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Executive Orders

EXECUTIVE ORDER BR 90 - 6

WHEREAS, the rivers and tributaries in the greater Baton Rouge and Denham Springs areas periodically experience headwater and backwater flooding; and

WHEREAS, a conservative estimate regarding the beneficial effects of any major structural flood control system is in the range of eight to fifteen years, and there is a need for immediate relief and protection; and

WHEREAS, it is in the interest of the residents of these areas that available short-term measures be examined and implemented to prevent or mitigate damage from floods; and

WHEREAS, a coordinated interagency review of existing and potential solutions is necessary to identify and expedite implementation of effective flood damage reduction measures.

NOW, THEREFORE, in order to reflect concern for the welfare of the residents and property owners in these areas, I, BUDDY ROEMER, Governor of the State of Louisiana, by virtue of the power vested in me by the constitution and the laws of this state, do hereby create the Governor's Interagency Task Force on Flood Prevention and Mitigation to examine available data and studies in order to define appropriate measures for, and the feasibility of, flood prevention and mitigation in the greater Baton Rouge and Denham Springs areas.

FURTHER, the Task Force shall identify and determine what can reasonably be done in the short term to achieve reduction and mitigation of flood damages and shall recommend to me, to the Legislature and to the affected local governing bodies what these short-term measures, procedures and activities shall be.

FURTHER, the Task Force shall pay particular attention to such measures as floodplain management, stormwater retention, structural elevation and relocation, voluntary privately-owned retention ponds, zoning restrictions, habitat and ground cover preservation, and effective drainage improvement.

FURTHER, the Task Force shall coordinate its study with appropriate federal authorities and with relevant state and local governing bodies in the State of Mississippi.

FURTHER, the Task Force shall meet at least quarterly and shall report its initial action plan and feasibility study to me no later than October 1, 1990. In addition, the Task Force shall furnish periodic reports and findings to me on a regular basis.

FURTHER, the Task Force shall seek advice from police juries, other political subdivisions and other interested groups. Other state resources such as the Department of Transportation and Development and selected experts from state colleges and universities shall be at the disposal of the Task Force.

FURTHER, the Task Force shall be composed of the

following members appointed by the Governor to serve at the pleasure of the Governor:

1. a representative from Louisiana Geological Survey;
2. a representative from the Department of Transportation and Development;
3. a representative from the Statewide Flood Control Evaluation Committee, Division of Administration;
4. a representative from the Department of Environmental Quality;
5. a representative from the Department of Wildlife and Fisheries;
6. a representative from the Governor's Advisory Office on Coastal Activities;
7. a representative of the Lake Pontchartrain Basin Foundation;
8. a representative of the Soil and Water Conservation Committee, Louisiana Department of Agriculture;
9. a representative of the Amite River Basin Drainage and Water Conservation District;
10. a representative of the Governmental Affairs and Community Development Division of the Greater Baton Rouge Chamber of Commerce;
11. a Geography Professor from Louisiana State University specializing in Hydrology;
12. a representative of the Governor's Advisory Office on Environment and Health;
13. a representative of the Office of Public Works, East Baton Rouge Parish;
14. a representative of Southern University, College of Agriculture, Small Farms Research Center;
15. a representative of the Louisiana State Climatologist's Office;
16. a Geography Professor from Louisiana State University specializing in Physical Geography;
17. a representative of Planning and Zoning, Denham Springs; and
18. two members at large.

FURTHER, each Task Force member may select a designee to serve in his/her absence.

FURTHER, Gerald McLindon, Dean Emeritus, Louisiana State University, shall chair, coordinate and oversee the Task Force operations. His successor, if it is required, will be appointed by the Governor and the vice chair will be appointed by the Governor.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 23rd day of May, 1990.

Buddy Roemer
Governor of Louisiana

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State

EXECUTIVE ORDER BR 90-7

WHEREAS, the State of Louisiana has recognized the need to improve its aviation infrastructure to provide, safe, effective, and efficient transportation for its citizens, visitors, and commercial users; and

WHEREAS, the citizens of Louisiana have approved a constitutional amendment to establish the Transportation Trust Fund to undertake capital improvements of our state's infrastructure for the purpose stated above; and

WHEREAS, the legislature has already created the Aviation Priority Programs as administered by the Department of Transportation and Development which has addressed the state's airport system capital improvements in a fair and systematic manner; and

WHEREAS, intense competition domestically and an increasingly global economy dictate that Louisiana should position itself to attract and support businesses that can compete in the regional, national, and international marketplace which will foster economic growth in the state; and

WHEREAS, there is a need to assess the role of the state's airport system, and its capital improvement needs in furtherance of the economic development in Louisiana; and

WHEREAS, capacity constraints are affecting the performance of major airports in the United States, resulting in enormous airline flight delays, and economic losses; and

WHEREAS, the prospects of the aviation industry for continued growth hinges on its ability to maintain a viable airport system with adequate capacities to respond to air travel demand.

NOW THEREFORE I, BUDDY ROEMER, Governor of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: There shall be and is hereby created an Aviation Advisory Committee in the State of Louisiana.

SECTION 2: The purpose of the committee shall be:

a. establish short- and long-term goals and objectives for aviation and the airport system to be achieved through the implementation of the Louisiana Aviation System plan;

b. establish objectives and performance measures that can be applied in assuring that aviation system goals and objectives will be achieved through the proposed system plan;

c. establish entry criteria for any existing or proposed new airport to be included in the Louisiana Aviation System Plan;

d. establish criteria for determining the service level and airport role for each existing or new airport included in the Louisiana Aviation System Plan;

e. establish development standards for each airport role;

f. assess the feasibility of the wayport concept as a capacity enhancement strategy for the aviation system, and identify the potential of a wayport for the State of Louisiana.

SECTION 3: The committee shall be composed of the following members appointed by the governor:

a. Two members of the Joint Legislative Committee on Transportation;

b. Four members of Police Jury Association of Louisiana;

c. One member of Department of Economic Development;

d. Two members of Louisiana Municipal Association;

e. Two members of Louisiana Association of Business and Industry;

f. One member of Aviation Association of Louisiana;

g. Two members of Louisiana Airport Managers Association;

h. One member of Southeast Regional Planning Commission;

i. One member Louisiana Division of Aviation;

j. One member of Louisiana Transportation Research Center;

k. One member of Louisiana Office of Budget and Planning;

l. Two members at large.

SECTION 4: The governor shall appoint the co-chairmen or appoint a chairman and vice-chairman.

SECTION 5: The committee shall present preliminary recommendations to the governor not later than July 16, 1990.

SECTION 6: Each department within the executive branch of the State of Louisiana and each agency and political subdivision within the state shall cooperate fully with the committee and shall provide the committee with such data, information and statistics as are requested by the committee.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 4th day of June, 1990.

Buddy Roemer
Governor of Louisiana

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State

Emergency Rules

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Advisory Commission on Pesticides

The Commissioner of Agriculture and Forestry is exercising the emergency provision of the Administrative Procedure Act, R.S. 49:953B, and pursuant to his authority under R.S. 3:3203(A), amends LAC 7:13139(B) to include:

Chemical Name	Common Name
17.3,5,6-trichloro-2-pyridinyloxy acetic acid	triclopyr (Rely)

This emergency rule classifies Rely Herbicide, marketed by Hoechst-Roussel Agri-Vet Company, as a restricted-use pesticide within the State of Louisiana and requires that all restrictions set forth in LAC 7:13139 and 7:13141 apply to said pesticide effective until August 1, 1990.

The Environmental Protection Agency granted a specific exemption under the provisions of Section 18 of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, for the use of Rely for control of broadleaf weeds in rice. Data indicates that some phototoxicity to non-target, susceptible crops might occur; therefore, the Commissioner of Agriculture and Forestry adopted this emergency rule to protect non-target crops from possible drift damage.

Bob Odom
Commissioner

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education Administrative Leadership Academy Guidelines

The State Board of Elementary and Secondary Education, at its meeting of May 24, 1990, exercised those powers conferred by the emergency provisions of the Administrative Procedure Act R.S. 49:953B and approved the Administrative Leadership Academy Guidelines.

This emergency adoption is necessary in order that the guidelines will be in place for the summer months. This emergency rule is effective June 20, 1990.

Em Tampke
Executive Director

MEMBERSHIP/INVOLVEMENT

Academy Staff	Academy Members	Sponsoring Organizations	Others
<p>The academy staff shall include a director, secretary(ies), and other professionals (as appropriate) within the Louisiana Department of Education. Staff members are responsible for program administration activities, including the review of credit requests from individual members and sponsoring organizations, the maintenance of credit records, the dissemination of credit information to individual members and parishes, and the provision, publication, and supervision of state and regional training programs for practicing and prospective school administrators.</p>	<p>Academy members must be involved in the credit program. Members shall be public school administrators</p> <ul style="list-style-type: none"> • Who hold the position of Superintendent, Principal, or Assistant Principal <i>or</i> • Who are employed as central office administrators <i>and</i> <ul style="list-style-type: none"> — Whose responsibilities include supervising (observing, directing, and/or evaluating) instructional programs, instructional personnel, and/or supervisors of instructional personnel and — Who possess one or more of the following certificates: <ul style="list-style-type: none"> * School Superintendent * Principal * Elementary Principal * Elementary and Combination School Principal * Secondary Principal * Secondary and Combination School Principal * Special School Principal * City or Parish Supervisor of Instruction * City or Parish School Supervisor/Director of Special Education 	<p>A sponsoring organization can be any organization that provides training activities consistent with academy content and process guidelines.</p>	<p>Department of Education professionals whose positions require administrative certification may participate in academy activities.</p> <p>Public school administrators/supervisors whose positions require teacher certification but who are not required to earn academy credits may participate in academy activities and earn credits within the credit-earning guidelines if they so choose.</p>

ACADEMY CREDIT

Credit Requests

There are two types of credit requests.

- An individual may apply for credit for a training activity or conference for which credit has not been requested by a sponsoring organization (e.g., an AASA-sponsored session in Colorado).
 - The activity focus must be consistent with academy content guidelines.
 - In general, the activity should be designed specifically for administrators, though an individual may apply for credit for an activity that is not restricted to administrators.
 - The request must be submitted on an official ALA-IND (Administrative Leadership Academy-Individual) form either prior or subsequent to the activity date.
- A sponsoring organization may request credit for a training activity or conference that will be attended by administrators.
 - The organization must plan activities that are designed for administrators and that are consistent with academy content and process guidelines. (Such activities may also be attended by individuals who are not academy members.)
 - The request must be submitted on an official ALA-SO (Administrative Leadership Academy-Sponsoring Organization) form thirty days prior to the date of the activity for which credit is being sought. The thirty-day period allows for academy staff review of the request, for the preparation and mailing of sign-in sheets and evaluation forms, and for sponsoring organization advertisement of credit. Credit should not be advertised to participants until approval is acquired.
 - The sponsoring organization will be responsible for
 - * Reporting the name and social security number of each participant who remains for the entire length of the workshop and completes all assignments and an evaluation form
 - * Distributing the evaluation forms as the final activity and selecting one group member to collect and return all forms to the academy office

An individual or sponsoring organization wishing to challenge a decision made by the director should appeal in writing first to the director, then to the Administrative Leadership Academy Advisory Council, and finally to the Board of Elementary and Secondary Education.

Credit Requirements/Provisions

Fifteen credits must be earned by each academy member during the five-year period beginning July/1988—or beginning July 1 of the first year of active service—and during each five-year period thereafter.

- A leave-of-absence or sabbatical year will not be considered to be part of the five-year period. However, an individual may earn academy credits during that year.
- Credits earned during one five-year period cannot be carried over to the next five-year period.
- An individual who fails to earn the required fifteen credits will be granted a one-year remediation period (which will also serve as the initial year of the succeeding five-year period). Failure to complete the credit requirement during the remediation year will result in an appropriate penalty provided by regulations adopted by the Board of Elementary and Secondary Education.

One credit will be granted for every ten hours of instructional contact time; one-half credit can be earned for five contact hours. However, no single training program can be awarded more than five academy credits without prior approval of the advisory council.

- Credit will not be granted for "break" time or meal time (unless there is a speaker whose presentation is related to the training theme or represents a professional growth experience for the listeners).
- Credit will not be granted for time spent conducting a training session or making a presentation.

Effective 7/1/90, five of the fifteen credits must be earned through participation in Leadership/Management training activities. (Individuals who have completed more than ten credits toward the fifteen by that date will be exempt from this requirement for their initial five-year period.)

Credit-Earning Options

Credit may be earned as follows:

- Completion of graduate work approved by the academy
 - Three credits for three college hours
 - Three-credit maximum per five-year period
 - Verification through submission of the original grade report sent to the member or an official university transcript
- Participation in an LEA-sponsored training activity
 - Five-credit maximum per five-year period
 - Verification through sign-in sheet signature and completed ALA evaluation
- Participation in a self-contained, single-theme training session
 - Five-credit maximum per single activity unless approved by the advisory council
 - Verification through
 - * Sign-in sheet signature and ALA evaluation *or*
 - * Certificate or statement of completion
- Participation in a conference that includes concurrent sessions
 - One-credit maximum per conference
 - Verification through
 - * Sign-in sheet signature and ALA evaluation *or*
 - * Copy of the conference registration form, copy of the conference program with identification of sessions attended, and a brief description of conference contributions to the participant's professional growth

TRAINING

LEAD

As of 7/1/90, all newly appointed principals and assistant principals with standard or provisional certification must participate in the two-year LEAD internship. Eight academy credits (three in year one, five in year two) will be granted.

- Participants with provisional certification who successfully complete the program will receive a five-year renewable certificate. Those who do not successfully complete the program in the two-year period may be granted a one-year extension. If requirements are met, a renewable certificate will be awarded at the end of the third year. If requirements are not met, the provisional certificate will expire. The individual can be reassessed in two years.
- The LEA will be responsible for extended professional growth for individuals with standard school principal certification who do not successfully complete the LEAD internship.

Special case guidelines are as follows:

- Individuals appointed to a principalship or an assistant principalship after October 1 will be enrolled in the LEAD program at the beginning of the following year.
- Individuals moving from an assistant principalship to a principalship who have not previously participated in the LEAD program must do so.
- LEAD requirements do not apply to individuals serving in a temporary capacity.

Louisiana Principal Assessment Center (LPAC)

The Louisiana Principal Assessment Center provides a pre-appointment assessment service for districts and principalship candidates. Participation is voluntary.

Assessors can earn a maximum of seven academy credits—three for assessor training and four for service in an assessment center.

Credit will not be awarded to candidates who are evaluated through the assessment center process.

Content Guidelines

- **Leadership/Management**
 - Vision articulation and goal setting
 - Organizational ability
 - Time management
 - Delegation
 - Management of resources
 - Problem-solving
 - Recognition
 - Analysis
 - Solution
 - Implementation
 - Decision-making
 - Creative
 - Participative
 - Unilateral
 - Motivation
 - Self
 - Others
 - Leadership
 - Styles
 - Characteristics
 - Communication
 - Oral
 - Written
 - Listening
 - Nonverbal behaviors
 - Interpersonal skills
 - Sensitivity
 - Group dynamics
 - Team-building
- **Instructional Administration**
 - Curriculum
 - Development
 - Implementation
 - Evaluation
 - Staff performance
 - Clinical supervision
 - Staff development
 - Evaluation
 - Student performance
 - High expectations
 - Time on task
 - Test results
 - Student services
 - Parent/community involvement
- **Organizational Administration**
 - Physical environment
 - School climate
 - Building community support
 - Fiscal management
 - Technology
 - Policy implementation
 - Collective bargaining

Process Guidelines

To be approved for credit, training...

- Must address an area (or areas) included in the academy content guidelines
- Should have clear, specific goals and objectives
- Should provide opportunities for the participants to be actively involved
- Should include follow-up to the extent possible

General

Regional and statewide training sessions will be provided for administrators. In general, meals, lodging, and mileage are not included.

LEGISLATION

3761. Administrative Leadership Academy; creation

- A. The Administrative Leadership Academy is hereby created within the Department of Education.
- B. The State Board of Elementary and Secondary Education shall have sole authority and responsibility for the administration and operation of the Administrative Leadership Academy.

3762. Advisory council; creation

- A. There is hereby created an advisory council to serve as an advisor to the State Board of Elementary and Secondary Education in matters concerning the academy.
- B. The advisory council shall be composed of eight members as follows:
 - 1. The state superintendent of education or his designee.
 - 2. The president of the State Board of Elementary and Secondary Education or his designee.
 - 3. One representative from each of the following organizations chosen by the organization:
 - a. The Louisiana Association of Principals
 - b. The Louisiana Association of School Superintendents
 - c. The Louisiana Association of School Executives
 - d. The Louisiana School Supervisors Association
 - e. The Louisiana School Boards Association
 - f. The Louisiana Council of Professors in Educational Administration
- C. The chairman of the advisory council shall be selected by the president of the State Board of Elementary and Secondary Education.
- D. Members shall serve without compensation but shall be reimbursed for necessary and actual expenses incurred in the performance of their duties out of monies appropriated or allocated to fund the academy.

3763. Academy; functions and duties; renewal credits

- A. The academy shall assess needs, develop programs and budgets, and develop, publicize, and implement workshops, courses, and activities designed to meet the needs of all levels of public school administrators whose positions require teacher certification. Such workshops, courses, and activities shall also be offered to provide a meaningful training program for administrators.
- B. All training which the academy is required by this Section to offer shall be made available on a regional and statewide basis to be determined by the State Board of Elementary and Secondary Education.
- C.
 - 1. Each principal, assistant principal, local education agency central office administrator involved directly with supervision of classroom instruction, and city and parish superintendent shall earn fifteen renewal credits as provided in this Section. Such credits shall be reported and recorded in whatever manner the academy requires.
 - 2. The renewal period shall be each five years the administrator serves in any administrative position. The provisions of this Subsection shall apply to each renewal period.
- D. Credits may be earned in any of the following ways:

- 1. One credit may be earned for every ten contact hours of workshops and activities provided by the academy. The academy shall define the meaning of contact hour and shall require every participant in any academy activity to attend for the entire length of the activity before any renewal credit will be awarded.
 - 2. One credit per year shall be earned for each year of service during the five-year renewal period in which the administrator receives a positive evaluation in the position for which renewal credit is being sought. Leave time shall not constitute service for this purpose.*
 - 3. Three credits may be earned for three college credit hours of college course work. The course work shall be approved by the academy prior to being undertaken. No more than three credits may be earned in this manner in any five-year renewal period.
- E. For renewal credit to be awarded for attendance at a workshop as provided in this Section:
 - 1. Attendance at the workshop shall have been approved by the academy based on registration and shall have been approved by the immediate supervisors or the employing system of the attendee.
 - 2. An evaluation of the workshop shall have been completed at the end of the workshop.
 - 3. A follow-up evaluation process as determined by the academy to determine effectiveness of the workshop shall have been completed.
 - F.
 - 1. The academy shall assist local education agencies in providing workshops, seminars, and other inservice activities for prospective school administrators.
 - 2. The academy may expend funds from its budget to assist the local education agencies in the training of prospective school administrators.

3764. Academy; functions and duties; training for newly appointed principals and assistant principals

- A. Each newly appointed principal and assistant principal shall earn at least five credits in the area of instructional leadership through the Administrative Leadership Academy prior to assuming the duties of his new position.**
- B. Upon receipt of certification from the president and superintendent of an employing school board that a newly appointed principal or assistant principal is unable to complete the training required by Subsection A of this Section in a timely manner, the State Board of Elementary and Secondary Education may grant an extension to such principal or assistant principal. However, each such principal or assistant principal shall complete such training not later than one year from the date of his appointment.
- C. The Administrative Leadership Academy shall implement a schedule to facilitate the implementation of the provisions of this Section.
- D. The State Board of Elementary and Secondary Education shall adopt such rules and regulations as are necessary to implement the provisions of this Section.

* Recommended change: deletion of this provision (retention of credits already awarded)
**Recommended change: 5 credits during the first year of service

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Teaching Time Requirements for Nonpublic Elementary and Secondary Summer School

The State Board of Elementary and Secondary Education, at its meeting of May 24, 1990, exercised those powers conferred by the emergency provisions of the Administrative Procedure Act RS 49:953B and deleted Standards 6.113.07 (elementary) and 6.116.09 (secondary) regarding the teaching time requirements of the nonpublic summer school. (Bulletin 741 amendment)

This emergency adoption is necessary in order that the teaching time requirements for nonpublic elementary and secondary summer school will be in place for the summer school session. Effective date of this emergency rule is May 24, 1990.

Em Tampke
Executive Director

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Amendment to Bulletin 741-Teaching Hours for Elementary and Secondary Public Summer School

The State Board of Elementary and Secondary Education, at its meeting of May 24, 1990, exercised those powers conferred by the emergency provisions of the Administrative Procedure Act RS 49:953B and deleted Standards 2.113.07 and 2.116.09 of Bulletin 741 relative to teaching hours in elementary and secondary public summer schools.

This emergency adoption is necessary in order that the teaching time requirements will be in place for the summer school. Effective date of emergency rule is May 24, 1990.

Em Tampke
Executive Director

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Certification Categories Specified in the Children First Legislation

The State Board of Elementary and Secondary Education, at its meeting of May 24, 1990, exercised those powers conferred by the emergency provisions of the Administrative Procedure Act R.S. 49:953B and approved the following certification categories specified in the Children First Legislation for implementation September 1, 1990.

