647 (April 1998), amended LR 24:1916 (October 1998), LR 26:1015 (May 2000), LR 26:2002 (September 2000), LR 27:36 (January 2001), repromulgated LR 27:1866 (November 2001), amended LR 27:1875 (November 2001), LR 28:46 (January 2002), LR 28:449 (March 2002), LR 28:775 (April 2002), LR 28:2330 and 2333 (November 2002), LR 29:126 (February 2003), LR 29:2373 (November 2003), LR 29:2373 (November 2003), LR 30:785 (April 2004), LR 30:1167 (June 2004), LR 31:1060 (May 2005), LR 33:440 (March 2007), LR 35:1233 (July 2009), LR 38:3160 (December 2012), LR 41:657, 667 (April 2015), amended by the Board of Regents, Office of Student Financial Assistance, LR 44:562 (March 2018), LR 45:1173 (September 2019), LR 47:

Robyn Rhea Lively
Senior Attorney

2103#008

DECLARATION OF EMERGENCY

Office of the Governor

Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River

General Provisions and Standards of Conduct
(LAC 46:LXX.6103, 6304, 6309, and 6310)

In accordance with the emergency provisions of the Administrative Procedures Act, R.S. 49:953 (B), and under the authority of R.S. 34:1041, et seq. and Title 46, Professional and Occupational Standards, Part LXX. River Pilots, Subpart 3. Board of Examiners for the New Orleans and Baton Rouge Steamship Pilots, et seq. the Board of Examiners for New Orleans—Baton Rouge Steamship Pilots for the Mississippi River declares an emergency to exist and adopts by emergency process the attached regulations for the increased requirements to be appointed as a member of the board of examiners; defines and establishes standards of care; and supplements and enhances the board's continuing professional education curriculum and increases the annual hourly requirement for pilot compliance.

Since 2018, the board has interfaced with its state and federal partners relative to evolving threats to the maritime industry and the state of Louisiana. In order to counter these

threats, the board must systematically respond to protect the public, infrastructure, safety of navigation and state interests. In order to preserve safety and efficiency of the vital Mississippi River port infrastructure as it relates to the NOBRA route, the board continues to implement measures regarding risk reduction and safer Mississippi River piloting. These rules are in the public's interest and will promote public safety and integrity.

The board's rules and regulations are issued in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., for the purpose of adopting rules, regulations and requirements regarding the general operation of the board. The board of examiners is the sole competent pilotage authority statutorily created for the purpose of regulating, supervising and overseeing the body of pilots authorized by R.S. 34:1042, et seq. This rule shall apply to all applicants, apprentice pilots and commissioned pilots. This Emergency Rule amends LAC 46:LXX.6103 to provide for increased mandatory requirements to be appointed as a member of the board of examiners.

Due to the safety sensitive nature of the duties performed by state commissioned pilots, this board has a strong commitment to the public and maritime industry. The board has promulgated standards of conduct, in order to further enhance the safety and wellbeing of the citizens of Louisiana and New Orleans—Baton Rouge Steamship Pilots as well as to prevent any imminent peril to public health, safety and welfare, and to achieve and maintain reliable, safe and efficient pilotage services.

The board has the authority to compel each and every individual pilot to be available for and accept orders for pilotage assignments in declared emergency situations or in other overriding operational conditions. This Emergency Rule amends LAC 46:LXX.6304, 6309, and 6310 to define and establish standards of care; and supplement and enhance the board's continuing professional education curriculum and increase the annual hourly requirement for pilot compliance.

This Emergency Rule becomes effective upon the signature of the President of the Board of Examiners for New Orleans—Baton Rouge Steamship Pilots for the Mississippi River and shall remain in effect for 120 days, unless rescinded, renewed or until permanent rules and regulations become effective.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXX River Pilots

Subpart 3. Board of Examiners for the New Orleans and Baton Rouge Steamship Pilots

Chapter 61. General Provisions

§6103. Appointment

A. When there is a need for new examiners, the board shall make recommendations to the governor for replacement(s) to fill any vacancies.

B. When this need arises the board shall recommend only those pilots who have served at least ten years as a Louisiana state commissioned New Orleans and Baton Rouge steamship pilot and has not been an individual directly involved in a serious marine incident or major marine casualty, as defined at title 46, Code of Federal Regulations, in the ten years prior to recommendation.

C. Examiners in the performance of their statutory duties have the exclusive and complete authority to determine their work schedule. Further, examiners shall not suffer any loss of benefits or compensation while they are performing their duties.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2471 (November 2004), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:493 (March 2010), LR 47:

Chapter 63. Standards of Conduct

§6304. Definitions

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

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

Applicant—any person who has submitted an application to be considered for selection into the Pilot Development Program for New Orleans and Baton Rouge steamship pilot(s).

Application—the completed written application including all supporting documentation supplied to the board by an applicant who desires to become a New Orleans and Baton Rouge steamship pilot.

Apprentice—any person duly selected by the members of NOBRA, but not yet commissioned, who is serving in the Pilot Development Program.

Association or *NOBRA*—New Orleans and Baton Rouge Steamship Pilot Association.

Association Officer—any person duly elected by the members of NOBRA to serve as vice president(s), secretary/treasurer or other officer of the association.

Association President—any person duly elected by the members of NOBRA to serve as president of the association.

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

Deputy Pilot—a commissioned pilot in the Pilot Development Program.

Fit for Duty—a pilot who meets the board's requirements regarding licensure, physical and medical competency and is current with their continuing education requirements.

Pilot—a New Orleans and Baton Rouge steamship pilot, as designated in R.S. 34:1041 et seq.

Services of a Pilot—any advice or assistance with respect to pilotage by the commissioned pilot, including but not limited to advice concerning weather, channel conditions, or other navigational conditions.

Standard(s) of Care—navigational standard(s) established to promote the health, safety and welfare of the citizens of Louisiana and to maintain safety of maritime commerce along the Mississippi River.

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

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2475 (November 2004), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:498 (March 2010), LR 38:3167 (December 2012), LR 44:45 (January 2018), LR 47:

§6309. Adoption of Navigational Rules

A. Pilot(s), deputy pilot(s) and apprentice(s) shall use a standard of navigation consistent with that of a prudent pilot in adherence with common local practices.

B. Pilot(s), deputy pilot(s) and apprentice(s) shall review and follow the board's applicable standards of care prior to executing each dispatched turn.

C. The board's standards of care are located at: www.nobraexaminers.louisiana.gov.

D. Pilot(s), deputy pilot(s) and apprentice(s) may exceed the board's applicable posted standards of care.

E. Pilot(s), deputy pilot(s) and apprentice(s) shall use their own independent judgment when piloting an assigned vessel.

F. The board does not direct or control a pilot(s), deputy pilot(s) and apprentice(s) in the performance of their duties.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2476 (November 2004), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:499 (March 2010), LR 47:

§6310. Continuing Professional Education

[Formerly §6311]

A.1. Every pilot seeking to maintain a pilot's commission must successfully complete the following required courses every five years:

a. a bridge resource management (B.R.M.P.) course or seminar for pilots;

b. an emergency ship handling course or seminar for pilots;

c. a marine technical course or seminar, which includes vessel traffic service training;

d. a course or seminar in marine electronic navigation for pilots;

e. a course or seminar on applicable United States Coast Guard navigation regulations (Rules of the Road);

f. a course or seminar on marine incident management for pilots;

g. a course or seminar in marine cyber care for pilots; and

h. a course or seminar in two pilot bridge team navigation.

2. Every pilot must annually and successfully complete 16 hours of professional development courses approved by the board. The board may, from time to time, adjust these requirements in order to maintain the highest level of professional competency and pilot safety.

B. All professional education classes and programs shall be approved by the board. The board will maintain a non-

exclusive list of approved professional education classes and programs, which may be periodically updated.

C. It is the responsibility of the pilot to attend the necessary professional education classes and to present the board with proof of satisfactory completion.

D. Any pilot who fails to successfully complete the required professional education classes or programs will be removed from duty until the pilot complies with the requirements of this section.

E. The board may, for good cause shown, grant a waiver or extend the time for a pilot to complete the continuing professional education requirement, upon timely application, in writing, by the pilot.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2477 (November 2004), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:499 (March 2010), LR 38:3167 (December 2012), LR 47:

Captain Robert D. Heitmeier
President

2103#014

DECLARATION OF EMERGENCY

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

**Qualifications and Examination of Pilots
(LAC 46:LXX.6206)**

In accordance with the emergency provisions of the Administrative Procedures Act, R.S. 49:953 (B), and under the authority of R.S. 34:1041, et seq. and Title 46 - Professional and Occupational Standards, Part LXX. River Pilots, Subpart 3. Board of Examiners for the New Orleans and Baton Rouge Steamship Pilots, et seq. the Board of Examiners for New Orleans- Baton Rouge Steamship Pilots for the Mississippi River declares an emergency to exist and adopts by emergency process the attached regulation for New Orleans—Baton Rouge Steamship Pilot apprentices completing the initial phase of the Board of Examiners for New Orleans—Baton Rouge Steamship Pilots for the Mississippi River’s Pilot Development Program in 2021.

Due to the safety sensitive nature of the duties performed by state commissioned pilots, this board has a strong commitment to the public and maritime industry. The board has promulgated standards for recommendation by the board to the governor of the state of Louisiana for appointment as a New Orleans and Baton Rouge Steamship pilot, pursuant to R. S. 34:1043 and R.S. 34:1045.

The state of Louisiana has a substantial interest in replenishing and maintaining a full roster of state commissioned New Orleans—Baton Rouge Steamship Pilots. As a result of the Covid-19 pandemic, the United States Coast Guard is experiencing delays in issuing Mississippi River license route extensions to the apprentices currently in the Board of Examiners for New Orleans—

Baton Rouge Steamship Pilots for the Mississippi River’s Pilot Development Program. This Emergency Rule amends LAC 46:LXX.6206 to provide the apprentices additional time to obtain their United States Coast Guard issued Mississippi River license route extensions.

This Emergency Rule becomes effective upon the signature of the President of the Board of Examiners for New Orleans—Baton Rouge Steamship Pilots for the Mississippi River, February 26, 2021, and shall remain in effect for 120 days, unless rescinded, renewed or until permanent rules and regulations become effective.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXX River Pilots

**Subpart 3. Board of Examiners for the New Orleans and
Baton Rouge Steamship Pilots**

**Chapter 62. Qualifications and Examination of Pilots
§6206. Licenses/Education/Experience**

A. In addition to the above, an applicant must submit satisfactory proof of the following licensing, education and experience criteria.

1. An applicant must hold at least a current First Class Pilots License, Any Gross Tons, upon the Lower Mississippi River from Chalmette, Louisiana to Baton Rouge Railroad and Highway Bridge at Baton Rouge, Louisiana, including physical, and, at least, either a Master of Steam or Motor Vessels; or Master of Towing Vessels; or Third Mate; or an equivalent or greater United States Coast Guard license.

a. Notwithstanding Paragraph A.1 of this Section, an applicant with first class pilotage from mile marker 92.7 AHP to mile marker 225 AHP shall be eligible for selection into the Pilot Development Program. However, an applicant selected for the Pilot Development Program shall be required to obtain first class pilotage from mile marker 88.0 AHP to Baton Rouge Railroad and Highway Bridge prior to commissioning.

NOTE: Apprentices completing the initial phase of the Board of Examiners for New Orleans - Baton Rouge Steamship Pilots for the Mississippi River’s Pilot Development Program in 2021 shall have an additional 240 days to obtain their United States Coast Guard Mississippi River license route extensions. If commissioned prior to receiving their United States Coast Guard Mississippi River license route extensions, Apprentices may operate solely on their state issued New Orleans and Baton Rouge Steamship Pilot commission.

2. An applicant must hold a bachelor’s degree or higher degree from an accredited maritime academy approved by and conducted under rules prescribed by the Federal Maritime Administrator and listed at title 46, *Code of Federal Regulations*, part 310.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2473 (November 2004), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:495 (March 2010), LR 38:3166 (December 2012), LR 44:44 (January 2018), LR 47:

Captain Robert D. Heitmeier
President

2103#009

DECLARATION OF EMERGENCY

Department of Health Board of Nursing

Advanced Practice Registered Nurses
(LAC 46:XLVII.4513)

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 State Board of Nursing (LSBN) is requesting an emergency rule which will add additional language to Chapter 45, §4513. The added language to Chapter 45, §4513 provides an exception which will allow “an APRN practicing with a previously approved collaborating physician at a new site otherwise not previously reported to the board may continue to practice during the time of the declared emergency or disaster under the parameters of the signed collaborative practice agreement”. This Emergency Rule is effective upon the signature of the executive director, February 18, 2021, and shall remain in effect for 120 days unless rescinded, renewed, or the Covid-19 Public Health Emergency Proclamation is terminated by the Governor.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLVII. Nurses: Practical Nurses and Registered Nurses

Subpart 2. Registered Nurses

Chapter 45. Advanced Practice Registered Nurses

§4513. Authorized Practice

A. - D.8.a. ...

i. Exception to 4513.D.8.a:in cases of a declared emergency or disaster, as defined by the Louisiana Health Emergency Powers Act, R.S. 29:760 et seq., or as otherwise provided in title 29 of the Revised Statutes of 1950, an APRN Practicing with a previously approved collaborating physician at a new site otherwise not previously reported to the board may continue to practice during the time of a declared emergency or disaster under the parameters of the signed collaborative practice agreement.

8.b. - 17.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918 (k) and R.S. 37: 1031 – 1034

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing , LR 10:598 (August 1984), amended by the Department of Health and Hospitals, Board of Nursing, LR 22:283 (April 1996), amended by the Department of Health and Hospitals, Board of Nursing and Board of Medical Examiners, LR 22:981 (October 1996), LR 25:1245 (July 1999), LR), amended by the Department of Health and Hospitals, Board of Nursing 27: 727 (May 2001), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 28:487 (March 2002), repromulgated LR 28:1205 (June 2002), amended by the Department of Health and Hospitals, Board of Nursing , LR 40:63 (January 2014) , LR 40:2249 (November 2014), LR 42:572 (April 2016), amended by the Department of Health, Board of Nursing LR 44:276 (February 2018), LR 45:1202 (September 2019), Department of Health, State Board of Nursing LR 47:

Interested persons may submit written comments to Karen C. Lyon, CEO/ Executive Director, Louisiana State Board of Nursing, 17373 Perkins Road, Baton Rouge, La 70810 or emailed to: lyonk@lsbn.state.la.us.

Karen C. Lyon
Executive Director

2103#003

DECLARATION OF EMERGENCY

Department of Health Board of Nursing

Continuing Education—Nursing Practice
(LAC 46:XLVII.3335)

The State Board of Nursing (LSBN) has exercised the emergency provisions of the Administrative Procedure Act, specifically R.S. 49:953(B), and through the authority granted in R.S. 37: 918, and in accordance with Executive Department Proclamation Number 38-JBE-2020 to adopt an emergency rule which will add additional language to Chapter 33, §3335. The added language in §3335 will give the board the ability to temporarily waive the requirements for continuing education related to the reinstatement of lapsed, inactive, or retired registered nurses (RN) licenses during a public health emergency. Any license reinstated under this exception shall meet the continuing education requirements to maintain licensure following the public health emergency. This Emergency Rule is effective upon the signature of the Executive Director, February 18, 2021, and shall remain in effect for 120 days unless rescinded, renewed, or the Covid-19 Public Health Emergency Proclamation is terminated by the governor.

In accordance with the Governor Edwards’ Proclamation Number 38-JBE-2020, §2(P), the LSBN is adopting this Emergency Rule to amend/waive a rule that interferes with the licensing of healthcare providers that are necessary to address the declared public health emergency.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLVII. Nurses: Practical Nurses and Registered Nurses

Subpart 2. Registered Nurses

Chapter 33. General Provisions

Subchapter C. Registration and Registered Nurse Licensure

§3335. Continuing Education

A. - D.2.f. ...

3. Public Health Emergency Exception

a. During a public health emergency, the board may waive the requirements for continuing education in 3335.D.1-2 for reinstatement of any RN license which has lapsed, has been inactive, or has been retired.

b. Any license reinstated under this provision shall meet the continuing education requirements to maintain licensure after the public health emergency has diminished as determined by the board.

E. - J.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:911, R.S. 37:918 (4), (12), and R.S. 37:920.E

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 16:1058 (December 1990), amended LR 21:267 (March 1995), LR 21:804 (August 1995), LR 24:1293 (July 1998), LR 25:514 (March 1999), LR 26:83 (January 2000), LR 27:729 (May 2001), LR 34:440 (March 2008), LR 47:

Interested persons may submit written comments to Karen C. Lyon, CEO/ Executive Director, Louisiana State Board of Nursing, 17373 Perkins Road, Baton Rouge, La 70810 or emailed to: lyonk@lsbn.state.la.us.

Karen C. Lyon
Executive Director

2103#004

DECLARATION OF EMERGENCY

Department of Health Board of Optometry Examiners

2020-2021 Continuing Education (LAC 46:LI.301)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:950, et seq., and pursuant to the authority vested in the Louisiana State Board of Optometry Examiners by the Optometry Practice Act, R.S. 37:1041-1068, the Louisiana State Board of Optometry Examiners declares an emergency to exist and hereby adopts by emergency process the attached regulations to supersede the current permanent regulations found at Title 46, Part LI: 301. The implementation of these regulations by the emergency process is necessary to protect the public health and safety of licensed optometrists during the COVID-19 pandemic.

The implementation of this Emergency Rule waives all continuing education requirements for calendar year 2020.

This Emergency Rule shall become effective upon signature and shall remain in effect for the maximum period allowed under the Administrative Procedures Act, R.S. 49:950, et seq.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LI. Optometrists

Chapter 3. License

§301. Continuing Education

A. Each licensed optometrist shall comply with the following continuing education requirements.

1. Standard optometry license holders and diagnostic pharmaceutical certificate holders shall complete between January 1 and December 31 of each calendar year at least 12 hours of continuing education courses., of which a minimum of 10 hours must be obtained in a classroom setting, approved by the Louisiana State Board of Optometry Examiners; provided, however, a minimum of 9 of 12 hours must be obtained in a classroom setting in the calendar year in which an optometrist holding a controlled dangerous

substance license satisfies the one-time continuing education requirement for controlled dangerous substances set forth in §303.

2. License holders authorized to diagnose and treat pathology and use and prescribe therapeutic pharmaceutical agents shall complete between January 1 and December 31 of each calendar year at least 16 hours of continuing education courses., of which a minimum of 14 hours must be obtained in a classroom setting, approved by the Louisiana State Board of Optometry Examiners, and of which at least eight classroom hours shall consist of matters related to ocular and systemic pharmacology and current diagnosis and treatment of ocular disease; provided, however, a minimum of 13 of 16 hours must be obtained in a classroom setting in the calendar year in which an optometrist holding a controlled dangerous substance license satisfies the one-time continuing education requirement for controlled dangerous substances set forth in §303. Such certificate holders will be entitled to apply the CPR continuing education to their required annual continuing education, provided that such CPR continuing education shall not count toward the required eight classroom hours related to ocular and system pharmacology and current diagnosis and treatment of ocular disease, and provided further that no more than two hours of CPR continuing education may be applied to the continuing education requirement in any two calendar year periods. The eight hours of continuing education relating to ocular and systemic pharmacology and/or current diagnosis and treatment of ocular disease shall be obtained solely from the following sources:

- a. the American Optometric Association;
- b. any state optometric association affiliated with the American Optometric Association;
- c. Great Western Council of Optometry, Mountain West Council of Optometrists, North Central States Optometric Council, and Southern Council of Optometrists;
- d. the American Academy of Optometry; or
- e. schools and colleges of optometry accredited by the American Optometric Association Accreditation Council on Optometric Education.

3. For the 2020 calendar year:

- a. all continuing education (CE) requirements are waived, and no action is required to receive this hardship CE exemption for the upcoming March 1, 2021, license renewal.

4. For the 2021 calendar year:

- a. all continuing education (CE) requirements remain in effect.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1048.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Optometry Examiners, LR 32:631 (April 2006), amended LR 35:1111 (June 2009), LR 38:1590 (July 2012), amended by the Department of Health, Board of Optometry Examiners, LR 44:1248 (July 2018), amended LR 46:23 (January 2020), LR 47:

Dr. James D. Sandefur, O.D.
Secretary

2103#001

DECLARATION OF EMERGENCY

Department of Health Board of Pharmacy

Temporary Suspension of License Renewal Fees (LAC 46:LIII.1150)

The Board of Pharmacy is exercising the emergency provisions of the Administrative Procedure Act, specifically at R.S. 49:953(B), to promulgate an Emergency Rule to implement a temporary suspension of license renewal fees for a limited period of time.

During their 2020 Regular Session, the Louisiana Legislature adopted House Concurrent Resolution 71 which directs professional licensing boards to adopt emergency rules to suspend the collection of license renewal fees for existing businesses located in Louisiana for licenses, certificates, permits and registrations scheduled to expire from July 1, 2020 through June 30, 2021.

The board has determined this Emergency Rule is necessary to comply with the legislative mandate in House Concurrent Resolution 71 of the 2020 Regular Session of the Louisiana Legislature. This Emergency Rule was issued originally on June 30, 2020 and re-issued on October 27, 2020. This Emergency Rule is effective February 22, 2021 and shall remain in effect for 120 days unless re-issued or cancelled.

Title 46 PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LIII. Pharmacists

Chapter 11. Pharmacies

§1150. Temporary Suspension of License Renewal Fees

A. During their 2020 Regular Session, the Louisiana Legislature adopted House Concurrent Resolution 71, which requires professional licensing boards to adopt emergency rules to suspend the collection of license renewal fees for existing businesses located in Louisiana for licenses, certificates, permits and registrations scheduled to expire from July 1, 2020 through June 30, 2021.

B. Notwithstanding any other provision of this Part to the contrary, the board shall waive the collection of the renewal fee and any associated late renewal fee for any of the following credentials scheduled to expire at any time from July 1, 2020 through June 30, 2021, excluding any credentials issued to nonresident pharmacies, facilities, or other businesses located outside Louisiana:

1. pharmacy permits.
2. durable medical equipment permits.
3. emergency drug kit permits.
4. automated medication system registrations.
5. controlled dangerous substance licenses issued to the following business categories:
 - a. automated medication systems;
 - b. drug and device distributors;
 - c. hospitals;
 - d. laboratories;
 - e. manufacturers;
 - f. pharmacies;
 - g. registered outsourcing facilities;
 - h. substance abuse clinics; and
 - i. third party logistics providers.

C. All other types of fees associated with the issuance and renewal of various licenses, certificates, permits and registrations issued to existing businesses located in Louisiana, including reinstatement fees, prescription monitoring program assessments, pharmacy education support fees, administrative hearing fees, and other fees itemized in R.S. 37:1184 are excluded from this temporary suspension of license renewal fees.

D. All fees associated with the issuance and renewal of various licenses, certificates, permits and registrations issued to new and existing businesses located outside Louisiana are excluded from this temporary suspension of license renewal fees.

E. All fees associated with the issuance and renewal of various licenses, certificates, permits and registration issued to individual persons located within or outside Louisiana are excluded from this temporary suspension of license renewal fees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 47:

Malcolm J Broussard
Executive Director

2103#007

DECLARATION OF EMERGENCY

Department of Health Bureau of Health Services Financing

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

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

Act 97 of the 2016 Regular Session of the Louisiana Legislature increased the time period required for certain pre-operative services. Act 563 of the 2016 Regular Session of the Louisiana Legislature provides that at least 72 hours before the abortion, the pregnant woman seeking an abortion shall be given a copy of certain printed information, including resources, programs and services for pregnant women who have a diagnosis of fetal genetic abnormality, and given printed information about resources, programs and services for infants and children born with disabilities, as well as other related matters. Act 593 of the 2016 Regular Session of the Louisiana Legislature provides for the

disposal, by interment or cremation, of fetal remains and designates procedures for giving patients options for arrangements. The department promulgated an Emergency Rule which amended the provisions governing outpatient abortion facilities in order to comply with the provisions of Acts 97, 563 and 593 (*Louisiana Register*, Volume 42, Number 12).

The department has now determined that it is necessary to amend the provisions of the December 3, 2016 Emergency Rule governing the length of retention of the certification of minors and the disposition of fetal remains. 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 March 20, 2021, the Department of Health, Bureau of Health Services Financing amends the provisions of the December 3, 2016 Emergency Rule governing the licensing standards for abortion facilities.

Title 48

PUBLIC HEALTH GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 44. Abortion Facilities

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

§4431. Screening and Pre-Operative Services

A. - E.1. ...

2. Requirements

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

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

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

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

iv. from a form that shall be produced and made available by the department, staff will orally read the statement on the form to the pregnant woman in the

ultrasound examination room prior to beginning the ultrasound examination, and obtain from the pregnant woman a copy of a completed, signed, and dated form; and

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

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

c. - e. Repealed.

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

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

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

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

d. the requirements of §4431.G.8 regarding dispositions of fetal remains, shall not apply to abortions induced by the administration of medications when the

evacuation of any human remains occurs at a later time and not in the presence of the inducing physician or at the facility in which the physician administered the inducing medications.

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

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

Interested persons may submit written comments to Cecile Castello, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821. 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.

Dr. Courtney N. Phillips
Secretary

2103#039

DECLARATION OF EMERGENCY

Department of Health Bureau of Health Services Financing

Intermediate Care Facilities for Persons with
Intellectual Disabilities—Temporary Reimbursement
for Private Facilities (LAC 50:VII.32904)

The Department of Health, Bureau of Health Services Financing hereby rescinds the February 1, 2021 Emergency Rule which adopted provisions in the Medical Assistance Program in order to implement a temporary reimbursement rate for private intermediate care facilities for persons with intellectual disabilities (ICFs/IID) 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 promulgated an Emergency Rule which adopted provisions governing the temporary rates for intermediate care facilities for persons with intellectual disabilities (ICFs/IID) that have a cooperative endeavor agreement with the Office for Citizens with Developmental Disabilities and have a high concentration of people who have intellectual/developmental disabilities, significant behavioral health needs, and high risk behavior resulting in previous interface with the judicial system, and for whom no other private ICFs/IID provider is able to support (*Louisiana Register*, Volume 47, Number 2). The department has now determined that it is necessary to rescind the Emergency Rule which was adopted on February 1, 2021 and published in the February 20, 2021 edition of the *Louisiana Register*.

Effective February 19, 2021, the Department of Health, Bureau of Health Services Financing hereby rescinds the February 1, 2021 Emergency Rule which amended the provisions governing temporary rates for intermediate care facilities for persons with intellectual disabilities.

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

Dr. Courtney N. Phillips
Secretary

2103#005

DECLARATION OF EMERGENCY

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

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

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

In response to these public health emergency declarations and the rapid advancement of COVID-19 throughout Louisiana, the Department of Health, Bureau of Health Services Financing, the Office of Aging and Adult Services (OAAS), and the Office of Behavioral Health (OBH) amended the provisions of Title 50 of the *Louisiana Administrative Code* in order to adopt temporary measures to provide for the continuation of essential programs and services to ensure the health and welfare of the citizens of Louisiana in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq. (*Louisiana Register*, Volume 46, Number 4). This Emergency Rule, adopted on March 19, 2020, also amended the provisions governing the reimbursement methodology for nursing facilities to include an add-on rate to the per diem. The department subsequently promulgated an Emergency Rule, adopted on April 8, 2020, which further amended Title 50 to temporarily adopt additional provisions to ensure the continuation of essential programs and services, and rescinded and replaced the nursing facility add-on provisions of the previous Emergency Rule in order to clarify the eligible nursing facility providers (*Louisiana Register*, Volume 46, Number 4). The department determined that it was necessary to promulgate Emergency Rules on October 19, 2020 to amend the April 8, 2020

Emergency Rule in order to require an attestation for adult day center providers to receive retainer payments (*Louisiana Register*, Volume 46, Number 11) and on December 10, 2020 to amend the October 19, 2020 Emergency Rule in order to remove provisions allowing self-attestation of certain eligibility criteria information (*Louisiana Register*, Volume 46, Number 12). This Emergency Rule is being promulgated in order to continue the provisions of the April 8, 2020, October 19, 2020 and December 10, 2020 Emergency Rules and shall be in effect for the maximum period allowed under the Act or the duration of the COVID-19 public health emergency declaration, whichever comes first.

Effective April 10, 2021, the Department of Health, Bureau of Health Services Financing, the Office of Aging and Adult Services, and the Office for Citizens with Developmental Disabilities continue the provisions of the April 8, 2020, October 19, 2020, and December 10, 2020 Emergency Rules in order to amend Title 50 of the *Louisiana Administrative Code* throughout the duration of the COVID-19 public health emergency declaration:

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

The per diem rate paid to privately owned or operated nursing facilities shall include an add-on of \$12 for the duration of the COVID-19 public health emergency declaration or to end at the discretion of the state.

**Nursing Facilities—Reimbursement Methodology
Non-State, Government Owned or Operated Facilities
and State-Owned or Operated Facilities
(LAC 50:II.20009)**

Non-state, government-owned or operated nursing facilities will be paid a case-mix reimbursement rate in accordance with §20005 with the following exception.

State-owned or operated and non-state, government-owned or operated nursing facilities are not eligible for, and will not receive, the state and/or federal declared emergency add-on rate.

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

State-owned or operated, and non-state government-owned or operated, facilities are not eligible for, and will not receive, the State and/or Federal declared emergency modification to leave of absence day payments.

**Home Health Program—Home Health Services
(LAC 50:XIII.Subpart 1)**

For the duration of the COVID-19 public health emergency declaration, non-physician practitioners (nurse practitioners and physician assistants) will be able to order and review home health services, including the completion of associated documentation, in order to meet the demand for services due to access issues and a shortfall in physician availability.

**Services for Special Populations—Applied Behavior
Analysis-Based Therapy Services—Covered Services and
Limitations (LAC 50:XV.301.D)**

Prior authorizations for persons currently approved to receive applied behavior analysis-based (ABA) therapy services will be extended for the duration of the COVID-19 public health emergency declaration.

**Services for Special Populations—Early and Periodic
Screening, Diagnosis and Treatment Personal Care
Services—Provider Qualifications
(LAC 50:XV.Subpart 5)**

For the duration of the COVID-19 public health emergency declaration, the qualifications for providers of personal care services (PCS) to recipients receiving early and periodic screening, diagnostic and treatment (EPSDT) services will be relaxed to allow:

Recipients and workers to live in the same setting so that the recipients may receive EPSDT PCS.

Legally responsible relatives/caregivers to be a temporary direct service worker (DSW) in the absence of DSW care.

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

Payment to the legally responsible relatives/caregivers designated as the temporary DSW for EPSDT PCS, if necessary, during the absence of availability of agency DSW care.

LDH approval for these services will be required. Requests will be reviewed on a case-by-case basis. If approval is granted:

Providers will pay the temporary DSW directly for services rendered; and

Providers will follow hiring procedures that include background checks and training.

At a minimum, training must include abuse and neglect reporting and infection control prior to the temporary DSW providing services.

Family members, who live with the recipient and are being temporarily approved to provide services, are exempted from background check requirements.

**Services for Special Populations—Targeted Case
Management (LAC 50:XV.Subpart 7)**

For the duration of the COVID-19 public health emergency declaration, the state makes the following allowances for early and periodic screening, diagnostic and treatment targeted case management services:

Case managers may utilize telephone contacts (i.e., video or voice calls) in place of any required face-to-face contacts; and

Case managers may complete initial assessments, quarterly reassessments, and annual reassessments without signatures from recipients.

**Services for Special Populations—Pediatric Day Health
Care Program—Pediatric Day Health Care Services
(LAC 50:XV.27501.B)**

For the duration of the COVID-19 public health emergency declaration, Pediatric Day Health Care (PDHC) program requirements will be temporarily changed as follows to permit skilled staff of PDHC centers that are not exhibiting any signs or symptoms of the COVID-19 infection to render PDHC services to those children who require skilled nursing, when families are not able to provide such care.

The PDHC program will allow for services to be provided in the recipient's home;

The PDHC program will allow for billing and payment of procedure code T1026 (hourly PDHC services – six hours or less per day) when billed at place of service 12 (home); and

Providers must obtain LDH approval to implement the temporary PDHC provisions. Requests for approval will be reviewed on a case-by-case basis.

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

Due to the Department of Health (LDH) directed closures during the state of emergency, the state may make retainer payments to adult day health care (ADHC) providers. The purpose of such payments is to allow ADHC providers to retain staff and cover fixed expenses so that ADHC centers may reopen when allowed to by LDH.

LDH retains the right to recoup all or a portion of retainer payments from ADHC providers who furlough or lay off staff or fail to reopen.

LDH may review cost reports and other documentation of expenses in making this determination.

Home and Community-Based Services Waivers Supports Waiver (LAC 50:XXI.Subpart 5)

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

Allow up to a total of 20 hours a week of respite services and or habilitation services in lieu of day habilitation or vocational services for these programs that have been closed;

Allow participants and direct support workers (DSWs) to live in the same setting so that the recipient may receive necessary respite and habilitation services;

Allow legally responsible relatives to be temporary respite or habilitation direct support, if necessary, in the absence of DSW care;

Background checks for legally responsible relatives who live in the same home with the participant prior to the declared emergency will be waived;

Documentation of services rendered is required and will be verified by the support coordination agency;

For initial waiver participants, allow the current statement of approval (SOA) of intellectual disabilities/developmental disabilities (ID/DD) services to suffice for the level of care (LOC) until the declared emergency is resolved so as not to delay waiver services for those who are waiting for services;

Re-evaluation requires a visit to a doctor's office (well visit) to obtain medical eligibility determination (Form 90-L) for waiver services initially and annually. To reduce potential exposure to participants, allow the current evaluation to remain in effect until resolution of emergency if needed;

Add hazard premium increase for service of respite or habilitation for direct support workers who go into the homes of persons who are either positive, presumptive positive, or quarantined for the coronavirus;

Extend the 10-day requirement for the initial in-home visit for initial plans;

Extend the 30-day time frame for the assessment;

Allow plans of care to be extended beyond the one year (annual) requirement;

Allow quarterly visits to be conducted via phone contact, FaceTime, or skype;

Monthly phone contacts will still occur;

Allow support coordinators to substitute phone contact, FaceTime on computers, or Skype, in lieu of home visits for individuals at risk of exposure who are medically fragile, elderly, both or who have medically fragile caregivers;

Allow assessments to be conducted via FaceTime, Skype, or phone call to avoid delay in services;

Allow the comprehensive plan of care by the support coordinator to be conducted via FaceTime, Skype, or by phone to avoid a delay in services;

Allow the home certification visit by the Office for Citizens with Developmental Disabilities (OCDD) or its designee to be conducted via FaceTime, Skype, or phone call to avoid a delay in services; and

Allow the state to make retainer payments to adult day habilitation centers when these providers are ordered to close by local, state, or federal officials. The purpose of such payments is to allow adult day center providers to retain staff and cover fixed expenses so they may reopen.

Retainer payments will be a paid at 75 percent of the normal rate paid for the service provided.

LDH retains the right to recoup all or a portion of retainer payments from providers who furlough or lay off staff or fail to reopen.

LDH may review cost reports and other documentation of expenses in making this determination.

Home and Community-Based Services Waivers Children's Choice Waiver (LAC 50:XXI.Subpart 9)

With approval from the Centers for Medicare and Medicaid Services (CMS) as applicable, the following provisions of the Children's Choice Waiver are relaxed for the duration of the COVID-19 public health emergency declaration to:

Allow expansion of the current Children's Choice Waiver cap to allow for an additional 20 hours per week of family support services as needed for health and safety due to school closures;

Allow participants and family support (FS) direct support workers (DSWs) to live in the same setting so that the participant may continue to receive services;

Allow legally responsible relatives to be temporary FS DSWs during the declared emergency, if necessary, in the absence of DSW care;

Documentation of services rendered is required and will be verified by the support coordination agency;

Reduce the minimum age of DSWs to 16 years of age, if necessary, in an emergency. Emergency being defined as no other staff or supports available;

Remove the requirement for DSWs to have a high school diploma or equivalent;

Temporarily suspend background checks for immediate family hired as DSWs who live in the same home as the recipient;

Re-evaluation requires a visit to a doctor's office (well visit) to obtain medical eligibility determination (Form 90-L) for waiver services initially and annually. To reduce potential exposure to participants, allow the current evaluation to remain in effect until resolution of emergency, if needed;

For initial waiver participants, allow the current statement of approval of intellectual disabilities/developmental

disabilities (ID/DD) services to suffice for the level of care requirement to avoid a delay in services;

Add hazard premium increase for family support services for DSWs who go into the homes of persons who are either positive, presumptive positive, or quarantined for the coronavirus;

Extend the 10-day requirement for the initial in-home visit for initial plans;

Extend the 30-day time frame for the assessment;

Allow plans of care to be extended beyond the one year (annual) requirement;

Allow quarterly visits to be conducted via phone contact versus face-to-face contact;

Monthly phone contacts will still occur;

Allow support coordinators to substitute phone contact, FaceTime on computers, or Skype in lieu of home visits for individuals at risk of exposure who are medically fragile, elderly, both, or who have medically fragile caregivers;

Allow assessments to be conducted via FaceTime, Skype, or phone call to avoid delay in services;

Allow the comprehensive plan of care by the support coordinator to be conducted via FaceTime, Skype, or phone to avoid a delay in services; and

Allow the home certification visit by the Office for Citizens with Developmental Disabilities (OCDD) or its designee to be conducted via FaceTime, Skype, or phone to avoid a delay in services.

Home and Community-Based Services Waivers

New Opportunities Waiver (LAC 50:XXI.Subpart 11)

With approval from the Centers for Medicare and Medicaid Services (CMS) as applicable, the following provisions of the New Opportunities Waiver are relaxed for the duration of the COVID-19 public health emergency declaration to:

Allow conversion of day habilitation and vocational service program hours to individual and family support (IFS) for participants whose day habilitation and/or vocational programs have closed;

Allow sharing of direct support staff when necessary;

Add monitored in-home caregiving (MIHC) as a service;

Allow participants and individual and family support (IFS) direct support workers (DSWs) to live in the same setting so that the participant may continue to receive services;

Allow legally responsible relatives to be temporary IFS DSWs during the declared emergency, if necessary, in the absence of DSW care;

Documentation of services rendered is required and will be verified by the support coordination agency;

Temporarily suspend background checks for immediate family hired as DSWs who live in the same home as the recipient;

Reduce the minimum age of DSWs to 16 years of age, if necessary, in an emergency. Emergency being defined as no other staff or supports available;

Remove the requirement for DSWs to have a high school diploma or equivalent;

For initial waiver participants, allow the current statement of approval (SOA) of intellectual disability/developmental disability (ID/DD) services to suffice for the level of care (LOC) until the declared emergency is resolved so as not to delay waiver services for those who are waiting for services;

Re-evaluation requires a visit to a doctor's office (well visit) to obtain medical eligibility determination (Form 90-L) for annual waiver services. To reduce potential exposure to participants, allow the current evaluation to remain in effect until resolution of emergency if needed;

Add hazard premium increase for service of individual and family supports, community living supports, family support, respite, and habilitation for DSWs who go into the homes of persons who are either positive, presumptive positive, or quarantined for the coronavirus;

Extend the 10-day requirement for the initial in-home visit for initial plans;

Extend the 30-day time frame for the assessment;

Allow plans of care to be extended beyond the one year (annual) requirement;

Allow quarterly visits to be conducted via phone contact versus face-to-face contact;

Monthly phone contacts will still occur;

Allow support coordinators and supported living coordinators to substitute phone contact, FaceTime, or Skype in lieu of home visits for individuals at risk of exposure who are medically fragile, elderly, both or who have medically fragile caregivers;

Allow assessments to be conducted via FaceTime, Skype, or phone call to avoid a delay in services;

Allow the comprehensive plan of care by the support coordinator to be conducted via FaceTime, Skype or phone to avoid a delay in services;

Allow the home certification visit by the Office for Citizens with Developmental Disabilities (OCDD) or its designee to be conducted via FaceTime, Skype, or phone to avoid a delay in services; and

Allow the state to make retainer payments to adult day centers when these providers are ordered to close by local, state, or federal officials. The purpose of such payments is to allow adult day center providers to retain staff and cover fixed expenses so they may reopen.

Retainer payments will be a paid at 75 percent of the normal rate paid for the service provided.

The adult day center must provide a signed attestation developed by the department agreeing to the following during the period of the retainer payments: (1) not to furlough or lay off staff, (2) maintain wages at existing levels, (3) the ADC has not received funding from any other sources, including but not limited to, unemployment benefits and Small Business Administration loans, that would exceed their revenue for the last full quarter prior to the public health emergency, or that the retainer payments at the level provided by the state would not result in their revenue exceeding that of the quarter prior to the public health emergency. If a provider has already received revenues in excess of the pre-public health emergency level, retainer payments are not available.

If a provider had not already received revenues in excess of the pre-public health emergency level but receipt of the retainer payment in addition to those prior sources of funding results in the provider exceeding the pre-public health emergency level, any retainer payment amounts in excess may be recouped.

LDH retains the right to recoup all or a portion of retainer payments from providers who furlough or lay off staff or fail

to reopen. LDH may review cost reports and other documentation of expenses in making this determination.

Home and Community-Based Services Waivers

Residential Options Waiver (LAC 50:XXI.Subpart 13)

With approval from the Centers for Medicare and Medicaid Services (CMS) as applicable, the following provisions of the Residential Options Waiver are relaxed for the duration of the COVID-19 public health emergency declaration to:

Allow sharing of direct support staff when necessary;

Allow conversion of day habilitation and vocational services to community living supports (CLS) for participants whose day habilitation and or vocational program have been closed;

Add monitored in-home caregiving (MIHC) as a service;

Allow participants and community living support (CLS) direct support workers (DSWs) to live in the same setting so that the participant may continue to receive services;

Documentation of services rendered is required and will be verified by the support coordination agency;

Allow legally responsible relatives to be temporary community living support (CLS) DSWs during the declared emergency if necessary in the absence of DSW care;

Temporarily suspend background checks for immediate family hired as DSWs who live in the same home as the recipient;

Reduce the minimum age of DSWs to 16 years of age, if necessary, in an emergency. Emergency being defined as no other staff or supports available;

Remove the requirement for DSWs to have a high school diploma or equivalent;

For initial waiver participants, allow the current statement of approval (SOA) of intellectual disabilities/developmental disabilities (ID/DD) services to suffice for the level of care (LOC) until the declared emergency is resolved so as not to delay waiver services for those who are waiting for services;

Re-evaluation requires a visit to a doctor's office (well visit) to obtain medical eligibility determination (Form 90-L) for annual waiver services. To reduce potential exposure to participants, allow the current evaluation to remain in effect until resolution of emergency if needed;

Add hazard premium increase for service of individual and family supports, community living supports, family support, respite, and habilitation for DSWs who go into the homes of persons who are either positive, presumptive positive, or quarantined for the coronavirus;

Extend the 10-day requirement for the initial in-home visit for initial plans;

Extend the 30-day time frame for the assessment;

Allow plans of care to be extended beyond the one year (annual) requirement;

Allow quarterly visits to be conducted via phone contact versus face-to-face contact;

Monthly phone contacts will still occur;

Allow support coordinators to substitute phone contact, FaceTime on computers, or Skype in lieu of home visits for

individuals at risk of exposure who are medically fragile, elderly, or both or who have medically fragile caregivers;

Allow assessments to be conducted via FaceTime, Skype, or phone call to avoid a delay in services;

Allow the comprehensive plan of care by the support coordinator to be conducted via FaceTime, Skype, or by phone to avoid a delay in services;

Allow the home certification visit by the Office for Citizens with Developmental Disabilities (OCDD) or its designee to be conducted via FaceTime, Skype, or phone to avoid delay in services; and

Allow the state to make retainer payments to adult day centers and adult day health care centers when these providers are ordered to close by local, state, or federal officials. The purpose of such payments is to allow adult day center providers to retain staff and cover fixed expenses so they may reopen.

Retainer payments will be a paid at 75 percent of the normal rate paid for the service provided.

The adult day center must provide a signed attestation developed by the department agreeing to the following during the period of the retainer payments: (1) not to furlough or lay off staff, (2) maintain wages at existing levels, (3) the ADC has not received funding from any other sources, including but not limited to, unemployment benefits and Small Business Administration loans, that would exceed their revenue for the last full quarter prior to the public health emergency, or that the retainer payments at the level provided by the state would not result in their revenue exceeding that of the quarter prior to the public health emergency. If a provider has already received revenues in excess of the pre-public health emergency level, retainer payments are not available.

If a provider had not already received revenues in excess of the pre-public health emergency level but receipt of the retainer payment in addition to those prior sources of funding results in the provider exceeding the pre-public health emergency level, any retainer payment amounts in excess may be recouped.

LDH retains the right to recoup all or a portion of retainer payments from providers who furlough or lay off staff or fail to reopen. LDH may review cost reports and other documentation of expenses in making this determination.

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

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

Dr. Courtney N. Phillips
Secretary

2103#040

DECLARATION OF EMERGENCY

Department of Treasury Deferred Compensation Commission

Administration and Distributions
(LAC 32:VII.701 and 1105)

The Deferred Compensation Commission has exercised the emergency provision in accordance with the Administrative Procedure Act, R.S. 49:953(B) and pursuant to the authority set forth in R.S. 42:1303, to amend LAC 32:VII.701 and 1105 regarding qualified birth and adoption distributions, the age at which participants may make in-service distributions, and repayment of certain loans to qualified participants. This Emergency Rule is necessary to allow plan participants who qualify for the relief provided by the Setting Every Community Up for Retirement Enhancement (“SECURE”) Act (effective December 20, 2019) and the Coronavirus Aid, Relief, and Economic Security (“CARES”) Act (effective March 27, 2020).

The Deferred Compensation Commission hereby finds that the following circumstances constitute an immediate danger to the public health, safety, or welfare: Due to public health threat created by COVID-19, on March 11, 2020, Governor John Bel Edwards declared a public health emergency in the State of Louisiana (Proclamation No. JBE 2020-25). In addition, on March 13, 2020, President Donald J. Trump declared a national emergency. In Louisiana, a public health emergency continues to exist (Proclamation Nos. JBE 2021-6 and 7). As of February 10, 2021, 414,687 cases of COVID-19 have been confirmed in Louisiana, resulting in 9,212 deaths. The economic impact to individuals in Louisiana, including plan participants has also been devastating. Many businesses and governmental entities have been forced to furlough or lay off employees, resulting in even greater financial hardship. The COVID-19 pandemic has caused an immediate threat to the public health, safety, and welfare of many participants in the Louisiana Deferred Compensation Plan.

In order to provide relief to those plan participants who have been adversely affected by the COVID-19 pandemic, the following emergency rule is necessary so that qualifying plan participants may take advantage of the relief provided in the SECURE Act and CARES Act.

This Emergency Rule was adopted on February 9, 2021, and shall be effective on February 9, 2021. This Emergency Rule shall remain in effect 120 days, unless renewed by the Deferred Compensation Commission, or until permanent rules are promulgated in accordance with the law.

Title 32

EMPLOYEE BENEFITS

Part VII. Public Employee Deferred Compensation

Subpart 1. Deferred Compensation Plan

Chapter 7. Distributions

§701. Conditions for Distributions

A. Payments from the participants §457 Deferred Compensation Plan account to the participant or beneficiary shall not be made, or made available, earlier than:

1. - 4. ...

5. the participant makes a qualified birth or adoption distribution pursuant to Section 113 of the Setting Every

Community Up for Retirement Act of 2019. Any such qualified birth or adoption distribution shall not exceed \$5,000 per birth or adoption. The commission or plan administrator may rely upon a participant’s birth or adoption certificate for purposes of determining eligibility; or

7. the calendar year in which an in-service participant attains age 59 1/2, but only if such participant revokes all deferrals of compensation into the plan prior to beginning distributions.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1967 (October 1998), amended LR 28:1497 (June 2002), LR 32:121 (January 2006), LR 47:

Chapter 11. Participant Loans

§1105. Repayment of Loan

A. Each loan shall mature and be payable, in full and with interest, within five years from the date such loan is made, unless:

1. the loan is used to acquire any dwelling unit that within a reasonable time (determined at the time the loan is made) will be used as the principal residence of the participant; or

2. loan repayments are, at the employer's election, suspended as permitted by IRC §414(u)(4) (with respect to qualified military service); or

3. the loan is made to a qualified participant, is outstanding on or after March 27, 2020, and is due during the period beginning March 27, 2020, and ending December 31, 2020. The due date for any such loan shall be delayed for a period of one year, and any subsequent repayments pursuant to that loan shall be appropriately adjusted to reflect the delayed due date.

a. For purposes of LAC 32:VII.1105.A.3, the term *qualified participant* shall mean the same as *qualified individual* under Sec. 2202(a) of the CARES Act, which defines a qualified individual as an individual:

i. who is diagnosed with the virus SARS-CoV-2 or with coronavirus disease 2019 (COVID-19) by a test approved by the Centers for Disease Control and Prevention;

ii. whose *spouse* or *dependent* (as defined in section 152 of the Internal Revenue Code of 1986) is diagnosed with such virus or disease by such a test; or

iii. who experiences adverse financial consequences as a result of being quarantined, being furloughed or laid off or having work hours reduced due to such virus or disease, being unable to work due to lack of child care due to such virus or disease, closing or reducing hours of a business owned or operated by the individual due to such virus or disease, or other factors as determined by the secretary of the U.S. Treasury.

AUTHORITY NOTE: Promulgated in accordance with R.S. §42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 28:1500 (June 2002), amended LR 47:

Whit Kling
Chairman

2103#02

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Poverty Point Reservoir Netting Season Extension

The Wildlife and Fisheries Commission is exercising its authority to modify freshwater finfish seasons under R.S. 49:953(H) of the Administrative Procedure Act by reopening the special commercial netting season on Poverty Point Reservoir. Freshwater trammel and gill nets are prohibited by Rule (LAC 76:VII.106) in Poverty Point Reservoir in Richland Parish, except for the legal harvest of commercial fish during a special recurring netting season. The special netting season commences annually on October 1 and closes on the last day of February of the following year. This extension provides additional commercial fishing opportunity, and simultaneously improves the recreational

fishery by removing undesirable rough fish in Poverty Point Reservoir. This Emergency Rule is effective as of official sunrise on Friday, March 5, 2021 and shall remain in effect until March 31, 2021 at sunset.

In accordance with the emergency provisions of R.S. 49:953(H) of the Administrative Procedure Act, which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency procedures to promulgate rules relative to finfish seasons, and under the authority of R.S. 56:6(25)(a), R.S. 56:325(C) and R.S. 56:326.3, the Wildlife and Fisheries Commission hereby declares:

The 2020–2021 special commercial netting season on Poverty Point Reservoir, Richland Parish, Louisiana, shall reopen at official sunrise on Friday, March 5, 2021 and shall close at sunset on Wednesday, March 31, 2021.

Jerri G. Smitko
Chair

2103#013

Rules

RULE

Department of Agriculture and Forestry Office of Agro-Consumer Services Division of Weights and Measures

Truth in Labeling of Food Products (LAC 7:XXXV.701-715)

In accordance with the Administrative Procedure Act, R.S. 49:950, et seq., and pursuant to the authority set forth in R.S. 3:4741 et seq., notice is hereby given that the Department of Agriculture and Forestry (“Department”) has adopted the rules set forth below by promulgating LAC 7:XXXV.701-715. These rules will set forth requirements for labeling food products that are edible by humans and prohibit misleading and false labeling of such products.

The rules, authorized by R.S. 3:4741 through 4746, provide for the labeling of agricultural products, provide for the truth in labeling requirements, provide for definitions; prohibit misbranding or misrepresenting a food product through certain activities; provide for enforcement of violations of these rules and of the Truth in Labeling of Food Products Act; and provide for penalties for such violations. This Rule is hereby adopted on the day of promulgation.

Title 7

AGRICULTURE AND ANIMALS

Part XXXV. Agro-Consumer Services

Chapter 7. Truth in Labeling of Food Products

§701. Authority

A. The Department of Agriculture and Forestry adopts these regulations under the authority of R.S. 3:4741 et seq. for the purposes of regulating and enforcing the truthfulness in labeling agricultural products and to prohibit the misbranding or misrepresentation of food products.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4741.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 47:348 (March 2021).

§703. Definitions

A. The provisions of R.S. 3:4741 through 4746, relating to definitions, words, and terms are hereby incorporated by reference and made a part hereof and will therefore apply and govern the interpretation of these rules, unless the context otherwise requires or unless specifically redefined in a particular Section. Any word or term not defined in these rules shall have the same meaning ascribed to it in R.S. 3:4741 through 4746. Any word or term not defined in R.S. 3:4741 through 4746 or these regulations shall be construed in accordance with its plain and ordinary meaning.

B. The following words and terms shall have the following meanings for purposes of this Chapter:

Act—Truth in Labeling of Food Products Act, or R.S. 3:4741 et seq.

Agricultural Product—any beef, pork, poultry, crawfish, shrimp, meat, sugar, or rice product intended for human consumption.

Beef—the flesh of a domesticated bovine that is suitable for human consumption.

Beef Products—agricultural products that are produced, in whole or in part, from beef and are suitable for human consumption. Beef products include, but are not limited to, beef jerky, beef patties, chopped steak, fabricated steak, hamburger, ground beef, ribs, and roast.

Cell Cultured Food Product—any cultured animal tissue produced from *in vitro* animal cell cultures outside of the organism from which it is derived.

Commissioner—the Commissioner of Agriculture and Forestry.

Deceptively Similar—misleading to a reasonable person.

Department—the Department of Agriculture and Forestry.

Food Product—any product sold at retail or offered for retail sale that is intended for human consumption.

Label—a display of written, printed, or graphic matter upon or affixed to the container or wrapper in which a food product is offered for direct retail sale.

Labeling—the act of identifying, describing, or advertising a food product by means of a label or through other means.

Meat—a portion of beef, pork, poultry, alligator, farm-raised deer, turtle, domestic rabbit, crawfish, or shrimp carcass that is suitable for human consumption, but does not include:

- a. synthetic product derived from a plant, insect, or other source;
- b. cell-cultured food product grown in a laboratory from animal cells.

Meat Product—a type of agricultural product that is edible by humans and made wholly or in part from meat or another portion of a beef, pork, poultry, alligator, farm-raised deer, turtle, domestic rabbit, crawfish, or shrimp carcass.

Misbrand—to identify or label a food product in a false or misleading way.

Misrepresent—to use any untrue, misleading, or deceptive oral or written statement, advertisement, label, display, picture, illustration, or sample.

Person—an individual, partnership, limited liability company, limited liability partnership, corporation, trust, firm, company, or other entity doing business in Louisiana.

Pork—the flesh of domesticated swine that is suitable for human consumption.

Pork Products—agricultural products that are produced, in whole or in part, from pork and are suitable for human consumption. Pork products include, but are not limited to, bacon, bratwurst, ground pork, ham, pork chops, ribs, roast, and sausage.

Poultry—the flesh of domesticated birds that is suitable for human consumption.

Principal Display Panel—the part(s) of a label that is so designed as to most likely be displayed, presented, shown, or examined under normal and customary conditions of display, sale, and purchase. Wherever a principal display panel

appears more than once on a package, all requirements pertaining to principal display panels shall pertain to all such principal display panels.

Rice—the whole or broken kernels obtained from the species *Oryza sativa L.* or *Oryza glaberrima*, or wild rice, which is obtained from one of the four species of grasses from the genus *Zizania* or *Porteresia*.

Truth in Labeling Food Products Act—R.S. 3:4741 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4741.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 47:348 (March 2021).

§705. Application

A. The provisions of this Chapter shall apply only to persons who place a label on retail food products sold or offered for sale.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4741.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 47:349 (March 2021).

§707. Requirements for Food Labeling

A. All food products in package form shall bear a printed or stenciled label that clearly and accurately indicates the actual contents of the food product on the principal display panel.

B. If the label of a food product includes the name of a food product or agricultural product that is not contained in the package, the principal display panel must clearly state the actual contents of the package and/or description of the food product contained therein.

C. Nothing in these regulations shall be construed to conflict with any other laws, rules, or regulations regarding the labeling of food products.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4741.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 47:349 (March 2021).

§709. Prohibitions

A. Except as otherwise provided herein, no person shall:

1. misbrand or misrepresent any food product as a covered agricultural product;

2. affix a label to any food product that is false or misleading;

3. Represent a food product as meat or a meat product unless the food product is derived from beef, pork, poultry, alligator, farm-raised deer, turtle, domestic rabbit, crawfish, or shrimp. This shall include representing a cell-cultured food product as a meat product;

4. Represent a food product as rice unless the food product is rice or derived from rice;

a. This shall include using the term “rice” in the name of the food product when the food product is not rice or derived from rice.

5. Represent a food product as beef or a beef product unless the food product is derived from a domesticated bovine;

6. Represent a food product as pork or a pork product unless the food product is derived from a domesticated swine;

7. Represent a food product as poultry or a poultry product unless the food product is derived from poultry, as defined in this Chapter.

8. Represent a food product as sugar unless the food product is an unaltered plant-based simple sugar or sucrose;

9. Utilize a term that is the same or deceptively similar to a term that has been used or defined historically in reference to another agricultural product.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4741.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 47:349 (March 2021).

§711. Complaints and Investigations.

A. The department may receive complaints regarding violations of this Chapter. Complaints may be directed to the department’s Weights and Measures division.

B. Upon receipt of a complaint, the Department may investigate the alleged violation.

C. The department may also investigate possible violations that the department may notice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4741.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 47:349 (March 2021).

§713. Enforcement

A. Whenever the department has reason to believe that a violation of this Chapter or the Act has occurred, the department may present the alleged violations at an adjudicatory hearing before the Weights and Measures Commission.

B. The department shall notify the respondent of the alleged violation as well as an opportunity to respond thereto, by certified mail, prior to any hearing date in accordance with the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4741.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 47:349 (March 2021).

§715. Penalties

A. A person who violates any provision of this Chapter or the Act shall be subject to a civil penalty of not more than \$500 for each violation.

B. Each day on which a violation occurs shall constitute a separate offense.

C. Penalties may be assessed only by a ruling of the commissioner based upon a recommendation by the Weights and Measures Commission adjudicatory hearing held pursuant to R.S. 3:4605 and the Administrative Procedures Act.

D. In addition to civil penalties, the commissioner may institute civil proceedings seeking injunctive relief to restrain and prevent violation of the provisions of this Chapter and the Act in any court of proper jurisdiction and venue.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4741.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 47:349 (March 2021).

Mike Strain, DVM
Commissioner

2103#036

RULE

Department of Children and Family Services Economic Stability Section

Jobs for America's Graduates Louisiana
(JAGS-LA) Program (LAC 67:III.5591)

In accordance with the provisions of the Administrative Procedure Act R.S. 49:953(A), the Department of Children and Family Services (DCFS) has amended LAC 67:III, Subpart 15 Temporary Assistance for Needy Families (TANF) Initiatives, Chapter 55 TANF Initiatives, Section 5591 Jobs for America's Graduates Louisiana (JAGS-LA) Program.

Pursuant to Louisiana's Temporary Assistance for Needy Families (TANF) Block Grant, amendment of Section 5591 is required to update language concerning service provider.

This action was made effective by an Emergency Rule dated and effective November 1, 2020. This Rule is hereby adopted on the day of promulgation.

Title 67

SOCIAL SERVICES

Part III. Economic Stability

Subpart 15. Temporary Assistance for Needy Families (TANF) Initiatives

Chapter 55. TANF Initiatives

§5591. Jobs for America's Graduates Louisiana (JAGS-LA) Program

A. Effective November 1, 2020, the department may enter into agreements for the purpose of administrating the Jobs for America's Graduates Louisiana (JAG-LA) Program to help keep in school those students at risk of failing in school, to capture out-of-school youth in need of a high school education, to provide an avenue for achieving academically, and to assist students in ultimately earning recognized credentials that will make it possible for them to exit school and enter post-secondary education and/or the workforce.

B. These services meet TANF Goal 3 to prevent and reduce the incidence of out-of-wedlock pregnancies by providing intervention and improved life prospects for students who show evidence of failing, dropping out or engaging in negative behaviors that can lead to dependency, out-of-wedlock births, imprisonment, and/or other undesirable outcomes which may lead to the detriment and impoverishment of youth.

C. Eligible participants in the JAG-LA Program shall be 12-22 years of age and must face at least two designated barriers to success that include economic, academic, personal, environmental, or work related barriers.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; House Bill 1, 2007 Reg. Session Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 33:2468 (November 2007), amended LR 34:698 (April 2008), LR 35:1257 (July 2009), amended by the Department of Children and Family Services, Economic Stability Section, LR 47:350 (March 2021).

Marketa Garner Walters
Secretary

2103#028

RULE

Department of Children and Family Services Licensing Section

Child Placing Provisions
(LAC 67:V.Chapter 73)

In accordance with the provisions of the Administrative Procedure Act R.S. 49:953 (A)and R.S. 46:1407 (D), the Department of Children and Family Services (DCFS) has amended LAC 67, Part V, Subpart 8, Chapter 73, Child Placing Agencies, Section 7311, 7313, 7315, 7321, and 7323.

The Rule clarifies requirements related to insurance coverage, location of first aid supplies, criminal background check timeframes, mandated reporter training, training topics for youth in the transitional placing program, and the location of first aid supplies in transitional placing programs. The Rule also adds timeframes for providing influenza information to foster/adoptive parents, adds an alternative safe sleep course, extends timeframes for obtaining statements of health, and adds a requirement for youth in the extended foster care program to be able to remain in their foster/adoptive placement. This Rule is hereby adopted on the day of promulgation, and it is effective on March 1, 2021.

Title 67

SOCIAL SERVICES

Part V. Child Welfare

Subpart 8. Residential Licensing

Chapter 73. Child Placing Agencies—General Provisions

§7311. Licensing Requirements—Foster Care, Adoption, Transitional Placing

A. - A.16. ...

17. The provider shall have documentation of current general liability coverage. Documentation shall consist of the current insurance policy or current binder which includes the name of the agency, address of the agency, the name of the insurance company, policy number, period of coverage, and explanation of the coverage.

18. The provider shall have documentation of current property insurance or current rental insurance coverage for each transitional placing location. Documentation shall consist of the current insurance policy or current binder which includes the name of the agency, address of location(s) covered, the name of the insurance company, policy number, period of coverage, and explanation of the coverage.

B. - B.5.g.iii. ...

iv. CBC clearance dated no earlier than 45 days prior to hire or if a currently hired staff person assuming the position of program director, then a copy of the satisfactory CBC which is on file for individual's previous position with the agency;

v. Louisiana State Central Registry clearance dated no earlier than 45 days prior to hire or if a currently hired staff person assuming the position of program director, then a copy of the SCR clearance which is on file for individual's previous position with the agency; and

vi. if an individual resided in a state other than Louisiana in the previous five years, State Central Registry clearance from those states dated no earlier than 120 days prior to hire; however, individuals who continue to reside outside of the state of Louisiana and work for a licensed provider in the state of Louisiana, their clearances shall be dated no earlier than 45 days prior to hire and/or having access to children/youth or if a currently hired staff person assuming the position of program director, then a copy of the SCR clearance which is on file for individual's previous position with the agency.

B.5.h. - N.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 45:359 (March 2019), effective April 1, 2019, LR 46:681 (May 2020), effective June 1, 2020, amended LR 47:350 (March 2021).

§7313. Administration and Operation

A. - B.1.b.i. ...

ii. each transitional placing location seeking to be licensed for or currently licensed for a capacity of four or more youth shall have documentation of approval;

c. city fire department; if applicable:

i. each transitional placing location seeking to be licensed for or currently licensed for a capacity of four or more youth in a one or two family dwelling shall have documentation of approval;

B.1.d. - C.12. ...

13. In accordance with R.S. 46:1428, DCFS will provide information regarding influenza to providers prior to November 1 each year. The child-placing agency shall provide to all foster/adoptive parents, child's legal guardian with the exception of DCFS, and to all youth aged eighteen or above, the written information provided by DCFS relative to the risks associated with influenza and the availability, effectiveness, known contraindications, and possible side effects of the influenza immunization within seven calendar days of receipt from DCFS. This information shall include the causes and symptoms of influenza, the means by which influenza is spread, the places a parent or legal guardian may obtain additional information, and where a child/youth may be immunized against influenza.

14. As required by chapter 55 of Title 46 of R.S. 46:2701-2711, the child-placing agency shall post the current copy of "The Safety Box" newsletter issued by the Office of the Attorney General in the child-placing agency's office within seven calendar days of receipt from DCFS. The child-placing agency shall provide a copy of the safety box newsletter to all foster parents, adoptive parents, and youth in transitional placing programs within seven calendar days

of receipt from DCFS. Items listed as recalled in the newsletter shall not be used and shall be immediately removed from the home/premises. Provider shall document within 14 calendar days of receipt from DCFS in the foster/adoptive parent record and transitional placing youth's record receipt of the newsletter and confirmation with the foster/adoptive parent and transitional placing youth that the home and environment were checked and the recalled products were removed.

D. - E.4. ...

5. All records shall be maintained in an accessible, standardized order and format. If a provider maintains records in an electronic format only, a staff person shall be immediately available at all times during the licensing inspection to locate information on the computer that is requested by Licensing staff and print information if requested. Provider shall also have a contingency plan that would allow Licensing staff to continue to review records in the event a power outage occurs.

E.6. - J.1. ...

2. Staff shall complete orientation training within the individual's first 15 working days from date of hire. Provider's orientation program shall include the following:

2.a. - 5....

6. All staff hired effective April 1, 2019, or after working with foster/adoptive parents shall complete the Reducing the Risk of SIDS in Early Education and Child Care training available at www.pedialink.org or the Safe Sleep, Reducing the Risk of SIDS training available through DCFS at www.moodle.lcwt.org within the individual's first 15 working days after hire. Documentation of training shall be the certificate obtained upon completion of the training.

J.7. - K.4. ...

5. Effective April 1, 2019, all staff working with foster/adoptive parents shall complete the "Reducing the Risk of SIDS in Early Education and Child Care" training available at www.pedialink.org or the Safe Sleep, Reducing the Risk of SIDS training available through DCFS at www.moodle.lcwt.org within 45 days and updated annually. Documentation of training shall be the certificate obtained upon completion of the training.

K.6. - U.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1407(D).

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 45:368 (March 2019), effective April 1, 2019, LR 46:683 (May 2020), effective June 1, 2020, LR 47:351 (March 2021).

§7315. Foster and Adoptive Certification

A. Home Study—Foster and Adoptive Home

1. Prior to placement of a child/youth in the home, the provider shall complete a home study of the foster/adoptive parent and their home. The home study shall be signed and dated by the person completing the home study and approved, signed, and dated by a licensed clinical social worker, licensed master social worker with 3 years of experience in adoption or foster care services, licensed professional counselor, licensed psychologist, medical psychologist, licensed psychiatrist, or licensed marriage and family therapist prior to certification of the foster/adoptive parents. All individuals who approve home studies shall be licensed in the state of Louisiana.

2. - 7. ...

8. Foster/adoptive parents and adults of the household interviewed in person shall sign and date summary or home study written by the interviewer upon its completion to ensure accuracy.

A.9. - C. ...

1. An inquiry of the state central registry for members of the household 18 years of age and older, excluding children in DCFS custody shall be conducted prior to certification and annually thereafter. The SCR clearance expires one year from the date noted on the clearance. The annual SCR clearance shall be obtained prior to its' expiration. No person whose name is recorded on the state central registry with a valid (justified) finding of abuse or neglect of a child shall reside in the home.

C.2. - D.21. ...

22. Prior to certification, the foster/adoptive parent(s) shall receive a list of the responsibilities noted in 7315.D.1-21. There shall be documentation signed and dated by the foster/adoptive parent acknowledging receipt of the list of responsibilities by the foster/adoptive parent in the foster/adoptive parent record.

E. - E.3.n. ...

4. A statement of health dated within six months prior to certification and updated every three years for each adult member of the prospective foster/adoptive parent's household, excluding youth in DCFS custody, signed by a licensed physician or licensed health care professional verifying that the individual:

E.4.a. - G.14. ...

15. Children with the exception of infants shall not share a bedroom with adults. Exceptions may be granted as noted below; however, a child shall not share a bed with an adult under any circumstances.

a. An exception may be granted when a child needs close supervision due to illness or medical condition and approval is received from the child-placing agency.

i. Documentation of the exception from the child-placing agency shall be in the foster/adoptive parent(s) record. Documentation shall include the following:

(a). name of child sharing the room with an adult for which approval is granted,

(b). name of adult(s) sharing the room with the child for which approval is granted,

(c). description of illness or medical condition warranting the exception being granted,

(d). timeframe for which approval is granted,

(e). signature and date of child-placing agency staff granting approval, and

(f). conditions, if any for which approval is granted.

b. An exception may be granted in accordance with DCFS Child Welfare policy if the adult is a young adult in the DCFS Extended Foster Care Program and was already sharing a room with the child upon the youth reaching adulthood. No young adult in the DCFS Extended Foster Care Program shall be newly placed in a home whereby they would be required to share a bedroom with a child.

i. Documentation of the exception from Child Welfare shall be on file prior to the young adult in the DCFS Extended Foster Care Program attaining their 18th birthday. Documentation shall include the following:

(a). name of the CPA, if applicable for which approval is granted,

(b). name of the foster/adoptive home for which approval is granted,

(c). names and birth dates of children sharing the room with the young adult in the DCFS Extended Foster Care Program for which approval is granted,

(d). name and birth date of young adult in the DCFS Extended Foster Care Program sharing a room with the children noted for which approval is granted,

(e). signature and date of child welfare state office staff granting approval, and

(f). conditions, if any for which approval is granted.

H. - P.4. ...

5. Once certified, a minimum of 15 hours of child-placing agency approved training shall be received annually by the foster parents prior to certification expiration. The hours may be shared among the adult members of the family, however, each adult shall receive a minimum of five hours. If adult members of the household attend trainings together, each person shall receive individual credit for their attendance. It is not required for adult members of the household to attend trainings on different topics. All hours received by each individual adult member of the household will account for the total number of hours received per household. Documentation of training completed shall include certificate of participation or sign in log specifying foster parent's name, training topic, date, and number of hours completed. Foster parents certified by DCFS shall follow the training requirement timeframe as noted in DCFS child welfare policy.

6. Prior to certification and updated annually, documentation of reasonable and prudent parent training for all foster parents shall be maintained. Documentation shall include the training topics, foster parent signature, and date. Reasonable and prudent parent training or training materials, as developed or approved by DCFS, shall include, but is not limited to the following topic areas:

6.a. - 7. ...

8. Prior to certification, all prospective foster/adoptive parents shall complete the DCFS "mandated reporter training" available at dcfs.la.gov. DCFS certified foster/adoptive parents shall meet the requirements as set forth in DCFS policy. Documentation of training shall be the certificate obtained upon completion of the training. This training may be applied toward meeting the annual required training hours for foster parents as noted in §7315.P.5.

9. Prior to certification all prospective foster/adoptive parents shall complete the "Reducing the Risk of SIDS in Early Education and Child Care" training available at www.pedialink.org or the Safe Sleep, Reducing the Risk of SIDS training available through DCFS at www.moodle.lcwa.org. DCFS certified foster/adoptive

parents shall meet the requirements as set forth in DCFS policy. Documentation of training shall be the certificate obtained upon completion of the training. This training may be applied toward meeting the annual required training hours for foster parents as noted in §7315.P.5.

10. Effective April 1, 2019, currently certified foster/adoptive parents shall complete the DCFS “mandated reporter training” available at dcfs.la.gov within 45 days and annually thereafter. DCFS certified foster/adoptive parents shall meet the requirements as set forth in DCFS policy. Documentation of training shall be the certificate obtained upon completion of the training. This training may be applied toward meeting the annual required training hours for foster parents as noted in §7315.P.5.

11. Effective April 1, 2019, currently certified foster/adoptive parents shall complete the “Reducing the Risk of SIDS in Early Education and Child Care” training available at www.pedialink.org or the Safe Sleep, Reducing the Risk of SIDS training available through DCFS at www.moodle.lcwa.org within 45 days and annually thereafter. DCFS certified foster/adoptive parents shall meet the requirements as set forth in DCFS policy. Documentation of training shall be the certificate obtained upon completion of the training. This training may be applied toward meeting the annual required training hours for foster parents as noted in §7315.P.5.

P.12. - Q.1. ...

2. Foster/adoptive parent(s) shall have at least one adult (age 18 or older) responsible for the supervision of children or available at all times within close proximity of the home when a foster/adoptive parent is not present. The appointed adult caregiver shall be available by phone at all times.

R. - V.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1407(D).

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 45:377 (March 2019), effective April 1, 2019, LR 46:686 (May 2020), effective June 1, 2020, LR 47:351 (March 2021).

§7321. Adoption Services

A. - H.2. ...

3. After the visits noted in §7321.H.2, provider shall conduct an in home supervisory visit with one adoptive parent at least once every other month. Provider shall observe the infant in the home at each supervisory visit conducted.

H.4. - M.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1407(D).

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 45:388 (March 2019), effective April 1, 2019, LR 47:353 (March 2021).

§7323. Transitional Placing Program

A. - A.5. ...

6. One training topic referenced in §7323.A.5.a. shall commence within seven calendar days from the date of placement. Training shall be continuous until all aforementioned topics are covered (depending on length of stay.) Training shall be tailored to youth’s current level of

functioning with additional training introduced as a youth progresses, achieves success in the minimum skills, and articulates a desire to learn more advanced skills. Documentation of training shall include signature of staff, signature of youth, training topics addressed, and date training occurred.

7. A written description of training provided to youth transitioning from the program shall be included in policy. Topics shall include, but are not limited to the following:

- a. developing and following a budget;
- b. identifying safe and affordable housing;
- c. negotiating a lease;
- d. understanding the terms of a lease or housing contract;
- e. understanding landlord/tenant rights and responsibilities;
- f. searching for a job; and
- g. retaining a job.

8. Training shall be completed prior to the youth transitioning from the program. Documentation shall include signature of staff and youth, training topics, and date.

B. - C.1. ...

2. Each youth shall have his/her own bed located in a designated bedroom. With the exception of a studio apartment housing one youth, common areas shall not be used as a bedroom; however, if youth chooses to use a common area as a bedroom, documentation shall include a signed and dated statement by youth indicating such. In addition, written annual approval is required by the OSFM for each apartment unit/location address allowing a common area to be used as a bedroom.

3. - 8. ...

9. First aid supplies shall be provided by the child-placing agency and maintained in each transitional placing living unit unless the TP program office is on-site, staffed 24 hours a day, and accessible to all the residents, then first aid supplies may be stored in the office. Supplies shall include, but not limited to the following:

C.9.a. - D.1.c. ...

D.2. Approval from child welfare state office staff shall be obtained and documented prior to placing a youth in DCFS custody in a transitional placing program that has been suicidal, homicidal, and/or exhibited any psychotic behaviors in the past six months.

3. Documentation from the child welfare state office shall include:

- a. name of the CPA for which approval is granted,
- b. name and birth date of youth for which approval is granted,
- c. statement explaining why the youth is appropriate for placement in the transitional placing program despite not meeting the criteria noted in Section 7323.D.1.c,
- d. signature of child welfare state office staff granting approval and date of approval which shall be prior to the placement date, and
- e. conditions, if any for which approval is granted.

D.4. - L.6.j. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1407(D).

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 45:392 (March 2019), effective April 1, 2019, LR 46:686 (May 2020), effective June 1, 2020, LR 47:353 (March 2021).

Marketa Garner Walters
Secretary

2103#029

RULE

Board of Elementary and Secondary Education

Bulletin 130—Regulations for the Evaluation
and Assessment of School Personnel
(LAC 28: CXLVII. 105, 301 and 305)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended LAC 28:CXLVII (Bulletin 130). For the 2020-2021 school year, the revisions allow for the qualitative measure of teacher and administrator performance to include a minimum of one observation or site visit. Revisions also allow, for the 2020-2021 school year, learning targets for administrators to be based upon formative assessment data. This Rule is hereby adopted on the day of promulgation.

Title 28 EDUCATION

Part CXLVII. Bulletin 130—Regulations for the Evaluation and Assessment of School Personnel

Chapter 1. Overview

§105. Framework for LEA Personnel Evaluation Programs [Formerly §109]

A. - B.2. ...

3. Observation/Data Collection Process. The evaluator or evaluators of each teacher and administrator shall conduct observations of teacher and administrator practice sufficient to gain a complete picture of performance and impart individualized feedback each year.

a. for the 2020-2021 academic year only, this shall include one announced observation for teachers and administrators.

b. any teacher or administrator who earns an observation rating of Ineffective or Effective: Emerging shall be observed a second time.

c. following the 2020-2021 academic year, this shall include a minimum of two observations per academic year and may include more observations, particularly for teachers or administrators that are not meeting expectations. At least one of these observations shall be announced and shall include a pre- and post-observation conference. One of the observations may be waived for teachers who have earned a rating of highly effective according to the value-added model in the previous year. Following all observations, evaluators shall provide evaluatees with feedback, including areas for commendation as well as areas for improvement. Additional evidence, such as data from periodic visits to the school and/or classroom as well as written materials or artifacts, may be used to inform evaluation.

B.4. - B.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:391.10, R.S. 17:3881-3886, and R.S. 17:3901-3904, R.S. 17:3997, and R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:2251 (October 2010), amended LR 38:1215 (May 2012), LR 38:2359 (September 2012), LR 39:1273 (May 2013), LR 47:354 (March 2021).

Chapter 3. Personnel Evaluation

§301. Overview of Personnel Evaluation

A. Personnel evaluation for teachers and administrators shall be composed of two parts. Fifty percent of the evaluation shall be composed of applicable measure(s) of growth in student learning. The remaining 50 percent shall be based upon a qualitative assessment of teacher or administrator performance.

1. For teachers, data derived from the value-added assessment model shall be a factor in measuring growth in student learning for grade levels and subjects for which value-added data are available. If value-added data are available, growth in student learning (50 percent of the total score) shall be comprised of 35 percent value-added data and 15 percent student learning targets. If value-added data are not available, growth in student learning shall be comprised of 50 percent student learning targets. For administrators, the 50 percent of the evaluation based upon growth in student learning shall incorporate a school-wide measure of growth and goal setting for principals is subject to §305.D of this bulletin.

2. For the 2020-2021 academic year only, the 50 percent of the evaluation that is based on a qualitative measure of teacher and administrator performance shall include one announced observation for teachers and administrators.

a. any teacher or administrator who earns an observation rating of Ineffective or Effective: Emerging shall be observed a second time.

b. following the 2020-2021 academic year, the 50 percent of the evaluation that is based on a qualitative measure of teacher and administrator performance shall include a minimum of two observations or site visits. This portion of the evaluation may include additional evaluative evidence, such as walk-through observation data and evaluation of written work products.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:391.10, R.S. 17:3881-3886, and R.S. 17:3901-3904, R.S. 17:3997, and R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:1215 (May 2012), amended LR 38:2359 (September 2012), LR 39:1273 (May 2013), LR 41:1266 (July 2015), LR 43:2480 (December 2017), LR 47:354 (March 2021).

§305. Measures of Growth in Student Learning—Learning Targets

A. - D.1. ...

2. For principals, at least one learning target shall be based on overall school performance improvement in the current school year, as measured by the school performance score.

a. for the 2020-2021 academic year only, overall school performance improvement may be measured by the school performance score or by formative assessment data.

3. For principals, at least one learning target shall be based on growth in a component (e.g., ELA or math improvement) of school performance score.

a. for the 2020-2021 academic year only, overall school performance improvement may be measured by the school performance score or by formative assessment data.

D.4 - E.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:391.10, R.S. 17:3881-3886, and R.S. 17:3901-3904, R.S. 17:3997, and R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:1216 (May 2012), amended LR 38:2359 (September 2012), LR 39:1273 (May 2013), LR 41:1267 (July 2015), LR 47:354 (March 2021).

Shan N. Davis
Executive Director

2103#030

RULE

Board of Elementary and Secondary Education

Bulletin 131—Alternative Education
Schools/Programs Standards (LAC 28:CXLIX. 2101)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended LAC 28:CXLIX (Bulletin 131). Revisions revise the submission date for the annual report on alternative education schools and programs in Louisiana. This Rule is hereby adopted on the day of promulgation.

Title 28

EDUCATION

Part CXLIX. Bulletin 131—Alternative Education Schools/Programs Standards

Chapter 21. Alternative Site Authorization and Approval

§2101. Approval for Alternative Schools or Programs

A. - A.2.a. ...

b. alternative schools and programs report by January.

A.3. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:100.5.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 45:402 (March 2019), LR 47:355 (March 2021).

Shan N. Davis
Executive Director

2103#031

RULE

Department of Environmental Quality Office of the Secretary

Legal Affairs and Criminal Investigations Division

2020 Annual Incorporation by Reference of Certain
Federal Air Quality Regulations (LAC 33:III.505, 507,
2160, 3003, 5116, 5122, 5311, and 5901)(AQ389ft)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions

of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air regulations, LAC 33:III.505, 507, 2160, 3003, 5116, 5122, 5311, and 5901 (Log #AQ389ft).

This Rule is identical to federal regulations found in 40 CFR Parts 60, 61, 63, 68, and 72 as well as 40 CFR 70.6(a) and 40 CFR 51, Appendix M, which are applicable in Louisiana. This Rule is hereby adopted on the day of promulgation.

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 5. Permit Procedures

§505. Acid Rain Program Permitting Requirements

A. The Acid Rain Program regulations, published in the *Code of Federal Regulations* at 40 CFR part 72, July 1, 2020, are hereby incorporated by reference.

B. - C. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), LR 21:678 (July 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2446 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2429, 2436 (October 2005), LR 32:1598 (September 2006), LR 33:2083 (October 2007), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:746 (April 2018), LR 46:893 (July 2020), LR 47:355 (March 2021).

§507. Part 70 Operating Permits Program

A. - B.1. ...

2. No part 70 source may operate after the time that the owner or operator of such source is required to submit a permit application under Subsection C of this Section, unless an application has been submitted by the submittal deadline and such application provides information addressing all applicable sections of the application form and has been certified as complete in accordance with LAC 33:III.517.B.1. No part 70 source may operate after the deadline provided for supplying additional information requested by the permitting authority under LAC 33:III.519, unless such additional information has been submitted within the time specified by the permitting authority. Permits issued to the part 70 source under this Section shall include the elements required by 40 CFR 70.6. The department hereby adopts and incorporates by reference the provisions of 40 CFR 70.6(a), July 1, 2020. Upon issuance of the permit, the part 70 source shall be operated in compliance with all terms and conditions of the permit. Noncompliance with any federally applicable term or condition of the permit shall constitute a violation of the Clean Air Act and shall be grounds for enforcement action; for permit termination, revocation and reissuance, or revision; or for denial of a permit renewal application.

C. - J.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011, 2023, 2024, and 2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality

Division, LR 19:1420 (November 1993), LR 20:1375 (December 1994), amended by the Office of the Secretary, Legal Division, LR 39:1276 (May 2013), LR 40:1334 (July 2014), LR 41:1274 (July 2015), LR 42:1085 (July 2016), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:746 (April 2018), LR 46:893 (July 2020), LR 47:355 (March 2021).

Chapter 21. Control of Emission of Organic Compounds
Subchapter N. Method 43—Capture Efficiency Test Procedures

§2160. Procedures

A. Except as provided in Subsection C of this Section, the regulations at 40 CFR 51, appendix M, July 1, 2020, are hereby incorporated by reference.

B. - C.2.b.iv. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:653 (July 1991), amended LR 22:1212 (December 1996), LR 23:1680 (December 1997), LR 24:1286 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:1224 (August 2001), LR 29:698 (May 2003), LR 30:1009 (May 2004), amended by the Office of Environmental Assessment, LR 31:1568 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:809 (May 2006), LR 33:1620 (August 2007), LR 34:1391 (July 2008), LR 35:1107 (June 2009), LR 36:2272 (October 2010), LR 37:2990 (October 2011), LR 38:1230 (May 2012), amended by the Office of the Secretary, Legal Division, LR 39:1277 (May 2013), LR 40:1334 (July 2014), LR 41:1274 (July 2015), LR 42:1085 (July 2016), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:747 (April 2018), LR 46:893 (July 2020), LR 47:356 (March 2021).

Chapter 30. Standards of Performance for New Stationary Sources (NSPS)

Subchapter A. Incorporation by Reference

§3003. Incorporation by Reference of 40 Code of Federal Regulations (CFR) Part 60

A. Except for 40 CFR 60, subpart AAA, and as modified in this Section, standards of performance for new stationary sources, published in the *Code of Federal Regulations* at 40 CFR 60, July 1, 2020, are hereby incorporated by reference as they apply to the state of Louisiana.

B. - C. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 22:1212 (December 1996), amended LR 23:1681 (December 1997), LR 24:1287 (July 1998), LR 24:2238 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1239 (July 1999), LR 25:1797 (October 1999), LR 26:1607 (August 2000), LR 26:2460, 2608 (November 2000), LR 27:2229 (December 2001), LR 28:994 (May 2002), LR 28:2179 (October 2002), LR 29:316 (March 2003), LR 29:698 (May 2003), LR 30:1009 (May 2004), amended by the Office of Environmental Assessment, LR 31:1568 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2446 (October 2005), LR 32:809 (May 2006), LR 32:1596 (September 2006), LR 33:1620 (August 2007), LR 33:2092 (October 2007), LR 33:2626 (December 2007), LR 34:1391 (July 2008), LR 35:1107 (June 2009), LR 36:2273 (October 2010), LR 37:2990 (October 2011), LR 38:1230 (May 2012), amended by the Office of the Secretary, Legal Division, LR 38:2754 (November 2012), LR 39:1039 (April

2013), LR 39:1277 (May 2013), LR 40:1335 (July 2014), LR 40:2540 (December 2014), LR 41:1274 (July 2015), LR 42:1086 (July 2016), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:747 (April 2018), LR 46:894 (July 2020), LR 47:356 (March 2021).

Chapter 51. Comprehensive Toxic Air Pollutant Emission Control Program

Subchapter B. Incorporation by Reference of 40 CFR Part 61 (National Emission Standards for Hazardous Air Pollutants)

§5116. Incorporation by Reference of 40 CFR Part 61 (National Emission Standards for Hazardous Air Pollutants)

A. Except as modified in this Section and specified below, national emission standards for hazardous air pollutants, published in the *Code of Federal Regulations* at 40 CFR 61, July 1, 2020, and specifically listed in the following table, are hereby incorporated by reference as they apply to sources in the state of Louisiana.