This emergency adoption was required in order that computer programming changes can begin for implementation of the new classes of certification in September.

Provisional Certificates

Effective September 1, 1990, all teachers seeking certification for the first time shall be issued a certificate entitled "Provisional Certificate". In addition, teachers who hold a regular "C" certificate prior to September 1, 1990 shall be issued a "Provisional Certificate", in lieu of the present "C" certificate. The "Provisional Certificate" will be valid until the holder is evaluated according to the procedures of the Teacher Evaluation Program.

Teachers on a "Provisional Certificate" will not be eligible for a lifetime certificate for continuous service. Teachers who hold a "Provisional Certificate" and receive a satisfactory evaluation shall be issued a "Renewable Professional Certificate", valid for five years.

Teachers who receive a nonsatisfactory evaluation will have their certificates converted to a "Provisional/In Remediation" certificate. After the required remediation has been provided and a teacher receives a nonsatisfactory evaluation, the "Provisional/In Remediation Certificate" will expire and no certificate will be issued for at least two years.

Teachers will be able to add additional endorsements/degrees after the years of service have been met according to the criteria specified in Bulletin 746, Louisiana Standards for State Certification of School Personnel.

Teachers who are employed in a nonpublic school on a "Provisional Certificate" may remain on this certificate as long as they are employed in a nonpublic school. When the teacher is employed by a public school system, the teacher will then be evaluated according to TEP and certificates will be issued accordingly.

Existing Lifetime Certificates

Teachers who presently hold a lifetime certificate and have no interruption in service for five years or more will retain the lifetime certificate as long as a satisfactory evaluation is received according to the Teacher Evaluation Program. Upon receipt of a satisfactory evaluation, the teacher's existing certificate will be revised to also reflect "Renewable Professional", valid for five years. This endorsement is in addition to the existing certificate and does not invalidate the certificate presently held.

Teachers who have a lifetime certificate and receive a nonsatisfactory evaluation will automatically lose the lifetime certificate. The certificate will be revised to delete the existing certificate Type (A, B..) and "Provisional/In Remediation" will be added. Following the procedures outlined in TEP guidelines, when the teacher receives a satisfactory evaluation, the "Provisional/In Remediation" will be deleted from the certificate and "Renewable Professional", valid for five years, will be added.

The "Provisional/In Remediation" certificate will expire when a teacher receives a nonsatisfactory evaluation after all remediation opportunities have been exhausted as outlined in the TEP guideline and no teaching certificate will be issued for at least two years.

Effective September 1, 1990, no new "B" and "A" certificates will be issued. However, teachers will be able to add additional endorsements/degrees according to years of service and upon meeting the criteria specified in Bulletin 746, Louisiana Standards for State Certification of School Personnel. This policy will also apply to persons teaching in a nonpublic school.

Em Tampke
Executive Director

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Circular 665 Employees

The State Board of Elementary and Secondary Education, at its meeting of May 24, 1990, exercised those powers conferred by the emergency provisions of the Administrative Procedure Act RS 49:953B and adopted the following requirements to be met by persons employed on Circular 665 in public systems and on temporary certificates in private, nondiocesan schools:

Teachers who do not have a regular Louisiana teaching certificate must be eligible for admission to an approved teacher education program, effective July 1, 1990.

This emergency adoption was required so that school systems could be notified of the proposed changes prior to the ending of this school year. Local systems will now be able to prepare for implementation of the new requirements prior to the beginning of school.

Em Tampke
Executive Director

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

ECIA Chapter I. FY 91 Migrant Education State Plan

The State Board of Elementary and Secondary Education, at its meeting of May 24, 1990, exercised those powers conferred by the emergency provisions of the Administrative Procedure Act R. S. 49:953B and approved the ECIA Chapter I. FY 91 Migrant Education State Plan. The plan may be viewed in its entirety in the Office of the State Register, 900 Riverside North, Room 512, and the Office of the State Board of Elementary and Secondary Education located in the Education Building in Baton Rouge, Louisiana or in the Office of Educational Support Programs, State Department of Education.

This emergency adoption is necessary in order that the plan may be implemented prior to the beginning of the 1990-91 school year. Effective date of emergency rule is June 20, 1990.

Em Tampke
Executive Director

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Financial Management and Accounting Handbook for School Food Service Programs

The State Board of Elementary and Secondary Education, at its meeting of May 24, 1990, exercised those powers conferred by the emergency provisions of the Administrative

Procedure Act RS49:953B and approved the Financial Management and Accounting Handbook for School Food Service Programs, effective July 1, 1990. (Amendment to Bulletin 1196, School Food Services Program Policies of Operation). This document replaces the Financial Management and Full-Cost Accounting Handbook, published June, 1977. This handbook may be seen in its entirety in the Office of the State Register, 900 Riverside North, Suite 512, and the Office of the State Board of Elementary and Secondary Education, located in the Department of Education in Baton Rouge, LA or in the Office of Educational Support Programs, State Department of Education.

This emergency adoption is necessary for implementation prior to the beginning of the 1990-91 school year. Effective date of emergency rule is June 20, 1990.

Em Tampke
Executive Director

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Annual Special Education Program Plan for FY 91-93

The State Board of Elementary and Secondary Education, at its meeting of May 24, 1990, exercised those powers conferred by the emergency provisions of the Administrative Procedure Act RS 49:953B and approved the Annual Special Education Program Plan for FY 91-93. The plan may be viewed in its entirety in the Office of the Louisiana Register, 900 Riverside North, Suite 512, or the Office of the Board of Elementary and Secondary Education located in the Education Building in Baton Rouge, LA or in the Office of Special Educational Services, State Department of Education.

This emergency adoption is necessary in order that the plan may be submitted to Washington, D. C. by July 1, 1990. Effective date of emergency rule is June 20, 1990.

Em Tampke
Executive Director

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Regulations for Granting
Temporary Teaching Assignments

The State Board of Elementary and Secondary Education, at its meeting of May 24, 1990, exercised those powers conferred by the emergency provisions of the Administrative Procedure Act R.S. 49:953B and approved the following Regulations for Granting Temporary Teaching Assignments, effective July 1, 1990.

Regulations for Granting
Temporary Teaching Assignments

Effective July 1, 1990, local school systems shall have the authority to grant temporary teaching assignments on a school year basis. These assignments shall be made according to the following regulations:

1. Temporary teaching assignments shall be made on forms prescribed by the State Department of Education.
2. Temporary teaching assignments are valid for one school year only and the summer immediately following that school year, if needed. Renewals may be made on a yearly basis.
3. The school system shall be responsible for maintaining files on all temporary teaching assignments.
4. Local school systems shall adhere to the "Procedures for Granting Appeals for Renewal of Temporary Teaching Assignments", as developed by the Department of Education, when appeals are requested for renewal of the temporary teaching assignment.
5. The local school system may reissue a temporary teaching assignment, according to procedures developed by the State Department of Education, to an applicant who has not met the requirement of earning six hours of college credit.
6. The local school systems shall be accountable for all aspects of this program.
7. The State Department of Education shall monitor the implementation of the regulations for temporary teaching assignments.

Policies and Criteria Governing the
Issuance of Temporary Teaching Assignments
(Valid for One Year)

Policies and criteria governing the issuance of temporary teaching assignments shall be made as follows:

1. A temporary teaching assignment, valid for one school session only and authorizing the employment of a specified teacher in a position for which he is not regularly certified, may be issued by the employing superintendent, if criteria herein outlined are met and provided the following statement is signed by the superintendent on each temporary teaching assignment:

"I hereby certify that there is no regularly certified, competent, and suitable person available for this position and that the applicant named above is the best qualified person available for employment in the position herein above described."

2. A temporary teaching assignment may be made only for persons who have a baccalaureate degree.

3. Teachers who do not have a regular Louisiana teaching certificate must have the appropriate scores on the NTE and be eligible for admission to an approved teacher education program.

4. To reemploy a teacher on a temporary teaching assignment, a minimum of six semester hours of credit earned in residency or by extension must be earned. The hours must be applicable toward the certification area in which the temporary teaching assignment was approved.

This emergency adoption was required in order that the school systems could be notified of the proposed changes prior to the ending of this school year. Local systems will now be able to prepare for implementation of the new requirements prior to the beginning of school.

Em Tampke
Executive Director

DECLARATION OF EMERGENCY

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has exercised the emergency provisions of the Administrative Procedures Act, R.S. 49:953 B to adopt the following rule in the Title XIX Medicaid Program.

The Medicaid Program established by Title XIX of the Social Security Act provides medical assistance to certain low-income individuals and families and is administered by the States in accordance with Federal requirements. The program by law is intended to be the payor of last resort; that is, other available third party resources must be used before the Medicaid Program pays for the care of an individual eligible for Medicaid. The overall purpose of state Medicaid third party liability (TPL) programs is to ensure that Federal and state funds are not spent for covered services to eligible Medicaid recipients when third parties exist that are legally liable to pay for the services.

In accordance with the statutory provisions of the Deficit Reduction Act of 1984, since May 12, 1986, the state agency has utilized the method of claims payment called cost avoidance to process all Medicaid claims involving third party liability. In cost avoidance, if probable third party liability is established at the time the claim is filed, the agency rejects the claim and returns it to the provider for a determination of third party liability. When the amount of third party liability is determined, the agency pays the claim to the extent that payment allowed under the agency's payment schedule exceeds the amount of the third party's payment.

The Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) (P.L. 99-272), was enacted on April 7, 1986. Section 9503 of COBRA amended section 1902 (a)(25) of the Social Security Act to enact new provisions relating to third party liability in the Medicaid Program. DHHS/HCFA published the final rule in the *Federal Register* on January 16, 1990, implementing these COBRA provisions. Congressional intent in revising the methods of paying claims was to reduce the health providers' responsibility in administering the third party liability program so that physicians and other providers will continue their participation in the Medicaid Program, particularly in those geographical areas where there is unmet need for certain health and medical services.

The regulations implementing section 9503 set forth exceptions to the cost avoidance method of claims payment in TPL situations. For these exceptions the state is mandated to pay the submitted claim in the full amount allowed under the agency's payment schedule and then seek reimbursement from any liable third party to the limit of legal liability. This method of claims payment is referred to as "pay and chase." Accordingly, the pay and chase method of claims payment will apply to Medicaid claims for the following services covered under the State's Medicaid Plan:

- A. Prenatal care for pregnant women;
- B. Preventive pediatric services including Early and Periodic Screening Diagnosis and Treatment of individuals under the age of 21 years; and
- C. Services provided to an individual for whom child support enforcement services are being carried out by the Title IV-D state agency.

Prenatal Care Services

Prenatal care is defined as services provided to pregnant women if such services relate to the pregnancy or to any other medical condition which may complicate the pregnancy. The types of claims involved are claims for routine prenatal care, prenatal screening of mother or fetus, and care provided in the prenatal period to the mother for complications of pregnancy.

Preventive Pediatric Care Services

Preventive pediatric care is defined as screening and diagnostic services to identify congenital physical or mental disorders, routine examinations performed in the absence of complaints, and screening or treatment designed to avert various infectious and communicable diseases from ever occurring in individuals under age 21. This includes immunizations, screening tests for congenital disorders, well child visits, preventive medicine visits, preventive dental care, and screening and preventive treatment for infectious and communicable diseases.

HCFA-Approved Procedure Codes

The HCFA Regional Office has provided the ICD-9-CM Diagnosis Codes for prenatal care services and preventive pediatric care services. These HCFA-approved procedure codes will be used to identify the prenatal and preventive pediatric care claims which will be subject to the pay and chase method of payment. These procedure codes will be made available to providers in the provider newsletter and will be included in the provider manual at an early date.

The state agency will pay and chase claims whenever these codes are listed as the primary diagnosis for covered Medicaid services. For free-standing laboratories and radiology centers, the state agency will pay and chase reimbursement if the procedural codes are listed as the primary or secondary diagnosis. If there is no diagnosis code indicated on the claim (for example, pharmacy and medical transportation) which denotes prenatal or preventive pediatric care, the cost avoidance method of claims payment will be applied when there is probability of third party liability. In addition, hospitals and prepaid health plans such as health maintenance organizations are excluded from the mandatory pay and chase method of payment. Claims associated with inpatient hospital stay for labor and delivery and post-partum care will continue to be cost-avoided.

Medical Support Enforcement

The Title IV-D provision is a "pay and chase" requirement under COBRA which is provided to an individual for whom child support enforcement services are being carried out under Title IV-D. Congressional intent of this requirement was to protect the custodial parent and his/her dependent children from having to pursue the absent spouse, and his/her employer or insurer, for third party liability. The statute and implementing regulations give states the option to require the medical or health provider to bill a liable third party and then wait 30 days from the date of the service to bill Medicaid. The State Plan must specify the method chosen to assure provider compliance with the billing requirements. The state agency is amending the State Plan to notify HCFA that Louisiana has elected to pay and chase these claims in the same manner that prenatal claims and preventive pediatric care claims will be processed. Providers will not be required to bill a liable third party prior to submitting the claim for Medicaid reimbursement. The state will pay these claims and seek reimbursement from any liable third party. However,

the provider will have the option to bill a third party first. In situations where the third party is billed first, the provider must wait the required 30 day period before billing Medicaid. In addition, when payment has been received from the third party, the provider must attach a copy of the Explanation of Benefits from the third party to the Medicaid claim. The provider will then be reimbursed to the extent that payment allowed under the Bureau's payment schedule exceeds the amount of the third party payment.

For covered Title XIX services other than those specifically excluded from cost avoidance in this emergency rule, the agency will continue to use the cost avoidance method of claims payment.

Emergency Rule

Effective May 20, 1990, in accordance with 42 CFR Section 433.139 which implements section 9503 of COBRA, Medicaid claims for services covered under the State Plan will be cost avoided when there is probable third party liability unless the claim is for one of the following services:

- A. Prenatal care for pregnant women;
- B. Preventive pediatric services including Early and Periodic Screening Diagnosis and Treatment of individuals under the age of 21 years;
- C. Services provided to an individual for whom child support enforcement services are being carried out by the Title IV-D state agency.

In processing these claims, the Medicaid agency will pay the claim and seek reimbursement from liable third parties, utilizing the claims method of payment called "pay and chase." When the claim is for a service provided to an individual for whom child support enforcement services are being enforced through the Title IV-D state agency, the provider is not required to bill a liable third party prior to billing the state Medicaid agency. The state elects to process these claims in the same manner as for prenatal care and preventive pediatric services, that is, through the pay and chase process.

David Ramsey
Secretary

DECLARATION OF EMERGENCY

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953 B to adopt the following rule in the Title XIX Medicaid Program effective June 1, 1990.

The Omnibus Budget Reconciliation Act of 1989 (OBRA), enacted on December 19, 1989, amended Section 8010 of the Social Security Act to waive certain rules pertaining to the eligibility of disabled children for Supplemental Security Income (SSI) benefits. OBRA of 1989 provides that the Social Security Administration shall disregard parental income and resources in determining SSI eligibility when a child meets the following requirements:

- (1) Under age 18;
- (2) Living at home;
- (3) Disabled;
- (4) A former SSI recipient while institutionalized; and,
- (5) Eligible for medical assistance under a state home care plan (approved Title XIX waived service).

For purposes of the SSI Program, children who meet these requirements will receive the same personal needs allowance (\$30 per month) as if they were institutionalized. OBRA of 1989 requires that this provision shall become effective June 1, 1990.

Rulemaking is necessary to define the Title XIX Medicaid Program's responsibilities in implementing this provision under OBRA of 1989 relating to the deeming of income and resources for disabled children.

The Bureau of Health Services Financing has determined that disabled children under age 18 may participate in the Title XIX Mental Retardation/Developmental Disabilities (MR/DD) waiver when services provided under the HCFA-approved waiver will permit the child to live at home rather than be institutionalized. Children who may qualify will be identified by the Office of Mental Retardation case manager who will assist in the completion of an application for Title XIX services.

The Department of Social Services, Office of Eligibility Determination will determine the child's financial eligibility for Title XIX waived services in accordance with the Memorandum of Understanding between the two Departments. The Department of Health and Hospitals, Health Standards Regional Office will determine if the child meets the medical criteria for waived services. If the child is eligible to participate in the Title XIX MR/DD waiver, the Bureau of Health Services Financing shall be notified by the Office of Eligibility Determination.

The Bureau will advise the appropriate Social Security Administration Regional Office regarding participation in the MR/DD waiver in order that the child's eligibility for SSI may be determined. The SSI Program will then establish if the disabled child was a former SSI recipient while in an institution and therefore qualifies for the \$30 monthly personal needs allowance without regard to parental income and resources.

Accordingly, the Bureau is adopting this emergency rule to define the Medicaid Program's responsibility in complying with the mandated federal requirement of OBRA of 1989 relating to disabled children.

EMERGENCY RULE

When a disabled child under age 18, formerly an SSI recipient while institutionalized, is determined eligible to participate in the Title XIX MR/DD waiver, this information shall be reported to the Social Security Administration in order that the child's eligibility for SSI may be determined without regard to parental income and resources. If the SSI Program establishes that the disabled child was a former SSI recipient while in an institution and therefore qualifies for the \$30 monthly personal needs allowance without regard to parental income and resources, the child will also be eligible to receive the optional state supplementary payment at the current \$8 benefit level.

David L. Ramsey
Secretary

DECLARATION OF EMERGENCY

Department of Transportation and Development Division of Flood Control and Water Management

Port Construction and Development Priority Program Interim Rules and Regulations for Submission of Proposals

The Louisiana Department of Transportation and Development will evaluate requests for port project funding under the Port Construction and Development Priority Program for FY 1991. The evaluations must be comprehensive and the department will be developing a special methodology for this purpose. However, for this year such a methodology will not be available and the funding decisions will, therefore, be based on an interim approach similar to that used for the Capital Outlay Program, supplemented as necessary to insure that the funding allocations are based on a proper assessment of the various requests. Funding of the construction program is subject to final approval by the state legislature, as stipulated in Act 452 of the 1989 Regular Session of the Legislature.

In reviewing the data currently available to the department under the Capital Outlay requests, it has become clear that, for the objectives of this program, additional types of information is needed. The purpose of this document is to indicate the information being requested and to provide the prerequisites for submission of a proposal for funding under the Port Priority Program.

Prerequisites for Submission

The following prerequisites for submission should be carefully reviewed in order to determine whether your project can be considered for funding this year:

1. An application prepared by the port authority in accordance with these guidelines must be received by the Department of Transportation and Development by 4 p.m. on June 14, 1990.

2. Each port must submit verifiable evidence that local cost-sharing funds equal to 25 percent of the cost of the project are in hand or are readily available. The 25 percent local cost share may be in the form of dedicated tax revenues, loan guarantees, repayable debt, gifts, grants, or expenditures for construction of port and related facilities at ports and port-related industrial parks as stipulated in Item 3 below; funds obtained from federal sources may also be used. No state funds can be used as local cost sharing funds.

3. Any port authority which expended funds from a non-state funding source on a capital project, new construction or rehabilitation between July 1, 1988 and July 1, 1990 shall establish the total amount of such funds expended on such project or projects by furnishing to the Department of Transportation and Development documentation of the amounts so spent. In connection with any new project forming an integral part of the facility on which said funds were expended and submitted by such port authority in accordance with these guidelines and approved to be funded by the Transportation Trust Fund, amounts established in accordance with the above shall be treated as expenditures in discharge of the port authority's agreement to provide a 25 percent local match.

4. No funds from the Port Priority Program will be available for land acquisition projects this funding year.

5. Funding will be provided only for functioning ports, as opposed to functioning commissions; functional ports are

defined as ports at which maritime-related activities are presently occurring at public and/or private facilities and at which a commission is currently exercising its jurisdiction and providing services to the local maritime community.

6. The responsibility to provide complete, accurate, and documented data on each project, as defined below, rests solely with the port submitting the proposal for funding.

7. If a port submits more than one project for funding, the port must prioritize these projects. Due to time constraints and the total number of projects submitted, the evaluation process may be restricted to only the top two priority projects per port.

8. Any cost overrun on any project for any reason will be the sole responsibility of the local port that submitted the project for funding.

9. Funding from the Port Priority Program shall be limited to the construction, improvement, capital facility rehabilitation, and expansion of publicly owned port facilities including intermodal facilities and maritime-related industrial park infrastructure development, such as wharves, dock cargo handling capital equipment, utilities, railroads, roads, and buildings which can be shown to be integral components of any port project submitted for funding.

10. Funding from the Port Priority Program will not be integrated with or used for the state sponsorship (state matching basis for federal appropriation) for new construction and/or maintenance dredging on Corps of Engineers sponsored navigable waterways.

11. Funding from the Port Priority Program will be shared on a proportional 2:1 ratio between deep draft and shallow draft ports. Any balance in either fund will be rolled over to the other category.

12. All projects must be developed sufficiently to allow award of construction contract within one year of funding.

General Approach

In order to make a proper allocation of funds among the port project requests, it is necessary to have a clear understanding, for each project, of its expected net benefits to the state. The term "net benefits" means the difference between total costs and benefits associated with the proposed project (the "with project" condition) vs. those which would occur if the project were not undertaken (the "without project" condition).