* * *

B. - C. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:61 (January 1997), amended LR 23:1658 (December 1997), LR 24:1278 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1464 (August 1999), LR 25:1797 (October 1999), amended by the Office of the Secretary, Legal Division, LR 39:1277 (May 2013), LR 40:1335 (July 2014), LR 41:1274 (July 2015), LR 42:1086 (July 2016), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:747 (April 2018), LR 46:894 (July 2020), LR 47:356 (March 2021).

Subchapter C. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as it Applies to Major Sources

§5122. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as it Applies to Major Sources

A. Except as modified in this Section and specified below, national emission standards for hazardous air pollutants for source categories, published in the *Code of Federal Regulations* at 40 CFR 63, July 1, 2020, are hereby incorporated by reference as they apply to major sources in the state of Louisiana.

B. - C.3. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:61 (January 1997), amended LR 23:1659 (December 1997), LR 24:1278 (July 1998), LR 24:2240 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1464 (August 1999), LR 25:1798 (October 1999), LR 26:690 (April 2000), amended by the Office of the Secretary, Legal Division, LR 39:1278 (May 2013), LR 40:1335 (July 2014), LR 41:1275 (July 2015), LR 42:1086 (July 2016), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:748 (April 2018), LR 46:894 (July 2020), LR 47:357 (March 2021).

Chapter 53. Area Sources of Toxic Air Pollutants
Subchapter B. Incorporation by Reference of 40 CFR
Part 63 (National Emission Standards for
Hazardous Air Pollutants for Source
Categories) as it Applies to Area Sources

§5311. Incorporation by Reference of 40 CFR Part 63
(National Emission Standards for Hazardous Air
Pollutants for Source Categories) as it Applies to
Area Sources

A. Except as modified in this Section and specified below, national emission standards for hazardous air pollutants for source categories, published in the *Code of Federal Regulations* at 40 CFR 63, July 1, 2020, are hereby incorporated by reference as they apply to area sources in the state of Louisiana.

B. - C. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:63 (January 1997), amended LR 23:1660 (December 1997), LR 24:1279 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1464 (August 1999), LR 27:2230 (December 2001), LR 28:995 (May 2002), LR 28:2180 amended by the Office of the Secretary, Legal Division, LR 38:2756 (November 2012), LR 39:1278 (May 2013), LR 40:1336 (July 2014), LR 41:1275 (July 2015), LR 42:1086 (July 2016), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:748 (April 2018), LR 46:894 (July 2020), LR 47:357 (March 2021).

Chapter 59. Chemical Accident Prevention and
Minimization of Consequences

Subchapter A. General Provisions

§5901. Incorporation by Reference of Federal
Regulations

A. Except as provided in Subsection C of this Section, the department incorporates by reference 40 CFR 68, July 1, 2020.

B. - C.6. ...

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2063.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:421 (April 1994), amended LR 22:1124 (November 1996), repromulgated LR 22:1212 (December 1996), amended LR 24:652 (April 1998), LR 25:425 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:70 (January 2000), LR 26:2272 (October 2000), LR 28:463 (March 2002), LR 29:699 (May 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 32:810 (May 2006), LR 33:1621 (August 2007), LR 34:1392 (July 2008), LR 35:1109 (June 2009), LR 36:2274 (October 2010), LR 37:2991 (October 2011), LR 38:1231 (May 2012), amended by the Office of the Secretary, Legal Division, LR 39:1278 (May 2013), LR 40:1336 (July 2014), LR 41:1275 (July 2015), LR 42:1087 (July 2016), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:748 (April 2018), LR 46:894 (July 2020), LR 47:357 (March 2021).

Courtney J. Burdette
General Counsel

2103#049

RULE

Department of Environmental Quality
Office of the Secretary
Legal Affairs and Criminal Investigations Division

2020 Annual Incorporation by Reference of Certain Water Quality Regulations (LAC 33:IX.4901 and 4903)(WQ107ft)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Water Quality regulations, LAC 33:IX.4901 and 4903 (Log #WQ107ft).

This Rule is identical to federal regulations found in 40 CFR Part 136, Parts 401, and 405-471, which are applicable in Louisiana. This Rule is hereby adopted on the day of promulgation.

Title 33

ENVIRONMENTAL QUALITY

Part IX. Water Quality

Subpart 2. The Louisiana Pollutant Discharge
Elimination System (LPDES) Program

Chapter 49. Incorporation by Reference

§4901. 40 CFR Part 136

A. 40 CFR part 136, Guidelines Establishing Test Procedures for the Analysis of Pollutants, July 1, 2020, in its entirety, is hereby incorporated by reference.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:958 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1467 (August 1999), LR 26:1609 (August 2000), amended by the Office of the Secretary, Legal Division, LR 38:2747 (November 2012), LR 40:1693 (September 2014), LR 41:2135 (October 2015), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 43:2148 (November 2017), LR 46:330 (March 2020), LR 46:

§4903. 40 CFR, Chapter I, Subchapter N

A. 40 CFR chapter I, subchapter N, Effluent Guidelines and Standards, parts 401 and 405-471, July 1, 2020, are hereby incorporated by reference.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:958 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1467 (August 1999), LR 26:1609 (August 2000), LR 27:2232 (December 2001), LR 28:996 (May 2002), LR 29:700 (May 2003), amended by the Office of the Secretary, Legal Division, LR 38:2747 (November 2012), LR 40:1693 (September 2014), LR 41:2136 (October 2015), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 43:2148 (November 2017), LR 46:331 (March 2020), LR 47:000 (March 2021).

Courtney J. Burdette
General Counsel

2103#050

RULE

Office of the Governor Board of Pardons

General Provisions

(LAC 22:V.Chapters 2 and XI.Chapters 1, 5 , and 7)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950), the Board of Pardons has amended its rules of LAC 22: XI: 102, 103, 121, 501, 504, 513, 514 and 705. These rule changes provide technical adjustment for regular parole and revise procedures. Section 102 provides clarification for notifying victims and their next of kin. Section 103 outlines the structure of the Board of Pardons, Committee on Parole and the participation of the ex-officio member. Section 121 allows the Executive Director to speak on behalf of the Chairman in their absence. Section 501 adds the five-member panel as an option for hearings. Section 504 and 513 outline additional procedures for screening, removing or rescinding offenders who have disciplinary issues prior to a hearing or after a decision to grant parole but prior to release. Section 514 provides additional guidance for votes required in various situations. Section 705 streamlines the Rehearing Application Process and strengthens the Committee's abilities to remove offenders with poor disciplinary conduct who are not good candidates for early release.

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950), the Board of Pardons has amended its rules of LAC 22: V: 203, 205 and 211. Section 203 removes the condition of employment from pardon eligibility in the event the offender is unable to work due to medical and or mental health issues. Section 205 provides instruction on accepting clemency applications online. Section 211 clarifies the vote need related to a clemency recommendation. This Rule is hereby adopted on the day of promulgation.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part V. Board of Pardons

Chapter 2. Clemency

§203. Eligibility for Clemency Consideration

A. - C.2. ...

3. An incarcerated offender who is not serving a life sentence, but who is serving a sentence for a violent offense as defined in R.S. 14:2(B) or a sex offense as defined in R.S. 15:541, may request a commutation of sentence:

- a. after having served a minimum of 10 years;
- b. must have been disciplinary report free for a period of at least 24 months prior to the date of the application or at the time of the hearing (if a hearing is granted); and
- c. must not be classified to a maximum custody status at the time of the application or at the time of the hearing (if a hearing is granted); and
- d. must possess a marketable job skill, either through previous employment history or through successful completion of vocational training while incarcerated, unless deemed unable to work due to medical or mental health condition.

D. Life Sentences. An offender sentenced to life may not apply until he has served 15 years from the date of sentence, unless he has sufficient evidence which would have caused him to have been found not guilty. The 15 years shall include periods of time prior to the imposition of the sentence in which the defendant was in actual custody for the offense for which he was sentenced to life imprisonment. The offender must also meet the criteria stated in Subparagraphs C.3.a-d of this Section.

E. Capital Cases. Any offender sentenced to death may submit an application within one year from the date of the direct appeal denial. See also §213, Capital Cases.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:573.1, 15:574.12, and 44:1 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Pardons, LR 39:2255 (August 2013), amended LR 42:1087 (July 2016), amended by the Office of the Governor, Board of Pardons and Committee on Parole, LR 44:574 (March 2018), amended by the Office of the Governor, Board of Pardons, LR 44:1006 (June 2018), LR 47:358 (March 2021).

§205. Application Filing Procedures

A. - A.4. ...

5. The mailed application must be filled out completely, signed, dated, and notarized where required.

6. The online application must be digitally signed and submitted through the website.

B. In addition to the information submitted by application, the following required documents must be attached as they apply to each applicant.

1. Incarcerated Applicants. Any applicant presently confined in any institution must attach a current master prison record and have the signature of a classification officer verifying the conduct of the applicant and a copy of conduct report. Applicants sentenced to death must attach proof of direct appeal denial.

2. Parolees. Applicants who have completed parole supervision must attach a copy of their parole certificate, a certified judgment and sentence on each conviction for which they are applying for a pardon; a certified statement from the clerk of court that all fines, fees, and court costs (including restitution and probation fees) have been paid in full; a current credit report (current within 90 days of date of application), and proof of residence.

3. Probationers. Applicants who have completed the probationary period must attach a certified copy of sentencing minutes or copy of automatic first offender pardon, a certified judgment and sentence on each conviction for which they are applying for a pardon; a certified statement from the clerk of court that all fines, fees, and court costs (including restitution and probation fees) have been paid in full; a current credit report (current within 90 days of date of application), and proof of residence.

4. First Offender Pardons [R.S. 15:572(B)]. Applicants who have received an automatic first offender pardon must attach a copy of the automatic first offender pardon.

C. No additional information or documents may be submitted until applicant has been notified that he/she will be given a hearing. The Board of Pardons will not be responsible for items submitted prior to notification that a hearing will be granted.

D. Reapplication upon Denial. Any applicant denied by the board shall be notified, in writing, of the reason(s) for the denial and thereafter may file a new application as indicated below.

1. Applicants Sentenced to Life Imprisonment. Any applicant with a life sentence may reapply five years after the initial denial and every five years thereafter. Applicant must also meet the criteria stated in §203.C.2.a-d.

2. Other. Applicants without a life sentence may file a new application two years from date of the letter of denial.

3. Fraudulent Documents or Information. Any fraudulent documents or information submitted by an applicant will result in an automatic denial by the board and no new application will be accepted until four years have elapsed from the date of letter of denial.

4. Governor Granted Clemency. The Office of the Governor will notify an applicant if any clemency is granted. Any otherwise eligible person who has been granted any form of executive clemency by the governor may not reapply for further executive clemency for at least four years from the date that such action became final.

5. Denial/No Action Taken by Governor after Favorable Recommendation. The board shall notify an applicant after its receipt of notification from the governor that the board's favorable recommendation was denied or no action was taken.

a. If the applicant is notified of denial by the governor, the applicant may not reapply for clemency for at least four years from the date of the denial. The application filing procedures in Subsections A-D.3 of this Section shall apply.

b. When no action is taken by the governor on a recommendation for clemency issued by the board, the person seeking clemency shall not be required to reapply to the board and the recommendation shall not expire upon the expiration of the governor's term in office and may be reviewed by the next governor to take office.

i. Upon receipt of the no action files from the governor's office, the parole board staff shall review the following:

- (a). offender's disciplinary record; and;
- (b). State Police rap sheet;

ii. Staff will use the updated information to determine if the applicant is still eligible to apply for clemency.

iii. Once approved, the file will be sent back to the governor's office within six months of being received, with a recommendation to the governor from the pardon board, signed by the board chair.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:573.1, 15:574.12 and 44:1 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Pardons, LR 39:2255 (August 2013), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 41:42 (January 2015), amended by the Office of the Governor, Board of Pardons, LR 42:1087 (July 2016), LR 43:1161 (June 2017), LR 45:1063 (August 2019), LR 47:358 (March 2021).

§211. Hearings before the Pardon Board

A. - H. ...

I. Applicant's failure to attend and/or notify the board of pardons office of his/her inability to attend the hearing will result in an automatic denial. The applicant may reapply two

years from the date of scheduled hearing. Lifers who fail to attend and/or advise the board of their inability to attend may reapply in five years if it is his/her initial hearing, and every five years thereafter.

J. Four members of the board shall constitute a quorum for the transaction of business, and all actions of the board shall require the favorable vote of at least four members of the board.

1. If a favorable clemency recommendation is reached during a pardon hearing, any other specific recommendation regarding clemency (i.e., restoration of firearms privileges, commutation of sentence to a specified number of years, commutation of sentence with or without parole eligibility) shall be based on a majority vote of those members who voted to recommend clemency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.4, 15:574.12, and 44:1 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Pardons, LR 39:2256 (August 2013), amended LR 42:1088 (July 2016), amended by the Office of the Governor, Board of Pardons and Committee on Parole, LR 43:46 (January 2017), LR 44:574 (March 2018), LR 44:2140 (December 2018), LR 47:359 (March 2021).

Part XI. Committee on Parole

Chapter 1. Administration

§102. Powers and Duties of the Committee

A. - A.5. ...

6. notify the district attorney of the parish where the conviction occurred:

a. the district attorney of the parish where the conviction occurred shall be allowed to review the record of the offender since incarceration, including but not limited to any educational or vocational training, rehabilitative program participation, disciplinary conduct and risk assessment score. The district attorney shall be allowed to present testimony to the committee and submit information relevant to the proceedings.;

7. notify the victim, or the spouse, or next of kin of a deceased victim, when the offender is scheduled for a parole hearing;

8. when requested to do so, notify, in writing at least seven days prior to the offender's release on parole, the chief of police, sheriff, or district attorney of the parish where the offender will reside and where the conviction(s) occurred;

9. submit an annual report on its performance to the secretary of the Department of Public Safety and Corrections on or before February 1 each year for the previous calendar year. This report shall include statistical and other data with respect to the work committee may make of sentencing, parole, or related functions, and may include recommendations for changes considered necessary to improve its effectiveness.

B. The Louisiana Committee on Parole may:

1. apply to a district court to issue subpoenas, compel the attendance of witnesses, and the production of books, papers, and other documents pertinent to the subject of its inquiry;

2. take testimony under oath, either at a hearing or by deposition;

3. sanction an offender's disorderly, threatening, or insolent behavior, or use of insulting, abusive, or obscene language at a hearing or in written communications with the

offender's parole application, notice for which shall be provided to the offender at, or prior to, the commencement of proceedings.

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 39:2258 (August 2013), amended LR 41:42 (January 2015), amended by the Office of the Governor, Board of Pardons and Committee on Parole, LR 44:575 (March 2018), LR 47:359 (March 2021).

§103. Composition of the Committee

A. The Louisiana Committee on Parole (Committee) shall consist of seven members:

1. the five members of the Board of Pardons appointed by the governor;

2. two-at-large appointees to the Committee on Parole appointed by the governor, who shall serve only as members of the committee and shall not serve as members of the Board of Pardons; and

3. one ex-officio member.

a. The warden, or in their absence, the deputy warden of the correctional facility in which the offender is incarcerated shall be an ex-officio member of the committee. When the offender is housed in a local correctional facility and the warden or deputy warden of that facility is not able to attend the offender's parole hearing, the warden, or in his absence, the deputy warden, of the facility where the offender's parole hearing is held, may serve as an ex-officio member of the committee. The Ex-Officio member shall not be a voting member nor shall they be counted or permitted to be counted for purposes of the number of members necessary to take committee action or the number of members necessary to establish quorum.

b. The facility Warden or his/her designee, of the local level facility in which the offender is housed, shall be present to provide information to members of the Parole Board regarding the offender's progress and disciplinary infractions during incarceration.

4. Each member shall, except the ex officio member, devote full time to the duties of the office.

B. The chairman of the board shall be the chief administrative officer for the committee and shall be responsible for assuring that all meetings, hearings and administrative matters for the committee are properly conducted in accordance with law and with these rules or executive order.

C. The vice-chairman of the Board of Pardons shall act in place of the chairman in his or her absence and shall be responsible for any other administrative duties as directed by the chairman or as provided by law or executive order. In the event that the vice-chairman is incapacitated or otherwise unable to perform his or her duties for any reason, the chairman shall perform such duties until the vice-chairman is able to resume performance of his or her duties.

D. All members, except the ex-officio member, appointed after August 1, 2014 shall possess not less than a bachelor's degree from an accredited college or university, and shall possess not less than five years' actual experience in the field of corrections, law enforcement, sociology, law, education, social work, medicine, psychology, psychiatry, or a combination thereof. If a member does not have a bachelor's degree from an accredited college or university, he shall have no less than seven years, experience in a field

listed in this Subsection. The provisions of this Subsection shall not apply to any person serving as a member of the board on August 1, 2012.

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 Department of Corrections, Board of Parole, LR 2:113 (April 1976), amended by the Department of Public Safety and Corrections, Board of Parole, LR 24:2292 (December 1998), amended by Department of Public Safety and Corrections, Corrections Services, LR 36:2872 (December 2010), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2259 (August 2013), LR 41:43 (January 2015), LR 47:360 (March 2021).

§121. Committee Spokesperson

A. The chairman is the official spokesperson for the board. In the absence of the chairman, the executive director is authorized to speak on behalf of the board. When acting as the official spokesperson, views expressed at all times shall be consistent with approved board policies.

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 Department of Corrections, Board of Parole, LR 2:116 (April 1976), amended by the Department of Public Safety and Corrections, Board of Parole, LR 24:2295 (December 1998), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2261 (August 2013), LR 47:360 (March 2021).

Chapter 5. Meetings and Hearings of the Committee on Parole

§501. Types of Meetings

A. All meetings and hearings of the committee shall be open to the public, in accordance with the provisions of R.S. 42:1 et seq., (public policy for open meetings) and *Robert's Rules of Order*. For the purpose of convenience and in order to differentiate between the different types of forums for conducting business, the following designation or title has been given, depending upon the nature of the matters or actions to be considered.

1. A *business meeting* is a meeting of the full committee to discuss all general business matters as set forth in §507.

2. A *public hearing* is a meeting of randomly selected, three or five-member panels, as set forth in §511.

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 Department of Public Safety and Corrections, Board of Parole, LR 24:2298 (December 1998), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2262 (August 2013), LR 41:44 (January 2015), LR 47:360 (March 2021).

§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.M, §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 the decision granted by the committee 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. offender has received a disciplinary report prior or subsequent to the hearing, but prior to parole release;

b. time calculation adjustments by the Department of Corrections that changes the parole eligibility date, causing the offender to become ineligible for parole or pushing his parole eligibility dates beyond the allowed time frame for parole release or rescheduling;

c. refusing to comply with post and/or prior to release conditions set forth by the panel.

2. If it is determined prior to an offender's parole release that proper notification requirements were not met, the board may rescind its decision to grant parole.

a. If the board rescinds its decision to grant parole, the offender shall promptly receive another parole hearing.

b. In the event that the offender has been granted parole, the board may rescind its decision and promptly schedule a hearing in accordance with §510.

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 45:1063 (August 2019), amended LR 46:42 (January 2020), LR 47:360 (March 2021).

§511. Panel Action

A. The chairman shall schedule public hearings. A copy of the schedule shall be available for public inspection at the committee office.

B.1. The panel may consider the following actions with the offender present:

- a. parole;
- b. revocation; and
- c. recommendations for transitional work program.

2. The panel may consider the following actions without the offender present:

- a. to consider rehearing requests;
- b. cases where the offender is housed in a medical treatment facility or facility in other jurisdiction (such hearings conducted in absentia shall observe the same safeguards as hearings where the offender is present); and
- c. to consider those matters referred by a member from single-member action (see §513, Single Member Action); the member who makes such a referral may not serve on the panel;
- d. to evaluate and consider any application filed pursuant to R.S. 15:308 in accordance with rules promulgated by the Department of Public Safety and Corrections and Chapter 8, Ameliorative Penalty Consideration.

C. Offenders incarcerated in a parish jail or parish correctional center may be interviewed by a single member of the Committee on Parole prior to a public parole hearing. The interviewing member will then present the case to the full parole panel for parole release consideration during the public parole hearing. Due to transport considerations, the offender will not be present during the public hearing. However, the public hearing will be conducted in a manner which allows for observation and input by members of the public.

D. Generally, public hearings shall be conducted via videoconferencing, with the committee members participating from the committee's headquarters in Baton Rouge, and offenders appearing before the committee via videoconferencing at the designated prison facility.

1. In the event the offender is unable to appear before the board due to a medical condition, a medical professional shall be made available to the parole panel to provide information about the offender's medical condition. The hearing will occur in absentia. (§511.B.2.a. if offender being

considered for medical parole is housed in a medical treatment facility).

2. In the case of videoconferencing, the family, friends, and attorney of the offender shall be at the location of the offender.

3. In the case of videoconferencing, the victim(s) may be at the location of the committee or at the office of the district attorney.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and RS. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2299 (December 1998), amended LR 28:1597 (July 2002), amended by the Department of Public Safety and Corrections, Corrections Services, LR 36:2872 (December 2010), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2263 (August 2013), amended by the Office of the Governor, Board of Pardons, LR 40:57 (January 2014), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 41:45 (January 2015), LR 47:361 (March 2021).

§513. Single-Member Action

A.1. A single committee member may act upon the following matters which have been reviewed and recommended by the Division of Probation and Parole:

- a. activity reports (see §1103); and
- b. activity reports from other states via the interstate compact agreement;
- c. consideration to delay an offender's revocation hearing beyond 60 calendar days of the offender's return to prison (arrest or detainment), but such a delay may only be authorized by a committee member for good cause.

2. A single committee member may rescind parole as under the conditions provided in §504, General Procedures.

3. The duty officer may add or remove conditions relative to parolees, as recommended by the Division of Probation and Parole and/or committee counsel on matters in litigation.

a. In the event the committee member fails to follow the recommendation of the Division of Probation and Parole, the matter shall be automatically scheduled for consideration by a three-member panel at the next available public hearing date.

B. Written documentation must be placed in the offender's file which clearly documents the reason for the decision by the single member panel.

C. Under no circumstances should a committee member sign a blank form concerning single-member action matters.

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 Department of Public Safety and Corrections, Board of Parole, LR 24:2300 (December 1998), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2264 (August 2013), LR 40:1528 (August 2014), re-promulgated LR 40:1695 (September 2014), LR 47:362 (March 2021).

§514. Voting/Votes Required

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

4. A unanimous vote is required to consider any action when the offender is not present as described in §511.B.2.b or §513.A.4.a., except when the criteria set forth in §511 is met, voting requirements shall remain in effect as outlined in this policy.

5. All special conditions of release, including special conditions of diminution of sentence/parole supervision release, shall be approved by a unanimous vote of the panel.

B. Majority Vote

1. The committee may grant parole with two votes of a three-member panel, or, if the number exceeds a three-member panel, a majority vote of those present if all of the following conditions are met.

a. The offender has not been convicted of a crime of violence as defined in R.S. 14:2(B) or a sex offense as defined in R.S. 15:541, or convicted of an offense which would constitute a crime of violence as defined in R.S. 14:2(B) or a sex offense as defined in R.S. 15:541, regardless of the date of conviction.

b. The offender has not committed any major disciplinary (schedule B) offenses in the 12 consecutive months prior to the parole hearing date. If the offender's period of incarceration is less than 12 months, the offender must not have committed any disciplinary offenses during his/her entire period of incarceration.

c. The offender has completed the mandatory minimum of 100 hours of pre-release programming in accordance with R.S. 15:827.1, if such programming is available at the facility where the offender is incarcerated.

d. The offender has completed substance abuse treatment as applicable, if such programming is available at the facility where the offender is incarcerated.

e. The offender has obtained a HSE credential, unless the offender has previously obtained a high school diploma or is deemed by a certified educator as being incapable of obtaining a HSE credential due to a learning disability. If the offender is deemed incapable of obtaining a HSE credential, the offender must complete at least one of the following:

- i. a literacy program;
- ii. an adult basic education program; or
- iii. a job skills training program.

f. The offender has obtained a low-risk level designation determined by a validated risk assessment instrument approved by the secretary of the Department of Public Safety and Corrections.

2. A majority vote is required to revoke parole.

3. A majority vote is required to continue or recess a meeting or hearing.

4. A majority vote is required to grant an offender's request for a rehearing.

5. A majority vote is required for executive session.

6. A majority vote is required to recommend to the Board of Pardons as to whether an applicant is eligible for a reduction in sentence pursuant to R.S. 15:308 and Chapter 8, Ameliorative Penalty Consideration.

C. Once the panel votes to grant or deny parole at a particular hearing, the vote may not be rescinded at that hearing.

D. If a member of a panel moves that a particular condition of parole be considered and determined prior to the vote to grant or deny parole, that issue shall be determined prior to the vote on parole. Otherwise, following a vote granting parole, the panel shall consider whether to impose special conditions of release.

E. The ex officio member of the committee is a non-voting member.

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 39:2264 (August 2013), amended LR 41:45 (January 2015), LR 44:2142 (December 2018), LR 47:362 (March 2021).

Chapter 7. Parole Decisions

§705. Application for Parole Rehearing or Request for Reconsideration of Decision

A. If denied at the initial parole hearing, an offender must apply in writing for a subsequent parole hearing, referred to as a "parole rehearing". The written request must be submitted by the offender or his attorney.

B. Application for a parole rehearing will be allowed only under the following conditions.

1. The offender must not have had a major (schedule B) disciplinary misconduct report in the six months prior to the reapplication request;

2. The offender must not have been in disciplinary lockdown status for a period of six months prior to the reapplication request.

3. If both criteria in §705.C.1 and 2 are met, an offender may apply to the committee for a rehearing at the following intervals.

Type of Crime	Initial Request for Rehearing	Subsequent request for Rehearing ¹
Nonviolent, except as otherwise restricted	6 mos after original date of denial	6 mos after date of initial reapplication
Crime of Violence enumerated in R.S. 14:2(B)	1 yr after original date of denial	Every 2 yrs after date of initial reapplication
Crime Against Person enumerated in R.S. 14:29-47	1 yr after original date of denial	Every 2 yrs after date of initial reapplication
Sex Offense as defined in §903	2 yrs after original date of denial	Every 2 yrs after date of initial reapplication
Murder, 1st or 2nd degree	2 yrs after original date of denial	Every 2 yrs after date of initial reapplication
Manslaughter	2 yrs after original date of denial	Every 2 yrs after date of initial reapplication

¹ Subsequent request for rehearing may be submitted if initial request for rehearing was denied.

D. Reconsideration. An offender may request that the committee reconsider its decision to deny parole as outlined herein. However, this process does not establish a formal appeal process as parole is an administrative discretionary decision that is not subject to appeal.

1. A parole panel may reconsider a decision of any parole panel at the request of the board chairman.

2. An offender whose parole is denied or rescinded, or whose parole supervision is revoked may request reconsideration by the committee.

a. The request for reconsideration shall be made in writing by the offender (or the offender's authorized legal representative) and shall be postmarked no later than twenty-one calendar days from the date of the hearing during which the parole panel action was taken.

b. If the request for reconsideration is not postmarked within 21 calendar days, it shall be denied.

c. Reconsideration review shall be at the discretion of the committee and shall not be available except for the following reasons:

i. if there is an allegation of misconduct by a committee member that is substantiated by the record;

ii. if there is a significant procedural error by a committee member; or

iii. if there is significant new evidence that was not available when the hearing was conducted. A request based on the availability of new evidence or information shall be accompanied by adequate documentation.

d. A request based on an allegation of misconduct or significant procedural error shall clearly indicate the specific misconduct or procedural error being alleged.

e. A written request for reconsideration postmarked within the time period set forth in §705.D.2.a. shall be screened by the chairman or designee to determine whether the request for reconsideration raises substantial grounds to believe that one or more of the reasons for reconsideration set forth in §705.D.2.c. may be present. The request for reconsideration shall be denied by the chairman or designee, if in his or her discretion, it is determined that the request does not raise adequate grounds to believe that one or more of the reasons for reconsideration set forth in §705.D.2.c. are present.

3. If the chairman or designee determines upon screening that a request for reconsideration raises adequate grounds to believe that one or more of the reasons for reconsideration set forth in §705.D.2.c are present.

a. The case shall be set for administrative review at the next available parole panel hearing date. The review shall be conducted from the record of the first hearing. The appearance of the offender shall not be necessary.

b. The reviewing panel may vote to:

i. grant a new parole hearing and staff will make every attempt to schedule the hearing with a different parole panel than that which rendered the original decision; or

ii. affirm the original decision.

c. The applicant shall be advised, in writing, of the results of the review.

4. If the chairman or designee determine there is no basis to grant the request for reconsideration, the applicant will be advised in writing.

E. Disciplinary Removals

1. If the Offender has one or more major (Schedule B) Disciplinary Report(s) in the 12 months prior to their parole eligibility date, they will generally not be considered a good risk for early release and will, therefore, not be given parole consideration until such time as the offender has been disciplinary report free for twelve consecutive months. Offenders may be removed from a parole docket if they receive a Schedule B Disciplinary Report during the investigation period. The offender will be notified if they are not considered for placement on or removed from a docket.

a. The offender may request reconsideration of this decision in writing in accordance with the process outlined in this policy. Such request must include any mitigating factors that the offender wishes be considered during the review process.

b. The offender is responsible for notifying the board in writing when they are disciplinary report free for 12 consecutive months to be reconsidered for scheduling.

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 Department of Public Safety and Corrections, Board of Parole, LR 24:2301 (December 1998), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2266 (August 2013), amended by the Office of the Governor, Board of Pardons, LR 40:58 (January 2014), LR 45:1065 (August 2019), LR 47:363 (March 2021).

Sheryl M. Ranatza
Board Chair

2103#012

RULE

**Office of the Governor
Crime Victims Reparations Board**

Compensation to Victims (LAC 22:XIII. 301)

In accordance with the provisions of R.S. 49:950 et seq., which is the Administrative Procedure Act, and R.S. 46:1801 et seq., which is the Crime Victims Reparations Act, the Crime Victims Reparations Board has promulgated rules and regulations regarding the awarding of compensation to applicants. The Rule clarifies the procedure for applying for reparations. This Rule is hereby adopted on the day of promulgation.

Title 22

**CORRECTIONS, CRIMINAL JUSTICE AND LAW
ENFORCEMENT**

Part XIII. Crime Victims Reparations Board

Chapter 3. Eligibility and Application Process

§301. Eligibility

A. To be eligible for compensation, an individual must have suffered personal injury, death or catastrophic property loss as a result of a violent crime.

1. Victim Conduct and Behavior

a. The Crime Victims Reparations Board may vote to deny or reduce an award to a claimant who is a victim, or who files an application on behalf of a victim, when any of the following occurs:

- i. ...
- ii. Repealed.

1.a. iii - 3.g. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1801 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, Crime Victims Reparations Board, LR 20:539 (May 1994), amended LR 22:710 (August 1996), amended LR 31:2009 (August 2005), amended LR 35:65(January 2009), LR 36:2278 (October 2010), LR 37:1605 (June 2011), LR 41:1487 (August 2015), LR 47:364 (March 2021).

Amanda Tonkavitch
Chair

2103#024

RULE

**Office of the Governor
Licensing Board for Contractors**

Licensure and Exemption of Exam for Individuals with Military Training and Experience, Military Spouses and Dependents (LAC 46:XXIX.129)

In accordance with the provisions of R.S. 49:950 et seq., which is the Administrative Procedure Act, and through the authority granted in R.S. 37:2150-2192, which is the Contractor Licensing Law, the Licensing Board for Contractors (LSLBC) has amended rules regarding issuing a license to military personnel, spouses or dependents without examination while recognizing the license, registration or experience in another state with equivalent requirements. This Rule is hereby adopted on the day of promulgation.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XXIX. Contractors

Chapter 1. Applications and Licensing

**§129. Licensure and Exemption of Exam for
Individuals with Military Training and
Experience, Military Spouses and Dependents
[Formerly §321]**

A. The board shall issue a license or registration to an applicant who is a member of the military, including United States Department of Defense civilian employees who have been assigned to duty in Louisiana, or an applicant who is married to or is a dependent of a member of the military or a United States Department of Defense civilian employee, if the member or United States Department of Defense civilian receives military orders for a change of station to a military installation or assignment located in this state or if the member or United States Department of Defense civilian has established this state as his state of legal residence as reflected in the member's or United States Department of Defense civilian's military record if, upon application to the board, all of the following conditions are satisfied by the applicant:

- 1. holds a current and valid occupational license in another state in an occupation with a similar scope of practice, as determined by the board.
- 2. has held the occupational license in the other state for at least one year.
- 3. has passed any examinations, or met any education, training, or experience standards as required by the board in the other state.
- 4. is held in good standing by the board in the other state.
- 5. does not have a disqualifying criminal record as determined by the board under the laws of this state.
- 6. has not had an occupational license revoked by a board in another state because of negligence or intentional misconduct related to the applicant's work in the occupation.
- 7. did not surrender an occupational license because of negligence or intentional misconduct related to the person's work in the occupation in another state.

8. does not have a complaint, allegation, or investigation pending before a board in another state which relates to unprofessional conduct or an alleged crime. If there is an existing complaint, allegation or investigation pending, the board shall not issue or deny a license or registration until the complaint, allegation, or investigation is resolved, or the applicant otherwise satisfies the criteria for licensure in this state to the satisfaction of the board.

9. pays all applicable fees and meets all other requirements for licensure.

B. The board shall issue a license or registration to an applicant who is a member of the military, or an applicant who is married to or is a dependent of a member of the military or United States Department of Defense civilian employee who has been assigned duty in Louisiana, upon application based on work experience in another state if, upon application to the board, all of the following conditions are satisfied by the applicant:

1. worked in a state that does not use an occupational license or governmental certification to regulate a lawful occupation, but the board regulates this lawful occupation with a similar scope of practice.

2. worked for at least three years in the lawful occupation.

3. has not had an occupational license revoked by a board in another state because of negligence or intentional misconduct related to the applicant's work in the occupation.

4. did not surrender an occupational license because of negligence or intentional misconduct related to the person's work in the occupation in another state.

5. does not have a complaint, allegation, or investigation pending before a board in another state which relates to unprofessional conduct or an alleged crime. If there is an existing complaint, allegation, or investigation pending, the board shall not issue or deny a license or registration until the complaint, allegation, or investigation is resolved, or the applicant otherwise satisfies the criteria for licensure in this state to the satisfaction of the board.

6. pays all applicable fees and meets all other requirements for licensure.

C. The board shall issue a license or registration to an applicant who is a member of the military or United States Department of Defense civilian employee who has been assigned duty in Louisiana, or an applicant who is married to or is a dependent of a member of the military or a United States Department of Defense civilian employee based on holding a private certification and work experience in another state if, upon application to the board, all of the following conditions are satisfied by the applicant:

1. worked in a state that does not use an occupational license or government certification to regulate a lawful occupation, but that occupation is lawfully regulated by this board through a license or registration.

2. has worked for at least two years in the lawful occupation.

3. holds a current and valid private certification in the lawful occupation.

4. the private certification organization holds the applicant in good standing.

5. has not had an occupational license revoked by a board in another state because of negligence or intentional misconduct related to the applicant's work in the occupation.

6. did not surrender an occupational license because of negligence or intentional misconduct related to the person's work in the occupation in another state.

7. does not have a complaint, allegation, or investigation pending before a board in another state which relates to unprofessional conduct or an alleged crime. If there is an existing complaint, allegation or investigation pending, the board shall not issue or deny a license or registration until the complaint, allegation, or investigation is resolved or the applicant otherwise satisfies the criteria for licensure in this state to the satisfaction of the board.

8. pays all applicable fees and meets all other requirements for licensure.

D. The education, training, or experience requirements for an occupational license issued by the board will be determined by the presentation from the applicant of satisfactory evidence that the applicant received comparable education, training or experience as a member of the United States armed forces or any national guard or other reserve component.

E. The applicant will be required to complete the business and law course.

F. Upon receipt of all required and complete documents, the board will provide the applicant with a written decision regarding the application for an occupational license within 30 calendar days after receiving an application.

G.1. The applicant may appeal any of the following decisions made by the board, in a court of general jurisdiction:

a. denial of a license;

b. determination of the classification;

c. determination of the similarity of the scope or practice of the occupational license issued;

H. A person who obtains a license or registration pursuant to this rule is subject to all laws regulating the occupation in this state and the jurisdiction of this board.

I. The term "military" means the armed forces of the United States, including the Army, Navy, Marine Corps, Coast Guard, Air Force, and the reserve components thereof, the National Guard of any state, the Military Reserves of any state, or the naval militia of any state.

J. The term *dependent* means:

1. a resident spouse or resident unmarried child under the age of 21 years;

2. a child who is a student under the age of 24 years and who is financially dependent upon the parent; or

3. a child of any age who is disabled and dependent upon the parent.

K. The provisions of this Section shall not apply to any applicant receiving a dishonorable discharge or a military spouse whose spouse received a dishonorable discharge.

L. This Section preempts laws by township, municipal, county and other governments in the state which regulate occupational licenses and government certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3651

HISTORICAL NOTE: Promulgated by the Office of the Governor, Licensing Board for Contractors, LR 40:2575 (December 2014), LR 44:2146 (December 2018), LR:47:364 (March 2021).

Michael McDuff
Executive Director

2103#006

RULE

Louisiana Lottery Corporation

**On-Line and Instant Lottery Games
(LAC 42:XV.Chapters 1 and 7)**

The Louisiana Lottery Corporation in compliance with, and under authority of R.S. 49:950 et seq., and R.S. 47:9000 et seq., has amended the rules pertaining to the operations of on-line lottery games, LAC 42:XV.Chapter 1, to allow the Louisiana Lottery Corporation to offer the on-line lottery game “Pick 5”, and the rules pertaining to instant lottery games, LAC 42:XV.Chapter 7, to allow the Louisiana Lottery Corporation to offer instant terminal games.

During the last regular session, the Legislature amended the Lottery statute changing the minimum transfer to the Lottery Proceeds Fund from 35 percent to 25 percent of gross revenues effective, August 1, 2020. The change was designed to allow the Corporation to increase prizes, and as a result, increase sales and total dollar transfers to the Lottery Proceeds Fund.

The Corporation has researched products in the lottery industry with higher prize structures and solid sales performance.

Instant Terminal Games are currently offered in 19 jurisdictions throughout the United States. These products offer the players an opportunity to request a ticket at the lottery terminal and determine instantly if they have won. These Instant Terminal Games provide a higher prize structure for the players resulting in increased net sales and more transfers to the Lottery Proceeds Fund.

For the past 6 years, the Corporation has seen the numbers games, Pick 3 and Pick 4, increase in sales by over 25 percent. These games represent the fastest growing draw style product line. Pick 5 is designed to build upon this success, providing higher net sales and more transfers to the Lottery Proceeds Fund. This Rule is hereby adopted on the day of promulgation.

**Title 42
LOUISIANA GAMING
Part XV. Lottery**

Chapter 1. On-Line Lottery Games General Rules

§103. Definitions

A. ...

Claim Form—the printed or digital form provided by the corporation to be completed by prize winners when claiming a prize.

Free Ticket—a lottery prize for which the winner is entitled to another ticket or tickets equivalent to the cash value of the free ticket prize.

Lotto—repealed.

Numbers Game—repealed.

Official Lottery Retailer—any person with whom the corporation has contracted to sell on-line game tickets to the public.

On-Line Game Ticket—an official ticket issued by the corporation in connection with any on-line lottery game, produced by an Official Lottery retailer in an authorized manner, bearing player or computer selected numbers, figures and/or characters representing the type of wager, drawing date, amount of wager, and validation data.

On-Line Retailer—repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation, February 18, 1992 and promulgated in *The Advocate*, February 28, 1992, amended October 22, 1992 and promulgated in *The Advocate*, November 3, 1992, amended October 21, 1994 and promulgated in *The Advocate*, October 28, 1994, repromulgated LR 23:64 (January 1997), amended LR 33:2418 (November 2007), LR 47:366 (March 2021).

§105. General Provisions

A. These game rules authorize the corporation to offer the following on-line lottery games.

1. Pick 3 Daily Game. A game permitting a player to choose a three-digit number, the winner being determined by a drawing.

2. Lotto. A game permitting a player a choice of six numbers out of a specified field of numbers, the winner being determined by a drawing.

3. Easy 5. A game permitting a player a choice of five numbers out of a specified field of numbers, the winner being determined by a drawing.

4. Cash Quest. A game providing a player multiple sets of four numbers out of a specified field of numbers, the winner being determined by a drawing.

5. Pick 4 Game. A game permitting a player to choose a four-digit number, the winner being determined by a drawing.

6. Raffle Lottery Game. A series of raffle lottery games which will commence at the discretion of the president, and will continue until the president publicly announces a suspension or termination date. A limited number of tickets or chances, each unique from all others, will be offered for the opportunity to win one of a number of predetermined and announced prizes.

7. Pick 5 Game. A game permitting a player to choose a five-digit number, the winner being determined by a drawing.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation on October 22, 1992 and promulgated in *The Advocate*, November 3, 1992, amended October 21, 1994, promulgated in *The Advocate*, October 28, 1994, repromulgated LR 23:63 (January 1997), amended LR 24:1762 (September 1998), LR 33:2418 (November 2007), LR 47:366 (March 2021).

§107. Probability of Winning

A. The overall probability of winning any prize in a particular game (expressed as "odds" of winning as that term

is commonly used in the lottery industry) will be contained in the game directive for that game and shall be included in the promotional materials for the game. The statement of "odds" does not need to specify the "odds" of winning each particular prize. The corporation shall make every attempt to release accurate "odds" information for each on-line lottery game.

AUTHORITY NOTE: Promulgated in accordance with R.S.47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation, October 22, 1992 and promulgated in *The Advocate*, November 3, 1992, repromulgated LR 23:64 (January 1997), amended LR 47:366 (March 2021).

§123. Claim Form

A. For any prize of more than \$600, the owner of the apparent winning ticket shall complete an official claim form (printed or digital) that requires the winner to provide:

A.1. - C.2. ...

D. Formal recognition of partnership play will be required. Formal recognition shall include, but shall not be limited to, production of a partnership agreement or memorandum thereof listing the names of all partners. The corporation must also be furnished a federal employer's identification number for the partnership entity. Each such recognized partnership shall receive a single annual installment payment payable to the partnership.

AUTHORITY NOTE: Promulgated in accordance with R.S.47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation, February 18, 1992 and promulgated in *The Advocate*, February 28, 1992, repromulgated LR 23:66 (January 1997), amended LR 47:367 (March 2021).

§127. Installment Prizes

A. The corporation may provide for the payment of any prize of more than \$100,000 in equal annual installments. The schedule of payments shall be designed to pay the winner equal dollar amounts each year until the total payments equal the prize amount. When the prize amount is paid in installments, the president may round the actual amount of the prize to the nearest \$1,000 amount to facilitate the appropriate funding mechanism. The corporation shall not accelerate the payment schedule of any installment prize without the consent of the winner.

AUTHORITY NOTE: Promulgated in accordance with R.S.47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation on February 18, 1992 and promulgated in *The Advocate*, February 28, 1992, repromulgated LR 23:66 (January 1997), amended LR 26:703 (April 2000), LR 47:367 (March 2021).

§129. Merchandise Prizes

A. If a noncash prize is offered, the value of the prize will be determined by the fair market value of any such prize, which will be the amount reported to the state and the IRS for tax purposes. The corporation may pay withholding taxes on behalf of the winner in accordance with federal and state rules. The corporation will not be responsible for any other fees associated with the prize.