For example, if the port project goes forward, there is usually a higher level of facility costs, mostly for construction. This is offset by the benefits including a reduced level of other costs (vessel operating costs, cargo handling costs, maintenance costs, etc.); there may also be increased economic activity, improved (or worsened) environmental consequences, etc.

All of these benefits are relative, i.e., they are based on the spread between what would happen with the new project vs. what would happen without the new project. In other words, to determine the benefits of any proposed project, it is necessary to evaluate the cargo flow projection, transportation cost savings, impact on other Louisiana ports, etc., without the project as well as with the project. Only then can the costs and gains under both scenarios be compared. The difference is the net benefit to be derived from the project.

Examination of the data currently available shows that, for many ports, this type of comparison between the "without" and the "with" project condition has not been done in a manner sufficient enough to determine the true net benefits of the proposed projects, with the degree of confidence re-

quired for Port Priority Program. Consequently, we are asking applicants to revise and supplement the information to meet the requirements listed below. If your port has not submitted projects for the Capital Outlay Program, then you must provide all of the information requested below with your request for funding under the Port Priority Program.

Application Format

The following items must be addressed and documented in order to make the necessary evaluations. Please be certain that the information you are presently providing addresses the following:

I. Instructions for Format of Title Page

The title page of the application shall be as follows:

A. Parish - In the upper right hand corner of the page, indicate the name of the parish in which the port is located.

B. Project Name - Directly below the parish, enter the project name. The name will be used in all future references to the project.

C. Application Title - The title "Application to the Louisiana Port Construction and Development Priority Program" should be centered in the upper one-third of the page.

D. Name of Port Authority - Below the title, provide the name of the sponsoring port authority, address, telephone and fax numbers, and contact person.

E. Legislative Delegation - In the lower one-third of the page, provide the names and district numbers of the senators and representatives within whose districts the proposed project appears.

F. Preparer - If different from the contact person, provide the name and telephone number of the person who prepared this application.

G. Date - Centered at the bottom of the page, state the month and year in which the application was submitted.

II. Project Description

A. The nature and goals of the project to include a concise description of the project.

B. Anticipated construction period (beginning and the end) by project phases, if applicable.

C. Indicate status (preliminary or final) of construction plans and provide a copy of the plans.

D. Engineering report (preliminary or final) with itemized unit cost of project and recurring maintenance costs.

E. Layout of existing and proposed facilities.

F. Port master plan and project conformance with the master plan, if available.

III. Forecast of Demand and Demonstration of Immediate Need

A. Total cargo and revenue cargo handled last five years by type (bulk, break-bulk, neo-bulk, containers) and volumes.

B. Forecasts of the cargo which would use the project, including type and volume for at least 10 years in the future with presentation of market analysis and justification of market share.

C. Major origins/destinations of forecasted cargoes.

D. Letters of commitment from users (if available and not confidential).

E. List of prospective industrial tenants (if available and not confidential).

F. Provide a copy of your port's financial statements for the last five years.

G. Any additional factors supporting justification of project.

IV. Benefits to the State

A. Describe the with and without project condition and identify the cost and benefit impacts in moving from the without to the with project conditions.

B. The impact of the project on other ports in the state, (e.g., diversion of cargoes or industrial activities, etc., from other state's ports).

C. By what route the goods would move if the project isn't built (via another facility at the port, via another port in Louisiana, via a port outside of Louisiana, via a non-water transport means).

D. The difference in shipping cost of the goods with the project as compared with shipping costs without the project.

E. Future facility operating costs with/without the project (e.g., labor, utilities).

F. Port revenue with and without project.

G. What new industrial development would result from the project; without the project, where would this development otherwise occur?

H. How many permanent new jobs would be created and/or existing jobs retained in the port as a result of the project, how many industrial jobs, how much total payroll for both; without the project, where would these jobs otherwise be created?

I. Other benefits resulting from the project.

J. Tabulate the project's costs and benefits.

V. Other Information

A. Sources of funding, including local share; an estimate of expenditures made to date for the projects which represent continuation of previously initiated improvements.

B. List necessary permits, indicate status of permit acquisition, and indicate project compliance with these requirements.

C. Is your 25 percent local share available? Each application must include a resolution similar to the draft resolution. (Exhibit A)

D. If multi-year program is necessary, summarize your anticipated investment schedule for full completion of the proposed project and prioritize your projects.

VI. Attachments

A. Resolution

B. Construction Plans

C. Engineering Report

D. Layout of Facility

E. Other Attachments, as needed

Note that, for a valid analysis, the "project" to be analyzed must be properly defined. The analysis must cover the whole project, not just a part (e.g., a construction of a bulkhead to support a subsequent yard development must be analyzed in terms of the costs and benefits of the total development; an analysis of the bulkhead alone, in this case, would be meaningless.) Similarly, each distinct project must be analyzed separately; it is not valid to aggregate distinct projects (e.g., an elevator and a general cargo dock) into a single analysis.

With respect to rehabilitation projects, presumably the benefit relates to the fact that if the facilities are allowed to continue deteriorating the operating costs will increase, capacity will diminish, and, eventually, the facilities will go out of service and cause some disruption. The applicant should document this disruption and its net cost and lost employment (the avoidance of which is the benefit.) If the applicant wishes to assert that the full value of the services lost to the

port should be credited as a benefit to the proposed project, it should also document that the business would otherwise leave the state; if it would move elsewhere in the state, then the benefit would be the higher costs necessary at the other state location.

Specific Points You Should Address

In reviewing the data that we have available concerning your proposed projects, we find that in addition to the information discussed above, we would like to have more information focusing specifically on the following areas:

[Specific points to be addressed will be listed here]

In order for your project to be considered for funding, submit the data requested as follows:

TO: Louisiana Department of Transportation and Development, Ports Construction and Development Priority Program, Room 401, Box 94245, Baton Rouge, LA 70804-9245.

BY: 4 p.m. on June 14, 1990.

WHAT: three copies of each application and attachments.

If you need assistance in clarifying the information that is requested, you may contact Dot McConnell at (504) 379-1473. If you so desire, you may request a visit from a representative of the Louisiana State University's Ports and Waterways Institute to assist you.

EXHIBIT A

RESOLUTION

A Resolution authorizing the (port authority) to prepare and submit an application to the Louisiana Ports Construction and Development Priority Program for assistance in the implementation of a ports improvements project; providing for the necessary documentation of the need for the ports improvement; and providing for other matters in connection therewith.

WHEREAS, (port authority) has a need for ports improvements; and

WHEREAS, (port authority) desires to apply for state matching funds pursuant to Chapter 47 of Title 34 of the Louisiana Revised Statutes of 1950, as amended, to implement a project to improve its ports operation and the (port authority) is fully aware of its obligations under said Statute and the requirements of the Interim Guidelines; and

WHEREAS, (port authority) is a political body duly organized and existing under the laws of the state of Louisiana and is eligible to apply for funds under said Statute,

NOW, THEREFORE, BE IT RESOLVED by the (port authority) as follows:

Section 1. That at the appropriate time and upon approval of funding assistance and prior to commencement of work on the project (port authority) agrees to execute an Agreement and a Statement of Sponsorship pursuant to the Statute.

Section 2. That (authorized representative) (title) is hereby designated Authorized Representative for (port authority) to effect the preparation of an application to the Louisiana Ports Construction and Development Priority Program for funding assistance of a port improvement project.

Section 3. That said Authorized Representative's responsibilities shall pertain to technical matters only and shall not include any official act on behalf of the (port authority).

This _____ day of _____, 19 ____.

Secretary

Presiding Officer

(Port Authority)

I. EVALUATION ANALYSIS

In determining a score to prioritize the request for funds, the following factors will be considered:

Technical Feasibility
Financial Feasibility
Economic Impacts
Environmental and Other Impacts
Management of Port

1. Technical Feasibility

Indicators of technical feasibility are as follows:

completeness of project design;
appropriate consideration of alternatives;
compatibility of project to port's master plan;
level of detail of preliminary plans must be adequate

to allow award of a construction contract within a year but still allow input from the department;

items of work as shown in the cost estimate are at a level of detail that may be readily verified.

2. Financial Feasibility

The primary factor in determining financial feasibility is the benefit cost ratio. Other elements are as follows:

historical operations;
how verifiable are projections of revenue and expenses;
supporting documentation.

3. Economic Impacts

The economic impacts are to be analyzed by the following:

the number of permanent jobs created by the port improvement after construction;

the annual payroll to accommodate these new permanent jobs.

4. Environmental and Other Impacts

The parameters used to evaluate the environmental and other impacts are as follows:

no adverse impact on significant historical, archaeological, geological features, or environmentally sensitive areas;

no wetland loss;
letters of support from legislative delegation;
no letters of objection.

5. Management of Port

The primary factor in appraising the management of the port is the average cost per ton to move cargo through the port.

II. DISTRIBUTION OF FUNDS

The distribution of program funds shall be based on a one-tier system. There shall be a division between deep draft ports and shallow draft ports.

A. Deep Draft Ports

Two-thirds of the Louisiana Ports Construction and Development Priority Program funds shall be allocated to deep draft ports. However, no more than 30 percent of the total amount of funds available to finance a project in the deep draft port funding group shall be allocated to any single project in a given fiscal year.

B. Shallow Draft Ports

Shallow draft ports shall be allocated one-third of the program funds. No more than 30 percent of the total amount of funds available to finance a project in the shallow draft port funding group shall be allocated to any single project in a given fiscal year.

C. Redistribution Procedure

If there are insufficient approved applications in a funding group to utilize the program funds in that funding group, then the remaining funds shall be redistributed on a pro rata basis to the other funding groups within its tier. If excess funds remain, they will be redistributed to the other tier. For example, any excess funds in a shallow draft port funding district shall be redistributed to the deep draft ports funding group.

D.J. Webre, Jr., P.E.
Project Support Chief

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, R.S. 49:967, which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons, and R.S. 56:317, which provides that the secretary of the department may declare a closed season when it is in the best interest of the state; the secretary of the Department of Wildlife and Fisheries hereby finds that an imminent peril to the public welfare exists and accordingly adopts the following emergency rule.

Effective 12:01 a.m. June 1, 1990 the recreational fishery for king mackerel in Louisiana waters will close and remain closed until 12:01 a.m. July 1, 1990.

The secretary was notified by the Gulf of Mexico Fishery Management Council and the National Marine Fisheries Service on May 18, 1990 that the gulfwide recreational king mackerel quota had been reached and the season closure is necessary to prevent overfishing of this species.

Virginia Van Sickle
Secretary

Rules

RULE

Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences Seed Commission

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and R.S. 3:1433, notice is hereby given that the Department of Agriculture and Forestry, Seed Commission, amended the following rule and regulation:

**Title 7
AGRICULTURE AND ANIMALS
Part XIII. Seeds**

**Chapter 87. Seed Certification Standards
§8719. Labeling of Seed**

G. No seed shall be sold or offered for sale from any bag or container bearing a germination label more than nine months prior to the time such seed is offered for sale. For all vegetable seed packaged in hermetically sealed containers, this period shall be extended to 24 months. The owner shall be responsible for the relabeling after expiration of the germination test date period. Under the provisions of this regulation, any person, firm or corporation possessing a seedsmen's permit shall have the right to label such seed after it has been retested, stating the true germination thereof. A new tag or label shall be used to bring the germination up-to-date. The original tag shall not be changed in any way.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1436, R.S. 3:1444 and R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 4:105 (April 1978), repealed and readopted LR 12:825 (December 1986), amended LR 16: (June 1990).

Bob Odom
Commissioner

RULE

**Department of Economic Development
Board of Architectural Examiners**

Under the authority of R.S. 37:144 and in accordance with the provisions of R.S. 49:950 et seq., the Board of Architectural Examiners adopts LAC 46:I.1111 pertaining to the board's interpretation of the square footage threshold set forth in R.S. 37:155(4)(f) for a building with mixed occupancy classifications.

**Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part I. Architects**

Chapter 11. Administration

**§1111. Calculating Gross Floor Area R.S. 37:155(4)
Where Building Contains Mixed Occupancy Classifications**

When a building contains more than one of the occupancy classifications set forth in R.S. 37:155(4)(f), the gross floor area shall be calculated by performing the following calculations:

1. Divide the gross floor area of each of the occupancy classifications by the corresponding threshold of each, as established in R.S. 37:155(4)(f). Round off the resultants to four decimal points.

2. Add the results of each of the above calculations.

3. If the total exceeds 1.0000, the building exceeds the gross floor area established in R.S. 37:155(4)(f).

For example, calculating the gross floor area of a building containing 3,126 square feet of storage occupancy

and 2,000 square feet of business occupancy shall be performed as follows:

3,126 actual storage sq. ft.		
divided by 6,250 threshold	=	0.5002
2,000 actual business sq. ft.		
divided by 4,000 threshold	=	0.5000
Total	=	1.0002

In this example, the threshold square footage of this mixed occupancy building would be exceeded and, therefore, would not be exempt under R.S. 37:155(4).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:155(4)(f).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Architectural Examiners, LR 16: (June 1990).

Persons seeking further information on this rule may submit written inquiries to Mary "Teeny" Simmons, Executive Director, Board of Architectural Examiners, 8017 Jefferson Highway, Suite B2, Baton Rouge, LA 70809.

Mary "Teeny" Simmons
Executive Director

RULE

**Department of Economic Development
Real Estate Appraisal Subcommittee**

In accordance with the notice of intent published in the April 20, 1990 issue of the *Louisiana Register*, the Louisiana Certified Real Estate Appraisal Subcommittee announces the adoption of the following rules effective June 20, 1990.

**Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LXVII. Real Estate**

Subpart 2. Appraisers

Chapter 103. Certification

§10313. Residential Certification Minimum Experience

A. Points Required Per Year

Each year of experience shall require proof of completion of at least 100 points of approved appraisals. A total of 200 points is required for residential certification.

B. Residential Appraisals Counted

Only appraisals of single-family, one to four unit residential property, or vacant sites for single-family or farm/timber acreage which included the valuation of a single-family house(s) shall count as residential experience.

C. Two Years Experience

A minimum of two-calendar years experience shall be required for certification. All experience points cannot be earned in one calendar year.

D. Time Allowed For Meeting Experience

The experience requirement must be met over the five years preceding the application for certification. At least 40 points of experience credit must be earned in any one year to receive credit for any appraisal experience in that year.

E. Residential Appraisal Points

Residential appraisal points shall be awarded as follows:

- | | |
|---|---|
| 1. one unit dwelling (including a site) | 1 point |
| 2. two to four unit dwelling | 2 points |
| 3. residential lot (1-4 family) | 1/2 point |
| 4. residential subdivision sites (NOT TO EXCEED FIVE POINTS) | 1/2 point per lot |
| 5. appraisal instruction of an approved residential course of 20 classroom hours or more (NOT TO EXCEED 16 POINTS PER YEAR) | 4 points |
| 6. farm or timber acreage suitable for a house site less than 10 acres | 1 point |
| 10 to 100 acres | 2 points |
| over 100 acres | 3 points |
| 7. all other unusual structures, acreages, acreages which are much larger or more complex than typical properties described herein items 1 to 4 and 6 | submitted to Subcommittee for determination 1/2 to 5 points |
| 8. residential appraisal textbook authorship (NOT TO EXCEED 20 POINTS PER YEAR) | submitted to Subcommittee for determination |
| 9. residential journal articles in journals of approved national appraisal organizations (NOT TO EXCEED 20 POINTS PER YEAR) | 10 points |

The cumulative points from items 5, 8 and 9 shall not exceed 50 percent of the cumulative residential points.

- | | |
|--|-----------|
| 10. review of appraisals shall be worth 20 percent of the points awarded to the appraisal. | |
| 11. Rural Lot - Unimproved rural land 25 acres or less | 1/2 Point |
| 12. Rural Residence - On unit primary dwelling, 10 acres or less | 2 Points |
| 13. Ranchette - Part time rural use 10 to 25 acres with main dwelling and outbuildings such as additional residence, barns or other outbuildings | 3 Points. |

F. Appraisal Affidavits

1. Proof of appraisal affidavit will be submitted by the applicant as a notarized affidavit to include subject property address (street, lot, square, subdivision, parish) date of appraisal report, property type (including units, lots, acres), gross building area, and client (name, contact person, address and telephone number), purpose of report with a tally of the points being requested by the applicant and any other information deemed appropriate by the subcommittee.

2. Verification of experience can include any or all of:

a. Client verification of report at discretion of the subcommittee.

b. Submission of selected reports to the subcommittee upon request as part of certification process where the report remains the property of the appraiser.

c. Field inspection of all reports identified by the applicant at their offices during normal business hours.

3. Statement specifying the applicant agrees to R.S. 37:3399(D) shall appear prominently on the application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3391-3412.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, Real Estate Appraisal Subcommittee, LR 15:816 (October 1989), amended LR 16: (June 1990).

§10315. General Certification Experience

A. Points Required Per Year

Each year of experience shall require proof of completion of at least 100 points of appraisals. A total of 300 points is required for general certification.

B. Residential Experience Limited

No more than one year of residential experience shall be applied for credit toward a general certification.

C. Three Years Experience Required

Three years experience shall be required for a general certification, of which at least two years experience shall be on non-residential property.

D. Time Deadline For Meeting Requirement

The experience requirement must be met in the five-year period prior to certification. At least 40 points of experience credit must be earned in any one year to receive credit for appraisal experience in that year.

E. General Appraisal Points

General appraiser points shall be awarded as follows:

- | | |
|--|-----------|
| 1. Apartments | |
| 5 - 20 units | 4 points |
| 21 - 100 units | 8 points |
| over 100 units | 10 points |
| 2. Hotels/Motels | |
| 50 or fewer units | 6 points |
| 51 - 150 units | 8 points |
| over 150 units | 10 points |
| 3. Meeting, conference or auditorium | |
| 20,000 square feet or less | 4 points |
| over 20,000 square feet | 6 points |
| 4. Industrial or warehouse building | |
| 20,000 square feet or less | 4 points |
| over 20,000 square feet | 8 points |
| over 100,000 square feet and multiple tenant | 10 points |
| 5. Office buildings | |
| 10,000 square feet or less | 6 points |
| 10,001 square feet or more | 8 points |
| 10,001 square feet or more and multiple tenants | 10 points |
| 6. Condominium residences with income approach to value | |
| 5 to 30 units | 6 points |
| 31 or more units | 10 points |
| 7. Retail buildings | |
| 10,000 square feet or less | 6 points |
| over 10,000 square feet, single tenant | 8 points |
| over 50,000 square feet and multiple tenants | 10 points |
| 8. Acreage of non-residential land for commercial or multiple family use | |
| less than 10 acres | 3 points |
| 100 acres or more | 6 points |
| 100 acres or more with income approach to value | 8 points |
| 9. Timber or farm acreage | |
| 100 to 200 acres | 3 points |
| over 200 acres | 6 points |
| over 200 acres with income approach to value | 8 points |

10. All other unusual structures or which are much larger or more complete than the typical properties described herein items (a) - (i) submitted to Subcommittee for determination 1 to 15 points
11. Reviews of appraisals shall be worth 20 percent of the points awarded to the appraisal
12. Appraisal instruction of an approved general course, 20 classroom hours or more in length (NOT TO EXCEED 20 POINTS PER YEAR) 10 points
13. Appraisal textbook authorship in general appraisal topics (NOT TO EXCEED 20 POINTS PER YEAR) submitted to Subcommittee for determination
14. General field journal articles in journal of an approved national appraisal organization (NOT TO EXCEED 20 POINTS PER YEAR) 10 points

The cumulative points from items 12, 13 and 14 shall not exceed 50 percent of the cumulative general points.

15. No more than 40 percent of the cumulative points may be earned from any one category items (a) - (j). The applicant may request the waiver of this requirement for unique depth of experience in a single area.

16. Pasture or Grazing Enterprises
- | | |
|---------------------|----------|
| 25-50 acres | 1 Point |
| 50-100 acres | 2 Points |
| 100-500 acres | 3 Points |
| 500-2,000 acres | 6 Points |
| 2,000 acres or more | 8 Points |
17. Row Crop Enterprises
- | | |
|---------------------|-----------|
| 25-50 acres | 2 Points |
| 50-100 acres | 3 Points |
| 100-500 acres | 4 Points |
| 500-2,000 acres | 6 Points |
| 2,000 acres or more | 10 Points |
18. Orchard, Vineyard, and Plant Nursery Enterprises
- | | |
|-----------------|----------|
| 0-50 acres | 2 Points |
| 50-100 acres | 4 Points |
| 100-500 acres | 6 Points |
| 500-2,000 acres | 8 Points |
19. Aquaculture Enterprises
- | | |
|-----------------|-----------|
| 0-50 acres | 4 Points |
| 50-100 acres | 6 Points |
| 100-500 acres | 8 Points |
| 500-2,000 acres | 10 Points |
20. Truck Farm Enterprises
- | | |
|-----------------|----------|
| 0-50 acres | 2 Points |
| 50-100 acres | 4 Points |
| 100-500 acres | 6 Points |
| 500-2,000 acres | 8 Points |
21. Dairy Enterprises
- | | |
|-----------------------------|----------|
| 0-50 cow milking herd | 4 Points |
| 50-100 cow milking herd | 6 Points |
| 100 & over cow milking herd | 8 Points |
22. Diversified agricultural operations of over 500 acres involving two or more of the above enterprises; assuming multiple disciplines are exhibited in the report 10 Points
23. Specialized agricultural properties Submitted to Subcommittee for determination
24. No more than 40 percent of the cumulative points may be earned from any one category (Items 16-23). The applicant may request a waiver of this requirement for unique

depth of experience in a single area.