AUTHORITY NOTE: Promulgated in accordance with R.S.47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation, February 18, 1992 and promulgated in *The Advocate*, February 28, 1992, amended October 21, 1994 and promulgated in *The Advocate*, October 28, 1994, repromulgated LR 23:66 (January 1997), amended LR 47:367 (March 2021).

Chapter 7. Instant Lottery Games General Rules

§703. Definitions

A. ...

Bar Code—the representation of ticket and validation information in bar code form on the back and/or front of each instant lottery ticket.

Captions—the printed verification of each play symbol which may appear in the game play area below the play symbol.

Claim Form—the printed or digital form provided by the corporation to be completed by prize winners when claiming a prize.

Free Ticket—a lottery prize for which the winner is entitled to another ticket or tickets equivalent to the cash value of the free ticket price.

Game Number—the designation of each game for purposes of inventory control and accounting.

Game Play Area—the area on the front or back of the ticket that contains the computer-generated symbols that determine winning or non-winning tickets according to game specifications.

Grand Drawing—repealed.

Grand Drawing Finalist—repealed.

Instant Lottery Game—the two distinct types of games, instant scratch-off game and instant terminal game, whereby a player can immediately determine whether the player has won a prize.

Instant Scratch-Off Game—a lottery game that offers pre-printed tickets that, after a coating is rubbed off, indicate immediately whether a player has won a prize.

Instant Terminal Game—a game which is played using ticket-generating terminals linked to a central computer, whereby a player can immediately determine whether the player has won a prize.

Omitted Pack—any pack of instant scratch-off tickets that has been removed from the game during production.

Overprint—the scratch-off coating over the play area and the information printed on its surface of instant scratch-off tickets.

Pack—a set of instant tickets, each bearing a common pack number, fan folded in strips of five tickets. Each pack will contain the tickets or some other number of tickets determined by the corporation for a particular game.

Pack/Ticket Number—the series of digits visible on the ticket that designates the number of the particular pack and the sequential number of each ticket in a scratch-off ticket game.

Play Symbols (or Prize Symbols)—a series of alphabetic or numeric characters or symbols appearing in the game play area of an instant ticket that are utilized in each game to determine winning tickets.

Preliminary Drawing—an event in which qualified entrants are selected at random to participate in a drawing event.

Prize Structure—the authorized itemization of prize levels and number of winners contained in the working papers or game directives of each game.

Quality Control Symbol—repealed.
Retailer Validation Code—repealed.

Promotional Drawing—a special event designed by the corporation to award a large top prize and subordinate prizes through a random process.

Promotional Drawing Finalist—a contestant in a drawing event.

Security Omit—a pack of instant scratch-off tickets omitted from the game for security purposes, temporarily or permanently.

Security Patterns (or *BenDay*)—repealed.
Ticket Number—the number appearing on the ticket.

Validation Files—the computer files provided by the ticket printer that contain the information required to determine if a ticket is the winner of any prize.

Validation Number—the number within the play area of the ticket, covered by a scratch-off coating, that may be utilized to determine whether the ticket is a winner in the computerized validation process.

Validation Tapes—repealed.

Zip Cash—repealed.

Zip Cash Terminal—repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation on August 8, 1991 and promulgated in the *State Times* on August 15, 1991, repromulgated LR 26:699 (April 2000), amended LR 47:367 (March 2021).

§705. General

A. These game rules shall apply to all instant lottery games offered by the corporation upon adoption by the board. Any change in these rules must be approved by the board, and will take effect upon approval. The detailed information regarding each specific instant game will be contained in a game directive promulgated by the president. Each game directive will include the appropriate prize amounts, the game symbols required to win each prize, and any unique play format information or claim requirements. The game directive cannot be in conflict with these game rules. Each game directive will be distributed to and posted at every corporation office and will be available for public inspection during the sales period of the particular game. The directive must be approved and signed by the president days prior to the start of the game. The president shall also promulgate drawing directives that prescribe the operational details of preliminary drawings, grand drawings, and any other special promotional drawings in which a prize of more than \$5,000 is offered.

B. Promulgation shall be similar to that prescribed for game directives. The drawing directive must be approved and signed by the president prior to the drawing event.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation on August 8, 1991 and promulgated in the *State Times* on August 15, 1991, repromulgated LR 26:700 (April 2000), LR 47:368 (March 2021).

§707. Odds of Winning

A. The overall odds of winning any prize in a particular game will be contained in the game directive for that game and shall be included in the promotional materials for the game or printed on the back of the ticket. The statement of odds does not need to specify the odds of winning each particular prize. The corporation shall make every attempt to release accurate odds information for each instant lottery game.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation on August 8, 1991 and promulgated in the *State Times* on August 15, 1991, repromulgated LR 26:701 (April 2000), LR 47:368 (March 2021).

§713. Payment of Prizes

A. Instant lottery game prizes will be paid in accordance with game directives and retailer regulations, and upon submission of a valid winning instant ticket, payment will be made to the person submitting the ticket for payment. The owner of an instant ticket bears the sole responsibility for the risk of loss or theft of the ticket. If an instant ticket is claimed by the owner in error for a lower prize than that to which the owner is entitled, the corporation shall not be liable to the owner for the higher prize not claimed. Any ticket on which the name of the owner is altered, or appears to have been altered, may be impounded by the corporation without payment to the claimant until ownership of the ticket can be determined.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation on August 8, 1991 and promulgated in the *State Times* on August 15, 1991, repromulgated LR 26:701 (April 2000), amended LR 47:368 (March 2021).

§725. Claim Form

A. For any prize of more than \$600, the owner of the apparent winning ticket shall complete an official claim form (printed or digital) that requires the winner to provide:

1. - 3. ...

B. No prize payment will be authorized if the required information is not provided by the claimant. The corporation will utilize due diligence to insure that the information provided on the claim form is correct, including information contained on a driver's license, Social Security card or other forms of information. The name of the owner printed on the back of the ticket must correspond with the name of the claimant.

C. - C.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation on August 8, 1991 and promulgated in the *State Times* on August 15, 1991, repromulgated LR 26:702 (April 2000), amended LR 47:368 (March 2021).

§727. Assignability

A. - A.2. ...

B. A promotional drawing finalist may not assign or sell the right to participate in the promotional drawing, nor can two or more finalists enter into an advance agreement to split their winnings following the promotional drawing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation on August 8, 1991 and promulgated in the *State Times* on August 15, 1991, repromulgated LR 26:702 (April 2000), amended LR 47:368 (March 2021).

§729. Installment Prizes

A. The corporation may provide for the payment of any prize of more than \$100,000 in equal annual installments. The schedule of payments shall be designed to pay the winner equal dollar amounts each year until the total payments equal the prize amount. When the prize is paid in installments, the president may round the actual amount of the prize to the nearest \$1,000 amount to facilitate the appropriate funding mechanism. The corporation shall not accelerate the payment schedule of any installment prize without the consent of the winner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation on August 8, 1991 and promulgated in the *State Times* on August 15, 1991, repromulgated LR 26:702 (April 2000), amended LR 47:369 (March 2021).

§731. Merchandise Prizes

A. If a non-cash prize is offered, the value of the prize will be determined by the fair market value of any such prize, which will be the amount reported to the state and the IRS for tax purposes. The corporation may pay withholding taxes on behalf of the winner in accordance with federal and state rules. The corporation will not be responsible for any state taxes or other fees associated with the prize.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation on August 8, 1991 and promulgated in the *State Times* on August 15, 1991, repromulgated LR 26:703 (April 2000), amended LR 47:369 (March 2021).

§733. Preliminary Drawings

A. The president shall promulgate a drawing directive that details the procedures involved in conducting a random drawing to determine promotional drawing finalists. The directive shall specify the qualifications for valid promotional drawing entries and a methodology for the random pre-selection of entries for purposes of the preliminary drawing, if required. The president shall exercise care in making certain that any procedures devised for finalist selection are totally fair and random, and that no entry has a greater opportunity for selection than any other.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation on August 8, 1991 and promulgated in the *State Times* on August 15, 1991, repromulgated LR 26:703 (April 2000), amended LR 47:369 (March 2021).

§735. Promotional Drawings

A. The president shall promulgate a drawing directive that details the procedure for conducting any promotional drawing, including the prizes to be offered, the drawing method, and the equipment to be utilized. The president shall

exercise care to insure a totally random drawing process that results in the selection of prize winners in a method that favors none of the participants.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation on August 8, 1991 and promulgated in the *State Times* on August 15, 1991, repromulgated LR 26:703 (April 2000), amended LR 47:369 (March 2021).

§737. Independent Auditor

A. All drawing events, including preliminary drawings and promotional drawings, shall be witnessed by an independent auditing firm. The independent auditor shall attest to the fact that procedures for the drawing were properly disseminated and that the procedures were followed, and shall make note of any exceptions to the procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation on August 8, 1991 and promulgated in the *State Times* on August 15, 1991, repromulgated LR 26:703 (April 2000), amended LR 47:369 (March 2021).

Rose J. Hudson
President

2103#011

RULE

Department of Health Bureau of Health Services Financing

Dental Benefits Prepaid Ambulatory Health Plan Payment Methodology (LAC 50:I.2111)

The Department of Health, Bureau of Health Services Financing has amended LAC 50:I.2111 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 I. Administration

Subpart 3. Managed Care for Physical and Basic Behavioral Health

Chapter 21. Dental Benefits Prepaid Ambulatory Health Plan

§2111. Payment Methodology

A. - A.2. ...

3. The department or its fiscal intermediary, may reimburse a DBPM's monthly capitation payments in the aggregate on a lump sum basis when administratively necessary.

B. - I. ...

J. A DBPM shall have a medical loss ratio (MLR) for each MLR reporting year, which shall be a calendar year, except in circumstances in which the reporting period must be revised to align to a CMS-approved capitation rating period.

1. Following the end of the MLR reporting year, a DBPM shall provide an annual MLR report, in accordance with the financial reporting guide issued by the department.

2. The annual MLR report shall be limited to the DBPM's MLR for services provided to Medicaid enrollees and payment received under the contract with the department, separate from any other products the DBPM may offer in the state of Louisiana.

3. An MLR shall be reported in the aggregate, including all services provided under the contract, unless the department requires separate reporting and a separate MLR calculation for specific populations.

a. The MLR shall not be less than 85 percent using definitions for health care services, quality initiatives and administrative cost as specified in 42 CFR 438.8. If the MLR is less than 85 percent, the DBPM will be subject to refund the difference, within the timeframe specified, to the department. The portion of any refund due the department that has not been paid, within the timeframe specified, will be subject to interest at the current Federal Reserve Board lending rate or in the amount of 10 percent per annum, whichever is higher.

4. The department shall provide for an audit of the DBPM's annual MLR report and make public the results within 60 calendar days of finalization of the audit.

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 40:788 (April 2014), amended by the Department of Health, Bureau of Health Services Financing LR 46:953 (July 2020), LR 47:369 (March 2021).

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

Dr. Courtney N. Phillips
Secretary

2103#044

RULE

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

Intermediate Care Facilities for
Persons with Intellectual Disabilities
Reimbursement Methodology
(LAC 50:VII.32903)

The Department of Health, Bureau of Health Services Financing has amended LAC 50:VII.32903 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 VII. Long Term Care

Subpart 3. Intermediate Care Facilities for Persons with Intellectual Disabilities

Chapter 329. Reimbursement Methodology

Subchapter A. Non-State Facilities

§32903. Rate Determination

A. - M. ...

N. Pursuant to the provisions of Act 1 of the 2020 First Extraordinary Session of the Louisiana Legislature, effective for dates of service on or after July 1, 2020, private ICF/IID facilities that downsized from over 100 beds to less than 35 beds prior to December 31, 2010 without the benefit of a cooperative endeavor agreement (CEA) or transitional rate and who incurred excessive capital costs, shall have their per diem rates (excluding provider fees) increased by a percent equal to the percent difference of per diem rates (excluding provider fees) they were paid as of June 30, 2019. See chart below with the applicable percentages:

	Intermittent	Limited	Extensive	Pervasive
1-8 beds	6.2 percent	6.2 percent	6.2 percent	6.1 percent
9-15 beds	3.2 percent	6.2 percent	6.2 percent	6.1 percent
16-32 beds	N/A	N/A	N/A	
33+ beds	N/A	N/A	N/A	

1. The applicable differential shall be applied anytime there is a change to the per diem rates (for example, during rebase, rate reductions, inflationary changes, or special legislative appropriations). This differential shall not extend beyond December 31, 2024.

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 31:2253 (September 2005), amended LR 33:462 (March 2007), LR 33:2202 (October 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1555 (July 2010), LR 37:3028 (October 2011), LR 39:1780 (July 2013), LR 39:2766 (October 2013), LR 41:539 (March 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 47:370 (March 2021).

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

Dr. Courtney N. Phillips
Secretary

2103#045

RULE

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

Medical Transportation Program
Non-Emergency Medical Transportation
(LAC 50:XXVII.541)

The Department of Health, Bureau of Health Services Financing has amended LAC 50:XXVII.541 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 Procedures Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXVII. Medical Transportation Program

Chapter 5. Non-Emergency Medical Transportation

Subchapter C. Provider Responsibilities

§541. Provider Enrollment

A. - C. ...

D. As a condition of participation for out-of-state transport, providers of transportation to out-of-state medical or behavioral health services must be in compliance with all applicable federal intrastate commerce laws regarding such transportation, including but not limited to, the \$1,500,000 insurance requirement.

E. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 20:1115-1117 (October 1994), amended by the Department of Health, Bureau of Health Services Financing, LR 42:1092 (July 2016), LR 46:694 (May 2020), LR 47:371 (March 2021).

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

Dr. Courtney N. Phillips
Secretary

2103#046

RULE

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

Nursing Facilities—Non-Emergency
Transportation for Medical Appointments
(LAC 50:II.10137)

The Department of Health, Bureau of Health Services Financing has amended LAC 50:II.10137 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 II. Nursing Facilities

Subpart 3. Standards for Payment

**Chapter 101. Standards for Payment for Nursing
Facilities**

Subchapter D. Resident Care Services

§10137. Ancillary Services

A. - D.5. ...

E. Non-Emergency Transportation for Medical Appointments

1. It is the responsibility of the nursing facility to arrange for or provide its residents with non-emergency transportation to all necessary medical appointments when use of an ambulance is not appropriate. This includes wheelchair bound residents and those residents going to therapies and hemodialysis. Transportation shall be provided to the nearest available qualified provider of routine or specialty care within reasonable proximity to the facility. Residents can be encouraged to utilize medical providers of their choice in the community in which the facility is located when they are in need of transportation services. It is also acceptable if the facility or legal representative/sponsor chooses to transport the resident.

2. If non-emergency transportation is required, and it is medically necessary for the resident to be transported to a necessary medical appointment by ambulance, the nursing facility will be responsible for contacting the appropriate managed care organization (MCO) or fee-for-service (FFS) transportation representative and submitting the completed Certification of Ambulance Transportation form to the MCO or FFS representative prior to the scheduled pick-up time.

F. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:34 (January 1996), amended by the Department of Health, Bureau of Health Services Financing, LR 47:371 (March 2021).

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

Dr. Courtney N. Phillips
Secretary

2103#047

RULE

**Department of Health
Office for Citizens with Developmental Disabilities**

Council on the Purchase of Goods and Services of
Individuals with Disabilities
(LAC 67:VII.Chapter 9)

Under the authority of R.S. 40:4 and 40:5, and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Department of Health, Office for Citizens with Developmental Disabilities

(LDH-OCDD), has amended LAC 67:Part VII Rehabilitation Services, Chapter 9 Council on the Purchase of Goods and Services of Individuals with Disabilities. The Rule will allow individuals with disabilities to work alongside individuals without disabilities in non-segregated settings earning a fair wage. The Rule also includes changes to remove references to sheltered workshops and replace with supported employment provider in addition to making the necessary people first language changes. The updates to the Rule are made pursuant to ACT 312 of the 2019 Regular Legislative Session. This Rule is hereby adopted on the day of promulgation.

Title 67
Social Services

Part VII. Rehabilitation Services

Chapter 9. Council on the Purchase of Goods and Services of Individuals with Disabilities

§901. General Rules

A. The purpose of this program is to further the state of Louisiana's policy of encouraging and assisting individuals with disabilities to achieve maximum personal independence by engaging in useful and productive employment activities and, in addition, to provide state agencies, departments, and institutions and political subdivisions of the state with a method for achieving conformity with requirements of nondiscrimination and affirmative action in employment matters related to individuals with disabilities. This program will provide employment opportunities for individuals with disabilities, thereby reducing their need for financial and other forms of assistance from government.

B. The Program for the Purchase of Goods and Services Provided by Individuals with Disabilities created pursuant to R.S. 39:1604.4, which provides that every agency gives a preference in its purchasing practices to goods manufactured and services performed by individuals with disabilities, shall be called the State Use Council for the Purchase of Goods and Services Provided by Individuals with Disabilities hereinafter called Council.

C. The Louisiana Department of Health (LDH) shall establish a council and the membership of the council shall be determined by the secretary of LDH.

D. The Council shall be responsible for the implementation, policies, supervision, and monitoring of the program including having the authority to designate and contract with a central nonprofit agency to assist supported employment providers.

E. When contracting with a central nonprofit agency, the council shall solicit and evaluate competitive sealed proposals pursuant to R.S. 39:1595, at least every five (5) years.

F. All suitable goods and services approved by the council in accordance with applicable specifications by or for any state agency shall be procured from such nonprofit organization, program or entity as defined by R.S. 12:201 et seq., where such goods and services are available within the period specified at the fair market price unless otherwise excluded.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1604.4 and R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 16:976 (November 1990), amended by the Department of Health, Office

for Citizens with Developmental Disabilities, LR 47:372 (March 2021).

§903. Definitions

Central Nonprofit Agency (CNA)—an entity designed as a central nonprofit agency pursuant to RS 39:1604.4.

Community Rehabilitation Program (CRP)—a government or nonprofit private program operated under criteria established by the council and under which individuals with disabilities produce goods or perform services for compensation.

Council—when used in these rules shall refer to the Louisiana Department of Health (LDH) State Use Council for the Purchase of Goods and Services Provided by Individuals with Disabilities.

Direct Labor—all work required for preparation, processing and packaging of a good, or work directly relating to the performance of a service; except supervision, instruction, administration, inspection or shipping goods.

Disability—a mental or physical impairment, including blindness, that impedes a person who is seeking, entering, or maintaining gainful employment.

Goods Manufactured and Services Performed by Individuals with Disabilities—goods and services for which not less than 40 percent of the man-hours of direct labor required for manufacture or performance is provided by individuals with disabilities.

Individuals with Disabilities—individuals with a physical, behavioral, developmental, intellectual, sensory, mental, or addictive disorder which constitutes a substantial obstacle to their employment and is of such a nature as to prevent an individual from engaging in normal competitive employment.

Supported Employment Provider—a nonprofit organization, program or entity that:

1. as defined by R.S. 12:201 et seq. operates in the interests of individuals with disabilities and provides gainful, competitive, integrated employment for individuals with disabilities, and the income of which does not inure in whole or part to the benefit of any shareholder or other private individual, in compliance with a central nonprofit agency for individuals with disabilities and

2. complies with any applicable occupational health and safety standards provided by the statutes or regulations of this state or of the United States.

3. in Fiscal Years 2019-2020 and 2020-2021, supported employment provider shall also include any sheltered workshop transitioning to a supported employment provider as defined above.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1604.4 and R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 16:976 (November 1990), amended by the Department of Health, Office for Citizens with Developmental Disabilities, LR 47:372 (March 2021).

§905. Organization of the Council

A. The council will be composed of no more than nine members to be known as the Council on the Purchase of Goods and Services of Individuals with Disabilities, including three state agency members and up to six appointed members. The state agency members shall be the director of State Purchasing of the Division of Administration or their designee; and the assistant secretary

of the Office for Citizens with Developmental Disabilities, Louisiana Department of Health (LDH) or their designee; and the director of Louisiana Rehabilitation Services or their designee. The six appointed members shall be recommended by the Council on the Purchase of Goods and Services of Individuals with Disabilities and approved by the secretary of the LDH. A chairman shall be recommended by the council to the secretary of the LDH for appointment.

B. Reimbursement for necessary expenses actually incurred in the performance of services in connection with the work of the council will be made as authorized by the secretary of LDH.

C. The act of a majority of the members present at a meeting at which a quorum is present shall be the act of the council.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1604.4 and R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 16:976 (November 1990), amended by the Department of Health, Office for Citizens with Developmental Disabilities, LR 47:372 (March 2021).

§907. Duties and Responsibilities of the Council

A. The duties and responsibilities of the council are:

1. to coordinate and facilitate the carrying of R.S. 39:1604.4 and R.S. 38:2261;

2. to certify eligibility of programs for participation;

3. to suspend and reinstate a supported employment provider;

4. to solicit and evaluate competitive sealed proposals pursuant to R.S. 39:1595 at least every five years to designate and contract with a central nonprofit agency to assist the Council in performing its functions;

5. to act on recommendations of the central nonprofit agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1604.4 and R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 16:976 (November 1990), amended by the Department of Health, Office for Citizens with Developmental Disabilities, LR 47:373 (March 2021).

§909. Certification of Eligibility of Participating Supported Employment Provider

A. The council shall certify each supported employment provider making application for participating in the Program for the Purchase of Goods and Services Provided by Individuals with Disabilities.

1. The applicant meets the necessary definition of a supported employment provider as defined in R.S. 39:1604.4.

2. The applicant meets the necessary definition of a central nonprofit agency as outlined in R.S. 39:1604.4, only if central nonprofit agency status is a requirement that the program must have obtained to function legally as a supported employment provider under federal and/or state statutory requirements.

3. The applicant conforms to the requirement for goods manufactured and services performed by individuals with disabilities as defined in R.S. 39:1604.4.

4. The applicant has demonstrated to the Council's satisfaction that it is capable of providing goods and services for sale to the state that conform to the criteria for same, as established by the rules pursuant to R.S. 39:1604.4.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1604.4 and R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 16:976 (November 1990), amended by the Department of Health, Office for Citizens with Developmental Disabilities, LR 47:373 (March 2021).

§911. Central Nonprofit Agency

A. The council shall have the authority to designate and contract with a central nonprofit agency to assist supported employment providers in submitting applications for the selection of suitable goods and services, to facilitate the allocation of orders among qualified supported employment providers, in controlling quality control, and in assisting the council in carrying out its responsibilities.

B. The council shall solicit and evaluate competitive sealed proposals pursuant to R.S. 39:1595, at least every five years to designate and contract with a central nonprofit agency.

C. The central nonprofit agency may also assist supported employment providers in training, contract negotiations and procurement, costing, cash advancements against billing, no interest loans, credit checks and collections, public relations, consultations, goods development, market research, networking, industry referrals, production, management, contract administration, liaison with government, and other duties as specified by the council. Payment, if any, for such assistance shall be by agreement with the individual supported employment provider.

D. The Council shall establish rates for marketing services to be charged to the supported employment provider by the central nonprofit agency.

E. Purchase orders may be issued by the appropriate purchasing agency for suitable goods and services directly to a supported employment provider with copies to a central nonprofit agency. Provisions may also be made to issue purchase orders directly to the central nonprofit agency which will in turn make payment to the supported employment provider.

F. If such assistance is authorized in the designation, the Council may instruct the central nonprofit agency to assist it in carrying out certain specified Council responsibilities.

G. Central nonprofit agency will submit annually a detailed written report of its program and budget to the council. This report shall include:

1. the number of disabled persons according to their type of disability who are employed by supported employment providers participating the program for the purchase of goods and services;

2. the amount of annual wages paid to persons participating in the program;

3. a summary of the sale of goods offered by the supported employment providers;

4. a list of goods and services offered by the supported employment providers;

5. the geographic distribution of the supported employment providers;

6. other information specified by the council for its determination of rates for marketing services to be charged the supported employment providers by the central nonprofit agency;

7. information regarding the financial operations and conditions of the central nonprofit;

8. a report of the extent to which activities were performed in accordance with 911.C above;

9. the number of persons with disabilities who transitioned to individual or supported employment opportunities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1604.4 and R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 16:976 (November 1990), amended by the Louisiana Department of Health, Office for Citizens with Developmental Disabilities, LR 47:373 (March 2021).

§913. Suspension and Reinstatement of a Supported Employment Provider

A. The council, after notice and a hearing may suspend a supported employment provider from its right to receive purchase orders from this program for suitable goods and services under any or all of the following circumstances:

1. failure of delivered goods and services to meet or exceed specification;

2. failure to deliver ordered goods and services as required in the specifications.

B. The council may reinstate a supported employment provider after a suspension only if the council makes an affirmative finding on each of the following:

1. that the supported employment provider has reimbursed the state for damages suffered by reason of any of the failures giving rise to suspension;

2. that the supported employment provider has made the necessary corrections to avoid these failures in the future.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1604.4 and R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 16:976 (November 1990), amended by the Department of Health, Office for Citizens with Developmental Disabilities, LR 47:374 (March 2021).

§915. Value Added

A. A supported employment provider may not act merely as a receiving and shipping facility, except under circumstances as approved by the council.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1604.4 and R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 16:976 (November 1990), amended by the Department of Health, Office for Citizens with Developmental Disabilities, LR 47:374 (March 2021).

§917. Inspections

A. The appropriate purchasing agency, at its option, may monitor supported employment provider manufacturing

activities for compliance with specifications under existing contracts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1604.4 and R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 16:976 (November 1990), amended by the Department of Health, Office for Citizens with Developmental Disabilities, LR 47:374 (March 2021).

§919. Records

A. The records of the council and of any nonprofit agency participating in this program which pertain to state purchases of the goods and services of individuals with disabilities, shall be made available upon request to the inspection of representatives of the Legislative Auditor, Office of the Inspector General, the Division of Administration, Office of Planning and Budget, or the Legislative Fiscal Office on the assurance that the information will be safeguarded, used only for the purpose for which provided, and not released to unauthorized persons.

B. A request for information for other records of the council which identifies individuals with disabilities as a state agency client or former client will be forwarded to LDH for review.

C. LDH is the depository for all records concerning the Council's operations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1604.4 and R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 16:976 (November 1990), amended by the Louisiana Department of Health, Office for Citizens with Developmental Disabilities, LR 47:374 (March 2021).

§921. Exceptions

A. Exceptions from the operation of the mandatory provisions of these rules may be made in any case where under the rules of the state purchasing agency, the goods or service so produced or provided does not meet the reasonable requirements of the office, department, institution, or agency.

B. No office, department, institution, or agency may evade the intent of these rules by slight variations from standards adopted by the appropriate purchasing agency, when the goods or services produced or provided by individuals with disabilities, in accordance with established standards, are reasonably adapted to the actual needs of the office, department, institution, or agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1504.4 and R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 16:976 (November 1990), amended by the Louisiana Department of Health, Office for Citizens with Developmental Disabilities, LR 47:374 (March 2021).

Dr. Courtney N. Phillips
Secretary

2103#034

Notices of Intent

NOTICE OF INTENT

Department of Agriculture and Forestry Office of Forestry

Electronic Transfer/Driver Cards (LAC 7:XXXIX.1503)

Editor's Note: This Notice of Intent is being reprinted in its entirety to correct a procedural submission error. The original Notice of Intent may be viewed in the February 20, 2021 edition of the *Louisiana Register* on pages 276-277.

In accordance with the Administrative Procedure Act, R.S. 49:950, et seq., and pursuant to the authority set forth in R.S. 3:4413, notice is hereby given that the Department of Agriculture and Forestry ("Department"), through the Office of Agricultural and Environmental Sciences, intends to amend LAC 7:XXXIX.1503. The proposed rule change allows purchasing/receiving facilities the option to utilize electronic transfer/driver card systems to identify individual assigned drivers and sets forth requirements for facilities and drivers participating in such systems. The proposed rule change also incorporates minor clarifications regarding the identification of the timber owner's name and landowner's name on scale tickets.

Title 7

AGRICULTURE AND ANIMALS

Part XXXIX. Forestry

Chapter 15. Timber Harvesting and Receiving Records

§1503. Scale/Load Tickets: Required Information; Distribution; Maintenance of Records; Electronic Transfer/Driver Cards

A. Scale tickets must be maintained for a period of not less than six years. Information required by the scale ticket regulations may be kept on a load ticket provided that the scale ticket can be cross-referenced to the load ticket. When both are used, the load ticket and scale ticket must be maintained for a period of not less than six years.

B. On any per-unit sale the purchaser of the timber must provide the timber owner hard copies of the scale tickets relating to any partial or final settlement made during the course of the harvest. Mill generated settlement sheets may be provided to the timber owner in lieu of a copy of the scale ticket provided it includes the load number, scale ticket number, date and time, product and species description, volume and/or weight.

C. Each scale ticket must contain the following information:

1. scale ticket number—each scale ticket issued at a wood receiving facility must be numbered;
2. parish/county and state—the parish/county and state where the timber was harvested;
3. date and time—date and time that the forest product was received (required on scale ticket only);
4. type and quantity of forest product delivered:
 - a. type—description of forest product received;

b. quantity—board feet, tonnage, or cords; clarification

NOTE: The following items must be documented on a scale ticket or documented on a load ticket that can be cross referenced to the scale ticket.

5. timber owner's name—owner or owners of timber at the time it was severed

a. On a per-unit sale the seller must be listed as the timber owner;

6. landowner—name of the owner of the land where the timber was severed.

a. For a multi-owned tract of land, the name of the estate, corporation, or what the site is commonly known as, may be listed;

b. For industrial land, the company tract number may be listed;

7. producer—company or individual who is responsible for harvesting the timber;

8. load number—the load number designated by the loaders log book;

9. driver's signature—signature of driver delivering the forest product. Must be legible and as shown on the driver's Commercial Driver's License.

D. A scale ticket may be kept in electronic form. If a scale ticket is kept in electronic form, it shall contain all required information set forth in Subsection C of this regulation and be maintained for a period of not less than six years. The use of an electronic scale ticket does not relieve the purchaser of the timber from the obligations set forth in Subsection B of this regulation. If scale tickets are kept in electronic form as provided by this Rule, the signature required by Paragraph C.9 of this Section may also be in electronic form.

E. Electronic transfer/driver cards capturing electronic signatures may be used by the purchasing/receiving facility. If a purchasing/receiving facility chooses to utilize electronic transfer/driver cards, the assigned driver shall complete and submit a sworn statement of identity to the facility, in a form provided by the department.

1. The sworn statement of identity shall include the following:

- a. name and physical address of the purchasing/receiving facility;
- b. assigned driver's legal name;
- c. assigned driver's date of birth;
- d. assigned driver's current home physical address, and mailing address, if different; and
- e. driver's signature.

2. A copy of the assigned driver's Commercial Driver's License shall be submitted with the sworn statement of identity.

3. The purchasing/receiving facility shall maintain the sworn statement and copy of the Commercial Driver's License for a period of not less than six years.

4. Upon receipt of an assigned driver's sworn statement and copy of his CDL, the purchasing/receiving facility may issue a unique and individual card to the assigned driver.

5. Electronic transfer/driver cards issued pursuant to this Section, are non-transferable and shall not be used by anyone except the driver to whom they have been issued.

F. Restrictions. Wood-receiving facilities cannot accept any load of timber unless all information required by these regulations is provided at the time of delivery.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4278.3.

HISTORICAL NOTE: Promulgated by the Department Agriculture and Forestry, Office of Forestry, Forestry Commission, LR 27:31 (January 2001), amended LR 27:1005 (July 2001), LR 37:2985 (October 2011), amended by the Department of Agriculture and Forestry, Office of Forestry, LR 42:734 (May 2016); LR 47:

Family Impact Statement

The proposed Rule should not have any known or foreseeable impact on family formation, stability, and autonomy. In particular, the proposed Rule has no known or foreseeable impact on:

1. the stability of the family;
2. the authority and rights of persons regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

The proposed Rule should not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973(B). In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

Pursuant to R.S. 49:965.6, methods for reduction of the impact on small business, as defined in the Regulatory Flexibility Act, have been considered when creating this proposed Rule. This proposed Rule is not anticipated to have an adverse impact on small businesses; therefore, a Small Business Economic Impact Statement has not been prepared.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments, data, opinions and arguments regarding the proposed Rule. Written submissions must be directed to Wade Dubea, Assistant Commissioner for Forestry, Department of Agriculture and Forestry, 5825 Florida Blvd., Baton Rouge, LA 70806 and must be received no later than 4 p.m. on the 10th day of March, 2021.

Mike Strain, DVM
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Electronic Transfer/Driver Cards

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Implementation of this proposed rule change will result in no net change in government costs or revenues to either the Louisiana Department of Agriculture and Forestry ("LDAF") or state or local governmental units other than the cost of rule promulgation which is normally included in the department's annual operating budget. The proposed rule merely allows purchasing/receiving facilities the option of utilizing electronic transfer/driver cards. If a facility elects to utilize such cards, it would be at the cost of the facility and/or individual drivers.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will have no effect on revenue collections of state or local governmental units as the optional utilization of electronic transfer/driver cards would be issued by purchasing/receiving facilities and would not yield any revenue to LDAF or to other state or local government units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change would allow purchasing/receiving facilities the option of utilizing electronic transfer/driver cards. If used, the costs of utilizing such cards would be incurred by either the purchasing/receiving facility or the individual drivers and may result in a cost to either party. The exact cost, while unknown, is expected to be nominal.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change is not anticipated to effect competition and/or employment.

Dane K. Morgan
Assistant Commissioner
2103#032

Alan M. Boxberger
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Civil Service Board of Ethics

Third Party Ethics Training (LAC 52:I.Chapter 24)

The Department of Civil Service, Board of Ethics, in accordance with R.S. 42:1134(A) and with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., has initiated rulemaking procedures to promulgate changes to

the regulations for Third Party Ethics Training. The proposed changes allow certified ethics trainers to use virtual training and account for attendance by individuals taking such training.

**Title 52
ETHICS**

Part I. Board of Ethics

Chapter 24. Third-Party Ethics Training

§2401. In General

A. It is of primary importance to the public that each public servant in the state of Louisiana undergoes education and training on the Code of Governmental Ethics during each year of his term of public employment or term in office, as the case may be, in accordance with R.S. 42:1170. These rules establish the procedure to certify persons and programs to deliver education regarding the laws within the jurisdiction of the Board of Ethics (board) to public servants required to receive education regarding those laws. These rules do not apply to persons who are employed by the ethics administration program.

B. State agency ethics liaisons designated pursuant to R.S. 42:1170(C)(2) are certified trainers and not required to comply with §2405.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 38:1209 (May 2012), amended LR 47:

§2403. Definitions

A. For purposes of Chapter 24 of these Rules, the following definitions apply.

Additional Material—public servant ethics training material which has not yet been approved by the Board of Ethics for presentations. Such material requires board approval prior to being presented to public servants.

Certified Trainer—any person who is approved to educate and train the state’s public servants on the Code of Governmental Ethics and who is not an employee of the Board of Ethics.

Liaison—the person designated by each agency head to provide all public servants of that agency information and instruction relative to ethics and conflicts of interest.

Preapproved Training Material—public servant ethics training materials that do not require approval from the Board of Ethics in order for the certified trainer to present the material to public servants.

Proctor—a person who does not teach a public servant ethics training program, but administers the training by recorded presentation, which may include, but is not limited to, a DVD or electronic presentation requiring computer software provided by the Board of Ethics.

Program—a specific session of public servant ethics training.

Public Servant Ethics Training—the mandatory one hour of ethics training that all public servants in the State of Louisiana are required to attend annually pursuant to R.S. 42:1170(A).

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 38:1209 (May 2012), amended LR 47:

§2405. Certification of Trainers

A. In order for an applicant to be an approved certified trainer, he must meet the following requirements.

1. Required Training. Certified trainer applicants are required to undergo a minimum of four hours of training within the past three years that can be verified with attendance records maintained by the ethics administration program prior to submitting an application seeking certified trainer status. Courses that may count toward an applicant’s four-hour training requirement include:

a. two-hour training course(s) developed for liaisons pursuant to R.S. 42:1170(C);

b. public servant ethics training offered by an employee of the ethics administration program or any other trainer who has been previously certified to deliver public servant ethics training programs by the ethics administration program; or

c. public servant ethics training offered via the Board of Ethics website; however, no more than one hour will count toward an applicant’s four-hour training requirement.

2. Application Submission. All persons who seek approval as a certified trainer to deliver a public servant ethics training program must submit an application for trainer certification following the completion of the required training pursuant to Subsection A of this Section. The application can be found on the board’s website.

3. Ongoing Training. A certified trainer who wishes to maintain certified status in subsequent years is required to undergo two hours of continuing education within 90 days of the beginning of each calendar year; this requirement can be met through attendance at any of the courses enumerated in Subsection A of this Section. A certified trainer who does not undergo his two hour continuing education training course to maintain his certified status will be required to attend four hours of training and submit an application for trainer certification, which must be approved by the ethics administrator, or his designee, to renew his certified trainer status.

B. Certified trainer applicants must not have been found to have been in violation of any of the laws within The Code of Governmental Ethics, R.S. 42:1101 et seq., prior to submission of an application for trainer certification unless approval has been obtained by the board in accordance with §2405.B.3.

1. Subsection B does not include persons who have been subject to a per day late fee pursuant to the laws under the jurisdiction of the board, if said fee has been paid.

2. Subsection B does not apply to any persons who have been found in violation of any other laws under the board’s supervision or jurisdiction including, but not limited to, the Campaign Finance Disclosure Act, R.S. 18:1481 et seq., or the Lobbyist Disclosure Acts, R.S. 24:50 et seq., R.S. 49:71 et seq., and R.S. 33:9661 et seq.

3. A person who has been found in violation of the Code of Governmental Ethics, as set forth in Subsection B,

may seek approval from the board to become a certified trainer three years from the date the decision finding the violation is final.

C. Certified trainer applicants who are licensed to practice law may not be approved if currently representing a client in connection with an ongoing investigation, if representing a client in a matter in which charges have been filed by the board, or if an attorney of record in a civil lawsuit in which the board is named as an opposing party.

1. Subsection C shall not prohibit an attorney from becoming a certified trainer if he is representing a client in relation to an advisory opinion request before the board.

2. Subsection C shall only be read to apply to the individual attorney and shall not be read to be imputed upon an attorney's firm.

D. Only upon approval by the ethics administrator, or his designee, will an applicant become a certified trainer. The ethics administrator, or his designee, retains the right to refuse approval of applicants, or suspend or revoke the status of certified trainers as set forth in §2413.H, who do not comply with the requirements or standards of these rules. A person not approved as a certified trainer under this Section may appeal the decision of the ethics administrator, or his designee, to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 38:1209 (May 2012), amended LR 47:

§2407. Training and Education Materials

A. Certified trainers are required to use training and education materials approved by the ethics administration program.

B. Access to preapproved training materials will be made available to trainers pending completion of training requirements set forth in §2405 and upon trainer certification.

C. Additional material may be used by certified trainers if the material has been approved by the ethics administrator, or his designee, pursuant to the standards and expectations set out in §2409.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 38:1210 (May 2012), amended LR 47:

§2409. Standards and Expectations for Approval; Additional Material

A. Application for Approval. Certified trainers who wish to utilize material that has not been preapproved by the board must submit an application for approval of material for public servant ethics training to the Board of Ethics with a copy of the materials for the proposed program.

B. Process. The ethics administration program will evaluate the application and material pursuant to the standards and expectations in Subsection C of this Section. An application for such program and materials must be submitted to the board at least 30 days in advance of the program.

C. Standards and Expectations. The following standards will govern the approval of materials by the board.

1. The materials for the program must have significant intellectual or practical content, and its primary objective must be to maintain or increase the public servant's awareness of the ethical standards set forth in the code of governmental ethics.

2. Materials submitted with the application shall include a copy of high quality and carefully prepared materials that shall be given to all public servants at the program. Materials submitted may include written material to be distributed to participants as well as videos, slideshows or other electronic media.

D. Additional Material. Materials that have been approved by the ethics administration program for use in a public servant ethics training program are valid for the remainder of the calendar year and are not required to undergo an approval process until the following year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 38:1210 (May 2012), amended LR 47:

§2411. Notification of Ethics Training Program

A. Prior to conducting a public servant ethics training program, a certified trainer must notify the ethics administration program and request approval of the session. An application for public servant ethics training program can be found on the board's website and shall be submitted to the ethics administration program electronically for approval.

B. Preapproved Training Material. A certified trainer must submit an Application for public servant ethics training program to the Board of Ethics at least 5 days prior to the program if the material to be used in the presentation is preapproved training material.

C. Additional Material. A certified trainer must submit an application for public servant ethics training program in conjunction with an application for approval of material for public servant ethics training pursuant to §2409 at least 30 days prior to the program if the material to be used in the presentation is not preapproved training material. An application for approval of material for public servant ethics training need not be submitted if the material to be used has already been approved pursuant to §2409.D for the calendar year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 38:1210 (May 2012), amended LR 47:

§2413. Ethics Training Program Requirements

A. Programs must be a minimum of one hour in order for the public servant to receive credit for his public servant ethics training, and the public servant must be present for at least 90 percent of the presentation.

B. The program must be offered by a certified trainer.

C. The costs of the program, if any, to the attending public servant must be reasonable considering the subject matter, level of instruction, supporting documentation, and educational material.

D. No examination or testing shall be required at any public servant ethics training program, unless for the sole purpose of attendance verification.

E. The program must be:

1. conducted in a physical setting conducive to learning at a time and place free of interruptions.
2. conducted in a virtual environment using software that allows the certified trainer to obtain login information for the user.

F. The certified trainer of an approved public servant ethics training program must announce or indicate as follows:

1. This course has been approved by the Louisiana Board of Ethics to meet the ethics training requirement pursuant to R.S. 42:1170. The person delivering this program is not employed by the Board of Ethics, and any advice given is informational in nature. No opinions given are those of the Board of Ethics. If you have any questions regarding this program or the Code of Governmental Ethics, do not hesitate to contact the board with your inquiry.

G. At the conclusion of an approved program, each attending public servant must be given the opportunity to complete an evaluation questionnaire addressing the quality, effectiveness, and usefulness of the particular program. Within 30 days of the conclusion of the program, a summary of the results of the questionnaires must be forwarded to the board. If requested, copies of the questionnaires must also be forwarded to the board. Certified trainers must maintain the questionnaires for one year following a program.

H. To ensure all requirements are met in accordance with this Chapter, the board or its staff may at any time evaluate a program and suspend approval of it. The board and its staff may also at any time evaluate a trainer and suspend or revoke his status as a certified trainer. The certified trainer will be given written reasons for suspension or revocation and an opportunity to appear before the board at its next regularly scheduled monthly meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 38:1210 (May 2012), amended LR 47:

§2415. Public Servant Attendance Information and Submission; Certified Trainers

A. Each public servant attending a certified program shall provide information requested by the trainer.

B. For in person trainings, attendance forms will be provided by the certified trainer, which shall include an area for the attendee's name, date of birth, agency, signature, course number, certified trainer name, time of beginning of attendance and time of end of attendance. The attendance form must be completed and turned into the trainer at completion of the training.

C. For trainings conducted in a virtual environment, the following information for the attendee must be captured by the software used by the trainer: name, date of birth, agency, course number, name of certified trainer, time of log on, and time of log off.

D. The certified trainer must maintain attendance documentation for a minimum of four years; in the event a request is ever made by the board to view the forms by the board for the purposes of an audit, hearing, investigation, or any other purposes the board deems necessary and proper.