25. Timber and Timber Land Appraisals

	Land and Timber
40-100 acres	2 Points
100-500 acres	3 Points
500-2,000 acres	5 Points
2,000-10,000 acres	7 Points
Over 10,000 acres	Submitted to Subcommittee for determination

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3391-3412.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, Real Estate Appraisal Subcommittee, LR 15:816 (October 1989), amended LR 16: (June 1990).

Jane H. Moody
Executive Director

RULE

Board of Elementary and Secondary Education

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to notice of intent published March 20, 1990 and under the authority contained in Louisiana State Constitution (1974), Article VIII, Section 3, Act 800 of the 1979 Regular Session, adopted as a rule, the 8(g) Annual Program and Budget, FY 1990-91 listed below:

8(g) Annual Program and Budget - FY 1990-91

- I. Exemplary Competitive Programs Designed to Improve Student Academic Achievement or Vo-Tech Skills
 - A. Pre-K - 3rd Grade \$1,000,000
 - B. Student Enhancement (Grades 4 - 12) 1,000,000
 - C. Vocational Education 1,500,000
(Public Postsecondary)
- II. Exemplary Block Grant Programs Designed to Improve Student Academic Achievement or Vo-Tech Skills
 - A. Elementary and Secondary Education 4,000,000
 1. Early Childhood Education
(Pre-K - 3rd Grade)
 2. Student Enhancement (Grades 4-12)
 3. Educational Technology
 - B. Vocational Education 650,000
 1. Extension
 2. Apprenticeship
 3. Quickstart
 4. SACS Accreditation
- III. Exemplary Statewide Programs Designed to Improve Student Academic Achievement or Vo-Tech Skills
 - A. Administrative Leadership Academy 550,000
 - B. Teacher Tuition Exemption Program 3,000,000
 - C. Louisiana Writing Project 250,000
 - D. Star Schools Telelearning Project 340,000
 - E. Talent Improvement Program for Gifted and Talented Students 80,000

F. Vocational Education	
1. Curriculum Upgrade	100,000
2. Occupational Competency Testing	30,000
3. VTIE Tuition Exemption Program	60,000
4. Statewide Quickstart	800,000
G. Mini Grant Awards of Excellence	400,000
H. Statewide Distance Learning Network	3,000,000
I. Teacher Institute for the Humanities	200,000
J. Model Early Childhood Program	2,000,000
IV. Research or Pilot Programs Designed to Improve Student Academic Achievement	
A. Louisiana Educational Assessment Program	1,316,000
B. Parent Education Project	300,000
C. Governor's Reform Initiatives	
1. Teacher Internship Program/Teacher Evaluation Program	268,000
2. School Incentive Program	200,000
3. Model Career Options Program	356,000
4. Statewide Dropout ID and Intervention Program	800,000
D. Spalding Phonics Program	200,000
E. Joining Forces for "At Risk" Youth	261,827
F. Instructional Enhancement Through the Arts	150,000
V. Purchase of Superior Textbooks, Library Books, Supplemental and/or Reference Materials	2,000,000
VI. Remediation Programs	
A. Extended Programs for Students Failing the High School Graduation Test	500,000
VII. Teaching of Foreign Languages in Elementary and Secondary Schools	
A. Foreign Language Model Program	175,000
VIII. Scholarships or Stipends to Prospective Teachers	
A. Education Majors Program	2,000,000
B. Post-Baccalaureate Scholarship Program	500,000
IX. Management and Oversight	
A. BESE Administration (1%)	285,580
B. BESE Fiscal/Programmatic Evaluation (1%)	285,580
TOTAL	\$28,557,987

Em Tampke
Executive Director

RULE

Board of Elementary and Secondary Education

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to notice of intent published March 20, 1990 and under the authority contained in Louisiana State Constitution (1974), Article VIII, Section 3, Act 800 of the 1979 Regular Session, adopted as a rule, a revision to Standards 2.099.01 and 2.105.15 of Bulletin 741 to provide that credit in Integrated Algebra/Geometry can

count as one of the three units in mathematics required for high school graduation:

Under high school graduation requirements, amend the following standards.

2.099.01 Mathematics 3 units

Shall be Algebra I and one of the following options:

1) Algebra II and Geometry,

2) Algebra II or Geometry and one of the following:

Advanced Mathematics, Calculus, Consumer Mathematics, Business Mathematics, or Integrated Algebra/Geometry.

2.105.15 Mathematics

Three units of Math shall be required for graduation.

They shall be Algebra I and one of the following options: (1) Algebra II and Geometry, or (2) Algebra II or Geometry and one of the following: Advanced Mathematics, Calculus, Consumer Mathematics, Business Mathematics, or Integrated Algebra/Geometry.

Em Tampke
Executive Director

RULE

Board of Elementary and Secondary Education

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to notice of intent published March 20, 1990 and under the authority contained in Louisiana State Constitution (1974), Article VIII, Section 3, Act 800 of the 1979 Regular Session, adopted as a rule, the amendment to Bulletin 1706, Regulations for Implementation of the Exceptional Children's Act, page 107 to read:

Amend page 107, paragraph 948 Noncategorical preschool handicapped to read:

"Noncategorical Preschool Handicapped is an exceptionality in which children three through five, but not enrolled in a state approved kindergarten, are identified as having a handicapping condition which is described according to functional and/or developmental levels, as mild/moderate or severe/profound."

Em Tampke
Executive Director

RULE

Board of Elementary and Secondary Education

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to notice of intent published March 20, 1990 and under the authority contained in Louisiana State Constitution (1974), Article VIII, Section 3, Act 800 of the 1979 Regular Session, adopted as a rule, the following amendment to Bulletin 741:

Amend to add the following standard 1.038.03 and procedural block:

1.038.03 The systemwide pupil-classroom-teacher-ratio in kindergarten through grade three shall be twenty pupils to one classroom teacher.

Refer to R.S. 17:151.B (1) and to the Procedures for Implementation.

Em Tampke
Executive Director

RULE

Board of Trustees of the Firefighters' Pension and Relief Fund For The City of New Orleans

Procedural Rules and Regulations
of
The Board of Trustees

Rule I. Definitions

§1. Applicant or Claimant. An individual participant applying for a pension, or a surviving spouse or child applying for a survivor pension or death benefit.

§2. Board. The Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans.

§3. Committee. The Pension and Relief Committee.

§4. Participant. An employee of the New Orleans Fire Department who is eligible to and does participate in the Pension and Relief Fund in accordance with R.S. 33:2101 and 2103.2.

§5. Secretary-Treasurer. Secretary-Treasurer of the Board of Trustees.

Rule II. Organization, Rules and Procedures of the Board

§1. Organization of the Board

1.1 Election of President. The board shall, at the regular meeting held after the election of members to the board as set forth in R.S. 33:2102, elect from its members a president for the term of two years, or until a successor is duly elected. If because of death, resignation or otherwise, the office of president is vacated before the expiration of the term of office, the board shall elect a successor at its next regular meeting.

1.2 Election of Secretary-Treasurer. The board shall, at the regular meeting held as set forth in §1.1 above, elect solely from the elected members of the board as set forth in §2102 (3) (4) of Title 33 a secretary-treasurer for a term of two years or until a successor is duly elected. If because of death, resignation or otherwise, the office of secretary-treasurer is vacated before the expiration of the term of office, the board shall elect a successor at its next regular meeting.

1.3 There is established in accordance with R.S. 33:2103 a Pension and Relief Committee consisting of the secretary-treasurer and one or more other members elected from the board.

1.4 Rules of Order. The board and the committee shall not be bound by any rules of order, evidence or procedure at its meetings, hearings or investigations, except such as it may itself establish.

§2. Rules

2.1 Adoption of Amendment. These rules may be adopted or amended by the board only after public hearing as set forth in R.S. 49:953.

2.2 Effective Date of Amendments. An amendment to the rule shall become effective on the 1st day of the month following the date of adoption by the board unless otherwise specifically provided.

§3. Meetings

3.1 At least one regular meeting of the board shall be held each month.

3.2 Special meetings may be held at times and places specified by call of the president, or three other members of the board.

3.3 Regular meetings may be held on any day of the month as determined by the board. Notice of the time and place of all regular meetings shall be given in writing to each member of the board by the secretary-treasurer.

3.4 Five elected members of the board shall constitute a quorum for the transaction of business.

3.5 The board shall maintain its records at the fund office.

Rule III. Application Procedure, Initial Determination and Notice

§1.1 All applications for disability pension and relief benefits must be made 45 days in advance of the regular monthly meeting at which the application is to be heard.

1.2 Application shall be made on a form made available by the Board of Trustees. A copy of said form follows these rules and is approved as the official form of the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans.

1.3 Documentary evidence. Documentary evidence in support of disability applications shall be submitted in addition to the application, and may be in the form of doctors' reports, medical reports or any other medical evidence or statements acceptable to the board which the claimant wishes to present to assist the board in making its initial determination of benefits payable in accordance with R.S. 33:2101 et seq. Said documentary evidence shall include a medical report from the department physician.

1.4 Application for death benefits shall be made on a form provided for by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans. A copy of said form follows and is adopted as the official form of this Board of Trustees.

1.5 Surviving spouses' applications. In addition to providing medical evidence and any other statements presented to assist the board in making an initial determination, all surviving spouses who apply for pension benefits shall do so on a form furnished by the Board of Trustees of the Firefighters' Pension and Relief Fund. A copy of said form follows and is made part hereof and is adopted as the official form of the Board of Trustees. In addition, surviving spouses shall furnish the board with a certified copy of the member's death certificate and a notarized affidavit to the effect that the surviving spouse was married to the decedent at the time of his death and has not remarried, and also listing the names of any and all surviving children under 18 years of age. Accompanying this affidavit shall be a certified copy of the marriage certificate of the decedent and surviving spouse, and birth certificates of all children under 18 years of age.

1.6 Any applicant for a death benefit or survivor pension shall be awarded benefits in accordance with any other

rules and regulations adopted by the board from time to time concerning entitlement thereto, and shall abide by any additional requirements set forth thereunder, as applicable.

§2. Initial Determination

2.1 The Board of Trustees shall meet and make an initial determination on any application filed in accordance with these rules based upon the evidence that is presented by the claimant in support of that application.

2.2 After the board makes its initial determination, the applicant shall be notified of the board's determination by certified mail, return receipt requested, as to what action the board has taken. In the event the application or any part of it is denied, the member shall be advised of his right to appeal the initial determination of the Board of Trustees by filing such a request, in writing, within 30 days of the claimant's receipt of the advice of initial determination.

2.3 If a member files such an appeal, the board shall schedule a hearing within 60 days thereof before the Pension and Relief Committee established pursuant to these rules.

Rule IV. Hearing Procedures, Appeal, Oath, Testimony, Production of Records and Depositions

§1. Hearings before the Pension and Relief Committee

1.1 The Pension and Relief Committee shall conduct a hearing in accordance with R.S. 49:956 et seq. and these rules. The applicant may represent himself or may be represented by an attorney or any other person he may designate.

1.2 Depositions may be used at the hearing conducted by the Pension and Relief Committee in accordance with R.S. 49:956 (6).

1.3 The Pension and Relief Committee, after hearing all of the evidence and considering all of the facts presented, shall then prepare a recommended decision which shall be submitted to the Board of Trustees of the Firefighters' Pension and Relief Fund of the City of New Orleans.

1.4 The recommended decision of the Pension and Relief Committee shall be submitted to the board within 60 days after the close of the hearing, unless, in the committee's determination, intervening circumstances preclude such prompt determination. The Board of Trustees shall meet to consider said recommendation and all facts and evidence

offered in support thereof and shall either adopt said recommendation as its own or shall take such other action as it shall determine. Said decision shall be decided within 30 days after the Pension and Relief Committee submits its report, except where further documentation or evidence is required by the board to enable it to reach a decision, or due to any other unforeseeable circumstances. The applicant shall be notified of the decision of the Board of Trustees by certified mail, return receipt requested.

§2. Oaths, Testimony, Production of Records and Depositions

2.1 The Pension and Relief Committee and each member thereof may administer oaths, subpoena witnesses and compel production of books and papers pertinent to any investigation or hearing authorized by the board pursuant to R.S. 49:956. All applications by the claimant for the issuance of subpoenas must be in the hands of the secretary-treasurer of the Board of Trustees in sufficient time to permit service prior to the date established for the hearing.

2.2 Whenever a party to a hearing now or hereafter pending before the board desires to take the testimony of a witness who resides outside of the state or who resides within the state but outside the Parish of Orleans, or who is unable to attend the hearing, the testimony of the witness, after due notice in writing to the opposing counsel or his party, a copy of which said notice shall be furnished to the Pension and Relief Committee, may be taken in a manner and form as clearly consonant as possible with the provisions of the Louisiana Code of Civil Procedure.

Rule V. Judicial Review

Judicial review of any final decision by the Pension and Relief Committee and/or the full Board of Trustees shall be reviewable in the District Court of the domicile of the board as set forth in R.S. 49:964. No such petition for judicial review shall be filed, however, unless and until the applicant shall have first exhausted all internal fund remedies available hereunder, including the filing of an appeal contesting an adverse determination by the board.

William M. Carrouche
Chairman

**FIREFIGHTERS PENSION AND RELIEF FUND
FOR THE CITY OF NEW ORLEANS
329 So. Dorgenois Street
New Orleans, Louisiana 70119**

APPLICATION FOR RETIREMENT BENEFITS

Please Complete Fully — Print or type answers, then sign, date and return this form to the Firefighters Pension and Relief Fund Office

**If application is for Normal or Early Retirement Pension,
you must submit proof of age for your spouse and copy of marriage license.**

1. Name _____
Last First Middle Telephone No.

Name of Spouse _____
Last First Middle

Date of Marriage _____
Month Day Year

Spouse's Date of Birth _____
Month Day Year

2. Address _____
Number and Street City State Zip Code

3. Social Security No. _____

4. Date of Birth _____
Submit Proof of Age - Attach Certified Copy of Birth Certificate

5. Beginning Date of Employment as Firefighter _____
Month Date Year

6. Date you retired or intend to retire _____

7. Have you ever served in the Armed Forces of the United State?
_____ Yes _____ No. If yes, fill in the information below

Branch of Service	Date Entered	Date Discharged or Separated
_____	_____	_____

* * * * *

I hereby apply for a pension from the Firefighters Pension and Relief Fund for the City of New Orleans and certify all statements in this application are true to the best of my knowledge and belief. If a pension is granted to me, I agree to be bound by all the Rules and Regulations of the Pension Fund and will personally endorse all pension checks received by me.

_____ Date _____ Signature

**FIREFIGHTERS PENSION AND RELIEF FUND
FOR THE CITY OF NEW ORLEANS
329 So. Dorgenois Street
New Orleans, Louisiana 70119**

APPLICATION FOR DEATH BENEFITS

(Complete and Return to Above Address)

PLEASE PRINT OR TYPE

**If application is for Normal or Early Retirement Pension,
you must submit proof of age for your spouse and copy of marriage license.**

NAME OF DECEASED PARTICIPANT _____
Last First Middle

ADDRESS _____
Number and Street City State Zip Code

SOCIAL SECURITY NO. _____ DATE OF BIRTH _____
Month Day Year

BEGINNING DATE OF EMPLOYMENT AS FIREFIGHTER _____
Month Day Year

DATE RETURNED (If applicable) _____
Month Day Year

DATE OF DEATH _____
Month Day Year

I hereby certify that the above person has died and make application to receive the Death Benefit payable to the designated beneficiary from the Firefighters Pension and Relief Fund for the City of New Orleans.

NAME OF DESIGNATED BENEFICIARY _____
Last First Middle

ADDRESS _____
Number and Street City State Zip Code

DESIGNATED BENEFICIARY OR ESTATE'S SOCIAL SECURITY NO. _____

DESIGNATED BENEFICIARY'S DATE OF BIRTH _____
Month Day Year

ATTACHMENTS:

1. A certified copy of the death certificate.
2. If the designated beneficiary is the surviving spouse of decedent, attach the following:
 - (a) a notarized affidavit certifying that the surviving spouse was married to the decedent at the time of his death, and also listing the names and ages of all surviving children under 18 years of age;
 - (b) a certified copy of the surviving spouse's birth certificate.

_____ Date SIGNATURE OF APPLICANT

noff/doc.63

RULE

Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans

Procedural Rules and Regulations For Determining Status of Qualified Domestic Relations Orders

WHEREAS, the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans wishes to adopt rules and regulations concerning recognition of judgments, garnishment orders, informal demands and other requests and attempts purporting to assign or procure assignment of a participant's benefit in this fund;

WHEREAS, the Louisiana statute covering and creating the pension fund contains, at R.S. 33:2120, an express anti-assignment provision which precludes the Trustees' recognition of any demands, judicial or otherwise, of third party creditors;

WHEREAS, however, the Trustees are fully familiar with those developments of Louisiana law which have recognized the right of a spouse to share in the pension benefit payable, to the extent that its accrual is based on the accumulation of credits earned during the existence of the community, see, e.g., *T.L. James and Co. v. Montgomery*, 332 So.2d 834 (La. 1976); *Lynch v. Lawrence*, 293 So.2d 598 (La. App. 4th Cir. 1974);

AND WHEREAS, the Trustees are similarly aware that a state exemption statute limiting the assignability of state retirement rights does not preclude their classification as community property. *Thrash v. Thrash*, 387 So.2d 21 (La. App. 3rd Cir. 1980);

AND WHEREAS, as to other similar plans, the courts have recognized that retirement rights are subject to Louisiana community property laws despite a non-assignability provision. *McCoy v. McCoy*, 460 So.2d 641 (La. App. 4th Cir. 1984); *Lewis v. Lewis*, 467 So.2d 179 (La. App. 3rd Cir. 1985);

AND WHEREAS, in *Kennedy v. Kennedy*, 391 So.2d 1193 (La. App. 4th Cir. 1980), the court held as to the Firefighters' Pension and Relief Fund of New Orleans, that a participant's equity in the fund is separate property subject to reimbursement for community assets attributable thereto, which *McCoy* purported to "overrule".

NOW THEREFORE, in order to be protected in making a benefit payment to a spouse that may be in conflict with *McCoy v. McCoy* and with the statutory anti-assignment provision, the Trustees hereby adopt and promulgate a policy of making benefit payments directly to an alternate payee only in obedience to the order of a court of competent jurisdiction. Such a policy is hereby adopted with knowledge of the Employee Retirement Income Security Act, 29 U.S.C. Section 1056(D), which governs similar employee benefit plans in the private sector. The Trustees believe that, while ERISA does not directly govern this public fund's administration, adoption of ERISA's disposition of the same issue (recognition of spousal sharing and other domestic rights in face of statutory anti-assignment provisions) is prima facie evidence of reasonableness.

NOW THEREFORE, the Trustees hereby adopt the following Rules and Regulations concerning issuance, execution and service of a Qualified Domestic Relations Order relative to any request to the board that a participant's pen-

sion payment, in whole or in part, be made to an alternate payee to satisfy community property, alimony, child support or other domestic relations obligations.

1. Definitions. As used in these procedures, unless the context indicates otherwise, the following terms shall have the following meanings:

a. *Participant* means any employee or former employee employed in the capacity of firefighter by the City of New Orleans Fire Department, who is or may become eligible to receive a benefit of any type from the fund.

b. *Domestic Relations Order* means any judgment, decree, or order (including approval of a property settlement agreement) which--

i. relates to the provision of child support, alimony payments, or marital property rights to a spouse, former spouse, child, or other dependent of a participant, and

ii. is made pursuant to state domestic relations law (including a community property law).

c. *Alternate payee* means a person, other than a participant in the fund, to whom any payments are due under a domestic relations order with respect to participant.

d. "Qualified domestic relations order" means a domestic relations order that creates or recognizes the existence of an alternate payee's right (or assigns to an alternate payee the right) to receive all or a portion of the benefits payable with respect to a participant in the fund, provided that the order--

i. clearly specifies--

a. the name and last known mailing address of the participant and the name and mailing address of each alternate payee covered by the order,

b. the amount or percentage of the participant's benefits to be paid by the plan to each such alternate payee, or the manner in which such amount or percentage is to be determined,

c. the number of payments or the period to which such order applies, and

d. the identity of the fund; and

ii. does not require:

a. the fund to provide any type or form of benefits, or any option, not otherwise provided under the fund,

b. the fund to provide increased benefits (determined on the basis of actuarial value), or

c. the payment of benefits to an alternate payee that are required to be paid to another alternate payee under another order previously determined to be a qualified domestic relations order.

2. Notice. Upon the fund's receipt of a domestic relations order with respect to participants, the Board of Trustees shall promptly give notice of these procedures to the participants and to each person specified in the order as entitled to payment of any fund benefits under the order, at the address the order specifies.