E. The certified trainer shall submit a certification of attendance to the board of Ethics within 30 days after the date of the program. The submission shall be made electronically on the board's website, and shall include the course number, certified trainer's name, the date of the program, and a list of only those attendees who attended 90 percent of the training, along with the attendee's date of birth and agency.

F. Attendance forms, or any other certification of attendance, will not be accepted by the Board of Ethics from an individual public servant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 38:1211 (May 2012), amended LR 47:

§2417. Ethics Liaisons; Proctors

A. A state agency ethics liaison may deliver information, as a proctor, to the public servants in his agency regarding the education and training required pursuant to R.S. 42:1170.A of the code of governmental ethics, provided the liaison has the training required by R.S. 42:1170.C.

B. A political subdivision ethics liaison may deliver information, as a proctor, to the public servants under his agency's supervision or jurisdiction regarding the education and training required pursuant to R.S. 42:1170.A of the code of governmental ethics, provided the liaison has been designated by his agency head and the liaison has attended a minimum of two hours of education and training designed for such persons or for persons set out in R.S. 42:1170.C regarding the provisions of the code of governmental ethics. In addition, each liaison shall be required to have at least two hours of ethics education and training annually.

1. A *political subdivision*, for purposes of this Section, is defined by R.S. 42:1102(17) as any unit of local government, including a special district, authorized by law to perform governmental functions.

C. If a request is made to the Board of Ethics, the board will provide the proctor, as defined in Subsections A and B access to a recorded presentation regarding the Code of Governmental Ethics, which may include, but is not limited to, a DVD or other presentation through the use of computer software.

D. In order for the public servant to receive credit for his public servant ethics training, the recorded presentation must be a minimum of one hour, and the public servant must be present for the entirety of the presentation.

E. Proctors for a public servant ethics training program shall announce or indicate as follows, prior to beginning the presentation.

1. This course has been approved by the Louisiana Board of Ethics to meet the ethics training requirement pursuant to R.S. 42:1170. The person delivering this program is not employed by the Board of Ethics, and any advice given is informational in nature. No opinions given are those of the Board of Ethics. If you have any questions regarding this program or the Code of Governmental Ethics, do not hesitate to contact the board with your inquiry.

F. Proctors must adhere to the following when submitting information to the Ethics Administration Program regarding the public servants in their agency.

1. Each public servant shall complete a public servant ethics training attendance form while in attendance at a recorded presentation by the proctor.

2. Attendance forms will be provided by the proctor.

3. Attendance forms shall include an area for the attendees' name, date of birth, agency, signature, course number, and proctor name and shall also include a clause that states:

Your signature on this attendance form is your attestation that you attended the entire presentation and that you are the person whose identity this form declares. You understand that evidence brought to the attention of the Board of Ethics to the contrary may result in disciplinary action from the board for failure to comply with R.S. 42:1170.

4. The public servant must complete a form while in attendance and leave the form with the proctor to be filed and stored by the political subdivision for a minimum of four years; in the event a request is ever made by the board to view the forms by the board for the purposes of an audit, hearing, investigation, or any other purposes the board deems necessary and proper.

5. The proctor shall submit information regarding the attendees to the Board of Ethics within 30 days after the date of the program. The submission shall be made electronically on the board's website, and shall include the course number, proctor's name, the date of the program, and a list of the attendees with each public servant's date of birth and agency.

6. Attendance forms, or any other certification of attendance, will not be accepted by the Board of Ethics from an individual public servant.

G. Proctors are required to be present for the entirety of the program. If the proctor is not in the room with the attendees, the class size shall be limited to less than 10 attendees. Also, the proctor must be able to visually see the attendees and monitor their attendance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 38:1211 (May 2012), amended LR 47:

Family Impact Statement

The proposed Rule changes have no known impact on family formation, stability or autonomy, as described in R.S. 49:972.

Poverty Impact Statement

The proposed Rule changes have no known impact on poverty, as described in R.S. 49:972.

Small Business Statement

The proposed Rule should not have any known or adverse impact on small business as described in R.S. 49:956.6.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session.

Public Comments

Interested persons may direct their comments to Kathleen M. Allen, Louisiana Board of Ethics, P.O. Box 4368, Baton

Rouge, LA 70821, telephone (225) 219-5600, until 4:45 p.m. on April 10, 2021.

Kathleen M. Allen
Ethics Administrator

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Third Party Ethics Training

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule allows certified ethics trainers to use virtual training and account for attendance by individuals taking such training. The estimated cost to implement the proposed rule change is \$320 in FY 20-21, which includes the cost to publish the Notice of Intent and the proposed rule in the State Register.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will have no anticipated 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)

The proposed action may impact certain directly affected persons. The proposed rule changes allow certified ethics trainers to use virtual training. The estimated costs and/or economic benefits is indeterminable.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no anticipated effect on competition and employment.

Kristy Gary
Deputy Ethics Administrator
2103#033

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Regents Office of Student Financial Assistance

Scholarship/Grant Programs
COVID-19 Exceptions; Dual Enrollment Calculus;
Chafee Educational and Training Voucher Grade Reporting
(LAC 28:IV.703, 1809, and 2103)

The Board of Regents announces its intention to amend its Scholarship/Grant rules (R.S. 17:3021-3025, R.S. 3041.10-3041.15, R.S. 17:3042.1, R.S. 17:3048.1, R.S. 17:3048.5 and R.S. 17:3048.6).

This rulemaking implements COVID-19 as a circumstance for which students may request an exception to the continuous, full time, and earned annual hours requirements for TOPS. In addition, this rulemaking adds two dual enrollment calculus courses as TOPS core curriculum equivalent courses and provides that the calculus courses will be graded on a 5.0 scale for the purpose of

calculating a student’s TOPS high school GPA. Finally, this rulemaking adds a provision that proprietary and cosmetology schools should report to LOSFA whether a student receiving a Chafee Educational and Training Voucher is making satisfactory academic progress rather than reporting hours attempted, hours earned, and quality points for the purpose of determining whether a student meets the continuing eligibility requirements for the program. (SG21196NI)

**Title 28
EDUCATION**

**Part IV. Student Financial Assistance—Higher Education Scholarship and Grant Programs
Chapter 7. Taylor Opportunity Program for Students (TOPS) Opportunity, Performance, and Honors Awards**

§703. Establishing Eligibility

- A. - A.5.a.ii.(f).(iii). ...
(iv). Dual Enrollment Courses

TOPS Core Course	Dual Enrollment	
	Common Course Name	Common Course Code
Advanced Math—Pre Calculus	Trigonometry	CMAT 1223
Advanced Math-Functions and Statistics	Introductory Statistics	CMAT 1303
Algebra III	College Algebra	CMAT 1213
Arabic	Elementary Arabic I Elementary Arabic II	CARB 1013/1014 CARB 1023/1024
Art	Art History I or II Art Structure/2-D Design Beginning Drawing	CART 2103/2113 CART 1113 CART 2203
Biology I	General Biology I General Biology I (Science Majors)	CBIO 1013 CBIO 1033
Biology II	General Biology I General Biology I (Science Majors) General Biology II General Biology II (Science Majors) Human Anatomy & Physiology I Human Anatomy & Physiology I (Lec/Lab) Human Anatomy & Physiology II Human Anatomy & Physiology II (Lec/Lab)	CBIO 1013 CBIO 1033 CBIO 1023 CBIO 1043 CBIO 2213 CBIO 2214 CBIO 2223 CBIO 2224
Calculus	Applied Calculus Calculus I Calculus II Differential Calculus I Integral Calculus I	CMAT 2103 CMAT 2113-5 CMAT 2123-5 CMAT 2113 CMAT 2116
Chemistry I	General Chemistry Survey I Chemistry I Chemistry I (Science Majors)	CCEM 1013 CCEM 1103 CCEM 1123
Chemistry II	General, Organic and Biochemistry General Chemistry Survey I Chemistry I Chemistry I (Science Majors) Chemistry II Chemistry II (Science Majors)	CCEM 1003 CCEM 1013 CCEM 1103 CCEM 1123 CCEM 1113 CCEM 1133
Earth Science	Physical Geology Historical Geology	CGEO 1103 CGEO 1113
Economics	Economic Principles Macroeconomics Microeconomics	CECN 2113 CECN 2213 CECN 2223

TOPS Core Course	Dual Enrollment	
	Common Course Name	Common Course Code
English III	English Composition I English Composition II American Literature I American Literature II Major American Writers	CENL 1013 CENL 1023 CENL 2153 CENL 2163 CENL 2173
English IV	English Composition I English Composition II British Literature I British Literature II Major British Writers World Literature I World Literature II Major World Writers Introduction to Fiction Introduction to Literature Introduction to Poetry and/or Drama	CENL 1013 CENL 1023 CENL 2103 CENL 2113 CENL 2123 CENL 2203 CENL 2213 CENL 2223 CENL 2303 CENL 2323 CENL 2313
Environmental Science	Environmental Science	CEVS 1103
Fine Arts Survey	Exploring the Arts Introduction to Visual Arts Dance Appreciation Music Appreciation	CART 1013 CART 1023 CDNC 1013 CMUS 1013
French	Elementary French I Elementary French II Intermediate French I Intermediate French II	CFRN 1013/1014 CFRN 1023/1024 CFRN 2013/2014 CFRN 2023
German	Elementary German I Elementary German II Intermediate German I Intermediate German II	CGRM 1013/1014 CGRM 1023/1024 CGRM 2013 CGRM 2023
History Of Religion	World Religions	CPHL 2213
Latin	Elementary Latin I Elementary Latin II Intermediate Latin I Intermediate Latin II	CLTN 1013/1014 CLTN 1023/1024 CLTN 2013 CLTN 2023
Physical Science	Physical Science I	CPHY 1023
Physics I	Physics I (Algebra/Trigonometry Based) Physics I (Lecture and Lab) Physics I (Calculus Based)	CPHY 2113 CPHY 2114 CPHY 2133
Pre-Calculus	Algebra and Trigonometry	CMAT 1233
Probability and Statistics	Introductory Statistics	CMAT 1303
Spanish	Elementary Spanish I Elementary Spanish II Intermediate Spanish I Intermediate Spanish II	CSPN 1013/1014 CSPN 1023/1024 CSPN 2013/2014 CSPN 2023
Theatre (Performance)	Acting I or II Introduction to Theatre	CTHE 2103/2113 CTHE 1013
US Government or Civics	Introduction to American Government Introduction to State and Local Government Introduction to Comparative Government	CPOL 2013 CPOL 2113 CPOL 2213
US History	American History I or II	CHIS 2013/2023
Western Civilization	Western Civilization I or II	CHIS 1013/1023
World Geography	World Regional Geography	CGRG 2113
World History	World Civilization I or II	CHIS 1113/1123

A.5.a.ii.(f).(v). - K.2.d. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:636 (April 1998), amended LR 24:1902 (October 1998), LR 24:2237 (December 1998), LR 25:257 (February 1999), LR 25:655 (April 1999), LR 25:1794 (October 1999), LR 26:64, 67 (January 2000), LR 26:689 (April 2000), LR 26:1262 (June 2000), LR 26:1602 (August 2000), LR 26:1996, 1999, 2001 (September 2000), LR 26:2268 (October 2000), LR 26:2753 (December 2000), LR 27:36 (January 2001), LR 27:702 (May 2001), LR 27:1219, 1219 (August 2001), repromulgated LR 27:1850 (November 2001), amended LR 28:772 (April 2002), LR 28:2330, 2332 (November 2002), LR 29:125 (February 2003), LR 29:2372 (November 2003), LR 30:1162 (June 2004), LR 30:1471 (July 2004), LR 30:2019 (September 2004), LR 31:37 (January 2005), LR 31:2213 (September 2005), LR 31:3112 (December 2005), LR 32:2239 (December 2006), LR 33:435 (March 2007), LR 33:2357 (November 2007), LR 33:2612 (December 2007), LR 34:1389 (July 2008), LR 35:228 (February 2009), LR 36:312 (February 2010), LR 36:490 (March 2010), LR 36:2269 (October 2010), LR 36:2855 (December 2010), LR 37:2987 (October 2011), LR 38:354 (February 2012), LR 38:3158 (December 2012), LR 39:481 (March 2013), LR 39:2485 (September 2013), LR 40:54 (January 2014), LR 41:373 (February 2015), LR 41:657, 664 (April 2015), LR 41:2596, 2599 (Dec. 2015), amended LR 47:

Chapter 18. Chafee Educational and Training Voucher Program

§1809. Responsibilities of Participating Institutions of Higher Education

A. - C.2. ...

D. Certification of Student Data

1. Upon request by LOSFA, and for the purpose of meeting federal audit requirements for the Chafee Grant, institutions of higher education, except cosmetology and proprietary schools, shall report the following data:

- a. admission and enrollment; and
- b. semester hours attempted; and
- c. semester hours earned; and
- d. semester quality points earned; and
- e. resignation from the institution or withdrawal from all courses.

2. Upon request by LOSFA, and for the purpose of meeting federal audit requirements for the Chafee Grant, a cosmetology or proprietary school shall report whether a student is making satisfactory academic progress in accordance with the school's federal grant aid policy.

E. - E.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031 and R.S. 17:3129.7.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 36:2549 (November 2010), repromulgated by the Board of Regents, Office of Student Financial Assistance, LR 44:556 (March 2018), amended LR 47:

Chapter 21. Miscellaneous Provisions and Exceptions
§2103. Circumstances Warranting Exception to the Initial and Continuous Enrollment Requirements

A. - E.13.c. ...

14. COVID-19

a. Definition. The student/recipient is unable to enroll in school, to maintain continuous enrollment in school, or to earn the required annual hours due to

circumstances related to the COVID-19 pandemic as follows:

- i. You struggle with on-line instruction; or
 - ii Full time enrollment in on-line instruction is not conducive to your major/course of study; or
 - iii. You do not have the appropriate infrastructure, such as internet access, sufficient bandwidth for the number of people attending school/working from home, etc., to attend classes on-line; or
 - iv. Your parent(s) were unable to work, lost their employment, or worked reduced hours due to mitigation measures implemented to prevent the spread of COVID-19.
- b. Certification Requirements. The student/recipient must submit the following documentation:
- i. If requesting an exception based on Section 14.a.i. above, a letter from a parent and/or a letter from an academic advisor or dean at your school stating that you struggle with on-line enrollment; or
 - ii. If requesting an exception based on Section 14.a.ii. above, a letter from an academic advisor or dean at your school that full time enrollment in on-line instruction is not conducive to your major/course of study; or
 - iii. If requesting an exception based on Section 14.a.iii. above, a letter from a parent or other documentation that you do not have the appropriate infrastructure at home to attend courses on-line; or
 - iv. If requesting an exception based on Section 14.a.iv. above, a letter from your parent/parents as well as a letter from their employer stating that the parent/parents were unable to work, lost their employment, or worked reduced hours due to mitigation measures implemented to prevent the spread of COVID-19.
- c. Length of Exception—Available for the fall semester/quarter of 2020 through the fall semester of 2021/winter quarter of 2021-2022.

F. - H.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:5001 et seq., and R.S. 17:3050.1-3050.4.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), amended LR 23:1648 (December 1997), repromulgated LR 24:647 (April 1998), amended LR 24:1916 (October 1998), LR 26:1015 (May 2000), LR 26:2002 (September 2000), LR 27:36 (January 2001), repromulgated LR 27:1866 (November 2001), amended LR 27:1875 (November 2001), LR 28:46 (January 2002), LR 28:449 (March 2002), LR 28:775 (April 2002), LR 28:2330 and 2333 (November 2002), LR 29:126 (February 2003), LR 29:2373 (November 2003), LR 29:2373 (November 2003), LR 30:785 (April 2004), LR 30:1167 (June 2004), LR 31:1060 (May 2005), LR 33:440 (March 2007), LR 35:1233 (July 2009), LR 38:3160 (December 2012), LR 41:657, 667 (April 2015), amended by the Board of Regents, Office of Student Financial Assistance, LR 44:562 (March 2018), LR 45:1173 (September 2019), amended LR 47:

Family Impact Statement

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in LSA-R.S. 49:972.

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Small Business Analysis

The proposed Rule will have no adverse impact on small businesses as described in R.S. 49:965.2 et seq.

Provider Impact Statement

The proposed Rule will have no adverse impact on providers of services for individuals with developmental disabilities as described in HCR 170 of 2014.

Public Comments

Interested persons may submit written comments on the proposed changes (SG21195NI) until 4:30 p.m., April 12, 2021, by email to LOSFA.Comments@la.gov or to Sujuan Williams Boutté, Ed. D., Executive Director, Office of Student Financial Assistance, P. O. Box 91202, Baton Rouge, LA 70821-9202.

Robyn Rhea Lively
Senior Attorney

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Scholarship/Grant Programs COVID-19 Exceptions; Dual Enrollment Calculus; Chafee Educational and Training Voucher Grade Reporting

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be an increase in Taylor Opportunity Program for Students (TOPS) expenditures as a result of the proposed rulemaking, however the magnitude of the increase is indeterminable.

TOPS expenditures will be impacted by the following revisions. First, the proposed rules add a COVID-19 Exception with eligibility for the exception limited to students impacted during the 2020-21 academic year and a portion of the 2021-22 academic year. Students who apply and qualify for the new exception will regain or maintain their TOPS award eligibility. Restoring a student's TOPS award will reduce any program cost savings associated with COVID-19 related impacts to student academic progress and is anticipated to increase TOPS expenditures in future fiscal years by shifting costs to a later term or, in a few cases, allowing a student who would have been cancelled under normal conditions to retain their award. Second, the rulemaking adds Differential Calculus I and Integral Calculus I as an equivalent to Calculus in the TOPS core curriculum, and it provides that these courses will be graded on a 5.0 scale. This is anticipated to result in some students qualifying for a higher TOPS award level, however any increases in TOPS expenditures is anticipated to be minimal. Finally, the proposed change for the Chafee Educational and Training Voucher (ETV) Program is a technical change concerning student progress reporting and will not result in any increase in expenditures.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no impact on state or local governmental revenues.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rulemaking will benefit students impacted by the COVID-19 health emergency by providing them TOPS funding to enable them to pursue postsecondary education and thus gain educational benefits and access to higher paying jobs.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no anticipated effects on competition and employment resulting from these measures other than promoting a better educated pool of workers.

Robyn Lively
Senior Attorney
2103#023

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Regents Office of Student Financial Assistance

Waivers of Certain TOPS Initial Eligibility for Students
Affected by Natural Disasters in 2020
(LAC 28:IV.703, 705, 803, 805, 2103, and 2105)

The Board of Regents announces its intention to amend its Scholarship/Grant rules (R.S. 17:3021-3025, R.S. 3041.10-3041.15, R.S. 17:3042.1, R.S. 17:3048.1, R.S. 17:3048.5 and R.S. 17:3048.6).

This rulemaking implements the provisions of Act 17 of the Second Extraordinary Session of 2020 with respect to students affected by 2020 Natural Disasters. More specifically, this rulemaking provides waivers of certain TOPS initial eligibility for students affected by natural disasters in 2020; and provides waivers of certain TOPS continuing eligibility requirements for students affected by natural disasters. In addition, this rulemaking provides deferments for students who are currently in repayment status for the Rockefeller State Wildlife Scholarship Program and TOPS Teacher. (SG21197NI)

Title 28

EDUCATION

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

Chapter 7. Taylor Opportunity Program for Students (TOPS) Opportunity, Performance, and Honors Awards

§703. Establishing Eligibility

A. - L.1.b. ...

c. A displaced student shall be deemed to meet the Louisiana residency requirement if:

i. such dependent or independent student actually resided in Louisiana during the entire 2019-2020 academic year (high school) and was enrolled for such time in an eligible Louisiana high school and graduated from high school during 2020-2021 academic year (high school); or

ii. such dependent student has a parent or court-ordered custodian who actually resided in a parish listed in §703.L.2.a below for at least the 12 months prior to August 26, 2020, or in a parish listed in §703.L.2.b below for at least the 12 months prior to October 8, 2020, or in a parish listed in §703.L.2.c below for at least the 12 months prior to October 26, 2020.

d. A dependent student who graduated from an eligible out-of-state high school shall be deemed to meet the Louisiana residency requirement if his parent or court-

ordered custodian was displaced as a resident from a parish listed:

i. in §703.L.2.a. below due to Hurricane Laura and such parent or court-ordered custodian actually resided in Louisiana for at least the 12 months prior to August 26, 2020; or

ii. in §703.L.2.b. below due to Hurricane Delta and such parent or court-ordered custodian actually resided in Louisiana for at least the 12 months prior to October 8, 2020.

iii. in §703.L.2.c. below due to Hurricane Zeta and such parent or court-ordered custodian actually resided in Louisiana for at least the 12 months prior to October 26, 2020.

e. A displaced student who during the 2020-2021 academic year (high school) successfully completes at the 12th grade level a home study program approved by BESE shall not be required to have also completed the 11th grade level of an approved home study program.

2. For the purposes of this Subsection, *displaced student* means:

a. a student who on August 26, 2020, was actually residing in Acadia, Allen, Beauregard, Caddo, Calcasieu, Cameron, Grant, Jackson, Jefferson Davis, Lasalle, Lincoln, Morehouse, Natchitoches, Ouachita, Rapides, Sabine, St. Landry, Union, Vermilion, Vernon, or Winn Parish, and:

i. was enrolled in an eligible Louisiana high school as provided in §1701.A.1, 2 and 3; or

ii. was enrolled in a home study program approved by BESE; or

b. a student who on October 8, 2020, was actually residing in Acadia, Allen, Beauregard, Calcasieu, Cameron, Iberia, Jefferson Davis, Lafayette, Rapides, St. Landry, St. Martin, or Vermilion Parish, and:

i. was enrolled in an eligible Louisiana high school as provided in §1701.A.1, 2 and 3; or

ii. was enrolled in a home study program approved by BESE.

c. a student who on October 26, 2020, was actually residing in Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, or Terrebonne Parish, and:

i. was enrolled in an eligible Louisiana high school as provided in §1701.A.1, 2 and 3; or

ii. was enrolled in a home study program approved by BESE.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:636 (April 1998), amended LR 24:1902 (October 1998), LR 24:2237 (December 1998), LR 25:257 (February 1999), LR 25:655 (April 1999), LR 25:1794 (October 1999), LR 26:64, 67 (January 2000), LR 26:689 (April 2000), LR 26:1262 (June 2000), LR 26:1602 (August 2000), LR 26:1996, 1999, 2001 (September 2000), LR 26:2268 (October 2000), LR 26:2753 (December 2000), LR 27:36 (January 2001), LR 27:702 (May 2001), LR 27:1219, 1219 (August 2001), repromulgated LR 27:1850 (November 2001), amended LR 28:772 (April 2002), LR 28:2330, 2332 (November 2002), LR 29:125 (February 2003), LR 29:2372 (November 2003), LR 30:1162 (June 2004), LR 30:1471 (July 2004), LR 30:2019 (September 2004), LR 31:37 (January 2005), LR 31:2213 (September 2005), LR 31:3112

(December 2005), LR 32:2239 (December 2006), LR 33:435 (March 2007), LR 33:2357 (November 2007), LR 33:2612 (December 2007), LR 34:1389 (July 2008), LR 35:228 (February 2009), LR 36:312 (February 2010), LR 36:490 (March 2010), LR 36:2269 (October 2010), LR 36:2855 (December 2010), LR 37:2987 (October 2011), LR 38:354 (February 2012), LR 38:3158 (December 2012), LR 39:481 (March 2013), LR 39:2485 (September 2013), LR 40:54 (January 2014), LR 41:373 (February 2015), LR 41:651, 664 (April 2015), LR 41:1486 (August 2015), LR 41:2596, 2599 (December 2015), amended by the Board of Regents, Office of Student Financial Assistance, LR 42:1657 (October 2016), LR 42:1882 (November 2016), LR 43:518 (March 2017), LR 43:1346 (July 2017), amended by the Board of Regents, Office of Student Financial Assistance, LR 44:506 (March 2018), LR 44:1004 (June 2018), LR 44:1870 (October 2018), LR 46:326 (March 2020), amended LR 47:

§705. Maintaining Eligibility

A.1. - F.2.c. ...

G. 2020 Natural Disaster Maintaining Eligibility Requirements

1. To continue receiving the TOPS Opportunity, Performance or Honors Awards, a displaced student must meet all of the criteria in §705.A-D above, except as follows.

a. The TOPS Award of a displaced student who enrolls as a full-time student in an eligible out-of-state college or university during the 2020-2021 academic year (TOPS) and subsequently enrolls at a Louisiana-eligible college or university shall not be reduced due to enrollment in an eligible out-of-state institution during the 2020-2021 academic year (TOPS).

b. The period of suspension of a TOPS Award for a displaced student due to the student not meeting a requirement to maintain a minimum grade point average or to make steady academic progress shall be extended on a one-for-one basis for each semester or term in which the student does not enroll on a full-time basis in an eligible college or university during the 2020-2021 academic year (TOPS).

c. A displaced student shall not be required to meet the minimum academic progress requirements set forth in §705.A.6..

b. A displaced student shall not be required to meet the steady academic progress requirements set forth in §705.A.7.

c. A displaced student shall not be required to meet the continuation GPA requirements set forth in §705.A.8.

2. For the purposes of this Subsection, *displaced student* means:

a. a student whose home of record on August 26, 2020, was located in, or who, on August 26, 2020, was attending a postsecondary institution located in Acadia, Allen, Beauregard, Caddo, Calcasieu, Cameron, Grant, Jackson, Jefferson Davis, Lasalle, Lincoln, Morehouse, Natchitoches, Ouachita, Rapides, Sabine, St. Landry, Union, Vermilion, Vernon, or Winn Parish: or

b. a student whose home of record on October 8, 2020, was located in, or who, on October 8, 2020, was attending a postsecondary institution located in Acadia, Allen, Beauregard, Calcasieu, Cameron, Iberia, Jefferson Davis, Lafayette, Rapides, St. Landry, St. Martin, or Vermilion Parish.

c. a student whose home of record on October 26, 2020, was located in, or who, on October 26, 2020, was

attending a postsecondary institution located in Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, or Terrebonne Parish.

3. For the purposes of this Subsection, *home of record for a dependent student* shall mean the domiciliary address of the student's parent or court-ordered custodian and for an independent student shall mean the domiciliary address of such student.

H.1.A student who successfully completes a baccalaureate degree without having exhausted his period of award eligibility shall receive an award for the remainder of his eligibility if he enrolls in a graduate or professional school at an eligible college or university no later than the fall semester immediately following the first anniversary of the student's completion of an undergraduate degree and has met the requirements for continued eligibility set forth in §705.A.6. The remaining eligibility may not be used to pursue a second undergraduate degree.

2. Beginning with the 2012-2013 academic year (TOPS), a student who successfully completes any type of technical, vocational, or academic credential other than a baccalaureate degree without having exhausted his period of award eligibility shall receive an award for the remainder of his eligibility if he enrolls in a program of study leading to a baccalaureate degree, to a vocational or technical certificate or diploma, or to a non-academic degree at an eligible college or university no later than the fall semester immediately following the first anniversary of the student's completion of an associate's degree and has met the requirements for continued eligibility set forth in §705.A.6.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031, R.S. 17:3042.1, and R.S. 17:5001 et seq.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:637 (April 1998), amended LR 24:1904 (October 1998), LR 25:257 (February 1999), LR 25:656 (April 1999), LR 25:1091 (June 1999), LR 26:67 (January 2000), LR 26:688 (April 2000), LR 26:1996 (September 2000), LR 26:2001 (September 2000), repromulgated LR 27:1853 (November 2001), amended LR 28:447 (March 2002), LR 28:772 (April 2002), LR 28:2332 (November 2002), LR 29:2373 (November 2003), LR 30:781 (April 2004), LR 30:1163 (June 2004), LR 30:2019 (September 2004), LR 31:3115 (December 2005), LR 33:437 (March 2007), LR 34:1390 (July 2008), LR 36:491 (March 2010), LR 36:2856 (December 2010), LR 38:3159 (December 2012), LR 40:1002 (May 2014), LR 41:664 (April 2015), LR 42:47 (January 2016), amended by the Board of Regents, Office of Student Financial Assistance, LR 44:520 (March 2018), amended LR 47:

Chapter 8. TOPS-Tech Award

§803. Establishing Eligibility

A. - D.2.h. ...

E. 2020 Natural Disaster Initial Eligibility Requirements

1. To establish eligibility for a TOPS Tech Award, a displaced student graduating from high school or completing a BESE approved home study program at the 12th grade level during the 2020-2021 academic year (high school) must meet all of the requirements of §803.A, except as follows.

a. A displaced student who has been certified by the principal or headmaster to have graduated during the 2020-2021 academic year (high school) from an out-of-state high

school that meets the criteria of an eligible out-of-state high school as provided in §1701.A.4 and 5 shall not be required to have for the respective awards a higher minimum composite score on the ACT or on the scholastic aptitude test than required for a student who graduates from an eligible Louisiana high school.

b. The requirement that a student who graduates from an eligible Louisiana high school during the 2020-2021 academic year (high school) must have successfully completed the applicable core curriculum shall be waived for a displaced student based upon a sworn affidavit by the student's high school principal or headmaster or authorized designee that failure to comply with such requirement is due solely to the fact that the required course or courses were not available to the student at the school attended.

c. A displaced student shall be deemed to meet the Louisiana residency requirement if:

i. such dependent or independent student actually resided in Louisiana during the entire 2019-2020 academic year (high school) and was enrolled for such time in an eligible Louisiana high school and graduated from high school during 2020-2021 academic year (high school); or

ii. such dependent student has a parent or court-ordered custodian who actually resided in a parish listed in §803.E.2.a below for at least the 12 months prior to August 26, 2020, or in a parish listed in §803.E.2.b below for at least the 12 months prior to October 8, 2020, or in parish listed in §803.E.2.c for at least the 12 months prior to October 26, 2020.

d. A dependent student who graduated from an eligible out-of-state high school shall be deemed to meet the Louisiana residency requirement if his parent or court-ordered custodian was displaced as a resident from a parish listed:

i. in §803.E.2.a below due to Hurricane Laura and such parent or court-ordered custodian actually resided in Louisiana for at least the 12 months prior to August 26, 2020; or

ii. in §803.E.2.b below due to Hurricane Delta and such parent or court-ordered custodian actually resided in Louisiana for at least the 12 months prior to October 8, 2020.

iii. in §803.E.2.c below due to Hurricane Zeta and such parent or court-ordered custodian actually resided in Louisiana for at least the 12 months prior to October 26, 2020

e. A displaced student who during the 2020-2021 academic year (high school) successfully completes at the 12th grade level a home study program approved by BESE shall not be required to have also completed the 11th grade level of an approved home study program.

2. For the purposes of this Subsection, *displaced student* means:

a. a student who on August 26, 2020, was actually residing in Acadia, Allen, Beauregard, Caddo, Calcasieu, Cameron, Grant, Jackson, Jefferson Davis, Lasalle, Lincoln, Morehouse, Natchitoches, Ouachita, Rapides, Sabine, St. Landry, Union, Vermilion, Vernon, or Winn Parish, and:

i. was enrolled in an eligible Louisiana high school as provided in §1701.A.1, 2 and 3; or

ii. was enrolled in a home study program approved by BESE; or

b. a student who on October 8, 2020, was actually residing in Acadia, Allen, Beauregard, Calcasieu, Cameron, Iberia, Jefferson Davis, Lafayette, Rapides, St. Landry, St. Martin, or Vermilion Parish, and:

i. was enrolled in an eligible Louisiana high school as provided in §1701.A.1, 2 and 3; or

ii. was enrolled in a home study program approved by BESE.

c. a student who on October 26, 2020, was actually residing in Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, or Terrebonne Parish, and:

i. was enrolled in an eligible Louisiana high school as provided in §1701.A.1, 2 and 3; or

ii. was enrolled in a home study program approved by BESE.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:1904 (October 1998), amended LR 24:2237 (December 1998), LR 25:1795 (October 1999), LR 26:65 and 67 (January 2000), LR 26:1602 (August 2000), LR 26:1997 (September 2000), LR 26:2269 (October 2000), LR 26:2754 (December 2000), LR 27:36 (January 2001), LR 27:1220 (August 2001), repromulgated LR 27:1854 (November 2001), amended LR 28:447 (March 2002), LR 28:773 (April 2002), LR 28:2330 (November 2002), LR 29:554 (April 2003), LR 30:1164 (June 2004), LR 30:2019 (September 2004), LR 31:39 (January 2005), LR 31:3114 (December 2005), LR 33:437 (March 2007), LR 33:2614 (December 2007), LR 35:230 (February 2009), LR 36:491 (March 2010), LR 36:2270 (October 2010), LR 36:2856 (December 2010), LR 38:3159 (December 2012), LR 41:654 (April 2015), LR 41:2597 (December 2015), LR 42:48 (January 2016), amended by the Board of Regents, Office of Student Financial Assistance, LR 44:523 (March 2018), amended LR 44:1874 (October 2018), LR 45:1172 (September 2019), amended LR 47:

§805. Maintaining Eligibility

A. - G. ...

H. 2020 Natural Disaster Maintaining Eligibility Requirements

1. To continue receiving the TOPS Tech Award, a displaced student must meet all of the criteria in §805.A-C above, except as follows.

a. The TOPS Award of a displaced student who enrolls as a full-time student in an eligible out-of-state college or university during the 2020-2021 academic year (TOPS) and subsequently enrolls at a Louisiana-eligible college or university shall not be cancelled or reduced due to enrollment in an eligible out-of-state institution during the 2020-2021 academic year (TOPS).

b. The period of suspension of a TOPS Award for a displaced student due to the student not meeting a requirement to maintain a minimum grade point average or to make steady academic progress shall be extended on a one-for-one basis for each semester or term in which the student does not enroll on a full-time basis in an eligible college or university during the 2020-2021 academic year (TOPS).

c. A displaced student shall not be required to meet the minimum academic progress requirements set forth in §805.A.8.

b. A displaced student shall not be required to meet the steady academic progress requirements set forth in §805.A.6.

c. A displaced student shall not be required to meet the continuation GPA requirements set forth in §805.A.7.

2. For the purposes of this Subsection, *displaced student* means:

a. a student whose home of record on August 26, 2020, was located in, or who, on August 26, 2020, was attending a postsecondary institution located in Acadia, Allen, Beauregard, Caddo, Calcasieu, Cameron, Grant, Jackson, Jefferson Davis, Lasalle, Lincoln, Morehouse, Natchitoches, Ouachita, Rapides, Sabine, St. Landry, Union, Vermilion, Vernon, or Winn Parish: or

b. a student whose home of record on October 8, 2020, was located in, or who, on October 8, 2020, was attending a postsecondary institution located in Acadia, Allen, Beauregard, Calcasieu, Cameron, Iberia, Jefferson Davis, Lafayette, Rapides, St. Landry, St. Martin, or Vermilion Parish.

c. a student whose home of record on October 26, 2020, was located in, or who, on October 26, 2020, was attending a postsecondary institution located in Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, or Terrebonne Parish.

3. For the purposes of this Subsection, *home of record for a dependent student* shall mean the domiciliary address of the student's parent or court-ordered custodian and for an independent student shall mean the domiciliary address of such student.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031, R.S. 17:3042.1 and R.S. 17:5001 et seq.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:1905 (October 1998) amended LR 25:1091 (June 1999), LR 26:68 (January 2000), LR 26:689 (April 2000), LR 26:1997, 2002 (September 2000), repromulgated LR 27:1856 (November 2001), amended LR 28:774 (April 2002), LR 28:2332 (November 2002), LR 29:880 (June 2003), LR 29:2373 (November 2003), LR 30:781 (April 2004), LR 30:1165 (June 2004), LR 30:2019 (September 2004), LR 31:3115 (December 2005), LR 33:438 (March 2007), LR 35:1489 (August 2009), LR 38:3160 (December 2012), LR 40:1002 (May 2014), LR 41:666 (April 2015), LR 41:2598 (December 2015), LR 42:49 (January 2016), amended by the Board of Regents, Office of Student Financial Assistance, LR 44:527 (March 2018), amended LR 47:

Chapter 21. Miscellaneous Provisions and Exceptions

§2103. Circumstances Warranting Exception to the Initial and Continuous Enrollment Requirements

A. - G.5.b.iii. ...

H. 2020 Natural Disaster Exceptions

1. For the purposes of this subsection, *displaced students* are TOPS, Rockefeller State Wildlife Scholarship, and GO Youth Challenge recipients and students eligible for TOPS whose home of record on August 26, 2020, was located in, or who, on August 26, 2020, was attending a postsecondary institution located in Acadia, Allen, Beauregard, Caddo, Calcasieu, Cameron, Grant, Jackson, Jefferson Davis, Lasalle, Lincoln, Morehouse, Natchitoches, Ouachita, Rapides, Sabine, St. Landry, Union, Vermilion, Vernon, or Winn Parish: or

b. a student whose home of record on October 8, 2020, was located in, or who, on October 8, 2020, was attending a postsecondary institution located in Acadia, Allen, Beauregard, Calcasieu, Cameron, Iberia, Jefferson Davis, Lafayette, Rapides, St. Landry, St. Martin, or Vermilion Parish.

c. a student whose home of record on October 26, 2020, was located in, or who, on October 26, 2020, was attending a postsecondary institution located in Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, or Terrebonne Parish.

2. For the purposes of this Subsection, *home of record* is:

a. the domiciliary address of a dependent student's parent or court-ordered custodian; or

b. the domiciliary address of an independent student.

3. For the 2020-2021 academic year (TOPS), displaced students are not required to enroll as full-time students, to maintain continuous enrollment, or to earn at least 24 hours during the 2020-2021 academic year (TOPS).

4. Displaced students may enroll on a part-time basis in an eligible college or university without losing TOPS eligibility.

a. Upon request of the student, the eligible college or university may bill for the TOPS award for these part-time students.

b. The terms of eligibility for a displaced student whose part-time enrollment is paid by TOPS will be reduced by one full semester (term) for each semester (term) paid.

c. Institutions must document the displaced student's request for part-time payment of TOPS under these circumstances.

d. Any grades earned by a displaced student who enrolls part-time during the 2020-2021 academic year (TOPS) will be included in the calculation of the student's cumulative grade point average.

5. Displaced students who are Rockefeller State Wildlife Scholarship recipients may enroll full-time or part-time in a college or university that does not offer a course of study leading to an undergraduate or graduate degree in wildlife, forestry or marine science.

a. Upon request of the student, the eligible college or university may bill for the Rockefeller State Wildlife Scholarship for these students.

b. The amount paid for any such semester of enrollment in accordance with this Subsection shall reduce the student's total eligibility for the Rockefeller State Wildlife Scholarship Program.

c. Institutions must document the displaced student's request for payment in accordance with this Subsection.

d. Any grades earned by a displaced student who enrolls in school during the 2020-2021 in accordance with this Subsection will be included in the calculation of the student's cumulative grade point average.

6. For the 2020-2021 academic year (TOPS), students who are not *displaced students*, but who, due to the effects of Hurricane Laura were unable to enroll for the first time as full time students by the applicable deadline, to enroll as full-time students, to maintain continuous enrollment in school, or to earn 24 hours during the 2020-2021 academic

year (TOPS) may submit a request for exception in accordance with §2103.D. based on the circumstances provided in §2103.E.12.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:5001 et seq., and R.S. 17:3050.1-3050.4.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), amended LR 23:1648 (December 1997), repromulgated LR 24:647 (April 1998), amended LR 24:1916 (October 1998), LR 26:1015 (May 2000), LR 26:2002 (September 2000), LR 27:36 (January 2001), repromulgated LR 27:1866 (November 2001), amended LR 27:1875 (November 2001), LR 28:46 (January 2002), LR 28:449 (March 2002), LR 28:775 (April 2002), LR 28:2330 and 2333 (November 2002), LR 29:126 (February 2003), LR 29:2373 (November 2003), LR 29:2373 (November 2003), LR 30:785 (April 2004), LR 30:1167 (June 2004), LR 31:1060 (May 2005), LR 33:440 (March 2007), LR 35:1233 (July 2009), LR 38:3160 (December 2012), LR 41:657, 667 (April 2015), amended by the Board of Regents, Office of Student Financial Assistance, LR 44:562 (March 2018), LR 45:1173 (September 2019), amended LR 47:

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

A. - B.9.e.iii. ...

10. 2020 Natural Disaster Deferments. For the purposes of this Subsection, *displaced students* are recipients of the Rockefeller State Wildlife Scholarship or TOPS Teacher Award who are in repayment status and whose Home of Record:

a. on August 26, 2020, was located in Acadia, Allen, Beauregard, Caddo, Calcasieu, Cameron, Grant, Jackson, Jefferson Davis, Lasalle, Lincoln, Morehouse, Natchitoches, Ouachita, Rapides, Sabine, St. Landry, Union, Vermilion, Vernon, or Winn Parish: or

b. on October 8, 2020, was located in, or who, on October 8, 2020, was attending a postsecondary institution located in Acadia, Allen, Beauregard, Calcasieu, Cameron, Iberia, Jefferson Davis, Lafayette, Rapides, St. Landry, St. Martin, or Vermilion Parish.

c. on October 26, 2020, was located in, or who, on October 26, 2020, was attending a postsecondary institution located in Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, or Terrebonne Parish.

d. For the purposes of this Subsection, *home of record* is the domiciliary address of the recipient who is in repayment status.

e.i. For students qualifying for deferment under the provisions of §2105.B.10.a. above, loan repayments are deferred and interest accrual is suspended for the period August 26, 2020, through August 31, 2021; ii. For students qualifying for deferment under the provisions of §2105.B.10.b. above, loan repayments are deferred and interest accrual is suspended for the period October 8, 2020, through October 31, 2021.

iii. For students qualifying for deferment under the provisions of §2105.B.10.c. above, loan repayments are deferred and interest accrual is suspended for the period October 26, 2020, through October 31, 2021.

f. For the period August 26, 2020, through October 31, 2021, recipients of the Rockefeller State Wildlife Scholarship or the TOPS Teacher Award who are not *displaced students*, but who, due to the effects of a natural disaster as provided in this Subsection, are unable to repay their loan may submit a request for exception in accordance

with §2103.D. based on the circumstances provided in §2103.E.12.

C. - H.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031 and R.S. 17:3042.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:649 (April 1998), amended LR 24:1918 (October 1998), LR 26:1603 (August 2000), repromulgated LR 27:1868 (November 2001), amended LR 28:775 (April 2002), LR 30:781 (April 2004), LR 30:1167, 1168 (June 2004), LR 33:442 (March 2007), amended by the Board of Regents, Office of Student Financial Assistance, LR 44:566 (March 2018), amended LR 47:

Family Impact Statement

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in LSA-R.S. 49:972.

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in LSA-R.S. 49:973.

Small Business Analysis

The proposed Rule will have no adverse impact on small businesses as described in LSA-R.S. 49:965.2 *et seq.*

Provider Impact Statement

The proposed Rule will have no adverse impact on providers of services for individuals with developmental disabilities as described in HCR 170 of 2014.

Public Comments

Interested persons may submit written comments on the proposed changes (SG21197NI) until 4:30 p.m., April 10, 2021, by email to LOSFA.Comments@la.gov or to Sujuan Williams Boutté, Ed. D., Executive Director, Office of Student Financial Assistance, P. O. Box 91202, Baton Rouge, LA 70821-9202.