3. Determination

a. The Board of Trustees shall determine whether a domestic relations order is a qualified domestic relations order within a reasonable time after it is received, and shall have the right to require such evidence as they may reasonably need to make the determination.

b. The Board of Trustees shall notify the participants and the alternate payee of the determination no less than 30 days before making any payment pursuant to the order, if it is determined to be a qualified order, or within a reasonable

time if it is determined not to be a qualified order.

c. The participant may appeal such a determination upon written application to the Board of Trustees. The participant may review any documents pertinent to the appeal and may submit issues and comments in writing to the Trustees. No appeal shall be considered unless it is received by the Board of Trustees within 90 days after receipt by the participant of written notice of the determination. The Trustees shall decide the appeal within 60 days after it is received. If special circumstances require an extension of time for processing, however, a decision shall be rendered as soon as possible, but not later than 120 days after the appeal is received. If such an extension of time for deciding the appeal is required, written notice of the extension shall be furnished to the participant prior to the commencement of the extension. The Trustees' decision shall be in writing and shall include specific reasons for the decision, expressed in a manner calculated to be understood by the participant and the alternate payee.

4. Payment pending determination. During any period in which the issue whether a domestic relations order is a qualified domestic relations order is being determined (by the Board of Trustees by a court of competent jurisdiction, or otherwise), the Trustees shall segregate in a separate account in the trust fund the amounts that would have been payable to the alternate payee during such period if the order had been determined to be a qualified domestic relations order.

a. To the extent that the domestic relations order is determined to be qualified, the fund shall pay the segregated amounts to the person or persons entitled to them according to the terms of the order. In the case of determinations appealed under these procedures, the payment shall be made not less than 10 days nor more than 30 days after the issuance of the Trustees' disposition of the appeal.

b. To the extent that the domestic relations order is determined not to be qualified, the plan shall pay the segregated amounts to the person or persons who would have been entitled to such amounts without regard to the terms of the order. In the case of determinations appealed under these procedures, the payment shall take place not less than 10 days nor more than 30 days after the issuance of the Trustees' disposition of the appeal.

c. To the extent that the issue whether the domestic relations order is qualified is not resolved within 18 months after the fund receives notice of the order, the fund shall pay the segregated amounts to the person or persons who would have been entitled to these amounts without regard to the terms of the order.

5. Representative of alternate payee. An alternate payee, by written notice to the Board of Trustees, may designate a representative for receipt of copies of notices that are sent to the alternate payee with respect to a domestic relations order.

6. Sample QDRO Language. The Trustees have already determined that the language contained in Exhibit "A" (relating to a retired participant already receiving a benefit from the fund) and in Exhibit "B" (relating to a participant who is entitled or may be entitled to receive a future, contingent benefit from the fund) satisfies the requirements of these rules; said sample language is provided to assist per-

sons who wish to procure similar orders. However, the Trustees will recognize any other order that meets the requirements of these rules.

William M. Carrouche
Chairman

EXHIBIT "A"
QDRO SAMPLE LANGUAGE
WHEN PARTICIPANT IS ALREADY IN BENEFIT STATUS

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that there be judgment herein recognizing the right of _____, _____,
(spouse) (address)
to receive from the Firefighters' Pension and Relief Fund for the City of New Orleans the sum of \$_____ per month, which sum represents a _____% interest in the pension benefits payable to participant _____,
(name)
_____. Said benefit payable to
(address)
_____, is to continue for the duration of
(spouse)
_____ entitlement to receive a
(participant's name)
pension. The same percentage interest will apply to all future benefit increases attributable to this pension, if any.

EXHIBIT "B"
SAMPLE QDRO LANGUAGE
FOR CLAIMS AS TO FUTURE, CONTINGENT
BENEFIT NOT YET PAYABLE

IT IS ORDERED, ADJUDGED AND DECREED that there by judgment herein recognizing the right of _____, _____
(spouse) (current mailing address)
to receive a one-half future, contingent interest in that portion of any pension benefits, including benefit increases, if any, payable by the Firefighters' Pension and Relief Fund for the City of New Orleans to _____,
(participant)
_____ to the extent that such
(current mailing address)
portion is attributable to the employment of _____
(participant)
during the existence of the community between
_____ and _____ (i.e. from
(spouse) (participant)
_____) . The rights of _____ to
(date) to (date) (spouse)
participate in such benefits will be governed by the Louisiana and federal law in effect at such future time as
_____ becomes eligible
(participant)
and qualified to receive retirement benefits from the Firefighters' Pension and Relief Fund for the City of New Orleans.

RULE

Office of Education Services Governor's Special Commission on Education Services

Capitalization of Delinquent Interest Payments on Supplemental Loans for Students (SLS)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Governor's Special Commission on Education Services (GSCES) advertises its intent to amend and adopt the following policies and procedures regarding Capitalization of Delinquent Interest Payments on Supplemental Loans for Students (SLS).

Effective March 1, 1990, the Governor's Special Commission on Education Services will require participating lenders to take the following actions when a borrower becomes delinquent on a required installment payment of interest on an SLS loan during an authorized deferment period:

1. Notify the borrower in writing that failure to resolve the delinquency within 30 days will be deemed by the lender to constitute the borrower's consent to capitalization of both the delinquent interest and all interest that accrues during the remainder of the deferment period.

2. Capitalize the overdue interest and continue capitalizing accrued interest through the remainder of the deferment period, if the borrower does not resolve the delinquency within the specified period of 30 days.

Interest that accrues during an in-school, graduate fellowship, or rehabilitation training deferment period may be capitalized no more frequently than quarterly. Interest that accrues during any other deferment period may be capitalized no more frequently than annually.

The authority to adopt and implement the capitalization of delinquent interest payments on Supplemental Loans for Students (SLS) is the United States Department of Education (USDE), January, 1990, Dear Colleague Letter 90-G-175).

The adopted rules would amend Policy IX and Procedures 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 47, 48, and 51.

Copies of Policy IX and Procedures 28-48, and 51 may be seen in the offices of GSCES, 8401 United Plaza Boulevard, State Retirement Systems Building, Room No. 250, or the Office of the Louisiana Register located in the Capitol Annex, Baton Rouge, LA.

Interested persons may comment on this proposed policy and procedure changes and/or additions in writing from 7:45 a.m. to 4:30 p.m. until May 30, 1990, at the following address: GSCES, 8401 United Plaza Boulevard, State Retirement Systems Building, Room No. 250, Baton Rouge, LA 70809.

Jack L. Guinn
Executive Director

RULE

Office of the Governor Office of Elderly Affairs

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Governor's Office of Elderly Affairs (GOEA) amends LAC 4:VII.1143, effective June 20, 1990. The emergency rulemaking provisions of the Administrative Procedure Act, R.S. 49:953B, were exercised effective March 12, 1990 and published in the Louisiana Register Vol. 16, Number 3, page 190 on March 20, 1990 relative to this provision. The rule change was published as a notice of intent on April 20, 1990.

GOEA has made the following changes in response to comments received concerning the notice of intent:

The order of the subsections has been rearranged.

2. Subsection A, "General Rules for Services Funded under Title III of the Older Americans Act" has been expanded to include the following provisions:

- a. GOEA shall be alert to organizational conflicts of interest or non-competitive practices among area agencies that may restrict or eliminate competition;

- b. area agencies shall follow service procurement guidance issued by GOEA;

- c. GOEA shall evaluate area agency applications to provide direct services in order to determine whether direct delivery of such service(s) by an area agency using its own employees is necessary to assure an adequate supply of the service(s); or whether such service(s) of comparable quality can be provided more economically by the area agency on aging.

- d. GOEA shall review the documentation required in the service procurement guidance, including, but not limited to standards, specifications, requests for proposals and/or evaluation criteria when deciding whether to authorize direct delivery of service by an area agency.

3. Subsection B, "Criteria for Direct Delivery of Services by an Area Agency" specifies that area agencies may directly deliver services related to its administrative functions.

4. Subsection C, "Test Standards" specifies that GOEA shall utilize an area agency on aging's evaluation criteria in evaluating its application to provide direct service(s).

5. The original "Standard Procedure for Area Agencies" has been retained, with minor revisions, in Subsection D under the revised heading "Standard Procedure for Area Agencies for Services Where Direct Delivery Authorization is Not Requested."

6. A new Subsection E, entitled "Standard Procedure for Area Agencies for Services Where Direct Delivery Authorization is Requested," has been created.

§1143.F, "Service Delivery Standards" applies to all service providers under the state plan. These standards shall be moved to Subchapter D, entitled "Service Provider Responsibilities," at a later date.

Title 4

ADMINISTRATION

Part VII. Governor's Office

Chapter 11. Elderly Affairs

Subchapter B. Area Agency on Aging

§1143. Service Procurement

- A. General Rules for Services Funded under Title III of the Older Americans Act

1. The Governor's Office of Elderly Affairs and all area agencies in Louisiana use procurement contracts or subcontracts with service providers to provide all services under the state and area plans unless the Governor's Office of Elderly Affairs, after exploring alternatives, decides that direct provision of a service by the area agency using its own employees is necessary to assure an adequate supply of the service; or where such services are directly related to such area agency on aging's administrative functions; or where such services of comparable quality can be provided more economically by the area agency on aging.

2. The Governor's Office of Elderly Affairs shall be alert to organizational conflicts of interest or non-competitive practices among area agencies that may restrict or eliminate competition.

3. Area agencies shall follow the service procurement guidance issued by the Governor's Office of Elderly Affairs.

4. The Governor's Office of Elderly Affairs shall evaluate area agency applications to provide direct services in order to determine whether direct delivery of such service(s) by an area agency using its own employees is necessary to assure an adequate supply of the service(s), or whether such service(s) of comparable quality can be provided more economically by the area agency on aging.

5. In order to ensure objective contractor performance and eliminate unfair competitive advantage, the Governor's Office of Elderly Affairs shall review the documentation required in the service procurement guidance, including, but not limited to, standards, specifications, requests for proposals and/or evaluation criteria when deciding whether to authorize direct delivery of service(s) by an area agency.

B. Criteria for Direct Delivery of Services by an Area Agency

1. Area agencies may directly deliver services determined by the Governor's Office of Elderly Affairs to be directly related to area agency on aging administrative functions.

2. For services not directly related to area agency on aging administrative functions, the Governor's Office of Elderly Affairs may authorize direct service delivery if the area agency:

a. demonstrates that it is necessary to directly deliver service(s) to ensure an adequate supply of the service; or

b. demonstrates that it can provide service(s) of comparable quality more economically than other provider.

3. The Governor's Office of Elderly Affairs' decision concerning area agency on aging requests for authorization to provide direct services will be based on one of two tests: The Adequate Supply Test Standard (when no proposals are received by the AAA in response to the SFP); or The More Economic Test Standard (when proposals are received).

C. Test Standards

1. Adequate Supply Test Standard

a. The Adequate Supply Test will require area agencies to demonstrate that service(s) are either not offered or are only partially available in the PSA.

b. The Adequate Supply Test will be met when the AAA provides documentation that it has not received any proposals to deliver the service(s) in all or a portion of the PSA after the AAA has: 1) advertised the availability of funds; and 2) written to bona fide service providers, inviting them to submit proposals.

2. More Economic Test Standard

a. The More Economic Test will require an area agency (AAA) to demonstrate that service(s) of comparable quality will be provided by the AAA at a unit rate at least 10 percent lower than the lowest responsible applicant's proposed unit rate.

b. The More Economic Test Standard will be met when the AAA's sealed Narrative Proposal substantiates that it meets the Service Delivery Standards in Subsection F of this Section in a manner comparable in quality to the lowest responsible applicant's proposal; and provides the service(s) at a unit rate which is at least 10 percent lower than the lowest responsible applicant's proposed unit rate. Unit rate is defined as the total expenditure of funds offered for the service divided by the number of units of service to be delivered.

c. In applying the More Economic Test, the Governor's Office of Elderly Affairs shall utilize the criteria used by the area agency in the preliminary evaluation of proposals received from other potential providers.

D. Standard Procedure for Area Agencies for Services Where Direct Delivery Authorization is Not Requested

For services where direct delivery authorization is not requested the area agency governing body shall:

a. solicit proposals for service delivery and awards of financial assistance under procurement contract;

b. evaluate proposals received; and

c. award procurement contract(s) or financial assistance under contract to best applicant(s).

E. Standard Procedure for Area Agencies for Services Where Direct Delivery Authorization is Requested

For each service the area agency desires to provide directly, the area agency governing body shall:

a. solicit proposals for service delivery and awards of financial assistance under procurement contract;

b. conduct a preliminary evaluation of all proposals received; and

c. provide sufficient documentation to the Governor's Office of Elderly Affairs to enable the state agency to make a determination of the necessity of direct service delivery by the area agency.

F. Service Delivery Standards

The following standards must be met by all providers of services under the State Plan.

1. A person qualified by training and experience is designated to be responsible for the conduct of this activity, including supervision of paraprofessional and volunteer staff.

2. There are adequate numbers of supervisory staff, trained and skilled in dealing with assessing the needs of older persons and assisting such persons to obtain needed services.

3. The service is provided in a timely manner to meet the individual needs of eligible participants.

4. There is a system established for follow-up on referrals.

5. There is an up-to-date file of community resources which will contribute to the well being of older persons.

6. Procedures are established for publicizing the service.

7. Linkages are planned with other services available under Title III, Section 203 of the Older Americans Act.

8. There is a sound management system capable of furnishing timely and accurate fiscal and program reports.

9. There is sufficient schedule of service delivery

days. (minimum: 250 service delivery days per contract year)

10. Outreach is available to target older persons with the greatest social or economic need with particular attention to low-income minority individuals; older persons with severe disabilities; and older Indians [if there is a significant Indian population (at least 25) in the PSA], and rural elderly.

11. There are service delivery criteria for each service giving priority in the delivery of services to older individuals who are frail, homebound by reason of illness or incapacitating disability or otherwise isolated; and older individuals with the greatest social or economic need (with particular attention to low-income minority individuals).

12. There is a system established for the re-evaluation of clients receiving services.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 307(a)(10), OMB Circular A-110.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:621 (June 1985), LR 11:1078 (November 1985), LR 16: (June 1990).

Vicky Hunt
Director

RULE

Office of the Governor Office of Elderly Affairs

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Governor's Office of Elderly Affairs (GOEA) amends Section 1223 of the GOEA Policy Manual, effective June 20, 1990. The purpose of the amendment is to correct a technical error in the agency's current policy as it relates to the responsibilities or area agency on aging dietitian/nutritionists. The current policy states an area agency dietitian/nutritionist's responsibilities shall include "menu review and nutritional analysis." This has been misinterpreted by a service provider to mean an area agency dietitian must perform the nutritional analyses of meals provided in the Older Americans Act Title III-C Nutrition program; however, this has never been the intent of GOEA. The nutritional analysis must be performed by the service provider. The correct wording is "review menus and nutritional analyses."

Title 4 ADMINISTRATION Part VII. Governor's Office

Chapter 11. Elderly Affairs Subchapter E. Uniform Service Requirements §1223. Title III-C Nutrition Services

A. - D. ...

E. Special Staffing Requirements

1. Area Agency on Aging

a. ...

B. Responsibilities of the dietitian/nutritionist shall include but not be limited to:

i. review menus and nutritional analyses;

AUTHORITY NOTE: Promulgated in accordance with OAA Section 307 (a) (13), Section 313, and Section 336.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 16: (June 1990).

Vicky Hunt
Director

RULE

Department of Health and Hospitals Board of Dentistry

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq. and the Dental Practice Act, R.S. 37:760(8), notice is hereby given that the Louisiana State Board of Dentistry has adopted the following amended rule and regulation:

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS Part XXXIII. Dental Health Professionals

Chapter 5. Dental Assistants

§501. Authorized Duties

A. A dental assistant is one who is employed by and works in the office of a licensed, registered, practicing dentist and performs the duties authorized by the Louisiana State Board of Dentistry under his direct on-premises supervision, direction and responsibility only.

B. A dental assistant may only perform the following under the direct on-premises supervision of the dentist who employs her or him as directly ordered by the dentist:

1. Serve as the dentist's chairside assistant.

2. Take and develop dental x-rays and intra-oral photographs as ordered by the dentist.

3. Take and record pulse, blood pressure and temperature.

4 Apply:

a. topical anesthetics (non-aerosol, non-caustic);

b. topical fluorides (following prophylaxis by a dentist or a dental hygienist);

c. desensitizing agents;

d. oxygenating agents (non-endodontic);

e. cavity liners (excluding capping of exposed pulpal tissues);

f. acid etch liquids and gels, but the assistant cannot apply pit and fissure sealants.

5. Chart the mouth, floss the teeth, and make preliminary inspections of the mouth and teeth with a mouth mirror and floss only.

6. Give intra-oral instructions and demonstrations of oral hygiene procedures.

7. Place, wedge or remove matrices for restorations by the dentist.

8. Remove sutures, post-extraction dressings and surgical ligature ties.

9. Receive removable prosthesis for cleaning or repair work.

10. Remove cement from dental restorations and appliances, with hand instruments only, limited to the clinical crown.

11. Make dental plaque smears.
12. Apply and remove rubber dams.
13. Make preliminary study model impressions and opposing model impressions.
14. Place or remove pre-formed crowns or bands for determining size only when recommended by the dentist under his supervision. Only the dentist may shape, festoon, contour, seat and cement all crowns, bands and brackets.
15. Place or remove temporary separating devices.
16. Place or remove ligatures, cut and tuck ligatures, remove tension devices and any loose or broken bands or arch wires when directed by the dentist.
17. A retaining device usually placed in the mouth of a patient by such patient may be placed when directed by the dentist.
18. Place and remove periodontal dressings (except placement of the initial dressing).
19. Fabricate and remove interim crowns or bridges (interims meaning temporary while permanent restoration is being fabricated).
20. Place and remove retraction cord while the dentist is in the operatory.
21. Remove final impressions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by Department of Health and Human Resources, Board of Dentistry, October, 1970, amended LR 2:186 (June, 1976), LR 7:586 (November, 1981), LR 15:965 (November, 1989), LR 16: (June, 1990).

Barry Ogden
Executive Director

RULE

Department of Health and Hospitals Board of Dentistry

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq. and the Dental Practice Act, R.S. 37:760(8), notice is hereby given that the Louisiana State Board of Dentistry has adopted the following rule and regulation:

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXXIII. Dental Health Professionals

Chapter 10. Infectious Waste Management

§1001. Handling and Disposing of Infectious Waste

The Louisiana State Board of Dentistry has accepted, in principal, the July, 1988 recommendations of the American Dental Association, Division of Scientific Affairs, on Dental Office Infectious Waste Management and adopts the following regulations in connection therewith.

A. Wastes generated in a dental office which are to be considered infectious, and are to be handled and disposed of with special precautions, include the following:

1. sharp items, such as needles, disposable syringes and scalpel blades;
2. human tissues, including extracted teeth;

3. blood, suctioned fluids or other liquid waste.
B. The proper method for handling and disposing of sharp items is as follows:

1. All sharp items should be placed intact in puncture-resistant containers for disposal.

2. The containers should be labeled with a biological hazard tag.

3. The labeled containers should be placed in impervious plastic bags before disposing of them in a sanitary landfill. Alternatively, as an additional step, the dentist may prepare a slurry of gypsum plaster, pour it into the container and allow it to harden to encase the sharp objects in the set plaster. The container may then be disposed of in sturdy, impervious plastic bags as appropriate for other solid waste materials.

C. The proper method of handling and disposing of human tissues is as follows:

1. Human tissue may be handled in the same manner as sharp items.

2. Alternatively, human tissues may be incinerated or autoclaved prior to disposal. Extracted teeth containing metal restorations should not be autoclaved prior to disposal because of the possible release of potentially harmful vapors, such as mercury vapor.

3. Human tissues and extracted teeth not placed in a fixative and submitted for pathological examination may be placed in a chemical agent for sterilization.

4. Human tissue, if handled in the same manner as sharp items, should be labeled with a biological hazard tag. If stored prior to incineration or being autoclaved, the containers holding such wastes should also be labeled with biological hazard tags. After incineration or autoclaving, the remaining waste is no longer infectious and any container holding such remaining waste would not require any labeling as a biological hazard.

D. The proper method for handling and disposing of blood, suctioned fluids or other liquid waste is as follows:

1. Blood, suctioned fluids or other liquid wastes may be carefully poured into a drain connected to a sanitary sewer system.

2. All bottles or other containers used to collect blood, suctioned fluids or other liquid wastes for disposal should be labeled with a biological hazard tag or symbol.

E. Other solid waste materials contaminated with blood or other body fluids, such as gloves, masks, wipes, paper drapes and surface covers, do not require special precautions. These materials should be placed in sealed, sturdy, impervious plastic bags to prevent human contact with them, and disposal should be in the same manner as with other solid wastes.

F. All dentists shall comply with the foregoing regulations in identifying, handling and disposing of infectious waste material.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by Department of Health and Hospitals, Board of Dentistry, LR 16: (June 1990).

Barry Ogden
Executive Director

RULE

**Department of Health and Hospitals
Board of Dentistry**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq. and the Dental Practice Act, R.S. 37:760(8), notice is hereby given that the Louisiana State Board of Dentistry has adopted the following rule and regulation:

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXXIII. Dental Health Professionals

Chapter 6. Dentists Employing Nurses

§601. Authorized Duties

A. A dentist employing a registered nurse may assign any duty which the nurse is not prohibited from performing under (1) the Nurse Practice Act, R.S. 37:911, et seq., or (2) the Dental Practice Act, R.S. 37:751, et seq., as either may be amended from time to time.