Robyn Rhea Lively
Senior Attorney

Robyn Lively
Senior Attorney
2103#021

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Waivers of Certain TOPS Initial Eligibility for Students Affected by Natural Disasters in 2020

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes implement the provisions of Act 17 of the Second Extraordinary Session of 2020 with respect to students affected by 2020 Natural Disasters by adding those impacted by Hurricane Zeta. The changes are not anticipated to have a fiscal impact on TOPS expenditures for the current fiscal year, but will likely result in increased expenditures in future years.

Comparing Fall to Fall Term TOPS expenditures, expenditures grew by 3.3% for the 2018-19 Academic Year, 1.0% for the 2019-2020 Academic Year, and 4.2% for the 2020-2021 Academic Year as of 2/15/2021. Because the hurricanes occurred after the start of the Fall Term, the expenditure increase for the current Fall Term was primarily influenced by provisions implemented to mitigate the COVID-19 Health Emergency impact on students.

A similar rule change was implemented after Hurricanes Katrina/Rita. The combined impact of those two hurricanes resulted in a slight decrease in TOPS expenditures of less than 0.2% for the 2005-2006 Academic Year, followed by a slightly more than 3% increase for the 2006-2007 Academic Year. Because Hurricanes Laura/Delta, and now Hurricane Zeta due to this rulemaking, had a significant but lesser impact than Katrina/Rita on students and educational institutions in the state, and given the continuing impact of the COVID-19 health emergency, it is anticipated that TOPS expenditures will not increase beyond the normal 1% to 3% growth rate for future fiscal years due to these proposed changes.

The Rockefeller State Wildlife Scholarship Program and GO Youth Challenge Program have fixed appropriations and thus will not experience any increase in expenditures.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no impact on state or local governmental revenues.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Displaced students will be directly and positively affected by the proposed rule. The proposed rule will ensure students are not made ineligible for a TOPS, Rockefeller State Wildlife Scholarship or GO Youth Challenge award or endure an economic hardship due to repayment of a Rockefeller State Wildlife Grant or TOPS Teacher award due solely to the consequences of Hurricanes Laura/Delta, and now Hurricane Zeta. There are no estimated effects or economic benefits to small businesses or non-governmental groups resulting from these measures.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no anticipated effects on competition and employment resulting from these measures other than promoting a better educated pool of workers.

NOTICE OF INTENT

Office of the Governor Board of River Port Pilot Commissioners for the Port of New Orleans

River Port Pilots (LAC 46:LXX Chapter 31)

Notice is hereby given that in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 *et seq.*, and pursuant to the authority vested in the Board of River Port Pilot Commissioners for the Port of New Orleans R.S. 34:991, the board proposes to amend its rules governing River Port Pilots by adding a mission statement, amending the recency requirements, amending the deadlines for application to the apprenticeship application process, defining the duties deputy pilot restrictions, defining pilot duties and requirements and allowing the commission to use committee and hearing officers to assist the board in the performance of its duties. To facilitate a full understanding of the regulations to be amended the board is revoking and re-enacting its regulations. The proposed amendments are set forth below.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS

Part LXX. River Pilots

Subpart 2. Board of River Port Pilot Commissioners

Chapter 31. General Provisions

§3101. Mission Statement

A. The mission of the Board of River Port Pilot Commissioners for the Port of New Orleans is to protect the health and welfare of the citizens and property in the State of Louisiana. Navigation on the Mississippi River is a hazardous endeavor. Safe and efficient navigation on the Mississippi River is essential to the prosperity of the nation and the state of Louisiana.

B. State pilots are the only maritime professionals whose exclusive duty is to protect the interests of Louisiana and its citizens. Pilots must manage and mitigate risk to enhance commerce and prosperity. Pilots must balance the commercial interests with safety and the interests of the citizens and property in the state to develop and encourage commerce.

C. Acknowledging that economic interests, environmental interests, and social policy are often in conflict, the board and the pilots collaborate with public interests, professional mariners, and users of the Mississippi River to balance these conflicting interests. The goal is to promote prosperity and safety while achieving environmental and commercial viability and to continue to develop and encourage such commerce.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:991(B)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of River Port Pilot Commissioners, LR 47:

§3103. Definitions

A. The following terms shall have the following meaning as used in these rules.

Applicant—one who submits an application to become a river port pilot apprentice.

Apprentice—an applicant who has been selected to become a river port pilot pending successful completion of the apprenticeship program.

Apprentice Candidate—an applicant whose application has been certified by the board.

Apprentice Duties—any activity or requirement of the apprenticeship program as required by the commission.

Board—the Board of River Port Pilot Commissioners as defined in R.S. 34:991.

Commission—the appointment by the governor authorizing one to perform the duties of a river port pilot.

Commissioner—a member of the Board of River Port Pilots Commissioners for the Port of New Orleans as appointed and serving in accordance with state law.

Conviction—having been found guilty by judgment or by plea and includes cases of deferred adjudication (no contest, adjudication withheld, etc.) or where the court requires a person to attend classes, make contributions of time or money, receive treatment, submit to any manner of probation or supervision, or forgo appeal of a trial court finding. Expunged convictions must be reported unless the expungement was based upon a showing that the court's earlier conviction was in error.

Deputy Pilot—a commissioned river port pilot who is piloting subject to restrictions as set forth in these regulations

Drug—all controlled dangerous substances as defined in R.S. 40:961(7).

Marine Incident—a personal injury, loss of life, discharge of pollution, collision and/or allision, wave wash or suction resulting in an injury or damage, or hard grounding in which the vessel is damaged or needs assistance to be re-floated.

Pilot—river port pilots as defined in R.S. 34:992 or any person performing duties pursuant to a River Port Pilot Commission.

Prescription Medication—medication which can only be distributed by the authorization of a licensed physician as defined in R.S. 40:961(30).

Second Pilot—when a ship movement requires two pilots, the second pilot is to support and act as a resource to the first pilot.

Turn—a turn, for the purposes of recency only, shall be any pilotage of any vessel for 20 miles or any pilotage on a vessel that docks, undocks, anchors, un anchors or turns around in the river.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:991(B)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of River Port Pilot Commissioners, LR 29:2068 (October 2003), amended LR 35:1882 (September 2009), LR 38:2369 (September 2012), LR 47:

§3105. Board of River Port Pilot Commissioners for the Port of New Orleans

A. The duties of the board are established pursuant to R.S. 34:991.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:991(B)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of River Port Pilot Commissioners, LR 29:2069 (October 2003), amended LR 35:1882 (September 2009), LR 47:

§3107. Application

A. Any person wishing to submit an application to become an apprentice candidate must submit a written request for an application to the board at its address or by email. The board's current address is:

Board of River Port Pilot Commissioners
c/o Application Request
2728 Athania Pky.
Metairie, LA 70002
brppc@cox.net

B. All applications to become an apprentice candidate must be in writing, must be signed by the applicant, and presented to the board. All applications must be notarized and accompanied by satisfactory evidence of compliance with the board's requirements.

C. The board will issue a notice, that it will accept applications for the subsequent calendar year for selection into the River Port Pilot Apprenticeship Program.

D. The board will accept applications for selection into the River Port Pilot Apprenticeship Program from January 1 to October 31 of each year.

E. After October 31, the board will review the applications, schedule physicals, have background checks on the applicant, and certify that the applicants meet the criteria

set forth by the board. Upon request, the board may allow the applicant to submit to a physical before October 31.

F. On or about January 1 the board will prepare a list of apprentice candidates eligible to be selected. The list shall remain in place until December 31 at which time the list will be withdrawn and a new list will be prepared in accordance with these regulations.

G. Any applicant who submits an application with false or misleading information or false, misleading, forged, or altered supporting documents will have their application deemed void. The board, in its discretion, may prohibit the applicant from submitting an application in the future. Nothing in this paragraph will affect the enforcement of state and federal laws regarding the submission of false information and documents to a state board.

H. When the pilots notify the board that there is a necessity for pilots, the board will submit to the pilots the list of eligible apprentice candidates as described in §3107.F, and pursuant to RS 34:993. The pilots will select the apprentice candidates.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:991(B)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of River Port Pilot Commissioners, LR 29:2069 (October 2003), amended LR 35:1882 (September 2009), LR 47:

Chapter 32. Licensing, Qualifications, and Apprenticeship

§3201. General Qualifications

A. Applicant must be of good moral character. Evidence of a clear police record will be considered, but the board reserves the right to examine other sources of information as to the applicant's character.

B. Applicant is and has been a voter of the state of Louisiana continuously for at least two years before December 31st of the year the application is submitted.

C. Applicant must not have reached the age of forty prior to the first day of balloting on apprentices by the pilots.

D. Applicant shall not have been convicted of a felony offense involving either drugs or the personal consumption of alcohol for 60 months prior to December 31st of the year the application is submitted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:991(B)(3) and R.S. 34:993.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of River Port Pilot Commissioners, LR 29:2069 (October 2003), amended LR 35:1883 (September 2009), LR 47:

§3203. Licensing Qualifications

A. Each applicant must meet the below listed requirements.

1. Each applicant must hold a United States Coast Guard First Class Pilot License of Steam or Motor Vessel of any gross tons for the Mississippi River from Southport to the Head of Passes and for the Inner Harbor Navigation Canal (Industrial Canal) from the Mississippi River to Lake Pontchartrain. In the event the Inner Harbor Navigation Canal is closed and or navigation on the canal is severely restricted. The board in its discretion may waive the requirement of a first class pilot license on all or part of the Inner Harbor Navigation Canal.

2. Each applicant must meet one of the following requirements:

a. a United States Coast Guard Master of Steam or Motor Vessels of less than 1600 gross registered tons or any upgrade thereof upon Inland Waters, Rivers or Lakes; or

b. a United States Coast Guard second mate's license (or any upgrade thereof) of steam or motor vessels of any gross tons upon oceans;

3. Each applicant must have held one of the licenses described in §3203.A.1, A.2.a, or A.2.b for a period of one year prior to December 31st of the year the application is submitted to become an apprentice candidate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:991(B)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of River Port Pilot Commissioners, LR 29:2069 (October 2003), amended LR 35:1883 (September 2009), LR 47:

§3205. Education Qualifications

A. In addition to the requirements described herein, the Applicant must have a bachelor's degree or diploma granted by a college or university accredited by one of the regional accreditation agencies recognized by the United States Department of Education for the accreditation of degree-granting institutions of higher education.

B. Applicants shall document the aforementioned requirements by providing the board with an official transcript of the mandatory educational requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:991(B)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of River Port Pilot Commissioners, LR 29:2069 (October 2003), amended LR 35:1833 (September 2009), LR 38:2369 (September 2012), LR 47:

§3207. Physical Qualifications

A. The applicant, when requested, must be examined by a physician, clinic, or group of physicians of the board's choosing to determine the applicant's physical condition. The examination report must reflect to the board's satisfaction that the applicant's physical condition is satisfactory and commensurate with the work and responsibilities of a pilot, and will enable the applicant to safely perform the duties of pilotage. The board shall have no responsibilities for the examinations or their results. The applicant submitting to such examinations will hold the board harmless from any responsibility for any injury or loss, including attorneys' fees and the costs of defense, incurred as a result of the examination or the reliance by the board or any others on the results of such examination.

B. The applicant, when requested, shall submit to an examination by a mental health professional or group composed of such mental health professionals of the board's choosing. The report of this examination must reflect, to the board's satisfaction, that the applicant's mental condition and aptitude is satisfactory and commensurate with the work and responsibilities of a pilot, and will enable the applicant to safely perform the duties of pilotage. The board shall have no responsibility for the examinations or their results. The applicant submitting to such examinations will hold the board harmless from any responsibility for any injury or

loss, including attorneys' fees and the costs of defense, incurred as a result of the examination or the reliance by the board or any others on the results of such examination.

C. The applicants shall submit to drug and alcohol screening as directed by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:991(B)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of River Port Pilot Commissioners, LR 29:2070 (October 2003), amended LR 35:1883 (September 2009), LR 38:2369 (September 2012), LR 47:

§3209. Apprenticeship

A. The apprentice must serve a minimum of 12 months of apprenticeship. The apprentice will handle deep draft vessels over the operating territory under the tutelage of not less than 50 percent of the pilots. The apprentice must perform the duties of an apprentice in a professional, courteous, and prudent fashion. At all times the apprentice must be fit for duty, free from any substance that may adversely affect the apprentice's ability to perform apprentice duties. The apprentice must set forth in detail the names of the vessels handled, dates handled, draft, tonnage, between what points so moved, and the names of the supervising pilots. No apprentice shall be permitted to be examined for commissioning who has not fulfilled the requirements set forth by the board. The apprenticeship work must be certified by the board during the apprenticeship program. The board reserves the right to substitute work requirements, require satisfactory completion of additional trips, extended the apprenticeship, or terminate the apprenticeship when deemed necessary.

B. In compliance with R.S. 34:993, the board shall hold examinations of the apprentices as to their knowledge of pilotage and their proficiency and capability to serve as pilots. These examinations shall be given in such manner and shall take such form as the board may, in its discretion from time to time, elect.

C. The board shall certify for the governor's consideration those apprentices who satisfactorily complete all requirements established by state law and these rules and who complete and pass any examinations given by the board.

D. Should the apprentice fail any examination, violate any rule or regulation of the board, fail to fulfill the duties of an apprentice or engage in any conduct or activity that is unsafe, unprofessional and/or demonstrates a lack of judgment, the board, in its discretion, may terminate the apprenticeship, or may designate additional apprenticeship requirements to be satisfied by the apprentice before the apprentice may again petition the board for examination.

E. If an apprentice fails to successfully satisfy the requirements of the apprenticeship program within 24 months as determined by the board, the apprenticeship may be terminated at the board's discretion.

F. The apprentice shall submit to drug and alcohol screening as determined by the board in its discretion.

G. The apprentice shall report to the board any change in their physical or mental condition that may, in any way, affect their performance as an apprentice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:991(B)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of River Port Pilot Commissioners, LR 29:2070 (October 2003), amended LR 35:1883 (September 2009), LR 38:2369 (September 2012), LR 47:

§3211. Age Restrictions

A. A pilot shall be required to resign their pilot commission in the calendar year the pilot attains the age of 70.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:991(B)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of River Port Pilot Commissioners, LR 29:2070 (October 2003), amended LR 35:1884 (September 2009), LR 47:

Chapter 33. Deputy Pilots

§3301. Restricted Duties Guidelines

A. The deputy pilot development program is a mandatory program administered by the board to develop pilot skill after the pilot receives a pilot commission or license.

B. The deputy pilots shall adhere to the guidelines and restrictions established by the board which may factor the following considerations:

1. length of the vessel;
2. cargo carried by the vessel;
3. draft of the vessel;
4. river stage;
5. visibility restrictions;
6. designating the deputy pilot to serve as a second pilot;
7. restrict the deputy pilot from performing certain pilot services during the deputy period;
8. any restrictions the board may seem appropriate.

C. The deputy pilot shall be subject to restrictions until the board removes the restrictions.

D. The failure of the deputy pilot to adhere to these guidelines may subject the deputy pilot to disciplinary action at the board's discretion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:991(B)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of River Port Pilot Commissioners, LR 29:2070 (October 2003), amended LR 35:1884 (September 2009), LR 38:2369 (September 2012), LR 47:

Chapter 34. Drug and Alcohol Policy

§3401. Drug Use

A. Pilots and apprentices shall be free of the use of any drug as defined in §3103, excluding prescription medication as defined in §3103 so long as the use of such prescription medication does not impair the physical competence of the pilot.

B. The board shall designate a testing agency or agencies to perform scientific test or tests to screen for the presence of drugs. These drug tests shall be conducted at random, post incident, and for reasonable suspicion at the discretion of the board.

C. All pilots and apprentices shall submit to scientific testing and screening for drugs when directed by the board.

D. The results of drug testing and screening shall be confidential and disclosed only to the Board and the pilot tested, except that:

1. the board may report the results to the governor, the Board of Directors of the Crescent River Port Pilot Association, and the United States Coast Guard;

2. in the event that the board determines that a hearing is required, there shall be no requirement of confidentiality in connection with the hearing.

E. Any pilot or apprentice testing positive for drugs or any residual thereof shall be suspended from performing the duties of a pilot pending a hearing.

F. Any pilot or apprentice who refuses to submit to scientific testing or screening for drugs fails to cooperate fully with the testing procedures, or in any way tries to alter the test results shall be suspended pending a hearing. Such refusal shall be considered as a positive test.

G. Any pilots found to be in violation of this Section may be reprimanded, fined, evaluated, and/or treated for drug use and/or have their commission suspended or revoked. Any apprentice found in violation of this Section is subject to immediate termination of their participation in the apprenticeship program.

H. Any pilot required to undergo an evaluation and/or treatment shall do so at their own expense and responsibility; the physician, as well as the evaluation and treatment facility must be approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:991(B)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of River Port Pilot Commissioners, LR 29:2071 (October 2003), amended LR 35:1884 (September 2009), LR 47:

§3403. Alcohol Use

A. No pilot shall consume any alcohol of any nature whatsoever within six hours before, or during, the performance of pilotage duties.

B. No pilots shall perform their duties when their blood alcohol content is 0.04 or greater.

C. Any pilots who believe they would be in violation of any of these rules if he were to perform their duties is obligated to remove themselves from duty. The pilot is the absolute insurer of their state of mind, physical abilities, and overall well-being.

D. The board may require a pilot to submit to a blood alcohol test upon complaint or reasonable suspicion that a pilot is performing under the influence of alcohol while piloting.

E. Any pilot who refuses to submit to scientific testing or screening for alcohol fails to cooperate fully with the testing procedures, or in any way tries to alter the test results shall be suspended from performing the duties of a pilot pending a hearing. Such refusal to cooperate will be considered as a positive test.

F. Any pilot found to be in violation of this Section may be reprimanded, fined, evaluated and/or treated for alcoholism and/or have their commission suspended or revoked.

G. Any pilot who is required to undergo an evaluation and/or treatment shall do so at their own expense and responsibility; the physician, as well as the evaluation and treatment facility must be approved by the board.

H. The board reserves the right to set a stricter standard of alcohol use for apprentices. Any apprentice who in violation of this regulation or the higher standard established in the apprenticeship program is subject to immediate termination of their participation in the apprenticeship program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:991(B)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of River Port Pilot Commissioners, LR 29:2071 (October 2003), amended LR 35:1885 (September 2009), LR 47:

Chapter 35. Continuing Education

§3501. Continuing Professional Education

A. Every pilot seeking to maintain a pilot's commission must attend 40 hours of professional education classes and programs every five-year cycle as defined by the board.

B. In addition, the pilot must attend a man model ship training program every five years.

C. Professional education classes and programs must be approved by the board.

D. It shall be the responsibility of the pilot to attend the professional education approved by the board.

E. It shall be the responsibility of the pilot to file with the board proof that the pilot has attended the required professional education.

F. Any pilot who fails to attend the required professional may be reprimanded, fined, and/or suspended until the pilot complies with this Section.

G. The board, for good cause shown, may grant a waiver or extend the time for a pilot to complete the continuing professional education requirement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:991(B)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of River Port Pilot Commissioners, LR 29:2072 (October 2003), amended LR 35:1885 (September 2009), LR 47:

Chapter 36. Investigation, Competence, Complaints and Criminal Convictions

§3601. Marine Incident Investigation

A. Any pilot piloting a vessel involved or allegedly involved in a marine incident shall, as soon as practical, notify the board of the incident by telephone. However, said notice must occur within two hours of the incident.

B. The pilot shall provide the board a written report on the form provided by the board within two days after the marine incident was first reported.

C. The pilot shall be available to the board and cooperate with the board during the board's investigation of the marine incident.

D. The pilot shall provide the board a detailed written statement of the marine incident if requested by the board. The report shall be provided to the board with 10 days of the board's request. The board, in its discretion, may grant an extension.

E. A pilot failing to comply with these regulations may be reprimanded, fined, and/or suspended.

F. After its investigation of the marine incident, the board may render a findings and conclusions. The findings and conclusions is solely and exclusively the opinion of the board relative to the conduct of the pilot and is not intended to be introduced as evidence in legal proceedings. Pursuant to R.S. 34:1005 all communications between the pilot and

the board are deemed confidential, and the findings and conclusions of the board shall not be deemed discoverable or relevant in any civil proceeding.

G. The board may, under the procedure herein set out, examine such cases of dereliction of duty of a pilot as come to their attention, and on the basis of such examination make recommendations to the governor relative to the pilot's commission. The pilot may elect to consent to such corrective or remedial steps as may be suggested by the board under the circumstances, waiving executive review. All violations of the regulations of any governmental agency by a pilot shall come within the purview of this Rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:991(B)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of River Port Pilot Commissioners, LR 29:2072 (October 2003), amended LR 35:1885 (September 2009), LR 47:

§3603. Competence

A. All pilots shall complete at least 60 turns each calendar year.

B. Any pilot who has not piloted at least 60 turns in a calendar year shall be required to report the said absence to the board. Prior to returning to the duties of a pilot, the pilot must satisfy the return to duty requirements set forth by the board.

C. Any pilot or apprentice who for any reason becomes physically or mentally incompetent to perform the duties of a pilot is required to immediately notify the board.

D. Pilots are the absolute insurer of their state of mind, physical abilities, and overall well-being.

E. Any pilot who lacks the competency to perform the duties of a pilot shall be suspended from performing the duties of a pilot pending a hearing.

F. Pilots found to be incompetent may be evaluated and/or have their commission suspended or revoked.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:991(B)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of River Port Pilot Commissioners, LR 29:2072 (October 2003), amended LR 35:1886 (September 2009), LR 47:

§3605. Complaints

A. Any person having cause to file a complaint against a pilot may file such complaint with the board.

B. The complaint may be sent to the board at its address.

Board of River Port Pilot Commissioners

2728 Athania Pky

Metairie, LA 70002

brppc@cox.net

C. The board shall investigate all complaints and take all appropriate action based on the nature of the complaint.

D. The board shall review all anonymous complaints and shall investigate and if necessary take appropriate action on complaints with merit in the board's discretion.

E. Any person wishing to make an anonymous complaint against a pilot may do so by calling the board at (504) 218-7477 or by forwarding an anonymous letter to the above address.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:991(B)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of River Port Pilot Commissioners, LR 29:2072 (October 2003), amended LR 35:1886 (September 2009), LR 47:

§3607. Criminal Convictions

A. Any pilot or apprentice convicted of the following must notify the board prior to returning to duty as a pilot:

1. a felony;

2. any offense in which the use of drugs or alcohol is involved.

B. The board shall conduct a hearing to review the competency of any pilot who has been convicted of any offense described in §3607.A. The board, in its discretion, may find the pilot by virtue of the conviction incompetent.

C. Any pilot or apprentice who fails to comply with these regulations may be reprimanded, fined, and/or suspended.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:991(B)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of River Port Pilot Commissioners, LR 29:2073 (October 2003), amended LR 35:1886 (September 2009), LR 47:

Chapter 37. Duty of the Pilot

§3701. Duty of the Pilot

A. The pilot's duties and responsibilities are particular to a pilotage area. A pilot is required to inform a vessel's navigators of the local conditions in the pilotage area. The pilot is required to possess qualities of expertise and knowledge in the territory of the pilotage waters.

B. The pilot is required to perform this service with the necessary skill and without neglect. The pilot is not the insurer of the vessel's safety. The vessel's master and the shipowner are responsible for the sufficiency of the ship and its equipment, the competence of the master, and the crew and their duty to appropriately respond to the advice provided by the pilot.

C. Notwithstanding the responsibility of the pilot to keep the vessel's crew apprised of the local conditions, the master or designee remains in command of the vessel and must intervene in the vessel's navigation if the master deems it is appropriate.

D. The pilot is required to maintain a current telephone number, text number, email, and address with the board in the manner prescribed by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:991(B)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of River Port Pilot Commissioners, LR 47:

Chapter 38. Pilotage Required

§3801. Pilot Required

A. A pilot is required on every vessel subject to pilotage any time the vessel is moved or relocated or if it is the intent to move or relocate the vessel.

B. A pilot is required on any vessel that cannot maintain safe moorings or maintain its proper position at anchor.

C. The board shall enforce pilot laws pursuant to the law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:991(B)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of River Port Pilot Commissioners, LR 47

Chapter 39. Hearings and Committees

§3901. Hearings

A. The board may conduct hearings to perform its duties. The board in its discretion may appoint a hearing officer to conduct investigations. The hearing officer shall not be a

member of the board. The hearing officer shall timely conduct investigations subject to the hearing procedure established by the board. Upon the completion of the hearing, the hearing officer shall timely file a "report of hearing" with the board. The board in its discretion may accept, modify, or reject the report and conduct an independent hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:991(B)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of River Port Pilot Commissioners, LR 47

§3905. Committees

A. The board may create committees to assist the board in the performance of its duties.

B. The committee will be chaired by a member of the board and will report to the board.

C. The size and members of the committee shall be designated by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:991(B)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of River Port Pilot Commissioners, LR 47

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of the proposed amendments on the family has been considered. It is not anticipated that the proposed amendments will have any impact on family, formation, stability or autonomy, as described in R.S. 49:972

Poverty Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the impact of the proposed amendments on those that may be living at or below one hundred percent of the federal poverty line has been considered. It is not anticipated that the proposed amendments will have any impact on child, individual or family poverty in relation to individual or community asset development, as described in R.S. 49:973.

Provider Statement

In compliance with HCR 170 of the 2014 Regular Session of the Louisiana Legislature, the impact of the proposed amendments on organizations that provide services for individuals with developmental disabilities has been considered. It is not anticipated that the proposed amendments will have any impact on the staffing, costs or overall ability of such organizations to provide the same level of services, as described in HCR 170.

Small Business Analysis

It is not anticipated that the proposed amendments will have any adverse impact on small businesses as defined in the Regulatory Flexibility Act, R.S. 49:965.2 et seq.

Public Comments

Interested persons may submit written data, views, arguments, information or comments on the proposed amendments to Michael R. Delesdernier, 2728 Athania Pky., Metairie, LA, 70002 (504) 218-7477. He is responsible for responding to inquiries. Written comments will be accepted until the 10th day of May 2021 at 4 o'clock p.m.

Public Hearing

A request pursuant to R.S. 49:953(A)(2) for a public hearing must be made in writing and received by the board within 20 days of the date of this notice. If a public hearing

is requested to provide data, views, arguments, information or comments orally in accordance with the Louisiana Administrative Procedure Act, the hearing will be held on the 17th day of May, 2021, starting at 10 o'clock a.m., at the office of the Board of River Port Pilot Commissioners for the Port of New Orleans Louisiana State Board of Medical Examiners, 2728 Athania Pky., Metairie, LA, 70002. Any person wishing to attend should call to confirm that a hearing is being held, especially during COVID, as the attendance may need to occur virtually via Zoom.

Captain Jack Anderson
President

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: River Port Pilots

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes will not result in any costs or savings to state and local governmental units. The board proposes to amend rules governing River Port Pilots by adding a mission statement, recency requirements, deadlines for application to the apprenticeship application process, defining the deputy pilot restrictions, defining pilot duties, requirements, and allowing the commission to use committees and hearing officers to assist the board in the performance of its duties. To facilitate a full understanding of the regulations to be amended, the board is revoking and re-enacting its regulations to eliminate what is obsolete and is updating existing regulations.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes will not affect revenue collections for the 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 affect costs and/or economic benefits to directly affected persons, small businesses, or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed action is not anticipated to have a material effect on competition and employment.

Captain Jack Anderson
President
2103#010

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor Commission on Law Enforcement and Administration of Criminal Justice

Peace Officer Training (LAC 22:III.Chapter 47)

In accordance with the provision of R.S. 40:2401, et. seq., the Peace Officer Standards and Training Act, and R.S. 40:905 et. seq., which is the Administrative Procedure Act, the Peace Officer Standards and Training Council hereby, gives notice of its intent to promulgate rules and regulations relative to the training of peace officers.

Title 22
CORRECTIONS, CRIMINAL JUSTICE
AND LAW ENFORCEMENT

Part III. Commission on Law Enforcement and
Administration of Criminal Justice
Subpart 4. Peace Officers

Chapter 47. Standards and Training

§4705. Registration

A. Full Time Grandfathered Peace Officers

1. Registration may be granted in lieu of certification to those full-time peace officers who:

- a. were hired prior to January 1, 1986
- b. did not attend a POST-certified training; and
- c. are currently performing the duties of a peace officer.

2. *Registration* simply means that the officer is registered with POST and he/she is not required to comply with the mandates for basic POST certification.

3. Full-time peace officers hired prior to January 1, 1986, may be eligible to receive POST registration by completing the following requirements.

a. Submit a letter to the POST Council from the agency head requesting the officer be registered with the state.

b. Supporting documentation shall accompany the letter regarding initial employment date along with a chronological narrative of the officer's law enforcement service on a form prescribed by POST.

B. Part-Time/ Reserve Grandfathered Peace Officers

1. Registration may be granted in lieu of certification to those part time/reserve peace officers who:

- a. were hired prior to January 1, 2022;
- b. did not attend POST-certified basic training; and
- c. are currently performing the duties of a peace officer.

2. *Registration* simply means that the officer is registered with POST and he/she is not required to comply with the mandates for basic POST certification.

3. Part-time/reserve peace officers hired prior to January 1, 2022, may be eligible to receive POST registration by completing the following requirements:

a. submit a letter to the POST Council from the agency head requesting the officer be registered with the state;

b. supporting documentation shall accompany the letter regarding initial employment date along with a chronological narrative of the officer's law enforcement service on a form prescribed by POST.

4. Registered part-time/reserve peace officers who are "grandfathered in" are exempt from the basic training course requirement but must comply with all other POST mandates to maintain grandfathership including POST inservice training.

E. Registration/grandfatherhood shall become invalid if officer experiences a five year or more break in law enforcement service and has less than five years of full time experience.

F. Officers, who were hired prior to January 1, 1986, and who experience a five year or more break in law enforcement, and had at least five years of full-time service, can reinstate their grandfathership by successfully completing:

1. the firearms section of the Louisiana Law Enforcement Basic Training Manual;

2. the legal aspects of the Louisiana Law Enforcement Basic Training Manual; and

3. the necessary requirements for POST registration in accordance with the provisions of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 13:434 (August 1987), amended LR 25:663 (April 1999), LR 31:3159 (December 2005), LR 37:319 (January 2011), LR 44:1008 (June 2018), LR 47:

§4709. Interruption of Service

A. Any grandfathered peace officer who interrupts his full-time continuous law enforcement employment for a period in excess of five years ("break in service") and is subsequently rehired, shall be required to meet the basic training requirement for new peace officers unless the officer had:

1. at least a minimum of five years' experience, then the officer must meet the requirement of §4705.C;

2. already completed a POST certified basic training course, he/shall then be required to complete the legal aspects and firearms portion of the course, qualify on the POST firearms qualification course, and pass the statewide examination, at an accredited training center. Proof of basic training will be required. If the student fails the statewide examination, the student must complete a full basic training course.

B. Any certified peace officer who interrupts his/her law enforcement service for a period of not to exceed five years, must qualify with his/her firearms to reinstate their certification. If the officer had interrupted his/her law enforcement services for a period of five years, and is thereafter rehired, then the officer must meet the requirement outlined in §4709.A.2.

C. Extended medical leave does not constitute an interruption of full-time service/employment ("break in service").

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 13:434 (August 1987), amended LR 25:664 (April 1999), LR 31:3159 (December 2005), LR 34:1927 (September 2008), LR 35:319 (January 2011), LR 44:1008 (June 2018), LR 47:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed rule has been considered. This proposed rule will have no impact on family functioning, stability, or autonomy as described in R.S. 49:972 since it outlines the implementation of sexual assault awareness training for peace officers.

Poverty Impact Statement

The proposed Rule should not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973. B. In particular, there should be no known or foreseeable effect on: (1) the effect on household income, assets, and financial security; (2) the effect on early childhood development and preschool through post-

secondary education development; (3) the effect on employment and workforce development; (4) the effect on taxes and tax credits; (5) the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

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 requirement or qualifications required to provide the same level of service; (2) the total direct and indirect effect on the cost to the providers to provide the same level of service; or (3) the overall effect on the ability of the provider to the same level of service.

Public Comments

Interested persons may submit written comments on this proposed Rule no later than May 1, 2021 at 5pm to Bob Wertz, Peace Officer Standards and Training Council, Louisiana Commission on Law Enforcement, Box 3133 Baton Rouge, LA 70821. An analysis of the proposed rule shows that it will have no impact on the family as described in R.S. 49.972, nor any impact on small business as defined by Act 820 of 2008.

Mr. Jim Craft
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Peace Officer Training

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There may be an increase in expenditures of local municipalities and sheriffs' departments to the extent they do not grandfather their part-time and reserve peace officers under the proposed rules. The LCLE does not reimburse local municipalities and sheriffs' departments for training part-time and reserve officers and therefore there is no impact on expenditures of the Louisiana Commission on Law Enforcement (LCLE).

The proposed rules set forth guidelines for all part-time and reserve peace officers as considered in Act 272 of the 2017 Regular Session. The proposed rules would permit all reserve and part-time peace officers hired before January 1, 2022, to be grandfathered by the Council on Peace Officer Standards and Training, and to not be required to complete a mandatory basic level training course.

There are approximately 3,200 part-time and reserve peace officers within local municipalities and sheriffs' departments in the state of Louisiana. Of that amount, only approximately 1,020 have been certified by the POST council. If the

remaining part-time/reserve officers are not grandfathered, then those officers would be required to successfully complete a basic training course for peace officers. The total training cost is approximately \$500 per officer. Providing training for the non-certified 2,180 officers would cost local municipalities and/or sheriffs' departments approximately \$1,090,000. Local municipalities and sheriffs' departments will be required to have their part-time & reserve officers successfully complete a POST basic training course after January 1, 2022, as required by Act 272.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will not increase revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There is no impact to private citizens, small businesses, or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition or employment in the public or private sector as a result of this proposed amendment.

Jim Craft
Director
2103#025

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Medicaid Eligibility
Twelve-Month Continuous Eligibility
(LAC 50:III.2525)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:III.2525 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 eligibility for the Medical Assistance Program to update the list of recipients under age 19 for whom twelve months of continuous eligibility is not available in order to align the exceptions in the administrative Rule with those currently used for Medicaid eligibility determinations.

Title 50

PUBLIC HEALTH-GENERAL

Part III. Eligibility

Subpart 3. Eligibility Groups and Factors

Chapter 23. Eligibility Factors

§2525. Twelve-Month Continuous Eligibility

A. - B. ...

C. Twelve months of continuous eligibility is not available to the following children :

1. children excepted from continuous eligibility under 42 CFR §435.926(d);
2. children enrolled in the Medically Needy Program;
3. children enrolled in the LaCHIP Affordable Plan who obtain creditable coverage;

4. children enrolled in the Act 421 Medicaid Children's Option who discontinue pre-existing health insurance coverage;

5. children whose parent/guardian fails to pay a monthly premium, if applicable; or

6. children whose parent/guardian fails to provide verification of citizenship or immigration status after a reasonable opportunity has been allowed.

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 34:253 (February 2008), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

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

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, 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 Tara A. LeBlanc, Bureau of Health Services Financing, P.O. Box 91030 Baton Rouge, LA 70821-9030. Ms. LeBlanc is responsible for responding to this proposed Rule. The deadline for submitting written comments is at close of business, 4:30 p.m., on April 29, 2021.

Public Hearing

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on April 9, 2021. If the criteria set forth in R.S. 49:953(A)(2)(a) are

satisfied, LDH will conduct a public hearing at 9:30 a.m. on April 29, 2021 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after April 9, 2021. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage, which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Dr. Courtney N. Phillips
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Medicaid Eligibility Twelve-Month Continuous Eligibility

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 21-22. It is anticipated that \$540 (\$270 SGF and \$270 FED) will be expended in FY 21-22 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will have no effect on revenue collections other than the federal share of the promulgation costs for FY 21-22. It is anticipated that \$270 will be collected in FY 21-22 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule amends the provisions governing eligibility for the Medical Assistance Program to update the list of recipients under age 19 for whom twelve months of continuous eligibility is not available in order to align the exceptions in the administrative Rule with those currently used for Medicaid eligibility determinations. This proposed Rule revises the language in the Louisiana Administrative Code to identify the recipients who are currently ineligible for twelve months of continuous coverage under the Medicaid program, but does not change the reimbursement policy or payment methodology, nor does it change who is eligible for Medicaid coverage or the extent of that eligibility; therefore, it is anticipated that implementation will not result in costs or benefits to Medicaid providers or small businesses in FY 21-22, FY 22-23 and FY 23-24.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This Rule has no known effect on competition and employment.

Tara A. LeBlanc
Interim Medicaid Director
2103#041

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

School-Based Health Services
(LAC 50:XV.Chapter 95)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:XV.Chapter 95 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. The 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 school-based health services in order to add language to the *Louisiana Administrative Code* detailing the requirements for cost settlement, filing and submitting cost reports, penalties for late submissions, required documentation and reimbursement, and describe the process for random moment time studies.

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 A. School-Based Medicaid Medical Direct Services

§9501. General Provisions

A. EPSDT school-based medical services are provided pursuant to an individualized service plan (IEP), a section 504 accommodation plan, an individualized health care plan, or are otherwise medically necessary services provided by a licensed medical provider (physician, optometrist, respiratory therapist, registered nurse, licensed practical nurse, dentist, and dental hygienist) within a local education agency (LEA). The goal of these services is to prevent or mitigate disease, enhance care coordination, and reduce costs by preventing the need for tertiary care. Providing these services in the school increases access to health care for children and youth resulting in a more efficient and effective delivery of care.

B. All participating LEAs are required to maintain an active status with Medicaid. Should an LEA's Medicaid provider number become inactive or one LEA from a group that shares a tax identification becomes inactive, it may cause the entire cost report to be denied and the cost settlement forfeited.

C. All medical service providers providing school-based medical services are required to maintain an active license that is necessary for the applicable service within the state of Louisiana.

D. School-based medical services shall be covered for all recipients in the school system who are eligible according to Subsection A above.

E. Effective for the fiscal year ended June 30, 2021 cost report year, the individual cost settlement amounts for each program (therapy services, behavioral health services, nursing services, personal care services and other medical direct services) will be combined into one cost settlement for

the LEA. Settlement letters will be sent to the LEA with the individual final cost reports for its records. Medicaid administrative claiming (MAC) cost reports are derived by using the MAC-related time study results and cost related to each of the EPSDT programs. All costs will have been certified by the LEA with the EPSDT cost report, so no additional signatures or certifications are required for MAC. Therefore, MAC cost reports shall remain separate.

F. LEAs that terminate business must notify the Louisiana Medicaid fiscal intermediary, immediately. Instructions will need to be provided to Department of Health/Rate Setting and Audit and/or Department of Education as to the final disposition of cost settlements and previous dollars owed to or from Louisiana Medicaid.

1. For LEAs that transfer to new management companies and owe the department, the new owners shall assume all obligations of repayment for the new LEA. Overpayments will be recouped from future earnings of the new management company.

2. For separating LEAs that are owed reimbursements, the department will cut a supplemental check to the LEA or the new management company. However, failure to provide instructions to the department within 10 days of closure may result in forfeiture of payment.

G. Dollars owed will be assessed to all future cost settlements for the LEA and will be applied to the earliest cost report year with an overpayment. For example, if an LEA has an overpayment for nursing services and an amount due to them for therapy services, the payment for therapy services will be applied to the LEA's overpayment for the nursing services. The net balance from this offset will:

1. be used to offset overpayments in other periods (from oldest period moving forward to the current period);
2. create a net overpayment that will be carried forward and offset against future billings and/or payments; and
3. be remitted to the LEA.

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 39:2760 (October 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 42:1298 (August 2016), LR 45:561 (April 2019), LR 47:

§9503. Covered Services

A. The following school-based medical services shall be covered.

1. Chronic Medical Condition Management and Care Coordination. This is care based on one of the following criteria.

a. The child has a chronic medical condition or disability requiring implementation of a health plan/protocol (e.g., children with asthma, diabetes, or cerebral palsy). There must be a written health care plan based on a health assessment performed by the medical services provider. The date of the completion of the plan and the name of the person completing the plan must be included in the written plan. Each health care service required and the schedule for its provision must be described in the plan.

b. ...

c. Implementation of Physician's Orders. These services shall only be provided as a result of receipt of a written plan of care from the child's physician or included in

the student's IEP, IHP, 504 plan, or are otherwise medically necessary for students with disabilities.

2. - 4.a. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:2760 (October 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 45:562 (April 2019), LR 47:

§9505. Reimbursement Methodology

A. Payment for EPSDT school-based medical services shall be based on the most recent school year's actual costs as determined by desk review and/or audit for each LEA provider.

1. ...

2. Direct costs shall be limited to the amount of total compensation (salaries, vendor payments and fringe benefits) of current medical service providers as allocated to medical services for Medicaid recipients. The direct costs related to the electronic health record shall be added to the compensation costs to arrive at the total direct costs for medical services. There are no additional direct costs included in the rate.

3. Indirect costs shall be derived by multiplying the cognizant agency indirect cost unrestricted rate assigned by the Department of Education to each LEA by the allowable costs. There are no additional indirect costs included.

4. To determine the amount of medical services costs that may be attributed to Medicaid; the ratio of total Medicaid students in the LEA to all students in the LEA is multiplied by total direct cost. Cost data are subject to certification by each LEA. This serves as the basis for obtaining federal Medicaid funding.

B. For the medical services, the participating LEA's actual cost of providing the services shall be claimed for Medicaid federal financial participation (FFP) based on the following methodology.

1. - 2. ...

3. Adjust the Payroll Cost Base. The payroll cost base shall be reduced for amounts reimbursed by other funding sources (e.g., federal grants). The payroll cost base shall not include any amounts for staff whose compensation is 100 percent reimbursed by a funding source other than state/local funds. This application results in total adjusted salary cost.

4. ...

a. A sufficient amount of medical service personnel's time shall be sampled to ensure results that will have a confidence level of at least 95 percent with a precision of plus or minus five percent overall.

b. Time study moments are to be completed and submitted by all participating LEA participants. Participants will have 48 hours from the time of the moment to complete each moment. Reminder emails will be sent to the participant and the Medicaid coordinator each morning until the moment expires. Once a time study moment has expired, it will no longer be able to be completed and will be deemed not returned. Any LEA that fails to return at least 85 percent of its moments from the time study for two quarters in a cost report year for any program, will be suspended from that program for the entire cost report year.

c. The time study percentage used for cost reimbursement calculation is an average of the four quarterly statewide time study results for each school based Medicaid program. LEAs must participate in all four time study quarters to be reimbursed all costs for the fiscal year. Any LEA that does not submit a cost report for any program for which any billings were submitted will be required to pay back any billing dollars received for that cost report year. This will be handled in the school based claiming cost settlement process.

5. Determine Indirect Costs. Indirect costs shall be determined by multiplying each LEA's indirect unrestricted rate assigned by the cognizant agency (the Department of Education) by total adjusted direct costs as determined under Paragraph B.3 above. No additional indirect costs shall be recognized outside of the cognizant agency's indirect rate. The sum of direct costs and indirect costs shall be the total direct service cost for all students receiving medical services.

6. Allocate Direct Service Costs to Medicaid. To determine the costs that may be attributed to Medicaid, total cost as determined under Paragraph B.5 above shall be multiplied by the ratio of Medicaid students in the LEA to all students in the LEA. This results in total cost that may be certified as Medicaid's portion of school-based medical services cost.

C. - D.2. ...

3. LEAs must bill for all Medicaid services provided. Medicaid eligibility will automatically terminate if there are no claim submissions within an 18 month period. Ineligible LEAs will have all interim claims denied and cost reports for all the programs in which the LEA participated may be rejected.

4. The department shall adjust the affected LEA's payments no less than annually, when any reconciliation or final settlement results in significant underpayments or overpayments to any LEA. By performing the reconciliation and final settlement process, there shall be no instances where total Medicaid payments for services exceed 100 percent of actual, certified expenditures for providing LEA services for each LEA.

a. - c. Repealed.

5. If the interim payments exceed the actual, certified costs of an LEA's Medicaid services, the department shall recoup the overpayment in one of the following methods:

a. offset all future claim payments from the affected LEA until the amount of the overpayment is recovered;

b. recoup an agreed upon percentage from future claims payments to the LEA to ensure recovery of the overpayment within one year; or

c. recoup an agreed upon dollar amount from future claims payments to the LEA to ensure recovery of the overpayment within one year.

6. If the actual certified costs of an LEA's Medicaid services exceed interim Medicaid payments, the department will pay this difference to the LEA in accordance with the final actual certification agreement.

7. Cost reports must be submitted annually. The due date for filing annual cost reports is November 30. There shall be no automatic extension of the due date for filing of

cost reports. If an LEA experiences unavoidable difficulties in preparing its cost report by the prescribed due date, one 30-day extension may be permitted, upon written request submitted to the department prior to the due date. The request must explain in detail why the extension is necessary. Extensions beyond 30 days may be approved for situations beyond the LEA's control. Cost reports that have not been received by the due date will be deemed non-compliant and may be subject to a non-refundable reduction of 5 percent of the total cost settlement. This reduction may be increased an additional 5 percent each month until the completed cost report is submitted or the penalties total 100 percent. LEAs that have not filed their cost report by six months or more beyond the due date cannot bill for services until the cost report is filed.

8. Type 1 and 3 charter schools in Orleans Parish will be required to submit acceptable documentation (board minutes, letter from the school board, etc.) that authorizes the charter to act as its own LEA, upon enrollment. Likewise, in order to receive a cost settlement, confirmation that the authorization is still in good standing with the school board will be required to accompany the submission of the cost report. Failure to provide this documentation at the time the cost report is filed may cause the cost report to be rejected and not be considered as timely filed.

9. Vendors will be reimbursed based on a rate per service. This rate shall include all of the vendor's direct and indirect costs. This service rate should cover the time spent providing the direct service, administrative time and any other time related to tasks related to that service. Vendors will not be subject to the time study process due to them only being at a school to provide the direct services enumerated in the contract. Vendors will not be expected to perform any additional general and administrative (G and A) tasks for the LEA.

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 39:2761 (October 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 45:562 (April 2019), LR 47:

Subchapter B. School-Based EPSDT Transportation Services

§9511. General Provisions

A. A special transportation trip is only billable to Medicaid on the same day that a Medicaid-eligible child is receiving IDEA services included in the child's individualized service plan (IEP), a section 504 accommodation plan, an individualized health care plan (IHP), or are otherwise medically necessary and the transportation is provided in a vehicle that is part of special transportation in the LEA's annual financial report certified and submitted to the Department of Education. The need for transportation must be documented in the child's IEP, IHP, 504 plan, or are otherwise medically necessary.

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, Bureau of Health Services Financing, LR 45:563 (April 2019), amended LR 47:

Subchapter C. School-Based Medicaid Personal Care Services

§9521. General Provisions

A. EPSDT school-based personal care services (PCS) are provided by a personal care assistant pursuant to an individualized service plan (IEP), a section 504 accommodation plan, an individualized health care plan, or are otherwise medically necessary within a local education agency (LEA).

B. School-based personal care services shall be covered for all Medicaid recipients in the school system.

C. Personal care services must meet medical necessity criteria.

D. Early and periodic screening, diagnosis, and treatment personal care services must be prescribed by a licensed practitioner within the scope of their practice initially and every 180 days thereafter (or rolling six months) and when changes in the plan of care occur.

E. 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, Bureau of Health Services Financing, LR 45:564 (April 2019), amended LR 47:

§9523. Covered Services

A. The following school-based personal care services shall be covered:

1. basic personal care, toileting, diapering, and grooming activities;
2. assistance with bladder and/or bowel requirements or problems, including helping the child to and from the bathroom, but excluding catheterization;
3. assistance with eating and food, nutrition, and diet activities;
4. accompanying, but not transporting, the recipient to and from his/her physician and/or medical facility for necessary medical services; and

EXAMPLES: Repealed.

5. provides assistance with transfers, positioning and repositioning.

B. Documentation for EPSDTPCS provided shall include, at a minimum, the following:

1. daily notes by PCS provider denoting date of service;
2. services provided;
3. total number of hours worked;
4. time period worked;
5. condition of recipient;
6. service provision difficulties;
7. justification for not providing scheduled services;

and

8. any other pertinent information.

C. There must be a clear audit trail between:

1. the prescribing physician;
2. the local education agency;
3. the individual providing the personal care services to the recipient; and
4. the services provided and reimbursed by Medicaid.

C.5 - D.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, Bureau of Health Services Financing, LR 45:565 (April 2019), amended LR 47:

§9525. Reimbursement Methodology

A. - A.4. ...

B. For the personal care services, the participating LEAs' actual cost of providing the services shall be claimed for Medicaid federal financial participation (FFP) based on the following methodology:

B. - D.5. ...

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 45:565 (April 2019), amended LR 47:

Subchapter D. School-Based Therapy Services

§9531. General Provisions

A. EPSDT school-based therapy services are provided pursuant to an individualized education plan (IEP), a section 504 accommodation plan, an individualized health care plan, or are otherwise medically necessary within a local education agency (LEA). School-based services include physical therapy, occupational therapy and other services, including services provided by audiologists and services for individuals with speech, hearing and language disorders, performed by, or under the direction of, providers who meet the qualifications set forth in the speech language pathologist licensing requirement.

B. Professionals providing school-based therapy services are required to meet the requirements of licensure for their discipline according to the state of Louisiana.

C. Licensed master social workers practicing under the supervision of a licensed clinical social worker; and certified school psychologists practicing under the supervision of a licensed psychologist that has the authority to practice in the community/outside of schools will be required to show proof of verification when the cost report is monitored.

D. School-based services shall be covered for all recipients who are eligible for EPSDT in accordance with §9501.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, Bureau of Health Services Financing, LR 45:566 (April 2019), amended LR 46:343 (March 2020), LR 47:

§9533. Covered Services

A. The following school-based therapy services shall be covered:

1. - 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, Bureau of Health Services Financing, LR 45:566 (April 2019), amended by the Department of Health, Bureau of Health Services Financing, LR 46:343 (March 2020), LR 47:

§9535. Reimbursement Methodology

A. - D.4.a ...

b. Time study moments participation will be handled in accordance with §9505.B.4.b.

D.5. - F.2. ...

3. LEAMedicaid ineligibility will be handled in accordance with §9505.D.3.

4. The department shall adjust the affected LEA's payments no less than annually, when any reconciliation or final settlement results in significant underpayments or overpayments to any LEA. By performing the reconciliation and final settlement process, there shall be no instances where total Medicaid payments for services exceed 100 percent of actual, certified expenditures for providing LEA services for each LEA.

a. - c. Repealed.

5. If the interim payments exceed the actual certified costs of an LEA's Medicaid services the department shall recoup the overpayment in one of the following methods:

a. offset all future claim payments from the affected LEA until the amount of the overpayment is recovered;

b. recoup an agreed upon percentage from future claims payments to the LEA to ensure recovery of the overpayment within one year; or

c. recoup an agreed upon dollar amount from future claims payments to the LEA to ensure recovery of the overpayment within one year.

6. If the actual certified costs of an LEA's Medicaid services exceed interim Medicaid payments, the department will pay this difference to the LEA in accordance with the final actual certification agreement.

7. Cost report compliance will be handled in accordance with Section 9505.D.7.

8. Vendors' reimbursement will be handled in accordance with §9505.D.9.

9. Type 1 and 3 charter schools in Orleans Parish will be handled in accordance with §9505.D.8.

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 45:567 (April 2019), amended by the Department of Health, Bureau of Health Services Financing, LR 46:343 (March 2020), LR 47:

Subchapter E. School-Based Applied Behavior Analysis-Based Services

§9541. General Provisions

A. ...

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 or medical need documentation.

C. - 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, Bureau of Health Services Financing, LR 46:185 (February 2020), amended LR 47:

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

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that

this proposed Rule will have no impact on family functioning, stability 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 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 Tara A. LeBlanc, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821—9030. Ms. LeBlanc is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on April 29, 2021.

Public Hearing

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on April 9, 2021. If the criteria set forth in R.S.49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on April 29, 2021 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225)342-1342 after April 9, 2021. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Dr. Courtney N. Phillips
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: School-Based Health 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 20-21. It is anticipated that \$2,376 (\$1,188 SGF and \$1,188 FED) will be expended in FY 20-21 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 20-21. It is anticipated that \$1,188 will be collected in FY 20-21 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 health services in order to add language to the Louisiana Administrative Code detailing the requirements for cost settlement, filing and submitting cost reports, penalties for late submissions, required documentation and reimbursement, and describing the process for random moment time studies. This proposed Rule merges the settlement letters to the Local Education Agencies (LEAs) from multiple to a single letter. This is only communication with the LEA on the amount of their payment for all services. There is no impact to the LEAs. This proposed Rule also implements a non-refundable penalty for LEAs that fail to submit cost reports timely. It is anticipated that the implementation of this proposed Rule will not result in costs for FY 20-21, FY 21-22, and FY 22-23, but may result in decreased payments to LEAs that are assessed a penalty for submitting late cost reports.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
This rule has no known effect on competition and employment.

Tara A. LeBlanc
Interim Medicaid Director
2103#042

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Office of Public Health

Automated External Defibrillators
(LAC 48:I.Chapter 61)

Under the authority of R.S. 36:254(B)(7) and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Louisiana Department of Health, Office of Public Health (LDH-OPH) intends to amend Chapter 61 (Automated External Defibrillators) of Subpart 3 (Licensing and Certification) of Part I (General Administration) of Title 48 (Public Health—

General) of the Louisiana Administrative Code (LAC). The proposed amendments are necessary to update the LAC to match the amended R.S. 40:1137.3.

In 2016, R.S. 40:1137.3 was amended to no longer require any person or entity which possesses an Automated External Defibrillator (AED) to notify the Bureau of Emergency Medical Services in LDH-OPH. As of 2016, it is required that such notification be made only to a local provider of emergency medical services, such as 911 service, local ambulance service, or the fire department of the acquisition, location, and type of AED.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 61. Automated External Defibrillators

§6101. Purpose and Definitions

A. Purpose. These rules establish standards for the maintenance of automated external defibrillators for the owner of or the entity responsible for a physical fitness facility, any institution of higher education that competes in intercollegiate athletics, and any high school that possesses an automated external defibrillator.

B. Definitions. The Louisiana Department of Health, Office of Public Health (LDH-OPH), Bureau of Emergency Medical Services (BEMS), in the exercise of its regulatory authority, defines the following words and terms applicable to this Chapter.

Athletic Department—the division or department of an institution of higher education, including colleges, universities, or community colleges, which schedules and competes in intercollegiate athletics.

Automated External Defibrillator (AED)—a medical device heart monitor and defibrillator that:

a. has received approval of its pre-market notification filed pursuant to 21 U.S.C. 360(k) from the United States Food and Drug Administration;

b. is capable of recognizing the presence or absence of ventricular fibrillation or rapid ventricular tachycardia and is capable of determining whether defibrillation should be performed;

c. upon determining that defibrillation should be performed, the AED automatically charges and requests delivery of an electrical impulse to an individual's heart;

d. is capable of delivering the electrical impulse to an individual's heart; and

e. pediatric AED capabilities are required.

Bureau—the LDH-OPH, BEMS.

Cardiopulmonary Resuscitation (CPR)—the process of providing oxygen while circulating blood to a patient in cardiopulmonary arrest usually, but not exclusively, in a combination of mouth-to-mouth breaths with external chest compressions.

Certification—adult and pediatric expected CPR providers and expected AED users who have been certified after successful completion of an adult and pediatric CPR and AED course recognized by a nationally recognized organization or association such as the American Heart Association (AHA), the American Red Cross (ARC), the National Safety Council and the Emergency Medical

Physicians of America, or the equivalent cardiopulmonary resuscitation certification that has been approved by the Louisiana Department of Health.

* * *

Health Club—Repealed.

Physical Fitness Facility—a facility for profit or nonprofit with a membership of over 50 persons that offers physical fitness services. This includes but is not limited to clubs, studios, health spas, weight control centers, clinics, figure salons, tanning centers, athletic or sport clubs, and YWCA and YMCA organizations.

* * *

Sudden Cardiac Arrest—a medical emergency where a person is unconscious, not breathing and has no pulse.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:258(B) and R.S. 40:1137.3(F).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Bureau of Emergency Medical Services, LR 38:2928 (November 2012), amended by the Department of Health, Office of Public Health, Bureau of Emergency Medical Services, LR 47:

§6103. General Provisions

A. Possessor's Program

1. The possessor's responsibility and requirements are as follows.

a. The AED must be maintained and tested according to the manufacturer's guidelines; in accordance with state and federal rules and policies, including review of product warranty expirations for AED machine, pads and batteries.

b. A licensed physician or advanced practice registered nurse in the state of Louisiana who is authorized to prescribe in the state of Louisiana must be involved in the possessor's program to ensure compliance with the requirements for training, emergency medical services (EMS) notification, and maintenance.

c. Expected AED users regularly, on the premises of a particular entity, such as a work site or users, who carry an AED in a private security patrol vehicle, must receive appropriate training in CPR and in the use of an AED by the American Heart Association, American Red Cross, or the equivalent cardiopulmonary resuscitation certification that has been approved by LDH.

d. The local provider of emergency medical services (EMS) (such as a 911 service, local ambulance service, or fire department) must be activated by the possessor as soon as possible when an individual renders emergency care to an individual in cardiac arrest by using CPR or an AED. It is the responsibility of the individual rendering the emergency care to activate the local EMS provider.

e. Any clinical use of the AED is reported to the licensed physician or advanced practice registered nurse involved in the possessor's program.

2. Every possessor shall notify a local provider of emergency medical services, such as a 911 service, local ambulance service, or fire department of the acquisition, location and type of AED.

3. Any manufacturer, wholesale supplier, or retailer of an AED must notify purchasers of AED's intended for use in the state of Louisiana of the requirements of R.S. 40:1137.3.

4. The owner of or the entity responsible for either a physical fitness facility or a physical fitness center, must keep an AED on its premises.

5. Any institution of higher education that competes in intercollegiate athletics must have an AED on its premises in its athletic department, with posters approved by AHA/ARC on how to safely perform CPR and use the AED. The AED must be placed in open view within 2 feet of a telephone to readily enable a call to 911 from within the athletic department. It must also be placed in an area with easy access to coaches and athletic personnel where athletes are training and/or competing.

6. Each high school must have an AED on its premises, if funding is available, subject to appropriation. Per R.S. 40:1137.3(E)(2), each high school is authorized to accept donations of AEDs or funds to acquire AEDs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1137.3(F).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Bureau of Emergency Medical Services, LR 38:2929 (November 2012), amended by the Department of Health, Office of Public Health, Bureau of Emergency Medical Services, LR 47:

§6105. Required Plan and Review of Use/Penalties

A. Plan and Usage Review

1. A written CPR/AED protocol or plan must exist for use in a sudden cardiac arrest (SCA) occurring at a physical fitness facility or a physical fitness center.

2. Every event in which an AED is used in a physical fitness facility or physical fitness center must be reviewed by the medical oversight of the possessor, in accordance with the CPR/AED protocol/plan and further determine if the CPR/AED protocol or plan should be modified. The review of use by medical oversight shall be privileged and confidential.

B. Failure to Possess Required AED

1. The BEMS shall inspect the premises in response to a complaint which specifies the name, address and telephone number of the alleged violator filed with the BEMS alleging a violation of R.S. 40:1137.3(D) or (E). The BEMS may inspect facilities or premises at other times to ensure compliance with this Rule.

a. If a physical fitness facility, physical fitness center, collegiate athletic department or appropriately funded high school violates this rule by failing to have on the premises an accessible and operational AED or to adopt or implement a plan for responding to medical emergencies as required by this Chapter, then the following actions, inclusive of the issuance of assessing monetary penalties on a per violation basis, is hereby authorized.

i. Voluntary Compliance Effort.

(a). The BEMS or its designee shall issue to a physical fitness facility, athletic department or appropriately funded high school a written administrative warning without monetary penalty upon determining that an initial violation of either of the requirements in this Subparagraph exists. The written notification of violation shall state that the physical fitness facility, athletic department or high school will be provided with a 30-day grace period from the date of the violation determination to voluntarily comply.

ii. Mandatory Compliance Penalties.

(a). at least \$100 but less than \$150 per violation upon determination that one or more violations continues to exist after the 30-day voluntary compliance grace period has expired;

(b). at least \$150 but less than \$200 per violation upon determination that one or more violations continues to exist for the third or subsequent times; and

(c). upon determination that a fourth violation exists, the BEMS or its designee may report said violations to the Louisiana attorney general's office or other governing authorities requesting issuance of further warning and/or the institution of judicial enforcement procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1137.3(F).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Bureau of Emergency Medical Services, LR 38:2930 (November 2012), amended by the Department of Health, Office of Public Health, Bureau of Emergency Medical Services, LR 47:

Family Impact Statement

The proposed Rule should not have any known or foreseeable impact on family formation, stability, and autonomy. In particular, the proposed Rule has no known or foreseeable impact on:

1. the stability of the family;
2. the authority and rights of persons regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

The proposed Rule should not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973(B). In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

The proposed Rule should have no adverse impact on small businesses as defined in the Small Business Protection Act.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the 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 on the proposed Rule. Such comments must be received no later than Thursday, April 8, 2021 at COB, 4:30 pm, and should be addressed to Allen Enger, LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629.

Public Hearing

Interested persons may submit a written request to conduct a public hearing either by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on Thursday, April 8, 2021. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9 am on Tuesday, April 27, 2021, in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after Thursday, April 8, 2021. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to the Bienville Building's front security desk.

Dr. Courtney N. Phillips
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Automated External Defibrillators**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This change to the reporting requirements for any person or entity which possesses an AED, will not have a financial impact on any state or local governmental units. Any person or entity which possess an AED will only be required to notify a local provider of emergency medical services, and will no longer be required to notify BEMS in LDH-OPH. It is estimated that it will cost the Office of Public Health \$365.14 to publish the Notice of Intent and Final Rule in the *Louisiana Register*.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated impact on revenue collections of state or governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule has no anticipated financial or economic impact on directly affected persons, small businesses, or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule has no anticipated financial or economic impact on competition and employment.

Kimberley Hood, JD, MPH
Assistant Secretary
2103#037

Alan M Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health
Office of Public Health**

**Mandatory Tuberculosis (TB) Testing
(LAC 51:II.503 and 505)**

Under the authority of R.S. 40:4(A)(2) and R.S. 40:5, and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the state health officer, acting through the Louisiana Department of Health, Office of Public Health (LDH-OPH), intends to enact and amend Sections 503 and 505 of Chapter 5 (Health Examinations for Employees, Volunteers and Patients at Certain Medical Facilities) of Part II (The Control of Diseases) of Title 51 (Public Health—Sanitary Code) of the Louisiana Administrative Code (LAC). Following guidance from the Centers for Disease Control and Prevention (CDC), as well as data monitored by LDH-OPH's Tuberculosis (TB) Control Program, this proposed rule eliminates the current requirement for annual TB testing for most employees, students or volunteers at any medical or 24-hour residential facility requiring licensing by the Louisiana Department of Health (LDH), or at any LDH-OPH parish health unit or an LDH-OPH out-patient health care facility. In lieu of annual TB testing for these persons, the rule proposes to require that certain educational materials be provided to these persons annually.

For the reasons set forth above, the following amendments to LAC 51 are proposed to be adopted.

**Title 51
PUBLIC HEALTH—SANITARY CODE
Part II. The Control of Diseases
Chapter 5. Health Examinations for Employees,
Students, Volunteers and Patients at
Certain Medical Facilities**

§503. Mandatory Tuberculosis Testing

A. [formerly paragraph 2:022] All persons, including employees, students or volunteers, having no history of latent tuberculosis infection or tuberculosis disease, prior to or at the time of employment, beginning clinical rotations in the healthcare profession, or volunteering at any hospital or nursing home (as defined in Parts XIX and XX of the Sanitary Code, respectively, herein, and including intermediate care facilities for the developmentally disabled) requiring licensing by the Louisiana Department of Health or at any Louisiana Department of Health, Office of Public Health (LDH-OPH) parish health unit or an LDH-OPH out-patient health care facility, whose duties include direct

patient care, shall be free of tuberculosis in a communicable state as evidenced by either:

1. a negative purified protein derivative skin test for tuberculosis, 5 tuberculin unit strength, given by the Mantoux method or a blood assay for *Mycobacterium tuberculosis* approved by the United States Food and Drug Administration;

2. a normal chest X-ray, if the skin test or a blood assay for *Mycobacterium tuberculosis* approved by the United States Food and Drug Administration is positive; or

3. ...

B. [formerly paragraph 2:023] Any employee, student or volunteer at any medical or 24-hour residential facility requiring licensing by the Louisiana Department of Health or at any LDH-OPH parish health unit or an LDH-OPH out-patient health care facility who has a positive purified protein derivative skin test for tuberculosis, 5 tuberculin unit strength, given by the Mantoux method, or a positive blood assay for *Mycobacterium tuberculosis* approved by the United States Food and Drug Administration; or a chest X-ray other than normal, in order to remain employed, remain in clinical rotations, or continue work as a volunteer, shall complete an adequate course of medical treatment for tuberculosis as prescribed by a Louisiana licensed physician, or shall present a signed statement from a Louisiana licensed physician stating that medical treatment for tuberculosis is not indicated.

C. [formerly paragraph 2:024] All persons with a history of latent tuberculosis infection or tuberculosis disease prior to or at the time of employment, including employment as a student in clinical rotations, or volunteering at any medical or 24-hour residential facility requiring licensing by the LDH, at any hospital or nursing home (as defined in Parts XIX and XX of the Sanitary Code, respectively, herein, and including intermediate care facilities for the developmentally disabled) requiring licensing by the LDH, at any LDH-OPH parish health unit, or at any LDH-OPH out-patient health care facility, whose duties include direct patient care, must present a statement from a Louisiana licensed physician that he or she has been satisfactorily treated for tuberculosis and is non-infectious or, for persons with a history of untreated latent tuberculosis infection, a statement that he or she is non-infectious.

1. Further, for persons with a history of untreated latent tuberculosis infection an annual symptom screen shall be done, including, but not limited to, the following questions.

a. Do you have a productive cough that has lasted at least 3 weeks? (Yes or No)

b. Are you coughing up blood (hemoptysis)? (Yes or No)

c. Have you had unexplained weight loss recently? (Yes or No)

d. Have you had fever, chills, or night sweats for 3 or more days? (Yes or No)

2. Any employee, student, or volunteer with a history of untreated latent tuberculosis infection giving a positive response to any one of the questions under Paragraph 1 of this Subsection shall be referred to a physician for medical evaluation as soon as possible.

3. All initial screening test results and all follow-up screening test results shall be kept in each employee's, student's, or volunteer's health record or facility's personnel record.

D. Annually, but no sooner than 6 months since last receiving tuberculosis educational information (more fully described at the end of this sentence) or symptom screening, all employees, students in the healthcare professions, or volunteers at any medical or 24-hour residential facility requiring licensing by LDH or at any hospital or nursing home (as defined in Parts XIX and XX of the Sanitary Code, respectively, herein, and including intermediate care facilities for the developmentally disabled) requiring licensing by the LDH or at any LDH-OPH parish health unit or and LDH-OPH out-patient health care facility shall receive, at a minimum, educational information explaining the health concerns, signs, symptoms, and risks of tuberculosis.

E. [formerly paragraph 2:033] All persons with acquired immunodeficiency syndrome (AIDS) or known to be infected with the human immunodeficiency virus (HIV), in the process of receiving medical treatment related to such condition, shall be screened for tuberculosis, with screening to include a chest X-ray. Sputum smear and culture shall be done if the chest X-ray is abnormal or if the patient exhibits symptoms of tuberculosis disease. Screening for tuberculosis shall be repeated as medically indicated.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(2) and R.S. 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1220 (June 2002), amended LR 32:98 (January 2006), LR 33:93 (January 2007), LR 37:598 (February 2011), LR 40:1942 (October 2014), amended by the Department of Health, Office of Public Health, LR 47:

§505. Required Medical Examinations of All Persons Admitted to Nursing Homes and Residential Facilities

[formerly paragraph 2:026]

A. Any person (adult or child) admitted to any nursing home or other residential facility shall have a complete history and physical examination, including symptoms and signs of pulmonary tuberculosis, by a licensed physician within 30 days prior to or up to 72 hours after admission, except that any resident/patient who has complied with this provision shall be exempt from re-examination if transferred to another residential facility provided the record of examination is transferred to the new facility. This examination shall include laboratory tests as indicated by the history and physical examination. A United States Food and Drug Administration approved screening test for tuberculosis, *i.e.*, a purified protein derivative skin test for tuberculosis, 5 tuberculin unit strength, given by the Mantoux method or a blood assay for *Mycobacterium tuberculosis* shall be given to all residents/patients. A chest X-ray shall be given to all residents/patients whose screening test for tuberculosis is positive, or who have signs and/or symptoms of tuberculosis no more than 30 days prior to admission to any nursing home or other residential facility. If the skin test or a blood assay for *Mycobacterium tuberculosis* is not done prior to admission, it may be done

within 72 hours after admission and interpreted at the appropriate time. A repeat skin test or a blood assay for *Mycobacterium tuberculosis* is not required if the resident/patient has a chest X-ray with no abnormalities indicative of tuberculosis and has had a negative skin test or a blood assay for *Mycobacterium tuberculosis* approved by the United States Food and Drug Administration, documented within 1 year of admission or if the resident/patient has a previously documented positive skin test or a positive result of a blood assay for *Mycobacterium tuberculosis* and had a chest X-ray with no abnormalities indicative of tuberculosis. A record of the admission history, physical examination, purified protein derivative skin test for tuberculosis, 5 tuberculin unit strength, given by the Mantoux method, or a blood assay for *Mycobacterium tuberculosis* approved by the United States Food and Drug Administration, chest X-ray, and any other laboratory tests shall be a part of the permanent record of each resident/patient. No resident/patient with evidence of active tuberculosis shall be admitted unless the examining physician states that the resident/patient is on an effective drug regimen, is responding to treatment, and presents no imminent danger to other residents/patients or employees, or unless the facility has been specifically approved by the LDH-OPH to house residents/patients with active tuberculosis. The approval by the LDH-OPH will include the provision that the nursing home or residential facility has a designated isolation (negative pressure) room.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(2) and R.S. 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1220 (June 2002), amended LR 33:94 (January 2007), LR 38:2928 (November 2012), amended by the Department of Health, Office of Public Health, LR 47:

Family Impact Statement

In accordance with Sections 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, amendment or repeal.

1. Will the proposed rule affect the stability of the family? No; however, the identification of a family member found to be positive for TB will assist in maintaining the stability of the family because that particular family member could then seek treatment and/or isolation from other family members.

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; however, the proposed rule will help to maintain the health of all family members and this will allow for the family to continue to function as normal.

4. Will the proposed rule affect family earnings and family budget? No; however, keeping family members healthy will ensure their ability to continue working and maintaining the family budget.

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

6. Is the family or a local government able to perform the function as contained the proposed rule? A family is not able to perform the function contained in the proposed rule; however, a local governmental unit which owns or operates a medical or 24-hour residential facility meeting the criteria specified in the proposed rule would be able to perform the function as contained in the rule.

Poverty Impact Statement

In accordance with Sections 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, amendment or repeal.

1. The effect on Household Income, Assets, and Financial Security. It is not expected that the proposed rule will have any effect on household income, assets, and financial security.

2. The effect on Early Childhood Development and Preschool through Postsecondary Education Development. It is not expected that the proposed rule will have any effect on early childhood development and preschool through postsecondary education development.

3. The effect on Employment and Workforce Development. It is anticipated that the amended rule will have a positive effect on employment and workforce development, as the amended rule eliminates the requirement for annual TB testing for most employees, students, and volunteers.

4. The effect on Taxes and Tax Credits. It is not expected that the proposed rule will have any effect on taxes and tax credits.

5. The effect on Child and Dependent Care, Housing, Health Care, Nutrition, Transportation, and Utilities Assistance. It is not expected that the proposed rule will have any effects on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

In accordance with Sections 978.1 through 978.8 of the Small Business Protection Act of Title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a regulatory flexibility analysis/small business analysis on the rule proposed for adoption, amendment or repeal.

The impact of the proposed Rule on small businesses as defined in the Small Business Protection Act has been considered. The Office of Public Health's TB Control Program does not expect that adoption of the proposed amendments will have an adverse economic impact on small businesses.

Provider Impact Statement

The proposed Rule should have a positive impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. Per HCR 170, "provider" means an organization that provides services for individuals with developmental disabilities. In particular, there should be a positive effect associated with no longer having the responsibility to enforce annual TB testing for all employees, students, and volunteers, as attested to by:

1. staffing level requirements or qualifications required to provide the same level of service;

2. total direct and indirect effect on the cost to the providers will decrease, since the cost allocated for testing

will be eliminated or reduced, as testing will no longer be required for all employees, students, or volunteers; and

3. overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments on the proposed Rule. Such comments must be received no later than Thursday, April 8, 2021 at COB, 4:30 p.m., and should be addressed to Allen Enger, LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629.

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 Thursday, April 8, 2021. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 10:00 a.m. on Tuesday, April 27, 2021, in Room 173 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after April 8, 2021. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to the Bienville Building's front security desk.

Joseph Kanter, MD, MPH
State Health Officer
and
Dr. Courtney N. Phillips
LDH Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Mandatory Tuberculosis (TB) Testing

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This change to the employee testing requirement for any medical or 24-hour residential facilities requiring licensing by LDH, will result in a cost savings to any state or local government owned or operated hospital or nursing facility, LDH-OPH parish health unit and LDH-OPH out-patient health care facility. These facilities will no longer be required to perform blanket testing or screening of all of their employees for tuberculosis (TB) on an annual basis to comply with current TB testing requirements which exist in LAC 51:II.503.C. There is no way to quantify savings since each facility will now conduct individual risk assessments and test only those employees that they decide are at high risk for exposure to tuberculosis.

It is estimated that it will cost the Office of Public Health's Tuberculosis Control Program \$1,118 to publish the notice of intent and final rule in the *Louisiana Register*.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated impact on revenue collections of state or governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Affected persons, small businesses, and non-governmental groups which own or operate medical facilities, nursing homes, or long-term acute care facilities will no longer be required to perform blanket testing or screening of all of their employees annually for TB disease or infection. These types of facilities will no longer have to pay for the current amount of testing and staff time devoted to currently comply with the existing LAC 51:II.503.C.; however, there will be a cost to produce and provide educational materials on an annual basis to employees. It is anticipated that, overall, there will be an indeterminate economic benefit as compared to the current annual testing requirement.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no anticipated effects on competition or employment. However, adoption of the proposed rule may present an opportunity for interested parties to create and provide educational materials on behalf of those facilities which will be required to provide an annual educational program should this proposed rule become a final rule.

Kimberley L. Hood, JD, MPH
Assistant Secretary
2103#038

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Insurance Office of the Commissioner

Regulation 109—Producer, Adjuster and Related Licenses
(LAC 37:XIII.Chapter 155)

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 and 22:11 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby gives notice of its intent to amend Regulation 109—Producer, Adjuster and Related Licenses. Regulation 109 sets forth requirements and procedures for applying for and maintaining a license as an insurance producer, claims adjuster, public adjuster, insurance consultant and business entity acting as a producer. Regulation 109 also sets forth the time periods for expiration and renewal of insurance licenses. The purpose of the amendment to Regulation 109 is to update the renewal dates for insurance producer appointments pursuant to Acts 2019, No. 226 §1.

Title 37 INSURANCE

Part XIII. Regulations

Chapter 155. Regulation Number 109—Producer, Adjuster and Related Licenses

§15501. Purpose

A. Regulation 109 implements the provisions of Act 154, of the 2017 Regular Session of the Louisiana Legislature, specifically R.S. 22:821(B)(3) and 22:1546(B)(1)(a), in addition to 22:1547(C)(1), 22:255, 22:1545, 22:1554, 22:1558, 22:1563, 22:1671, 22:1694, 22:1808.8 and 22:1922 which provide for the licensing of insurance producers, claims adjusters, public adjusters, insurance consultants and business entities acting as producers. Regulation 109 implements the provisions of Act 226, of the 2019 Regular

Session of the Louisiana Legislature, specifically R.S. 22:821(B)(3)(b) which provides for renewal dates for insurance producer appointments.

B. - B.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:821(B)(3), 22:1546(B)(1)(a), 22:1547(C)(1), 22:255, 22:1545, 22:1550, 22:1554, 22:1558, 22:1678, 22:1708 22:1808.8 and 22:1922 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 44:68 (January 2018), amended LR 47:

§15517. Expiration of Producer Appointments

A. Individual insurance producer appointments shall expire on January 1 of each year. Business entity producer appointments shall expire on August 1 of each year. Appointments shall be renewed by payment of the renewal fee. The commissioner shall issue a renewal invoice for all active appointments to insurers at least 30 days prior to the appointment expiration date in a manner determined by the commissioner. Failure to timely pay the renewal fee invoice shall result in the expiration of the appointments.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:821(B)(3), 22:1546(B)(1)(a), 22:1547(C)(1), 22:255, 22:1545, 22:1550, 22:1554, 22:1558, 22:1678, 22:1708 and 22:1808.8 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 44:70 (January 2018), amended LR 47:

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.

6. Describe the Effect of the Proposed Regulation on the Ability of the Family or a Local Government to Perform the Function as Contained in the Rule. The proposed amended regulation should have no impact upon the ability of the family or a local governmental unit to perform the function as contained in the rule.

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.

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.

Provider Impact Statement

1. Describe the Effect on the Staffing Level Requirements or Qualifications Required to Provide the Same Level of Service. The proposed amended regulation will have no effect.

2. The Total Direct and Indirect Effect on the Cost to the Provider to Provide the Same Level of Service. The proposed amended regulation will have no effect.

3. The Overall Effect on the Ability of the Provider to Provide the Same Level of Service. The proposed amended regulation will have no effect.

Public Comments

Interested persons who wish to make comments may do so by writing to Jennifer Land, Staff Attorney, Louisiana Department of Insurance, P.O. Box 94214, Baton Rouge, LA

70804-9214, or by faxing comments to (225) 342-1632. Comments will be accepted through the close of business, 4:30 p.m., April 10, 2021.

James J. Donelon
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Regulation 109—Producer,
Adjuster and Related Licenses**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The proposed rule changes will not result in implementation costs or savings to state or local governmental units. The proposed rule changes Regulation 109 that set forth guidance on procedures for applying and maintaining a license as an insurance producer, claims adjuster, public adjuster, insurance consultant, and business entity acting as a producer. The proposed changes to Regulation 109, which was implemented by Acts 226 of the 2019 Regular Session, update the renewal dates for insurance producer appointments.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The proposed rule changes will have no impact on state or local governmental revenues.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
The proposed rule changes will have an impact on directly affected persons or non-governmental groups. The proposed rule changes update the renewal dates for insurance producer appointments. Insurance producer appointments shall expire on January 1st of each year and business entity producer appointments shall continue to expire on August 1st of each year. The Commissioner will issue an invoice at least 30 days prior to the appointment expiration date. Failure to timely pay the renewal fee invoice shall result in the expiration of the appointment.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The proposed rule changes will have no impact upon competition and employment in the state.

Denise Gardner
Chief of Staff
2103#016

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Insurance
Office of the Commissioner**

**Rule 14—Records Management; General
(LAC 37:XI.Chapter 25)**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, and through the authority granted under R.S. 22:1 et seq., and specifically R.S. 22:11, the Department of Insurance hereby gives notice of its intent to repeal Rule 14—Records Management; General. The Department of Insurance is repealing Rule 14 as all agencies in Louisiana are regulated as it relates to records management by Revised Statutes Title 44 Chapter 5 (R.S. 44:401 and following), and the guidance found in Rule 14 is obsolete.

**Title 37
INSURANCE
Part XI. Rules**

**Chapter 25. Rule Number 14—Records Management;
General**

§2501. Purpose

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:950 et seq.; R.S. 44:1 et seq., R.S. 22:1 et seq.; R.S. 22:2.1.A; R.S. 14:67; R.S. 14:132; and R.S. 9:2601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 29:42 (January 2003), repealed LR 47:

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

Interested persons who wish to make comments may do so by writing to Lisa Henson, Staff Attorney, Louisiana Department of Insurance, P.O. Box 94214, Baton Rouge, LA 70804-9214, or by faxing comments to (225) 342-1632. Comments will be accepted through the close of business, 4:30 p.m., April 10, 2021.

James J. Donelon
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: **Rule 14—Records Management; General**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes will not result in additional costs or savings for state or local governmental units. The rule revisions repeal Rule 14, which was originally implemented in 2003, as all agencies in Louisiana are regulated as it relates to records management by Revised Statutes Title 44 Chapter 5 (R.S. 44:401 and following).

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes will not affect revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change will not result in any costs and/or economic benefits to directly affected persons or non-governmental groups. The rule revisions repeal Rule 14, which was originally implemented in 2003, as all agencies in Louisiana are regulated as it relates to records management by Revised Statutes Title 44 Chapter 5 (La. R.S. 44:401 and following).

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes will not affect competition or employment.

Denise Gardner
Chief of Staff
2103#020

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Waterfowl Hunting Zones (LAC 76:V.319)

The Wildlife and Fisheries Commission does hereby give notice of its intent to repeal LAC 76:V.319.

In accordance with the federal process for promulgating waterfowl hunting regulations in 50 CFR 20 and as described in 85 FR 51854, states may change zones and splits for duck hunting every 5 years, currently for the 2021-2025 seasons. States are required to inform the U.S. Fish and Wildlife Service (USFWS) of any changes in zones and splits by May 1 of the prior year to provide sufficient time for federal approval and public comment periods before the state process for setting hunting regulations begins in January. The Louisiana Wildlife and Fisheries Commission (LWFC) considers changes to zones and splits for duck hunting in conjunction with the annual season-setting process every 5 years and conveys any changes to the USFWS by that May 1 deadline. After federal approval and public comment, zones and splits selections conveyed to the USFWS by LWFC are then published in the Federal Register as Final Rule. Consequently, LAC 76:V.319 is not necessary.

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent and the final Rule, including but not limited to, the filing of the Fiscal and Economic Impact Statement, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Title 76
WILDLIFE AND FISHERIES

Part V. Wild Quadrupeds and Wild Birds

Chapter 3. Wild Birds

§319. Waterfowl Hunting Zones

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 27:1062 (July 2001), repealed LR 47:

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 Rule will have no impact on poverty as described in R.S. 49:973.

Small Business Analysis

This proposed Rule has no known impact on small businesses as described in R.S. 49:965.2 through R.S. 49:965.8.

Provider Impact Statement

This proposed Rule has no known impact on providers as described in HCR 170 of 2014.

Public Comments

Interested persons may submit written comments relative to the proposed Rule to Larry Reynolds, P. O. Box 98000, Baton Rouge, LA, 70898, lreynolds@wlf.la.gov, no later than 4:30 p.m., Thursday, May 6, 2021.

Jerri G. Smitko
Chair

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

RULE TITLE: Waterfowl Hunting Zones

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will not impact state or local governmental unit expenditures. The proposed rule change removes language from Title 76 of the Louisiana Administrative Code that describes the waterfowl hunting zones for Louisiana.

The zones are already described in federal regulations. Their removal from the Louisiana Administrative Code will eliminate redundant bureaucratic language. Also, the proposed rule change will eliminate the need for the Louisiana Wildlife and Fisheries Commission (Commission) to amend the Administrative Code in the future when the zones and splits are revised.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will have no effect on revenue collections of state or local government.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change is not expected to impact the cost or benefits of any persons, small businesses, or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change is not anticipated to impact competition or employment.

Bryan McClinton
Undersecretary
2103#022

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

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Department of Children and Family Services Division of Child Welfare

Louisiana's 2021 Annual Progress and Services Report

The Department of Children and Family Services (DCFS) announces opportunities for public review of the state's 2021 Annual Progress and Services Report (APSR). The APSR is a report on the achievement of goals and objectives and/or outcomes for the last year of the 2020-2024 Child and Family Services Plan (CFSP). This plan addresses the use of Title IV-B, Subpart 1 and Subpart 2, Title IV-E Chafee Foster Care Independence Program (CFCIP), Educational and Training Vouchers (ETV), and Child Abuse Prevention and Treatment Act (CAPTA) funds and serves as the applications for additional funds from these federal sources.

Louisiana, through the DCFS, provides services that include child abuse prevention, child protective services, family services-prevention and intervention services, foster care, adoption and the youth transition services. The Department will use its allotted funds provided under the Social Security Act, Title IV-B, Subpart 1, entitled the Stephanie Tubbs Jones Child Welfare Services Program, to provide child welfare services to prevent child abuse and neglect, to prevent foster care placement, to reunite families, to arrange adoptions, and to ensure adequate foster care. Title IV-B, Subpart 2, entitled Promoting Safe and Stable Families, funds services to support families and prevent the need for foster care. The CFCIP funds services to assist foster children 15 years of age and older who are likely to remain in foster care until 18 years of age. Former foster care recipients who are 18 years of age who have aged out of foster care, and those who were adopted or entered guardianship at age 16 years of age or older, are also eligible for services. The services include basic living skills training and education and employment opportunities. The CAPTA funding is used to complement and support the overall mission of child welfare with emphasis on developing, strengthening, and carrying out child abuse and neglect prevention and treatment programs and to support Citizen Review Panels statewide.

The DCFS is encouraging public participation in the planning of services and the writing of this document. The report can be found for review on the internet at <http://www.dss.state.la.us/index.cfm?md=pagebuilder&tmp=home&pid=132> then by clicking on the 2020 APSR link. Inquiries and comments on the plan may be submitted in writing to the DCFS, Attention: Child Welfare Administrator, P. O. Box 3318, Baton Rouge, LA 70821. The deadline for receipt of written comments is May 6, 2021 at 4:00 p.m.

All interested persons will have the opportunity to provide comments and/or recommendations on the plan, orally or in writing, at a public hearing scheduled for May 6, 2021 at 10:00 a.m. Due to COVID-19, interested persons may join

via ZOOM: Join from PC, Mac, Linux, iOS or Android: <https://stateofladcfs.zoom.us/j/84508592691?pwd=UVZua3cvcGJjaTNRNys2aTBLVIFzZz09>, or telephone by dialing USA (713) 353-0212, conference code: 882585.

Individuals with disabilities who require special services should contact the DCFS Appeals Unit at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (Voice and TDD).