B. Nothing herein contained shall be construed as empowering the Louisiana State Board of Dentistry to regulate nurses or the practice of nursing.

C. In the event of any conflict between the provisions of this rule and the provisions of the Nurse Practice Act, the provisions of the Nurse Practice Act shall prevail.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by Department of Health and Hospitals, Board of Dentistry, LR 16: (June 1990).

Barry Ogden
Executive Director

RULE

**Department of Health and Hospitals
Board of Medical Examiners**

The Louisiana State Board of Medical Examiners (board), pursuant to the authority vested in the board by R.S. 37:1270(B) and the provisions of the Administrative Procedure Act, has adopted, as Subpart V, Chapter 99 of its administrative rules (LAC 46:XLV), rules governing the initiation, investigation and adjudication of administrative complaints providing cause under law for the suspension, revocation or other disciplinary action against licenses, permits, certifications and registrations issued by the board. The text of rules is set forth below.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLV. Medical Profession

Subpart 5. Rules of Procedure

Chapter 99. Adjudication

§9901. Scope of Chapter

The rules of this Chapter govern the board's initiation and adjudication of administrative complaints providing cause under law for the suspension, revocation, imposition of probation or other disciplinary action against persons holding licenses, permits, certifications, or registration issued by the board or applicants therefor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16: (June 1990).

§9903. Complaint

A. Proceedings to adjudicate an administrative enforcement action shall be initiated by the filing of a written administrative complaint with the board. The complaint shall be signed by a member of the board appointed and designated by the board as investigating officer with respect to the subject matter of the complaint and shall name the accused licensee as respondent in the proceedings.

B. The complaint shall set forth, in separately numbered paragraphs, a concise statement of the material facts and matters alleged and to be proven by the investigating officer including the facts giving rise to the board's jurisdiction over the respondent, the facts constituting legal cause under law for administrative action against the respondent, and the statutory or regulatory provisions alleged to have been violated by respondent. The complaint shall conclude with a request for the administrative sanction or other relief sought by the investigating officer and shall bear the name, address and telephone number of complaint counsel engaged by the board to present the case at evidentiary hearing before the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16: (June 1990).

§9905. Notice of Hearing

A. Upon the filing of an administrative complaint pursuant to §9903, the board shall docket the complaint and schedule the complaint for hearing before the board not less than 45 days nor more than 180 days thereafter; provided, however, that such time may be lengthened or shortened as the board determines may be necessary or appropriate to protect the public interest or upon motion of the investigating officer or respondent pursuant to a showing of proper grounds. In the event that the respondent's license, permit, certification or registration has been suspended by the board pending hearing, pursuant to R.S. 49:961(C), evidentiary hearing on the complaint shall be noticed and scheduled not more than 45 days after the filing of the complaint.

B. A written notice of the complaint and the time, date and place of the scheduled hearing thereon shall be served upon the respondent by registered, return-receipt-requested mail, as well as by regular first class mail, at the most current address for the respondent reflected in the official records of the board, or by personal delivery of the complaint to the respondent. The notice shall include a statement of the legal authority and jurisdiction under which the hearing is to be held and shall be accompanied by a certified copy of the administrative complaint.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16: (June 1990).

§9907. Response to Complaint; Notice of Representation

A. Within 15 days of service of the complaint, or such longer time as the board, on motion of the respondent, may

permit, the respondent may answer the complaint, admitting or denying each of the separate allegations of fact and of law set forth therein. Any matters admitted by respondent shall be deemed proven and established for purposes of adjudication. In the event that respondent does not file a response to the complaint, all matters asserted therein shall be deemed denied.

B. Any respondent may be represented in an adjudication proceeding before the board by an attorney at law duly admitted to practice in any state. Upon receipt of service of a complaint pursuant to this chapter, or thereafter, a respondent who is represented by legal counsel with respect to the proceeding shall personally or through such counsel, give written notice to the board of the name, address and telephone number of such counsel. Following receipt of proper notice of representation, all further notices, complaints, subpoenas, orders or other process related to the proceeding shall be served on respondent through his or her designated counsel of record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16: (June 1990).

§9909. Pleadings, Motions; Service

A. All pleadings, motions or other papers permitted or required to be filed with the board in connection with a pending adjudication proceeding shall be filed by personal delivery at or by mail to the office of the board and shall by the same method of delivery be concurrently served upon complaint counsel designated by the complaint, if filed by or on behalf of the respondent, or upon respondent, through counsel of record if any, if filed by complaint counsel.

B. All such pleadings, motions or other papers shall be submitted on plain white, letter-size (8½" by 11") bond, with margins of at least one inch on all sides and text double-spaced except as to quotations and other matter customarily single-spaced, shall bear the caption and docket number of the case as it appears on the complaint and shall include the certificate of the attorney or person making the filing that service of a copy of the same has been effected in the manner prescribed by Subsection A of this Section.

C. The board may refuse to accept for filing any pleading, motion or other paper not conforming to the requirements of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16: (June 1990).

§9911. Prehearing Motions

Motions for continuance of hearing, for dismissal of the proceeding and all other prehearing motions shall be filed not later than 30 days following service of the complaint on the respondent or 15 days prior to the hearing, whichever is earlier. Each prehearing motion shall be accompanied by a memorandum which shall set forth a concise statement of the grounds upon which the relief sought is based and the legal authority therefor. A motion may be accompanied by an affidavit as necessary to establish facts alleged in support of the motion. Within 10 days of the filing of any such motion and memorandum or such shorter time as the board may order, the investigating officer, through complaint counsel, may file a memorandum in opposition to or otherwise setting

forth the investigating officer's position with respect to the motion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16: (June 1990).

§9913. Motions for Continuance of Hearing

A. A motion for continuance of hearing shall be filed within the delay prescribed by §9911 of these rules, provided that the board may accept the filing of a motion for continuance at any time prior to hearing upon a showing of good cause not discoverable within the time otherwise provided for the filing of prehearing motions.

B. A scheduled hearing may be continued by the board only upon a showing by respondent or complaint counsel that there are substantial legitimate grounds that the hearing should be continued balancing the right of the respondent to a reasonable opportunity to prepare and present a defense to the complaint and the board's responsibility to protect the public health, welfare and safety. Except in extraordinary circumstances evidenced by verified motion or accompanying affidavit, the board will not ordinarily grant a motion to continue a hearing that has been previously continued upon motion of the same party.

C. If an initial motion for continuance is not opposed, it may be granted by the executive director.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16: (June 1990).

§9915. Disposition of Prehearing Motions

A. Any prehearing motion, other than an unopposed initial motion for continuance of hearing which may be granted by the executive director, shall be referred for decision to the presiding officer of the hearing panel designated with respect to the proceeding for ruling. The presiding officer, in his discretion, may refer any prehearing motion to the entire panel for disposition, and any party aggrieved by the decision of a presiding officer on a prehearing motion may request that the motion be reconsidered by the entire panel.

B. Prehearing motions shall ordinarily be ruled upon by the presiding officer or the hearing panel, as the case may be, on the papers filed, without hearing. On the written request of respondent or of complaint counsel, however, and on demonstration that there are good grounds therefor, the presiding officer may grant opportunity for hearing, by oral argument, on any prehearing motion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16: (June 1990).

§9917. Subpoenas for Hearing

A. Upon request of the respondent or complaint counsel and compliance with the requirements of this Section, the executive director shall sign and issue subpoenas in the name of the board requiring the attendance and giving of testimony by witnesses and the production of books, papers, and other documentary evidence at an adjudication hearing.

B. No subpoena shall be issued unless and until the party who wishes to subpoena the witness first deposits with the board a sum of money sufficient to pay all fees and ex-

penses to which a witness in a civil case is entitled pursuant to R.S. 13:3661 and R.S. 13:3671. Witnesses subpoenaed to testify before the board only to an opinion founded on special study or experience in any branch of science, or to make scientific or professional examinations, and to state the results thereof, shall receive such additional compensation from the party who wishes to subpoena such witnesses as may be fixed by the board with reference to the value of time employed and the degree of learning or skill required.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16: (June 1990).

§9919. Prehearing Conference

A. In any case of adjudication noticed and docketed for hearing, counsel for respondent and complaint counsel may agree, or the presiding officer may require, that a prehearing conference be held among such counsel, or together with the board's independent counsel appointed pursuant to §9921(D) hereof, for the purpose of simplifying the issues for hearing and promoting stipulations as to facts and proposed evidentiary offerings which will not be disputed at hearing.

B. Following such prehearing conference the parties shall, and without such conference the parties may by agreement, agree in writing on a prehearing stipulation which should include:

1. a brief statement by complaint counsel as to what such counsel expects the evidence to be presented against respondent to show;

2. a brief statement by respondent as to what the evidence and arguments in defense are expected to show;

3. a list of the witnesses to be called by complaint counsel and by respondent, together with a brief general statement of the nature of the testimony each such witness is expected to give;

4. any stipulations which the parties may be able to agree upon concerning undisputed claims, facts, testimony, documents, or issues; and

5. an estimate of the time required for the hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16: (June 1990).

§9921. Conduct of Hearing; Record

A. Unless requested by the respondent, adjudication hearings shall be conducted in closed session.

B. At an adjudication hearing, opportunity shall be afforded to complaint counsel and respondent to present evidence on all issues of fact and argument on all issues of law and policy involved, to call, examine and cross-examine witnesses, and to offer and introduce documentary evidence and exhibits as may be required for a full and true disclosure of the facts and disposition of the complaint.

C. Unless stipulation is made between the parties, and approved by the hearing panel, providing for other means of recordation, all testimony and other proceedings of an adjudication shall be recorded by a certified stenographer who shall be retained by the board to prepare a written transcript of such proceedings.

D. During evidentiary hearing, the presiding officer shall rule upon all evidentiary objections and other proce-

dural questions, but in his discretion may consult with the entire panel in executive session. At any such hearing, the board may be assisted by legal counsel, retained by the board for such purpose, who is independent of complaint counsel and who has not participated in the investigation or prosecution of the case. If the board or panel is attended by such counsel, the presiding officer may delegate to such counsel ruling on evidentiary objections and other procedural issues raised during the hearing.

E. The record in a case of adjudication shall include:

1. the administrative complaint and notice of hearing, respondent's response to the complaint, if any, subpoenas issued in connection with discovery in the case or hearing of the adjudication, and all pleadings, motions, and intermediate rulings;

2. evidence received or considered at the hearing;

3. a statement of matters officially noticed except matters so obvious that statement of them would serve no useful purpose;

4. offers of proof, objections, and rulings thereon;

5. proposed findings and exceptions, if any;

6. the decision, opinion, report or other disposition of the case made by the board.

F. Findings of fact shall be based exclusively on the evidence and on matters officially noticed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16: (June 1990).

§9923. Evidence

A. In an adjudication hearing, the board, or the designated hearing panel thereof, may give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent men in the conduct of their affairs. Effect shall be given to the rules of privilege recognized by law. The board or panel may exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written form.

B. All evidence, including records and documents in the possession of the board which complaint counsel desires the board to consider, shall be offered and made a part of the record, and all such documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference. In case of incorporation by reference, the materials so incorporated shall be available for examination by the respondent before being received in evidence.

C. Notice may be taken of judicially cognizable facts and of generally recognized technical or scientific facts within the board's medical knowledge. Parties shall be notified either before or during the hearing of the material noticed or sought by a party to be noticed, and they shall be afforded an opportunity to contest the material so noticed. The board's medical experience, technical competence and medical knowledge may be utilized in the evaluation of the evidence.

D. Any member of the board serving as presiding officer in adjudication hearing shall have the power to and shall administer oaths or affirmations to all witnesses appearing to give testimony, shall regulate the course of the hearing, set

the time and place of continued hearings, fix the time for the filing of briefs and other documents, if any are required or requested, and may direct the parties to appear and confer to consider simplification of the issues.

E. Except as otherwise governed by the provisions of these rules, adjudication hearings before the board shall be governed by the Louisiana Code of Evidence, insofar as the same may be applied.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16: (June 1990).

§9925. Informal Disposition

The board may make informal disposition, by default, consent order, agreement, settlement, or otherwise of any adjudication pending before it. A consent order shall be considered by the board only upon the recommendation of the investigating officer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16: (June 1990).

§9927. Decisions; Notice

A. The final decision of the board in an adjudication proceeding shall, if adverse to the respondent, and otherwise may be, in writing, shall include findings of fact and conclusions of law, and shall be signed by the presiding officer of the hearing panel on behalf and in the name of the board.

B. Upon issuance of a final decision, a certified copy thereof shall promptly be served upon respondent's counsel of record, or upon respondent personally in the absence of counsel, in the same manner of service prescribed with respect to service of complaints.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16: (June 1990).

§9929. Rehearings

A. A decision by the board in a case of adjudication shall be subject to rehearing, reopening, or reconsideration by the board pursuant to written motion filed with the board within ten days from service of the decision on respondent. A motion for rehearing, reopening, or reconsideration shall be made and served in the form and manner prescribed by §9909 and shall set forth the grounds upon which such motion is based, as provided by Subsection B of this Section.

B. The board may grant rehearing, reopening, or reconsideration if it is shown that:

1. the decision is clearly contrary to the law and the evidence;
2. the respondent has discovered since the hearing evidence important to the issues which he or she could not have with due diligence obtained before or during the hearing;
3. other issues not previously considered ought to be examined in order properly to dispose of the matter; or
4. there exists other good grounds for further consideration of the issues and the evidence in the public interest.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16: (June 1990).

Delmar Rorison
Executive Director

RULE

Department of Health and Hospitals Board of Medical Examiners

The Louisiana State Board of Medical Examiners (board), pursuant to the authority vested in the board by R.S. 37:1270(B) and 3303(C), and in accordance with applicable provisions of the Administrative Procedure Act, has adopted, as Subchapter H (§§3163-3179) of Chapter 31 of its existing rules governing the certification of athletic trainers (LAC 46:XLV, Subpart 2), rules governing the continuing education which certified athletic trainers must biannually obtain and document as a condition to maintenance of certification. The text of the rules is set forth below.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS Part XLV. Medical Profession

Subpart 2. Licensing and Certification

Chapter 31. Athletic Trainers

Subchapter H. Continuing Education

§3163. Scope of Subchapter

The rules of this Subchapter provide standards for the continuing education requisite to renewal of certification as an athletic trainer as required by §§3159 and 3165 of these rules and prescribe the procedures applicable to documentation of continuing education in connection with application for renewal of certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B) and R.S. 37:3303.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16: (June 1990).

§3165. Continuing Education Requirement

To be eligible for renewal of certification, a certified athletic trainer shall, within each two-year period during which he holds certification, evidence and document, upon forms supplied by the board, successful completion of not less than 2.4 continuing education units. A continuing education unit (CEU) constitutes 10 hours of participation in an organized continuing education experience under responsible sponsorship, capable direction and qualified instruction, as approved by the board; one hour is equal to one-tenth of a continuing education unit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B) and R.S. 37:3303.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16: (June 1990).

§3167. Qualifying Programs and Activities

A. To be acceptable as qualified continuing education under these rules, an activity or program must have significant intellectual or practical content, dealing primarily with matters related to athletic training, and its primary objective

must be to maintain or increase the participant's competence as an athletic trainer.

B. The following programs and activities shall be deemed approved by the board for the number of continuing education units indicated:

1. A certified athletic trainer who is certified by and a member of the NATA shall receive credit for that number of continuing education units awarded or recognized by the NATA for attendance at or participation in any meeting, conference, workshop, seminar, course or other activity held or conducted during the two-year period preceding renewal of certification.

2. One-tenth of a CEU shall be recognized for each hour of attendance at a course, seminar or workshop sponsored by an organization or entity approved by the board and otherwise meeting the standards prescribed by Subsection A of this Section.

3. Six-tenths of a CEU shall be recognized for each instructional hour of presentation in the initial teaching, presentation or conduct of a course, seminar or workshop sponsored by an organization or entity approved by the board and otherwise meeting the standards prescribed by Subsection A of this Section, provided that such presentation is accompanied by thorough written materials or a comprehensive outline relating to the course, seminar or workshop. Three-tenths of a CEU shall be recognized for each instructional hour of presentation for any subsequent teaching, presentation or conduct of the same course, seminar or workshop.

4. For the teaching of a course in or directly related to athletic training at an accredited educational institution, eight-tenths of a CEU shall be recognized for each hour of academic credit awarded by the institution to students for attendance at the course, provided that such teaching is not performed in the ordinary course of the certified athletic trainer's usual and ordinary employment.

5. One and one-half CEUs shall be recognized for publication, in a national, regional or statewide scientific journal or other publication of a related profession, of an original written work, related to the maintenance or improvement of athletic training knowledge or skills, and otherwise meeting the standards prescribed by Subsection A of this Section.

6. One-half of a CEU shall be recognized for each credit hour obtained in a course of postgraduate study beyond the bachelors degree level undertaken and completed at an accredited educational institution, provided that such course of study meets the standards prescribed by Subsection A of this Section.

7. Three-tenths of a CEU shall be recognized for the completion of a correspondence course sponsored and offered by an organization or entity approved by the board and meeting the standards prescribed by Subsection A of this Section.

8. One-half of a CEU shall be recognized for each year during which a certified athletic trainer, individually or jointly with one or more other certified athletic trainers, assumes responsibility for and discharges supervision of an apprentice or student athletic trainer for a full calendar year.

9. One-tenth of a CEU shall be recognized for each contact hour spent by members in attendance at the annual meeting of the Louisiana Athletic Trainers' Association (LATA).

10. One-half of a CEU shall be recognized for each

full year during which a certified athletic trainer serves as an elected or appointed officer or committee chairman of the LATA.

11. Two CEUs shall be recognized for each two weeks of volunteer service provided by a certified athletic trainer to any United State Olympic Committee-sponsored training center.

C. In addition to the programs and activities approved pursuant to Subsection B of this Section, upon application to the board pursuant to §3171 of these rules, the board may approve additional programs and activities as qualifying for continuing education unit credit and specify the CEUs which shall be recognized with respect to such program or activity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B) and R.S. 37:3303.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16: (June 1990).

§3169. Continuing Education Advisory Committee

A. The board shall establish and appoint a Continuing Education Advisory Committee comprising three members, each of whom shall be an athletic trainer certified by the board who is employed and engaged in athletic training in the state of Louisiana. Members of the committee shall be appointed by the board from nominations submitted by the LATA, which shall submit no fewer than three names for each committee position to be filled by the board. Members of the committee shall serve at the pleasure of the board and may be removed or replaced at any time.

B. The committee shall have the authority and responsibility to:

1. evaluate organizations and entities providing or offering to provide continuing education programs for athletic trainers and provide recommendations to the board with respect to the board's recognition and approval of such organizations and entities as sponsors of qualifying continuing education programs and activities pursuant to §§3171 and 3173 hereof;

2. review documentation of continuing education by certified athletic trainers, verify the accuracy of such information, and evaluate and make recommendations to the board with respect to whether programs and activities evidenced by applicants for renewal of certification comply with and satisfy the standards for such programs and activities prescribed by these rules;

3. request and obtain from applicants for renewal of certification such additional information as the committee may deem necessary or appropriate to enable it to make the evaluation and provide the recommendations for which the committee is responsible; and

4. make recommendations to the board with respect to such amendments of these rules as the committee may deem necessary or appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B) and R.S. 37:3303.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16: (June 1990).

§3171. Approval of Program Sponsors

A. Any program, course, seminar, workshop or other activity meeting the standards prescribed by §3167(A) sponsored or offered by the NATA or LATA shall be presumptively deemed approved by the board for purposes of qualifying as

an approved continuing education activity under §3167(B)(2), (3) and (7).

B. Upon the recommendation of the Continuing Education Advisory Committee, the board may designate additional organizations and entities whose programs, courses, seminars, workshops or other activities shall be deemed approved by the board for purposes of qualifying as an approved continuing education activity under §3167(B)(2), (3) and (7).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B) and R.S. 37:3303.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16: (June 1990).

§3173. Approval of Activities

A. A continuing education activity of any type defined by §3167(B)(2), (3) or (7) sponsored by an organization or entity not deemed approved by the board pursuant to §3171 or an activity of a type specified by §3167(B)(4), (5) or (6) may be pre-approved by the board prior to participation in such activity or application for renewal of certification upon written request to the board therefor accompanied by a complete description of the nature, location, date, content and purpose of such activity and such other information as the board may request to establish compliance of such activity with the standards prescribed by §3167(A).

B. Any such written request shall be referred by the board to the Continuing Education Advisory Committee for its recommendation. If the committee's recommendation is against approval, the board shall give notice of such recommendation to the person requesting approval and the person requesting approval may appeal the committee's recommendation to the board by written request delivered to the board within 10 days of such notice. The board's decision with respect to approval of any such activity shall be final. Persons requesting board pre-approval of continuing education activities should allow not less than 90 days for such requests to be processed.

C. Prior approval of a continuing education activity by the board is not necessary for recognition of such activity by the board for purposes of meeting the continuing education requirements requisite to renewal of certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B) and R.S. 37:3303.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16: (June 1990).

§3175. Documentation Procedure

A. A form for documenting and certifying the completion of continuing education as required by these rules shall be mailed by the board to each certified athletic trainer subject to continuing education requirements with the application for renewal of certification form mailed by the board pursuant to §3157 of these rules. Such forms shall be completed and delivered to the board with certified athletic trainer's renewal application.