Marketa Garner Walters
Secretary

2103#026

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Department of Children and Family Services Division of Child Welfare

Social Services Block Grant Intended Use Report

The Department of Children and Family Services (DCFS) announces opportunities for public review of the state's pre-expenditure report on intended uses of Social Services Block Grant (SSBG) funds for the state fiscal year (SFY) beginning July 1, 2021, and ending June 30, 2022. The proposed SFY 2020-2021 SSBG intended use report has been developed in compliance with the requirements of section 2004 of the Social Security Act (SSA), as amended and includes information on the types of activities to be supported and the categories or characteristics of individuals to be served through use of the state's allocation of SSBG funds. Section 2004 of the SSA further requires that the SSBG pre-expenditure report shall be "made public within the state in such manner as to facilitate comment by any person." The DCFS, as the designated state department, will continue to administer programs funded under the SSBG in accordance with applicable statutory requirements and federal regulations. The DCFS, Child Welfare Section (CWS) will be responsible for provision of social services, by direct delivery and vendor purchase, through use of SFY 2020-2021 SSBG expenditures for adoption, child protection, family services, and foster care/residential care services.

Louisiana, through DCFS/CWS, will utilize its allotted funds to provide comprehensive social services on behalf of children and families in fulfillment of legislative mandates for child protection and child welfare programs. These mandated services, and certain other essential social services, are provided without regard to income (WRI) to individuals in need. Individuals to be served also include low-income persons as defined in the intended use report who meet eligibility criteria for services provided through SSBG funding.

Services designated for provision through SSBG funding for SFY 2021-2022 are:

A. adoption (pre-placement to termination of parental rights);

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Department of Economic Development
Office of Business Development

Public Hearing—Enterprise Zone Program
(LAC 13:I.Chapter 7)

B. child protective services including assessment, evaluation, social work intervention, shelter care, counseling and referrals for child abuse/neglect reports;

C. family services (social work intervention subsequent to validation of a report of child abuse/neglect, counseling to high risk groups);

D. foster care/residential care services (foster, residential care, and treatment on a 24-hour basis).

Definitions for the proposed services are set forth in the intended use report.

Persons eligible for SSBG funded services include:

A. persons WRI, who are in need of adoption services, child protection, family services, and foster care/residential services;

B. individuals WRI who are recipients of Title IV-E adoption assistance;

C. recipients of supplemental security income (SSI) and recipients of Temporary Assistance for Needy Families (TANF) and those persons whose needs were taken into account in determining the needs of TANF recipients;

D. low-income persons (income eligible) whose gross monthly income is not more than 125 percent of the poverty level. A family of four with gross monthly income of not more than \$2729 would qualify as income eligible for services;

E. persons receiving title XIX (Medicaid) benefits and certain Medicaid applicants identified in the proposed plan as eligible groups.

The post expenditure report for the SSBG program for SFY 2020 is included in the SSBG intended use report for SFY 2020-2021. Free copies are available by telephone request to (225) 342-5918 or by writing to the Administrator, Child Welfare Section, P.O. Box 3318, Baton Rouge, LA 70821.

The report is available for public review online at: <http://www.dss.state.la.us/index.cfm?md=pagebuilder&tmp=home&pid=131>, then select the 2020-2021 SSBG link. Inquiries and comments on the plan may be submitted in writing to the DCFS, Attention Administrator, P.O. Box 3318, Baton Rouge, LA 70821. The deadline for receipt of written comments is Thursday, May 6, 2021 at 4 p.m.

All interested persons will have the opportunity to provide comments and/or recommendations on the plan, orally or in writing, at a public hearing scheduled for Thursday, May 6, 2021 at 9:00 a.m. Due to COVID-19, interested persons may join via ZOOM: Join from PC, Mac, Linux, iOS or Android: <https://stateoflafdcs.zoom.us/j/87345027254?pwd=TkpHUFhTODVwajRTVHYwSjUwWUxXdz09>, or telephone by dialing USA (713) 353-0212, conference code: 882585. Individuals with disabilities who require special services should contact the DCFS Appeals Unit at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (voice and TDD).

Marketa Garner Walters
Secretary

2103#027

The Department of Economic Development intends to incorporate changes to the proposed amendments to the regulations regarding LAC 13: I. Chapter 7, Enterprise Zone Program, published as a Notice of Intent in the September 2020 issue of the *Louisiana Register*.

A public hearing was held pursuant to R.S. 49:953(A)(2) on November 20, 2020 and interested parties were invited to provide comment. After a thorough review and careful consideration of the received comments, the department proposes to amend the following portions of the proposed rule: §§701, 702, 703, 705, 717, 723, 725, 729 and 731. The redline changes are available for viewing on our website at www.opportunitylouisiana.com. No fiscal or economic impact will result from the amendments proposed in this notice.

Title 13

ECONOMIC DEVELOPMENT

Part I. Financial Incentive Programs

Chapter 7. Enterprise Zone Program

§701. General

A. - B ...

C. Effective date of Act 423 of the 2013 Regular Session

1. The provisions of Act 423 shall apply to advance notification filed on or after June 1, 2013 and prior to April 1, 2016.

D. Effective date of Act 18 of the 2016 First Extraordinary Session.

1. The provisions of Act 18 shall apply to advance notification filed on or after April 1, 2016, except as provided below.

a. A retail business, hotel or restaurant with an assigned NAICS Code of 44,45,721 or 722, which has no more than 50 employees nationwide including affiliates prior to the contract effective date, and which files or enters into an advance notification on or after July 1, 2020, and before December 31, 2021, shall be eligible to receive benefits. However, no such business shall be eligible to earn benefits pursuant to this section after June 30, 2023.

E. Effective date of the 2021 Enterprise Zone Program rule changes.

1. The provisions of the 2021 Enterprise Zone Program rule changes shall apply to advance notifications filed after the date of promulgation, detailed in the Louisiana Register published on (Month) 20, 2021, except for the provisions of §705 codifying current administrative practice, or unless otherwise stipulated by the Louisiana Legislature, in §701.C and D.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry,

Finance Division, LR 17:252 (March 1991), amended by Department of Economic Development, Office of Commerce and Industry, LR 22:446 (June 1996), amended by the Department of Economic Development, Office of Business Development, LR 29:2298 (November 2003), LR 37:2368 (August 2011), LR 40:490 (March 2014), LR 42:867 (June 2016), amended by the Department of Economic Development, Office of Business Development, LR 47:

§702. Eligibility criteria and available incentives

A. Eligibility

1. This program is available to a Louisiana business that will:

a. create jobs, create permanent full-time net new jobs that are at least equal to the lesser of:

i. five jobs, created within the first two years of the contract period; or

ii. the number of jobs equal to a minimum of 10 percent of the employees employed throughout the United States by the business and its affiliates, a minimum of one, created within the first year of the contract period;

iii. for good cause shown, the board may grant an extension of not more than two years to comply with the above job creation requirements;

b. hire from targeted groups:

i. a business located in an urban enterprise zone, or a business not located in either an enterprise zone, or economic development zone shall certify that at least 50 percent of the employees filling net new jobs are from one of the following target groups:

(a). residents: someone living in any enterprise zone in Louisiana;

(b). a person receiving an approved form of public assistance during the six months prior to employment;

(c). a person considered to be lacking in basic skills, i.e. performing below a ninth grade proficiency in reading, writing or mathematics;

(d). a person considered unemployable by traditional standards;

ii. a business located in a rural enterprise zone, an economic development zone, or an enterprise zone in Calcasieu Parish shall certify that at least 50 percent of the employees filling net new jobs are from one of the target groups identified above in §702 A.1.b.i or;

(a). a resident of the same parish as the project site.

2. The following businesses shall not be eligible to participate in the program:

a. businesses with gaming on site;

b. churches;

c. residential developments, including but not limited to the construction, selling, or leasing of single-family or multi-family dwellings, apartment buildings, condominiums or town houses;

d. employment agencies, with an assigned NAICS Code of 5613 and advance notifications filed on or after April 1, 2016.

3. The following businesses are subject to certain limitations and restrictions.

a. For a multi-tenant facility to be eligible for the benefits of this Chapter, the business must meet one of the following criteria:

i. occupy a minimum of 33 percent of the total floor area of the building;

ii. tenants are businesses new to the state;

iii. tenants are Louisiana businesses increasing their number of locations within the state by placing a new location within this facility;

iv. tenants are relocating within Louisiana and will generate the minimum of new job credits over and above the total jobs at their previous location.

b. Retail Establishments. No retail business with an NAICS code of 44, 45, or 722 is eligible to participate in the program unless:

i. an advance notification was filed on or after June 21, 2013 and before July 1, 2015:

(a). retail establishments that are assigned a North American industry classification code beginning with 44 or 45 and have more than 100 employees nationwide including affiliates prior to the contract effective date are not eligible to participate unless:

(i). the business is a grocery store or pharmacy as defined by LED; and

(ii). the business is located in an enterprise zone;

(b). however, if a retail establishment filed an advance prior to July 1, 2015, but did not enter into an EZ contract prior to July 1, 2015, it cannot claim EZ incentives until on or after July 1, 2016; or

ii. for retailers with no more than 50 employees nationwide including affiliates, an advance notification was filed on or after July 1, 2020 and before December 31, 2021. However, no such retail business shall be eligible to earn benefits after June 30, 2023.

c. Employment Agencies. No business with an NAICS code of 5613 is eligible to participate in the program unless it filed an advance notification prior to April 1, 2016.

d. Hotels. A business with an assigned NAICS Code of 721 shall be ineligible to receive benefits, unless:

i. an advance notification was filed prior to April 1, 2016; or

ii. for businesses with no more than 50 employees nationwide including affiliates, an advance notification was filed on or after July 1, 2020 and before December 31, 2021. However, no such business shall be eligible to earn benefits after June 30, 2023.

B. Available Incentives. The following incentives are available for Louisiana businesses meeting program eligibility criteria.

1. Job Tax Credit. A one-time tax credit for each net new job created, with the benefit amount to be calculated as follows:

a. for projects for which the advance notification form is filed prior to April 1, 2016 a one-time tax credit of \$2,500 for each net new job; or

b. for projects for which the advance notification form is filed on or after April 1, 2016 a one-time tax credit of \$1,000 for each net new job, unless the following conditions are met;

i. the net new employee for which the credit is being claimed was receiving Supplemental Nutrition Assistance Program (SNAP), Temporary Assistance for Needy Families (TANF), Women, Infants and Children (WIC), Medicaid, unemployment benefits, or any other benefits from a similar public assistance program as

determined by the department, during the six-month period prior to employment; or

ii. the net new employee is hired by a participating business located in an enterprise zone;

iii. the amount of the credit for each net new employee meeting these conditions shall be \$3,500 for each net new job; or

c. for a business in the aviation and aerospace industries as defined in the NAICS industries 336411, 336412, 336413 or 33291, a one-time tax credit of \$5,000 for each net new job;

d. in addition to the job tax credits provided for in this section, a one-time tax credit of \$2,500 for each recipient of temporary assistance for needy families (TANF) hired by a business. The TANF recipient must receive compensation which will disqualify them from continued participation in TANF and must be employed for two years to generate the additional tax credit. An employer shall not obtain the jobs tax credit for more than 10 TANF employees in the first year of participation in the program;

e. limitations to the job tax credit:

i. position limitations:

(a) for projects with advance notifications filed before April 1, 2016, job tax credits shall only be calculated based upon a position within the state that did not previously exist in the business, and that is filled by a person who is a citizen of the United States and who is domiciled in Louisiana, or who is a citizen of the United States and becomes domiciled in Louisiana within 60 days of employment in such position, performing duties as a regular, full-time employee;

(b) for projects with advance notifications filed on or after April 1, 2016, job tax credits shall only be calculated based upon a position within the state that is in excess of the median statewide number of employees of the business, including affiliates, and meeting the above requirements of Subclause B.1.e.i.(a);

ii. credit amount limitations: the total number of credits granted to a business for employees who are citizens of the United States and who become domiciled in Louisiana within 60 days after employment, shall not exceed 50 percent of the total number of job tax credits granted to the business under the contract.

2. Sales and use tax rebate or refundable investment tax credit as follows.

a. Sales and Use Tax. Rebates of sales and use taxes imposed by the state, and sales and use taxes imposed by its political subdivisions upon approval of the governing authority of the appropriate taxing political subdivision, on all eligible purchases during a specified project period of not more than 30 months:

i. sales and use taxes imposed by a political subdivision which are dedicated to the repayment of bonded indebtedness or dedicated to schools shall not be eligible for rebate;

ii. a business seeking a local sales and use tax rebate must obtain an endorsement resolution specific to the project from each political subdivision levying the taxes to be rebated. The endorsement resolution must clearly state the intention to rebate sales and use taxes as allowable for

the project. The endorsement resolution must be adopted prior to board approval of the application, or if the project cost is greater than one hundred million dollars, prior to the project ending date; or

b. Refundable Investment Tax Credit. In lieu of the sales and use tax rebates, a refundable investment tax credit equal to one and one-half percent of the amount of qualified expenditures for assets that are located at the project site and are placed in service during the project period, and are in accordance with the provisions of §731 and §732.

c. Limitations to the Rebate of Sales and Use Taxes and the Investment Tax Credit

i. A business shall not receive any sales and use tax rebate or investment tax credit until it has provided all documentation necessary to illustrate compliance with program requirements, including but not limited to filing an annual certification report and proof of the creation of net new jobs.

ii. For purposes of determining the maximum sale and use tax rebate or income tax credit allowed, each net new job shall be counted once.

iii. For projects with advance notifications filed on or after April 1, 2016, the amount of sales and use tax or investment tax credit granted shall not exceed one hundred thousand dollars per net new job.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 47:

§703. Definitions

Act 423A—Act 423 of the 2013 Regular Session of the Louisiana Legislature

Act 18—Act 18 of the 2016 First Extraordinary Session of the Louisiana Legislature

* * *

Employment Baseline—

1. the baseline from which net new jobs are determined, to be calculated as follows:

a. for projects with advance notifications filed with business incentives services prior to June 21, 2013, *employment baseline* will be determined in accordance with prior policy and practice in place at the time of the filing of the advance notification.

b. for projects with advance notifications filed with business incentives services on or after June 21, 2013 but prior to April 1, 2016:

i. the median number of full time employees of the business (including employees of affiliates, and employees of unrelated affiliates who have also been employed by the business within the 12 months prior to the contract effective date) at the project site, during the payroll periods including the twelfth day of the month, in the last 4 months completed prior to the contract effective date (the median is calculated by discarding the months with the highest and lowest number of employees, and averaging the number in the remaining two months); or

ii. the last annual average number of full time employees certified under an enterprise zone contract for the business that was in effect on the day prior to the contract effective date;

c. for projects with advance notifications filed with business incentives services on or after April 1, 2016 but prior to the effective date of the 2020 rule promulgation:

i. equal to the median number of full time employees of the business (including employees of affiliates, and employees of unrelated affiliates who have also been employed by the business within the 12 months prior to the contract effective date) statewide, during the payroll periods including the twelfth day of the month, in the last four months completed prior to the contract effective date (the median is calculated by discarding the months with the highest and lowest number of employees, and averaging the number in the remaining 2 months);

d. for projects with advance notifications filed with business incentives services after the effective date of the 2021 rule promulgation:

i. equal to the median number of full time employees of the business (including employees of affiliates, and employees of unrelated affiliates who have also been employed by the business within the six months prior to the contract effective date) statewide, during the payroll periods including the twelfth day of the month, in the last six months completed prior to the contract effective date (the median is calculated by discarding the months with the highest and lowest number of employees, and averaging the number in the remaining four months);

2. the baseline must be maintained in any year for which the business requests job tax credits;

Public Assistance—

1. for projects with advance notifications filed with business incentives services prior to the effective date of the 2021 rule promulgation, public assistance shall be determined in accordance with prior policy and practice in place at the time of the filing of the advance notification, and shall be any program of assistance financed in whole or in part by a federal, state, or any local government agency, eligibility for which is dependent upon the employment status or income level of the individual. Any such assistance must have been received by the individual within a six-month period prior to their hire date.

2. for projects with advance notifications filed with business incentives services after the effective date of the 2021 rule promulgation, public assistance shall be limited to the following public assistance programs; Supplemental Nutrition Assistance Program (SNAP), Temporary Assistance for Needy Families (TANF), Women, Infants and Children (WIC), Medicaid, unemployment benefits, or any other benefits from a similar public assistance program as determined by the department. Any such assistance must have been received by the individual within a six-month period prior to their hire date.

*Unemployment Benefits—*shall be limited to temporary financial assistance to workers who are unemployed through no fault of their own and who meet the requirements of the Louisiana Employment Security Law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR

29:2299 (November 2003), amended LR 37:2369 (August 2011), LR 40:491 (March 2014), amended by the Department of Economic Development, Office of Business Development, LR 47:

§705. Job Calculation Methodology

A. When determining program eligibility, compliance, computation of job tax credits, sales and use tax rebates or investment tax credits, the department shall employ the following methodology.

1. Program Eligibility and Compliance

a. When calculating whether 50 percent of employees are hired from identified target groups, the department does not recognize partial employees, so anything over a whole number is rounded up to the next higher whole number. As an example, if 3 employees are hired, then 50 percent must be from an identified group. Since 50 percent of 3 = 1.5, this is rounded up to demonstrate that 2 out of the 3 employees hired must be from a target group. Rounding down to only 1 employee would fall below the required 50 percent threshold.

b. The number of jobs shall be determined by averaging a minimum of the last seven months in the first 12-month period, and then by separately averaging the second 12-month period. The department will not combine periods to perform one average calculation for a 24-month period.

2. Computation of Job Tax Credits. When calculating the amount of job tax credits, the department shall not recognize partial job creation, and will exclude the partial job from the tax credit calculation, rounding down to the nearest whole number and only recognizing and awarding tax credits based upon whole numbers. As an example, if an average of 1.5 jobs are created, this is rounded down and LED will award tax credits for the creation of 1 job. Rounding up to 2 jobs would be awarding excess tax credits that have not been earned.

3. Computation of net new jobs as it relates to the maximum \$100,000 sales and use tax rebate or investment tax credit per net new job. The department shall use the whole number computed for issuance of job tax credits.

4. Post Act 18 Baseline Calculation. Two baseline numbers shall be determined, as follows;

a. a statewide baseline, equal to the median number of statewide, full-time employees of the business (including employees of affiliates, and employees of unrelated affiliates who have also been employed by the business within the 12 months prior to the contract effective date); and

b. a project site baseline, equal to the median number of full-time employees at the project site.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 47:

§709. Targeted Employees for a Business in an Urban Enterprise Zone

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Commerce and Industry, LR 8:230 (May 1982), amended LR 9:544 (August 1983), amended by the Department of Commerce, Office of Commerce and Industry, Division of Financial Programs Administration, LR 11:95 (February 1985), amended by the Department of Economic Development, Office of Commerce, Finance Division, LR 17:253

(March 1991), amended by the Department of Economic Development, Office of Commerce and Industry, LR 22:447 (June 1996), amended by the Department of Economic Development, Office of Business Development, LR 29:2300 (November 2003), LR 37:2372 (August 2011), LR 40:494 (March 2014), amended by the Department of Economic Development, Office of Business Development, LR 47:

§711. Targeted Employees for a Business in a Rural Enterprise Zone

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Commerce and Industry, LR 8:230 (May 1982), amended LR 9:544 (August 1983), amended by the Department of Commerce, Office of Commerce and Industry, Division of Financial Programs Administration, LR 11:95 (February 1985), amended by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 17:254 (March 1991), amended by the Department of Economic Development, Office of Commerce and Industry, LR 22:448 (June 1996), amended by the Department of Economic Development, Office of Business Development, LR 29:2301 (November 2003), LR 37:2372 (August 2011), LR 40:494 (March 2014), amended by the Department of Economic Development, Office of Business Development, LR 47:

§713. Targeted Employees for a Business in an Economic Development Zone

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 29:2301 (November 2003), amended LR 37:2373 (August 2011), LR 40:494 (March 2014), repealed by the Department of Economic Development, Office of Business Development, LR 47:

§715. Targeted Employees for a Business Not in an Enterprise Zone or Economic Development Zone

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 29:2301 (November 2003), amended LR 37:2373 (August 2011), LR 40:494 (March 2014), repealed by the Department of Economic Development, Office of Business Development, LR 47:

§716. Electronic Submittals

A. The department shall only allow submission of information electronically using Fastlane or any other electronic data submittal program provided by the department.

B. Electronic documents will be accepted by the department in satisfaction of the requirements of department regulations, notwithstanding any other department regulation to the contrary, including but not limited to an electronic contract document executed in whole or part with electronic signatures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 47:

§717. Annual Employee Certification

A. An annual employee certification report (ECR) must be filed with the business incentive services by May 31 on all active contracts validating program compliance. An ECR

fee of \$250 shall be submitted with the report. Failure to file may result in contract cancellation. One extension of up to 60 days may be granted if requested in writing, if the request is received prior to the due date of the ECR.

1. Employee certification report filings shall report company employees working at the project site for a 12-month period, and shall be due within 6 months of the anniversary of the contract effective date, or the Governor's signature on the contract, whichever is later.

2. In the case of early contract terminations, a company may submit final employee certification reports containing data for varying project time periods as approved in writing by the department.

3. The department may request additional information necessary to verify benefit eligibility. The company must provide all requested information, or other documentation as approved by the department, within one hundred and eighty days. Failure to do so within the prescribed timeframe shall result in the expiration of the ECR and require re-submission.

4. If the employee certification report is submitted after the filing deadline, the amount of the job tax credit shall be reduced by 5 percent for each month or portion of a month late, up to a maximum reduction of 100 percent after 20 months.

a. Except as otherwise approved by the secretary for good cause shown. Good cause may include but not be limited to events beyond the reasonable control of the parties, such as an act of God, an act of war, an act of terrorism, a cyberattack, or a natural disaster due to earthquake, landslide, fire, flood, tornado, tropical storm or hurricane. The business shall have the burden to establish good cause.

B. If the employee certification report substantiates that the business has not created the permanent full-time net new jobs required for program eligibility, the board shall cancel the contract and the business shall refund all credits and rebates received. If not timely paid in compliance with the contract, the department will notify Department of Revenue of the contract violation, and the business will be subject to the provisions of §737.

C.- D.2. ...

E. While company's may elect to terminate contracts prior to their scheduled expiration date, early terminations may not be conducted in such a manner as to abuse the purpose and intent of the program to be limited to a period of five years. Therefore, companies that elect early contract termination shall be restricted from applying for a new contract at the same project site until the end of the five-year period, as outlined in the contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 29:2301 (November 2003), amended LR 37:2373 (August 2011), LR 40:494 (March 2014), LR 42:867 (June 2016), amended by the Department of Economic Development, Office of Business Development, LR 47:

§721. Advance Notification

A. An advance notification form, and a \$250 fee, shall be filed with business incentive services prior to the beginning of the project. All incentives for the same project must be indicated on one advance notification and be identified by

one project number. Internet filing of the advance notification may be made at the department website.

B. An advance notification shall include but not be limited to a project description, estimated number of jobs, payroll, costs, project start and end dates. The project start date shall not exceed 12 months after the advance filing date and in no instance shall the project period exceed 30 months. Dates may be amended by the applicant if the written request is made prior to the estimated project ending date. An advance notification expires 90 days after the estimated project ending date shown on the advance notification, unless an application is timely filed, or a written date revision request is received by business incentive services prior to the expiration date- but in no instance shall exceed 45 months after the advance filing date.

C. ...

D. A business proposing a project exceeding 30 months must separate the project into phases with no phase having a project period greater than 30 months. The business must comply with program eligibility requirements, and file a separate advance notification, application, project completion report, and affidavit of final cost, with the required fees, for each phase of the project. The business must elect either the sales and use tax rebate or the investment tax credit for all phases of the project. Businesses electing the investment tax credit are not subject to the 50 percent limitation of §731.B for phases subsequent to the initial phase, and may elect to file one investment tax credit claim for all consecutive project periods.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 29:2302 (November 2003), amended LR 37:2373 (August 2011), LR 40:495 (March 2014), LR 42:867 (June 2016), amended by the Department of Economic Development, Office of Business Development, LR 47:

§723. Application

A. ...

1. Applications must include sufficient information to verify program compliance. LED reserves the right to request additional information, which shall be provided to LED within 60 days. In the event an applicant does not provide the requested additional information to LED within this time frame, LED shall present the application to the board as a late filing.

B. - C. ...

D. An application must be submitted to business incentive services at least 45 days prior to the board meeting where it is intended to be presented for approval. Applications may be deferred to a later board meeting date at the request of the applicant, but shall not exceed presentation at a board meeting occurring more than 6 months after the filing of the application, except as otherwise approved by LED.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 29:2303 (November 2003), amended LR 37:2373 (August 2011), LR 40:495 (March 2014), LR 42:867 (June 2016), amended by the Department of Economic Development, Office of Business Development, LR 47:

§725. Recommendations of the Secretaries of Economic Development and Revenue

A. ...

B. The department must receive a letter-of-no-objection or a letter-of-approval from the LDR, prior to submitting the application to the board for action. If LDR issues an objection to an application other than an objection because an applicant is in active negotiations with, under audit by or in litigation with LDR, the applicant has six months to clear the objection or the application shall be cancelled. The six-month period shall begin on the date LED sends written notification to the company of the objection received from LDR. Applicants may demonstrate active negotiation to LED by providing written documentation periodically, but at least every six months, of ongoing, bilateral communications between the applicant or its representative and LDR, even if such communication begins after the objection was issued, or other written verification as approved by LED.

C. If LDR issues an objection to an application, the applicant has six months to clear the objection or the application shall be cancelled by the department. The six-month period shall begin on the date LED sends written notification to the company of the objection received from LDR.

1. Except that the department may, in its sole discretion, grant an extension in the following circumstances.

a. Active Negotiation. An extension may be granted to applicants which demonstrate active negotiation to LED by providing written documentation of ongoing, bilateral communications between the applicant or its representative and LDR as applicable, even if such communication begins after the objection was issued, or other written verification as approved by LED.

i. The extension shall not exceed six months, and an application with an active, unresolved objection shall be cancelled by the department one year after sending written notification to the company of the objection.

b. Litigation. The department may grant an extension to applicants which demonstrate active litigation with LDR, including but not limited to submission of a written complaint or petition, as approved by LED.

i. the extension shall be valid during the pendency of the action, but shall not exceed five years.

c. As otherwise approved by the secretary for good cause shown.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 29:2303 (November 2003), amended LR 37:2374 (August 2011), LR 40:495 (March 2014), LR 42:868 (June 2016), amended by the Department of Economic Development, Office of Business Development, LR 47:

§729. Enterprise Zone Program Contract

A. Upon approval of the application, the board shall enter into a contract with the business for the benefits allowed by this Chapter. The business must execute its portion of the contract and return it to Business Incentive Services as follows.

1. For projects with contract effective dates prior to the effective date of the 2021 rule promulgation, if the

contract is not returned within 60 days, the board may rescind the approval of the application.

2. For projects with contract effective dates after the effective date of the 2020 rule promulgation, if the contract is not returned within 90 days, the board's approval shall be deemed rescinded.

3. When the contract has been fully executed, a copy will be sent to the business, the Department of Revenue, and if applicable, sent to the political subdivision.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 37:2374 (August 2011), amended LR 40:496 (March 2014), LR 42:868 (June 2016), amended by the Department of Economic Development, Office of Business Development, LR.

§731. Project Completion

A. Within six months after the project ending date or the governor's signature on the contract, whichever is later, the business shall file with business incentive services, on the prescribed form, a project completion report and an affidavit of final cost. A project completion report fee of \$250 and an affidavit of final cost fee of \$250 shall be submitted with these forms or any amendments to these forms.

1. Any outstanding or final employee certification reports shall be submitted to LED prior to, or along with, a project completion report submission.

2. The department may grant an extension of thirty days for the filing of a project completion report, provided the written request for extension is received prior to the filing deadline.

3. If the project completion report is submitted after the filing deadline, the amount of the investment tax credit, or sales and use tax rebate shall be reduced by 5 percent for each month or portion of a month late, up to a maximum reduction of 100 percent after 20 months.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 37:2374 (August 2011), amended LR 40:496 (March 2014), LR 42:868 (June 2016), amended by the Department of Economic Development, Office of Business Development, LR 47:

§741. Multi-Tenant Facility

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 29:2304 (November 2003), amended LR 40:497 (March 2014), repealed by the Department of Economic Development, Office of Business Development, LR 47:

§751. Effective date of Act 423 of the 2013 Regular Session

Repealed.

AUTHORITY NOTE: Promulgated in accordance with Act 423 of the 2013 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 40:498 (March 2014), repealed by the Department of Economic Development, Office of Business Development, LR 47:

Family Impact Statement

The proposed Rule is not anticipated to have an impact on family formation, stability, and autonomy as described in R.S. 49:972.

Poverty Statement

The proposed Rule is not anticipated to have an impact on poverty as described in R.S. 49:973.

Provider Impact Statement

The proposed Rule is not anticipated to have an impact on providers of services as described in HCR 170 of the 2014 Regular Legislative Session.

Small Business Analysis

The modifications to the Enterprise Zone Program could cause a direct economic impact on some small retail, restaurants and hotels that have no more than 50 employees who are newly eligible for the program, if meeting certain criteria. However, the benefit from additional funding received, at a nominal cost of some additional planning and paperwork associated with the application process and reporting requirements should provide a positive impact to any small businesses that choose to apply to the program.

Public Comments

Interested persons should submit written comments on the proposed Rules to Stephanie Le Grange through the close of business on Monday, April 19, 2021 at Department of Economic Development, 617 North Third Street, 11th Floor, Baton Rouge, LA 70802 or via email to Stephanie.LeGrange@la.gov.

Public Hearing

A meeting for the purpose of receiving the presentation of oral comments will be held at 10 a.m. on Tuesday, April 20, 2021 in the Griffon Conference Room at the LaSalle Building, 617 North 3rd Street, Baton Rouge, LA 70802.

Anne G. Villa
Undersecretary

2103#048

POTPOURRI

Department of Environmental Quality Office of the Secretary Legal Affairs and Criminal Investigations Division

Notice of Public Hearing and Request for
Comments to Initiate Triennial Review of
Louisiana Water Quality Standards

In accordance with Section 303(c)(1) of the federal Clean Water Act, the Louisiana Department of Environmental Quality hereby gives notice of its intent to initiate a review of Louisiana's Water Quality Standards (WQS), which can be found in LAC 33:IX.Chapter 11. This review is being conducted to evaluate the need to update or revise the WQS in order to remain consistent with state and federal law. The review will also ensure that Louisiana's WQS continue to reflect the best available science and support sound water quality management policies to improve and protect the water resources of the state. This is a preliminary step in the review and potential rulemaking process. Official

rulemaking, if necessary, will be initiated after review and consideration of the comments received. (2103Pot2)

With this notice the department is soliciting comments from interested parties and members of the public on any aspect of the WQS that the department should consider for potential revision. Persons commenting should reference this potpourri notice, 2103Pot2. A public hearing will be held via Zoom on April 28, 2021, at 1:30 p.m. Interested persons are invited to attend and submit oral comments via PC, Mac, Linux, iOS or Android at <https://deqlouisiana.zoom.us/j/84625190124?pwd=ZVVxeXIyMStOcTFVUURTcHlHVVlrQT09> using the password: 382195 or by telephone by dialing 636-651-3182 and entering conference code 725573.

Interested persons are invited to attend and submit oral comments on any aspect of the WQS which they would like the Department to consider. Interested persons may also submit written comments. Comments should include the name of the commenter and the organization that they are representing, if appropriate, and are due no later than 4:30 p.m., April 28, 2021, and should be sent to Jamie Phillippe, Office of Environmental Assessment, Water Planning and Assessment Division, P.O. Box 4314, Baton Rouge, LA 70821-4314. Electronic comments may be submitted via e-mail to WQ.Standards@la.gov.

Written responses to the comments will not be provided. Progress on the triennial review will be communicated to the public through the Water Planning and Assessment Division, Water Quality Standards and Assessment webpage, <https://www.deq.louisiana.gov/page/water-quality>. Any proposed revisions to the WQS resulting from the review will be subject to the rulemaking provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Courtney J. Burdette
General Counsel

2103#018

POTPOURRI

Department of Environmental Quality Office of the Secretary Legal Affairs and Criminal Investigations Division

Updates to the Water Quality Management Plan
Volume 4: Basin and Subsegment Boundaries
Appendix A: Subsegment Descriptions by Basin

Under the authority of the Environmental Quality Act, R.S. 30:2071 et seq., the secretary gives notice that procedures have been initiated to amend Volume 4 of the Louisiana Water Quality Management Plan (WQMP)

The Louisiana Department of Environmental Quality (LDEQ) reports on water quality in the state by basin subsegment. Volume 4 is a component of the Water Quality Management Plan required by Sections 303 and 208 of the Clean Water Act. Federal regulations require LDEQ to periodically review and update the Water Quality Management Plan. The purpose of Volume 4 is to describe the subsegment delineations, hydrology, and geography. Table 3 in LAC 33:IX.1123 of the Water Quality regulations also includes the subsegment descriptions. Subsegment delineations and descriptions are reviewed periodically to

ensure that subsegments are distinct and consistent representations of the state's hydrology.

Volume 4, Appendix A provides a complete listing of all subsegment descriptions by basin. These subsegment descriptions were previously on public notice in rule WQ097 and WQ106. Additionally, Subsegments for 031002 and 041901 had inaccurate descriptions in WQ097 and will maintain their original descriptions in Volume 4, Appendix A. The purpose of this revision to Volume 4 and Appendix A is to update the subsegment descriptions to be consistent with LAC 33:IX.Chapter 11.

You may access the LDEQ web page for the Water Quality Management Plan at (<https://www.deq.louisiana.gov/page/water-quality-management>) to read the complete draft revision of Volume 4 and Appendix A. Written comments regarding the proposed revision must be received no later than April 20, 2021, at 4:30 p.m., and should be sent to Jamie Phillippe, Office of the Environmental Assessment, Water Quality Planning and Assessment Division, Box 4314, Baton Rouge, LA 70821-4314 or by e-mail to WQ.Standards@la.gov.

Courtney J. Burdette
General Counsel

2103#017

POTPOURRI

Office of the Governor Oil Spill Coordinator's Office

Notice of Draft Restoration Plan
Lake Washington 2003 Oil Spill

Action: Notice of Availability of a Draft Restoration Plan for Natural Resource Damages—LOSCO NRDA case file # LA2003_0302_0716 [Lake Washington 2003]. The Draft Restoration Plan for Natural Resource Damages is available for public review and comment for 30 days.

Agencies: Louisiana Oil Spill Coordinator's Office, Department of Public Safety and Corrections (LOSCO); Louisiana Department of Environmental Quality (LDEQ); Louisiana Department of Natural Resources (LDNR); Louisiana Department of Wildlife and Fisheries (LDWF); and Louisiana Coastal Protection and Restoration Authority (CPRA).

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 federal and state agencies and tribal officials to act as natural resource trustees for the recovery of damages for injuries to trust resources and services resulting from an oil spill. The natural resource trustees for this incident include LOSCO, LDEQ, LDNR, LDWF, and CPRA (collectively, the "Trustees"). LOSCO, LDEQ, LDNR, LDWF, and CPRA are designated as Trustees by the Governor of Louisiana pursuant to Section 1006(b)(3) of OPA, 33 U.S.C. § 3706(b)(3), and subpart G of the NCP. These same agencies serve as State Trustees under OSPRA according to R.S. 30:2451, et seq. and LAC 43:XXIX, Chapter 1, Section 101, et seq. ExxonMobil Pipeline Company ("EMPCo"), as the owner and operator of the pipeline that discharged oil, is

the identified Responsible Party and is therefore liable according to 33 U.S.C. § 2702 and R.S. 30:2480 for natural resource damages resulting from the incident.

Summary of Incident: On March 2, 2003, an unauthorized discharge of crude oil was reported involving a subsurface pipeline owned and operated by EMPCo. The release occurred in the vicinity of Lake Washington, which is located in the Barataria estuary, approximately eight miles south-southwest of Port Sulphur, Louisiana. An estimated 995 barrels (41,790 gallons) of crude oil were released into the surrounding coastal waters. Due to the presence of large numbers of migrating waterfowl in the area at the time of the incident, bird hazing cannons were deployed (March 4, 2003) in various locations as one means to deter birds from accessing oiled areas. Response activities also served to deter birds and other wildlife from areas where clean-up operations were being conducted. The discharge exposed estuarine habitats as well as birds and other wildlife to crude oil. On September 20, 2003, the Trustees issued a Notice of Intent to Conduct Restoration Planning for this incident. The Trustees and EMPCo worked to evaluate and quantify the nature and extent of injuries to natural resources and services, and to determine the need for, type of, and scale of appropriate restoration actions.

EMPCo was also identified as the Responsible Party for two other unauthorized crude oil discharges in the vicinity of the Lake Washington incident. These included the Mendicant Island incident on December 2, 2003 and the West Champagne Bay incident on April 19, 2005. The two incidents and Lake Washington incident were combined into one collective Natural Resource Damage Assessment and joint settlement agreement between the Trustees and EMPCo. A joint settlement was preferred by the Trustees and EMPCo because of the inherent cost efficiencies associated with conducting one restoration planning effort versus three efforts and the resulting benefits to the environment. The three incidents are collectively referred to as the LWMIWCB Incidents.

Purpose: Pursuant to LAC 43:XXIX, Chapter 1, Section 101, et seq., notice is hereby given that a document entitled, "Draft Restoration Plan—Lake Washington 2003 Oil Spill" is available for public review and comment. The Draft Restoration Plan presents the Trustees' plan to restore, replace, or acquire natural resources or services equivalent to those lost, as a basis for compensating the public for the injuries to natural resources resulting from the Lake Washington Oil Spill. The preferred restoration alternative is designed to create coastal herbaceous wetlands, including delta splay marsh, near East Bay, Louisiana. The proposed Preferred Alternative would be funded using a portion of the settlement funds from the LWMIWCB Incidents. After finalization of the Draft Restoration Plan, the Trustees will prepare a Final Restoration Plan and make it available to the public.

The Draft Restoration Plan is available to the public for a 30-day comment period, which will begin on the date of this public notice announcing availability of the document for public review. The Trustees invite the public to review the Draft Restoration Plan and submit comments to the

address listed below. The Trustees will consider comments received during the public comment period before finalizing the document. An additional opportunity for public review will be provided in the event that the Trustees decide to make significant changes to the Draft Restoration Plan based on the initial public comments.

Public Participation: Interested members of the public are invited to view the Draft Restoration Plan via the internet at <http://www.losco.state.la.us> (look under Newsflash/current news for Lake Washington 2003 Draft Restoration Plan Available For Public Comment) or by requesting a copy of the document from Charles K. Armbruster at the address provided below:

Charles K. Armbruster
Louisiana Oil Spill Coordinator's Office
Department of Public Safety and Corrections
P.O. Box 66614
Baton Rouge, LA 70896
(225) 925-6606
Charles.Armbruster@la.gov

Public participation is encouraged. Opportunities to participate in the process include public availability of Administrative Record documents as well as an opportunity for the public to review and comment on draft restoration planning documents (like the Draft Restoration Plan currently available for review) that identifies the Trustees' preferred restoration project(s) for this incident. A restoration plan(s) will be finalized and released to the public identifying the selected restoration project(s) to be implemented by the Trustees. Public participation is consistent with all state and federal laws and regulations that apply, including Section 1006 of OPA, 33 U.S.C. § 2706; the OPA regulations, 15 C.F.R. Part 990; Section 2480 of OSPRA, R.S. 30:2480; and the OSPRA regulations, LAC 43:XXIX, Chapter 1, Section 101, et seq.

Comment Submittals: Comments to the Draft Restoration Plan must be submitted in writing or digitally to Charles K. Armbruster on or before the end of the 30-day comment period.

For Further Information: Contact Charles K. Armbruster at (225) 925-6606 or by email at Charles.Armbruster@la.gov.

Samuel E. Jones
Oil Spill Coordinator

2103#019

POTPOURRI

Department of Health Bureau of Health Services Financing

2021 Third Quarter Hospital Stabilization Assessment

In compliance with House Concurrent Resolution (HCR) 51 of the 2016 Regular Session of the Louisiana Legislature, the Department of Health, Bureau of Health Services Financing amended the provisions governing provider fees to establish hospital assessment fees and related matters (Louisiana Register, Volume 42, Volume 11).

House Concurrent Resolution 2 of the 2020 First Extraordinary Session of the Louisiana Legislature enacted an annual hospital stabilization formula and directed the Department of Health to calculate, levy and collect an assessment for each assessed hospital.

The Department of Health shall calculate, levy and collect a hospital stabilization assessment in accordance with HCR 2 for the quarter January 1, 2021 through March 31, 2021. The quarterly assessment amount to all hospitals will be \$28,410,246 which amounts to 0.25 percent of total inpatient and outpatient hospital net patient revenue of the assessed hospitals.

Dr. Courtney N. Phillips
Secretary

2103#043

POTPOURRI

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Public Hearing—Substantive Change to Notice of Intent
2021-2023 Hunting Regulations and Seasons
(LAC 76:XIX.Chapter 1)

The Department of Wildlife and Fisheries (Department) and the Wildlife and Fisheries Commission (Commission) published a Notice of Intent to amend its rules in the January 20, 2021 edition of the *Louisiana Register*. The Commission proposes to amend the original Notice of Intent to include the Responsible Hunting Scent Association (RHSA) Deer Protection Program as an approved management and testing authority which tests natural deer urine products for detecting Chronic Wasting Disease (CWD) prior to use afield by hunters in Louisiana. The Department monitors and regulates the use of hunting gear in Louisiana. Action is being proposed as any natural deer urine may contain CWD prions that once introduced in the environment are available for cervids to come into contact with and subsequently become infected with CWD. CWD is a fatal disease for all cervids native to Louisiana. This rule amendment is another step to avoid unintended introduction of CWD into the state,

ensuring that any natural deer urine utilized in Louisiana is tested and certified as “CWD not detected”.

Title 76

WILDLIFE AND FISHERIES

Part XIX. Hunting and WMA Regulations

Chapter 1. Resident Game Hunting Season

§111. General and Wildlife Management Area Hunting Rules and Regulations

A. - E.10. ...

11. It is unlawful to import, sell, use or possess scents or lures that contain natural deer urine or other bodily fluids, except natural deer urine products produced by manufacturers or entities that are actively enrolled and participating in either the Responsible Hunting Scent Association (RHSA) or Archery Trade Association Deer Protection Program, which has been tested using real-time quaking induced conversion (RT-QuIC) and certified that no detectable levels of Chronic Wasting Disease (CWD) are present and is clearly labeled as such.

E.12. - G.20.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115 and R.S. 56:116.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 25:1279 (July 1999), amended LR 26:1494 (July 2000), LR 27:1049 (July 2001), LR 28:1603 (July 2002), LR 29:1124 (July 2003), repromulgated LR 29:1522 (August 2003), amended LR 30:1495 (July 2004), LR 31:1611 (July 2005), LR 32:1251 (July 2006), LR 33:1382 (July 2007), LR 34:1429 (July 2008), LR 35:1264 (July 2009), LR 36:1566 (July 2010), LR 37:2190 (July 2011), LR 38:1732 (July 2012), LR 39:2292 (August 2013), LR 40:1540 (August 2014), LR 41:963 (May 2015), LR 42:1112 (July 2016), LR 43:1423 (July 2017), LR 44:1277 (July 2018), LR 45:938 (July 2019), LR 46:961 (July 2020), LR 47:

Public Hearing

In accordance with R.S. 49:968(H)(2), a public hearing on proposed substantive changes will be held by the Department of Wildlife and Fisheries on April 21, 2021 at 10 a.m. in the Joe L. Herring Louisiana Room of the Wildlife and Fisheries Headquarters Building, 2000 Quail Drive, Baton Rouge, LA, 70808.

Jerri G. Smitko
Chair

2103#015

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