B. In lieu of or in addition to submission of the continuing education certification form supplied by the board, completion of all or part of the continuing education required by these rules may be satisfactorily evidenced, in whole or in part, by delivering or causing to be delivered to the board the original or a certified copy of a certification by the NATA as to CEU credits awarded or recognized by the NATA for continuing education activities undertaken and completed within the

prior two-year period.

C. Any certification of continuing education activities not presumptively approved or pre-approved in writing by the board pursuant to these rules shall be referred to the Continuing Education Advisory Committee for its evaluation and recommendations pursuant to §3169(B)(2). If the committee determines that an activity certified by an applicant for renewal in satisfaction of continuing education requirements does not qualify for recognition by the board or does not qualify for the number of continuing education units claimed by the applicant, the board shall give notice of such determination to the applicant for renewal and the applicant may appeal the committee's recommendation to the board by written request delivered to the board within 10 days of such notice. The board's decision with respect to approval and recognition of any such activity shall be final.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B) and R.S. 37:3303.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16: (June 1990).

§3177. Failure to Satisfy Continuing Education Requirements

A. An applicant for renewal of certification who fails to evidence satisfaction of the continuing education requirements prescribed by the rules shall be given written notice of such failure by the board. The certification of the applicant shall remain in full force and effect for a period of 60 days following the mailing of such notice, following which it shall be deemed expired, unrenewed and subject to revocation without further notice, unless the applicant shall have, within such 60 days, furnished the board satisfactory evidence, by affidavit, that:

1. the applicant has satisfied the applicable continuing education requirements;
2. the applicant is exempt from such requirements pursuant to these rules; or
3. the applicant's failure to satisfy the continuing education requirements was occasioned by disability, illness or other good cause as may be determined by the board.

B. The certification of an athletic trainer whose certification has expired by nonrenewal or been revoked for failure to satisfy the continuing education requirements of these rules may be reinstated by the board upon written application to the board filed within two years of the effective date of expiration, nonrenewal or revocation accompanied by satisfactory documentation of the completion of not less than three continuing education units within the prior two years and payment of a reinstatement fee, in addition to all other applicable fees and costs, of \$50. Any continuing education activities recognized for purposes of reinstatement shall not be recognized for purposes of any subsequent renewal of certification.

C. Notwithstanding any provision of these rules to the contrary, the certification of an athletic trainer who would otherwise be required to evidence continuing education under these rules for renewal of certification effective July 1, 1990 but who does not satisfy such requirements shall be continued in force until June 30, 1991 and shall thereafter be renewed provided that the requirements of these rules are met and documented prior to application for renewal as of July 1, 1991.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B) and R.S. 37:3303.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16: (June 1990).

§3179. Waiver of Requirements

The board may, in its discretion and upon the recommendation of the Continuing Education Advisory Committee, waive all or part of the continuing education required by these rules in favor of a certified athletic trainer who makes written request for such waiver to the board and evidences to the satisfaction of the board a permanent physical disability, illness, financial hardship or other similar extenuating circumstances precluding the athletic trainer's satisfaction of the continuing education requirements.

Delmar Rorison
Executive Director

RULE

**Department of Health and Hospitals
Board of Medical Examiners**

The Louisiana State Board of Medical Examiners (board), pursuant to the authority vested in the board by R.S. 37:1270(B) and other provisions of the Louisiana Medical Practice Act, and in accordance with applicable provisions of the Administrative Procedure Act has adopted amendments to its existing rules (LAC 46:XLV.301-431) governing the licensing of physicians and surgeons to engage in the practice of medicine in the state of Louisiana. The rules, as amended, are set forth below.

Title 46

PROFESSIONAL OCCUPATIONAL STANDARDS

Part LXV. Medical Profession

Subchapter 1. General

Chapter 3. Licensing and Certification of Physicians and Surgeons

Subchapter A—General Provisions

§301. Scope of Chapter

The rules of this Chapter govern the licensing of physicians and surgeons to engage in the practice of medicine in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1271, R.S. 37:1272 and R.S. 37:1274.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 10:908 (November 1984), amended LR 16: (June 1990).

§303. Definitions

A. As used in this Chapter, the following terms shall have the meanings specified:

Applicant—means a person who has applied to the board for a license or permit to engage in the practice of medicine in the state of Louisiana.

Application—means a written request directed to and received by the board, upon forms supplied by the board, for a license or permit to practice medicine in the state of Louisiana, together with all information, certificates, documents and other materials required by the board to be submitted with such forms.

Good moral character—as applied to an applicant, means that:

1. the applicant has not, prior to or during the pendency of an application to the board, been guilty of any act, omission, condition or circumstance which would provide legal cause under R.S. 37:1285 for the suspension or revocation of medical licensure;

2. the applicant has not, prior to or in connection with his application, made any representation to the board, knowingly or unknowingly, which is in fact false or misleading as to a material fact or omits to state any fact or matter that is material to the application; and

3. the applicant has not made any representation or failed to make a representation or engaged in any act or omission which is false, deceptive, fraudulent or misleading in achieving or obtaining any of the qualification for a license or permit required by this Chapter.

Chapter—means the lawful authority of a physician to engage in the practice of medicine in the state of Louisiana, as evidenced by a certificate duly issued by and under the official seal of the board.

Medical Practice Act—means R.S. 37:1261-1292, as hereafter amended or supplemented.

Permit—means the lawful authority of a physician to engage in the practice of medicine in the state of Louisiana for a designated, temporary period of time, subject to restrictions and conditions specified by the board, as evidenced by a certificate duly issued by and under the official seal of the board. A permit is of determinate, limited duration and implies no right or entitlement to a license or to renewal of the permit.

Physician—means a person possessing a doctor of medicine or an equivalent degree duly awarded by a medical educational institution approved by the board pursuant to §§333 to 345 of this Chapter.

State—means any state of the United States, the District of Columbia and Puerto Rico.

b. Masculine terms wheresoever used in this Chapter shall also be deemed to include the feminine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1271 and R.S. 37:1274.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 10:908 (November 1984), amended LR 16: (June 1990).

Subchapter B—Graduates of American and Canadian Medical School and Colleges

§309. Scope of Subchapter

The rules of this Subchapter govern the licensing of physicians and surgeons who are graduates of medical schools and colleges approved by the board located within any state or in Canada.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1271, R.S. 37:1272, R.S. 37:1274 and R.S. 37:1275.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 10:908 (November 1984), amended LR 16: (June 1990).

§311. Qualifications for License

A. To be eligible for a license, an applicant shall:

1. be at least 21 years of age;

2. be of good moral character as defined by §303(A)(3);

3. be a citizen of the United States or possess valid and current legal authority to reside and worked in the United States duly issued by the Commissioner of the Immigration

and Naturalization Service of the United States under and pursuant to the Immigration and Nationality Act (66 Stat. 163) and the Commissioner's regulations thereunder (8 C.F.R.);

4. possess:

a. a doctor of medicine or equivalent degree duly issued and conferred by a medical school or college approved by the board; or

b. a doctor of osteopathy degree issued and conferred on or after June 1, 1971 by a school or college of osteopathy approved by the board;

5. have taken the Federation Licensing Examination (FLEX) of the Federation of State Medical Boards of the United States, Inc., within the prior ten years, and achieved the minimum passing score prescribed by §385 of this Chapter on all parts of such examination, or have taken and passed all parts of the examinations of the National Board of Medical Examiners (NBME), subject to the exception provided for certain applicants for licensure by reciprocity provided by §353(a); provided, however, that an applicant who has failed the FLEX or NBME examination or any component thereof more than three times shall not thereafter be eligible for licensure in Louisiana; and

6. with respect to applications for licensure first received by the board on and after January 1, 1992, have completed at least one year of postgraduate clinical training in a medical internship or equivalent program accredited by the American Council on Graduate Medical Education (ACGME) of the American Medical Association, or by the Royal College of Physicians and Surgeons (RCPS) of Canada, and approved by the board.

B. The burden of satisfying the board as to the qualifications and eligibility of the applicant of licensure shall be upon the applicant. An applicant shall not be deemed to possess such qualifications unless the applicant demonstrates and evidences such qualifications in the manner prescribed by, and to the satisfaction of, the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1271, R.S. 37:1272, R.S. 37:1274 and R.S. 37:1275.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 10:908 (November 1984), amended LR 16: (June 1990).

§313. Procedural Requirements

In addition to the substantive qualifications specified in §311, to be eligible for a license, an applicant shall satisfy the procedures and requirements for application provided by §§359 to 365 of this Chapter and, if applicable, the procedures and requirements for examination administered by the board provided by §§371 to 391 of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1271, R.S. 37:1272, R.S. 37:1274 and R.S. 37:1275.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 10:908 (November 1984), amended LR 16: (June 1990).

§315. Waiver of Qualifications

Upon request by an applicant, the board may, in its discretion, waive the qualifications for licensure otherwise required by Subsections (5) or (6) of §311(A), in favor of an applicant who has been formally appointed to a permanent and not time delimited tenured position as full professor or associate professor (but not as a clinical professor or clinical associate professor) by and with a medical school or college within the state of Louisiana approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1271, R.S. 37:1272, R.S. 37:1274 and R.S. 37:1275.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 10:908 (November 1984), amended LR 16: (June 1990).

Subchapter C—Graduates of Foreign Medical Schools §321. Scope of Subchapter; Definition

A. The rules of this Subchapter specify additional qualification, requirements and procedures for the licensing of physicians and surgeons who are foreign medical graduates.

B. As used in this Subchapter, the term *foreign medical graduate* or *FMG* means a graduate of a medical school or college not located in any state or in Canada, recognized and officially listed by the World Health Organization and not affirmatively disapproved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1271, R.S. 37:1272 and R.S. 37:1275.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 10:909 (November 1984), amended LR 12:528 (August 1986), amended LR 16: (June 1990).

§323. Qualifications for License

A. To be eligible for a license, a foreign medical graduate applicant shall:

1. possess all of the substantive qualifications for license specified by §311 of this Chapter;

2. have taken and successfully passed the examination administered by the Educational Council on Foreign Medical Graduates (ECFMG), or its successor examination;

3. be competent and proficient in speaking, understanding, reading and writing the English language; and

4. have completed at least three years of postgraduate clinical training in the United States or in Canada in a medical residency or equivalent program accredited by the American Council on Graduate Medical Education (ACGME) of the American Medical Association, or by the Royal College of Physicians and Surgeons of Canada (RCPS), and approved by the board. To be approved by the board such program must be offered and taken in an institution offering not fewer than two residency or equivalent programs accredited by the ACGME or the RCPS; the program in which the applicant participates must evidence the applicant's progressive responsibility for patient care; and the three years of such a program must be in the same specialty or alternatively, constitute the FMG, upon completion of such three years program, as eligible for specialty board certification or for postgraduate year four (PGY-4) training.

B. In addition to the qualifications specified in the preceding subsection, if an FMG applicant has participated in any clinical clerkship program within the United States as part of the academic training requisite to his doctor of medicine degree, such clinical clerkship program shall be subject to approval by the board as a condition of the applicant's eligibility for licensure. Such a clinical clerkship program may be approved by the board only if, at the time the applicant participated in such program, the clinical clerkship program was accredited or approved by the ACGME, the clinical clerkship was served in a hospital or other institution accredited by the Joint Commission on Accreditation of Health Care Organizations, and the applicant's supervising physician within such program held formal appointment as a professor

or associate professor of the medical school or college sponsoring such program; provided, however, that notwithstanding a clinical clerkship program's satisfaction of these standards, the board may decline to approve any such program upon a finding that it was not substantially equivalent to the clinical clerkships offered by the medical school and colleges accredited by the Liaison Committee on Medical Education of the American Medical Association and the Association of American Medical Colleges.

C. The burden of satisfying the board as to the qualifications and eligibility of the FMG applicant for licensure shall be upon the applicant. An applicant shall not be deemed to possess such qualifications unless the applicant demonstrates and evidences such qualifications in the manner prescribed by, and to the satisfaction of, the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1272 and R.S. 37:1275.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 10:909 (November 1984), amended LR 12:213 (April 1986), LR 12:528 (August 1986), amended LR 16: (June 1990).

§325. Procedural Requirements

In addition to the substantive qualifications specified in §323, to be eligible for a license, an FMG applicant shall satisfy the procedures and requirements for application provided by §§359 to 365 of this Chapter; if applicable, the procedures and requirements for examination administered by the board provided in §§371 to 391 of this Chapter; and shall provide notarized verification of his medical school transcript, reflecting the courses and hours taken and grades achieved together with a detailed description of each clinical clerkship in which the applicant may have participated as part of his medical education, specifying the inclusive dates and sites of any such clerkship and the name and address of the applicant's supervising physician therein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1272 and R.S. 37:1275.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 10:909 (November 1984), amended LR 16: (June 1990).

§326. Alternative Qualification [Transitional Rule]

A. A foreign medical graduate who possesses and meets all of the qualifications and requirements specified by §323 to §325 of this Chapter, save for having successfully completed postgraduate clinical training of the duration and type otherwise required by §323(A)(4), shall nonetheless be eligible for licensing, upon application, if, for a period of not less than 48 consecutive months, he has been actively engaged in the practice of medicine in the state of Louisiana under authority of an Institutional Temporary Permit previously issued by the board pursuant to R.S. 37:1275, and his professional performance in exercising privileges under such permit is determined by the board to have been satisfactory relative to the physician's cognitive and clinical competence.

B. In considering an application made pursuant to this section, the board may make such inquiry and require the applicant to submit, or cause to be submitted, such documentation as the board deems necessary or appropriate to provide a reasonable basis for determining whether the applicant's professional performance while holding an Institutional Temporary Permit has been satisfactory and whether, at the time of the application, the applicant is capable of practicing medicine with reasonable competence, skill and

safety to patients. Without limitation on such authority, as a condition to consideration of an application made pursuant to this section, the board may require an applicant to authorize and cause to be submitted to the board, in writing, an evaluation of the applicant's medical competence and professional performance while holding an Institutional Temporary Permit by: (i) the physician serving as Chief of Staff (or equivalent position) at the time application of licensure is made hereunder, and (ii) the physician(s) serving as the applicant's immediate medical supervisor(s), responsible for his professional performance, at the time application for licensure is made hereunder and for the preceding two years. Each such written evaluation shall include a description of the nature and scope of the applicant's clinical practice at the subject institution, the author's general evaluation of the applicant's professional performance at such institution, advice as to whether the applicant has been the subject of employment or professional complaint or disciplinary action while at such institution (including the nature and result of any such complaint or action), and the author's opinion as to whether the applicant is currently capable of practicing medicine with reasonable skills and safety to patients pursuant to unrestricted medical licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(b)(1)(6), R.S. 37:1272 and R.S. 37:1275.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 15:272 (April 1989), amended LR 16: (June 1990).

§327. Waiver of Qualifications

A. The waiver of qualifications provided by §315 of this Chapter shall be available to foreign medical graduate applicants.

B. Upon request by an applicant, the board may, in its discretion, waive the necessity of successfully passing the ECFMG examination, as otherwise required by §323(A)(2), in favor of an applicant who is currently certified by a specialty board recognized by the American Board of Medical Specialties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1272 and R.S. 37:1275.1

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 10:909 (November 1984), amended LR 16: (June 1990).

Subchapter D—Board Approval of Medical Schools and Colleges

§333. Scope of Subchapter

The rules of this Subchapter provide the method and procedures by which medical schools and colleges and schools or colleges of osteopathy are approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 10:909 (November 1984), amended LR 16: (June 1990).

§335. Applicability of Approval

Graduation from an approved school is among the qualifications requisite to medical licensure as provided by §311(A)(4) (American and Canadian graduates), §323(A)(1) (foreign medical graduates), and §353(A) (reciprocity applicants). This qualification will be deemed to be satisfied if the school or college from which the applicant graduated was approved by the board as of the date the applicant's degree was issued.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:1272.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 10:909 (November 1984), amended LR 16: (June 1990).

§337. Approval of American Schools and Colleges

A. A medical school or college located in any state which is currently accredited by the Liaison Committee on Medical Education of the American Association and the Association of American Medical Colleges (LCME/AAMC), or their successors, shall be concurrently considered approved by the board.

B. A school or college of osteopathy located in any state which is currently accredited by the American Osteopathic Association, or its successor, shall be concurrently considered approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 10:909 (November 1984), amended LR 16: (June 1990).

§339. Approval of Canadian Schools

A medical school or college located in Canada which is currently accredited by the Royal College of Physicians and Surgeons of Canada, or its successor, shall be concurrently considered approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 10:909 (November 1984), amended LR 16: (June 1990).

§341. Recognition of Foreign Medical Schools

To be considered acceptable as evidence of basic medical education, a medical school or college not located in any state or in Canada shall, at a minimum, be recognized and officially listed by the World Health Organization and not affirmatively disapproved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 10:909 (November 1984), amended LR 12:528 (August 1986), LR 16: (June 1990).

§343. [Rescinded]

§345. List of Approved Schools

A listing of approved schools and colleges of medicine and osteopathy is set forth in an appendix to this Chapter and shall from time to time be amended and supplemented by the board consistently with the provisions of this Subchapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 10:910 (November 1984), amended LR 16: (June 1990).

Subchapter E—Licensure by Reciprocity

§351. Definition

As used in this Subchapter, "licensure by reciprocity" means the issuance of a license to practice medicine on the basis of medical licensure by another state medical licensing authority pursuant to written examination acceptable to the board as specified by §353.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:1276.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 10:910 (November 1984), LR 16: (June 1990).

§353. Qualifications for Licensure by Reciprocity

A. An applicant who possesses and meets all of the qualifications and requirements specified by §§311 to 313 of this Chapter, save for successfully passing the FLEX or NBME examination within the prior 10 years, as otherwise required by §311(A)(5), shall nonetheless be eligible for licensing if such applicant possesses, as of the time the application is filed and at the time the board passes upon such application, a current, unrestricted license to practice medicine issued by the medical licensing authority of another state, and the applicant has, within 10 years prior to the date of application, taken and successfully passed:

1. a medical licensing examination developed and administered by the licensing authority of a state in which they hold an unrestricted license to practice medicine; or

2. a written certification or recertification examination administered and leading to certification or recertification by a specialty board recognized by the American Board of Medical Specialties.

B. An applicant who possesses all of the qualifications for licensure by reciprocity specified by Subsection (A) of this section, save for having taken and passed a written medical competence examination within 10 years of the date of application, shall nonetheless be considered eligible for licensure by reciprocity if such applicant takes and successfully passes the FLEX or the Special Purpose Examination (SPEX) of the Federation of State Medical Boards of the United States, Inc., as may be determined and as administered by and under the auspices of the board.

C. An osteopathic physician qualified for medical licensure under §311(A)(4)(b) shall be eligible for medical licensure by reciprocity only if he holds a medical license issued by the medical licensing authority of another state on the basis of successful FLEX or National Board of Medical Examiners examination and is otherwise qualified for licensure by reciprocity under this section. For purposes of medical licensure by reciprocity or otherwise, the examination of the National Board of Osteopathic Examiners does not qualify as a written medical competence examination acceptable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:1276.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 10:910 (November 1984), amended LR 14:149 (March 1988), LR 16: (June 1990).

Subchapter F—Application

§359. Purpose and Scope

The rules of this Subchapter govern the procedures and requirements applicable to application to the board for licensing as a physician in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:1278.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 10:910 (November 1984), amended LR 16: (June 1990).

§361. Application Procedure

A. Application for unrestricted licensing shall be made upon forms supplied by the board.

B. If application is made for licensing on the basis of examination to be administered by the board, an initial appli-

cation must be received by the board on or before March 31 if the applicant desires to sit for the June administration of the FLEX, on or before August 31 if the applicant desires to sit for the December administration of the FLEX (See Subchapter G of this Chapter respecting dates and places of examination). Completed applications must be received by the board on or before April 30 or October 31, respectively, in order for an applicant to be eligible to sit for the June or December administration of the FLEX.

C. Application for licensing by reciprocity under Subchapter E may be made at any time.

D. Application forms and instructions pertaining thereto may be obtained upon written request directed to the office of the board, Suite 100, 830 Union Street, New Orleans, LA, 70112. Application forms will be mailed by the board within 30 days of the board's receipt of request therefor. To ensure timely filing and completion of application, forms must be requested not later than 40 days prior to the deadlines for initial application specified in the preceding subsection.

E. An application for licensing under this Chapter shall include:

1. proof, documented in a form satisfactory to the board as specified by the secretary, that the applicant possesses the qualifications set forth in this Chapter;

2. three recent photographs of the applicant; and

3. such other information and documentation as the board may require to evidence qualification for licensing.

F. All documents required to be submitted to the board must be the original thereof. For good cause shown, the board may waive or modify this requirement.

G. The board may refuse to consider any application which is not complete in every detail, including submission of every document required by the application form. The board may, in its discretion, require a more detailed or complete response to any request for information set forth in the application form as a condition to consideration of an application.

H. Each application submitted to the board shall be accompanied by the applicable fee, as provided in Chapter 1 of these rules.

I. Upon submission of or concurrently with submission of a completed application, an applicant shall, by appointment, make a personal appearance before the board, a member of the board, or its designee, as a condition to the board's consideration of such application. At the time of such appearance, the applicant shall present the original of the documents required under this Chapter. The recommendation of the board, board member, or designee as to the applicant's fitness for licensure shall be made a part of the applicant's file.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:1278.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 10:910 (November 1984), amended LR 16: (June 1990).

§363. Additional Requirements for Foreign Medical Graduates

A. Any diploma or other document required to be submitted to the board by an FMG applicant which is not in the English language must be accompanied by a certified translation thereof into English.

B. In addition to the procedures and requirements set forth in §361, upon submission of a completed application,

an FMG applicant shall, by appointment, make a personal appearance before a member of the board as a condition to the board's consideration of such application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:1278.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 10:910 (November 1984), amended LR 16: (June 1990).

§365. Effect of Application

A. The submission of an application for licensing to the board shall constitute and operate as an authorization by the applicant to each educational institution at which the applicant has matriculated, each state or federal agency to which the applicant has applied for any license, permit certificate or registration, each person, firm, corporation, clinic, office or institution by whom or with whom the applicant has been employed in the practice of medicine, each physician or other health care practitioner whom the applicant has consulted or seen for diagnosis or treatment and each professional organization or specialty board to which the applicant has applied for membership, to disclose and release to the board any and all information and documentation concerning the applicant which the board deems material to consideration of the application. With respect to any such information or documentation, the submission of an application for licensing to the board shall equally constitute and operate as a consent by the applicant to disclosure and release of such information and documentation and as a waiver by the applicant of any privilege or right of confidentiality which the applicant would otherwise possess with respect thereto.

B. By submission of an application for licensing to the board, an applicant shall be deemed to have given his consent to submit to physical or mental examinations if, when, and in the manner so directed by the board and to waive all objections as to the admissibility or disclosure of findings, reports or recommendations pertaining thereto on the grounds of privileges provided by law. The expense of any such examination shall be borne by the applicant.

C. The submission of an application for licensing to the board shall constitute and operate as an authorization and consent by the applicant to the board to disclose and release any information or documentation set forth in or submitted with the applicant's application or obtained by the board from other persons, firms, corporations, associations or governmental entities pursuant to Subsections (A) or (B) of this section to any person, firm, corporation, association or governmental entity having a lawful, legitimate and reasonable need therefor, including, without limitation, the medical licensing authority of any state; the Federation of State Medical Boards of the United States; the American Medical Association and any component state and county or parish medical society, including the Louisiana State Medical Society and component parish societies thereof; the Federal Drug Enforcement Agency; the Louisiana Office of Narcotics and Dangerous Drugs, Division of Licensing and Registration, Department of Health and Hospitals; federal, state, county or parish and municipal health and law enforcement agencies and the Armed Services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:1278.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 10:911 (November 1984), amended LR 16: (June 1990).

Subchapter G—Examination

§371. Designation of Examination

The examination administered by the board pursuant to R.S. 37:1272(5) is the Federation Licensing Examination (FLEX) of the Federation of State Medical Boards of the United States, Inc.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1272 and R.S. 37:1273.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 10:911 (November 1984), amended LR 16: (June 1990).

§373. Eligibility for Examination

To be eligible for examination by the board, an applicant shall possess all qualifications for licensure prescribed by §311(A); provided, however, that an applicant who has completed, or prior to examination will complete, his medical or osteopathic education but who does not yet possess a degree as required by §311(A)(4), shall be deemed eligible for examination upon submission to the board of a letter subscribed by the dean of an approved medical school or college or of an approved school or college of osteopathy, certifying that the applicant is in his last semester or term of, or has completed, his academic medical or osteopathic education at such school or college, that the applicant is a candidate for the degree of doctor of medicine or doctor of osteopathy at the next scheduled convocation of such school or college, and specifying the date on which such degree will be awarded.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1272 and R.S. 37:1273.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 10:911 (November 1984), amended LR 16: (June 1990).

§375. Dates, Places of Examination

The board's licensing examination is administered semiannually, in June and December, in the city of New Orleans and annually in June in the city of Shreveport. Applicants shall be advised of the specific dates, times and locations of the next scheduled FLEX examination upon application to the board and may obtain such information upon inquiry to the office of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1272 and R.S. 37:1273.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 10:911 (November 1984), amended LR 16: (June 1990).

§377. Administration of Examination

A. The board's licensing examination is administered by a Chief Proctor, appointed by the board, and several Assistant Proctors. The Chief Proctor is authorized and directed by the board to obtain positive photographic identification from all applicants appearing and properly registered for the examination, to establish and require examinees to observe an appropriate seating arrangement, to provide appropriate instructions for taking the examination, to fix and signal the time for beginning and ending the several sections of the examination, to prescribe such additional rules and requirements as are necessary or appropriate to the taking of the examination in the interest of the examinees or the examination process, and to take all necessary and appropriate actions to secure the integrity of the examination and the examination process, including, without limitation, excusing an applicant from the examination or changing an applicant's seating location at any time during the examination.

B. An applicant who appears for examination shall:

1. present to the Chief Proctor or his designated Assistant Proctor proof of registration for the examination and positive personal photographic and other identification in the form prescribed by the board; and

2. fully and promptly comply with any and all rules, procedures, instructions, directions or requests made or prescribed by the Chief Proctor or any Assistant Proctor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1272 and R.S. 37:1273.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 10:911 (November 1984), amended LR 16: (June 1990).

§379. Subversion of Examination Process

A. An applicant-examinee who engages or attempts to engage in conduct which subverts or undermines the integrity of the examination process shall be subject to the sanctions specified in §385 of this Chapter.

B. Conduct which subverts or undermines the integrity of the examination process shall be deemed to include:

1. refusing or failing to fully and promptly comply with any rules, procedures, instructions, directions or requests made or prescribed by the Chief Proctor or an Assistant Proctor;

2. removing from the examination room or rooms any of the examination materials;

3. reproducing or reconstructing, by copy, duplication, written notes or electronic recording, any portion of the licensing examination;

4. selling, distributing, buying, receiving, obtaining or having unauthorized possession of future, current or previously administered licensing examination;

5. communicating in any manner with any other examinee or any other person during the administration of the examination;

6. copying answers from another examinee or permitting one's answers to be copied by another examinee during the administration of the examination;

7. having in one's possession during the administration of the examination any materials or objects other than the examination materials distributed, including, without limitation, any books, notes, recording devices, or other written, printed or recorded materials or data of any kind;

8. impersonating an examinee by appearing for and as an applicant and taking the examination for, as and in the name of an applicant other than himself;

9. permitting another person to appear for and take the examination on one's behalf and in one's name; or

10. engaging in any conduct which disrupts the examination or the taking thereof by other examinees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1272 and R.S. 37:1273.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 10:911 (November 1984), amended LR 16: (June 1990).

§381. Finding of Subversion

A. When, during the administration of examination, the Chief Proctor or any Assistant Proctor has reasonable cause to believe that an applicant-examinee is engaging or attempting to engage, or has engaged or attempted to engage, in conduct which subverts or undermines the integrity of the examination process, the Chief Proctor shall take such action as he deems necessary or appropriate to terminate

such conduct and shall report such conduct in writing to the board.

B. In the event of suspected conduct described by §379(B)(5) or (6), the subject applicant-examinee shall be permitted to complete the examination, but shall be removed at the earliest practical opportunity to a location precluding such conduct.

C. When the board, upon information provided by the Chief Proctor, an Assistant Proctor, an applicant-examinee or any other person, has probable cause to believe that an applicant has engaged or attempted to engage in conduct which subverts or undermines the integrity of the examination process, the board shall so advise the applicant in writing, setting forth the grounds for its finding of probable cause, specifying the sanctions which are mandated or permitted for such conduct by §383 of this Subchapter and provide the applicant with an opportunity for hearing pursuant to R.S. 49:955-58 and applicable rules of the board governing administrative hearings. Unless waived by the applicant, the board's finding of fact, its conclusions of law under these rules, and its decision as to the sanctions, if any, to be imposed shall be made in writing and served upon the applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1272 and R.S. 37:1273.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 10:912 (November 1984), amended LR 16: (June 1990).

§383. Sanctions for Subversion of Examination

A. An applicant who is found by the board, prior to the administration of the examination, to have engaged in conduct or to have attempted to engage in conduct which subverts or undermines the integrity of the examination process may be permanently disqualified from taking the examination and for medical licensure in the state of Louisiana.

B. An applicant-examinee who is found by the board to have engaged or to have attempted to engage in conduct which subverts or undermines the integrity of the examination process shall be deemed to have failed the examination. Such failure shall be recorded in the official records of the board.

C. In addition to the sanctions permitted or mandated by Subsections (A) and (B) of this section, as to an applicant-examinee found by the board to have engaged or to have attempted to engage in conduct which subverts or undermines the integrity of the examining process, the board may:

1. revoke, suspend or impose probationary conditions on any license or permit issued to such applicant;
2. disqualify the applicant, permanently or for a specified period of time, from eligibility for licensure in the state of Louisiana; or
3. disqualify the applicant, permanently or for a specified number of subsequent administrations of the examination, from eligibility for examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1272 and R.S. 37:1273.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 10:912 (November 1984), amended LR 16: (June 1990).

§385. Passing Scores

A. An applicant will be deemed to have successfully passed the FLEX examination if he attains a score of at least 75 in each component of the examination or, having taken

the FLEX when a weighted average was calculated and reported thereon, had attained a FLEX weighted average of at least 75.

B. A person who is required to and does take the SPEX examination will be deemed to have successfully passed the examination if he attains a score of at least 75.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1272 and R.S. 37:1273.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 10:912 (November 1984), amended LR 16: (June 1990).

§387. Restriction, Limitation on Examinations

A. A passing score must be attained by an applicant upon completion of all sections of the FLEX or NBME examination. A candidate may, however, at his election take all or any component of the FLEX at any one sitting.

B. An applicant having failed to attain a passing score upon taking FLEX or any component of the FLEX during any three sittings for the examination, whether one or both components of the examination are taken, shall not be considered for licensing and shall not be eligible to take the examination again until the applicant has satisfactorily completed at least six months of additional supervised postdoctoral academic medical training approved by the board. Thereafter, upon failing to attain a passing score upon taking the FLEX or any component thereof one additional time, an applicant shall be deemed ineligible for licensing. Similarly, upon failing to attain a passing score upon taking the NBME examination four or more times, an applicant shall be deemed ineligible for licensing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1272 and R.S. 37:1273.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 10:912 (November 1984), amended LR 16: (June 1990).

§389. Examination In or For Another State

A. Upon application to the board, an applicant for licensing under this Chapter may be permitted to take the FLEX in another state. The score attained by such applicant on such examination will be accepted by the board as if the applicant had taken the FLEX as administered by the board provided that the examination is administered and taken consistently with the restrictions and limitations prescribed by §387 of this Subchapter.

B. A FLEX score attained by an applicant in a FLEX examination administered prior to the applicant's application to the board for licensing will be accepted by the board, provided that:

1. the applicant presents or causes to be presented to the board written certification of the date and place that the FLEX was taken and the score achieved;
2. the examination was administered and taken consistently with the rules, regulations, restrictions and limitations prescribed by §387 of this Subchapter and by the medical licensing authority of the state for which the examination was taken;
3. the applicant has completed at least one year of postgraduate training, if such training is a condition to medical licensure in the state in which the examination was taken; and
4. the applicant provides the board with a satisfactory written explanation of the applicant's failure to obtain licensing in the state in which the examination was taken.

C. Upon application to the board and payment of the fee prescribed in Chapter 1 of these rules, an individual applying for licensure in another state may sit for the FLEX examination administered by the board in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1272 and R.S. 37:1273.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 10:912 (November 1984), amended LR 16: (June 1990).

§391. Lost, Stolen or Destroyed Examinations

The submission of an application for examination by the board shall constitute and operate as an acknowledgment and agreement by the applicant that the liability of the board, its members, employees and agents, and the state of Louisiana to the applicant for the loss, theft or destruction of all or any portion of an examination taken by the applicant, prior to the reporting of the score thereon by the National Board of Medical Examiners, other than by intentional act, shall be limited exclusively to the refund of the fees paid for examination by the applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1272 and R.S. 37:1273.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 10:912 (November 1984), amended LR 16: (June 1990).

Subchapter H—Restricted Licensure, Permits

§397. Restricted Licensure in General

A. With respect to applicants who do not meet or possess all of the qualifications and requirements for licensing, the board may, in its discretion, issue such restricted licenses as are, in its judgment, necessary or appropriate to its responsibilities under law. Restricted licenses shall be designated and known as permits.

B. A temporary permit entitles the holder to engage in the practice of medicine in the state of Louisiana only for the period of time specified by such permit and creates no right or entitlement to licensing or renewal of the permit after its expiration.

C. An institutional permit entitles the holder to engage in the practice of medicine only at, in and in association with the medical institution, clinic or location specified by such permit or within a specified medical training program.

D. A permit issued by the board may be either temporary or institutional, or both. Other permits may be issued by the board upon such terms, conditions, limitations or restrictions as to time, place, nature and scope of practice, as are, in the judgment of the board, deemed necessary or appropriate to the particular circumstances of individual applicants or physicians.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1285 and R.S. 37:1275.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 10:913 (November 1984), amended LR 16: (June 1990).

§399. Types of Permits

The types of permits which the board may consider issuing, as enumerated in the following sections of this Subchapter, shall not be construed to provide any right or entitlement whatsoever to the described permit, issuance of which shall be determined in the absolute discretion of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1285 and R.S. 37:1275.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR

10:913 (November 1984), amended LR 16: (June 1990).

§401. [Rescinded]

§403. Visiting Physician Permits

A. The board may issue a visiting physician temporary permit to an applicant physician or surgeon who is invited by one or more physicians licensed under this Chapter to participate or consult in diagnosis or treatment of a patient under care in a Louisiana medical institution, provided that such invited physician:

1. possesses the qualifications for licensing prescribed by §311(A)(1)-(4);

2. within a reasonable time prior to the intended consultation or treatment, presents or causes to be presented to the board:

a. indisputable personal identification;

b. verification satisfactory to the board that the applicant holds a current unrestricted license to practice medicine issued by the medical licensing authority of another state or, if an alien, holds an unrestricted license or other legal authorization to engage in the practice of medicine in his domicile country and;

c. written recommendations by two physicians licensed under this Chapter attesting to the professional qualifications of the visiting physician and assuming responsibility for his professional activities and patient care; and

3. satisfies the application and processing fee prescribed in Chapter 1 of these rules.

B. The board may issue a visiting professor temporary permit to an applicant physician or surgeon who is invited by an accredited medical school or college within the state of Louisiana approved by the board to serve on the faculty of the school or college, provided that such invited professor:

1. possesses the qualifications for licensing prescribed by §311(A)(1)-(4);

2. presents or causes to be presented to the board:

a. indisputable personal identification;

b. a completed application on forms furnished by the board; and

c. verification satisfactory to the board that the applicant holds a current unrestricted license to practice medicine issued by the medical licensing authority of another state; and

3. satisfies the application and processing fee prescribed in Chapter 1 of these rules.

C. The board may issued a Foreign Exchange Visiting Professor temporary permit to an applicant physician or surgeon who is invited by an accredited medical school or college within the state of Louisiana approved by the board to participate in an exchange of faculty between the applicant's medical school or college and the Louisiana medical school or college, provided that such invited foreign exchange professor:

1. possesses the qualifications for licensing prescribed by §311(A)(1)-(4);

2. presents or causes to be presented to the board:

a. indisputable personal identification;

b. an H-1 or equivalent visa;

c. a completed application on forms furnished by the board; and

d. verification satisfactory to the board that the applicant holds a current unrestricted license to engage in the practice of medicine in his domicile country; and

3. satisfies the application and processing fee prescribed in Chapter 1 of these rules.

D. A temporary permit issued under Subsection A of this Section may be restricted by the board to permit a specific act in consultation and/or to restrict consultation or treatment to a designated patient. Temporary permits issued under Subsection B and C of this Section are limited to a term of 12 months from the date of issuance.

E. A temporary permit issued under this Section shall expire, and thereby become null, void and to no effect on the date specified by such permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1285 and R.S. 37:1275.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 10:913 (November 1984), amended LR 16: (June 1990).

§405. Short-Term Residency Permit

A. The board may issue an institutional temporary permit to an applicant who is a commissioned physician of the Armed Services of the United States for the purpose of receiving a postgraduate clinical training in a medical program approved by the board and conducted by a Louisiana medical school or college, provided that such physician:

1. possesses the qualifications for licensing prescribed by §311(A)(1)-(4);

2. possesses a current unrestricted license to practice medicine in, and duly issued by the medical licensing authority of any state, or has successfully passed either the FLEX examination or the examination of the National Board of Medical Examiners;

3. will participate in such postdoctoral medical training program pursuant to and within the course and scope of his orders and duties as a commissioned officer of the Armed Services;

4. within a reasonable time prior to the commencement of such training program, presents or causes to be presented to the board:

- a. satisfactory documentation that he possesses the qualifications required by this section, including a certified copy of his military orders authorizing and directing his participation in the specified medical training program; and

- b. written certification by the dean of the medical school or college in which the applicant is to receive such training that the applicant has been accepted for participation in such program subject to the issuance of a permit by the board; and

5. satisfies the application and processing fees prescribed in Chapter 1 of these rules.

B. The board may, in its discretion, issue a temporary permit for the purpose of serving a preceptorship or participating in a short-term residency program to an applicant who possesses the qualifications for licensure prescribed by §311(A)(1)-(4) and who possesses a current unrestricted license to practice medicine in, and duly issued by, any state; provided that:

1. the preceptorship or residency program is approved by the board;

2. the applicant presents, or causes to be presented, to the board:

- a. a completed application for a short-term residency permit upon the form provided by the board, together with the fee prescribed by Chapter 1 of these rules;

- b. satisfactory documentation that the applicant possesses the qualifications required by this section;

- c. written certification of current unrestricted licensure

by the state in which the applicant resides at the time of the application; and

- d. a letter from the physician under whom he will be serving the preceptorship or short-term residency, describing the capacity in which the applicant will be serving and the inclusive dates of such service; and

3. the applicant appears in person before and presents to a member of the board his original doctor of medicine degree and original certificate of state medical licensure.

C. The holder of a permit issued under this section shall not engage in the practice of medicine in any respect in the state of Louisiana or receive medical educational training other than within the postdoctoral medical educational program, preceptorship or short-term residency program for which he is approved by the board.

D. A temporary permit issued under this section shall expire, and thereby become null and void and to no effect on the date specified by such permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1285 and R.S. 37:1275.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 10:913 (November 1984), amended LR 16: (June 1990)

§407. Permit Pending Examination Results

A. The board may issue an institutional temporary permit for the sole purpose of serving in an approved medical residency training program to a graduate of an American or Canadian medical school or college or school of osteopathic medicine who has taken the FLEX but whose scores have not yet been reported to the board or who is scheduled to take the FLEX at its next administration, to be effective pending the reporting of such scores to the board, provided that the applicant possesses and meets all of the qualifications and requirements for licensure provided by this Chapter save for having successfully passed the FLEX and NBME examination (§311(A)(5)), and provided further that the applicant has not previously taken and failed to achieve a passing score on the FLEX or NBME examination, any component thereof, or any written examination administered by the licensing authority of any state.

B. The board may issue a temporary permit to an applicant for licensure by reciprocity (§§351 to 353) who is required by §353(B) to take the FLEX or the SPEX, but who has not yet taken such portion of the FLEX or the SPEX or whose scores have not yet been reported to the board, provided that the applicant possesses and meets all of the qualifications and requirements for licensure provided by this Chapter save for having successfully passed the FLEX or the SPEX (§353(B)), and provided further that the applicant has registered for the next available administration of the FLEX or the SPEX and has not previously taken and failed to achieve a passing score on any portion of the FLEX or the SPEX.

C. A permit issued under this Section shall expire, and thereby become null, void and to no effect on that date that:

1. the board gives written notice to the permit holder that he has failed to achieve a passing score on the FLEX or the SPEX;

2. the board gives written notice to the permit holder pursuant to §383(C) that it has probable cause to believe that he has engaged or attempted to engage in conduct which subverted or undermined the integrity of the examination process;

3. the permit holder is issued a license pursuant to §413(A) or another type of permit as provided by §397 to §405 of this Chapter; or

4. the holder of a permit issued under Subsection B fails to appear for and take the FLEX or the SPEX examination for which he is registered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1272 and R.S. 37:1273.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 10:914 (November 1984), amended LR 16: (June 1990).

§409. Visiting Foreign National Resident Permit

A. The board may, on a discretionary basis in individual cases, consider issuance of a restricted temporary institutional visiting foreign national resident permit to a qualified foreign national physician sponsored by this native government or medical school to participate in postgraduate medical study in the United States and thereafter return to his, provided that such foreign national physician:

1. is at least 21 years of age;
2. is a foreign national possessing a valid J-1 visa (United States citizen and aliens holding permanent resident status or a visa other than a J-1 are not eligible);
3. possesses a doctor of medicine or equivalent degree conferred by a medical school listed in the current edition of the *World Directory of Medical Schools* published by the World Health Organization;
4. has completed not less than three years of postgraduate medical training in the country in which the applicant had his or her medical education, such training having been continuous and progressive in the primary specialty in which the applicant seeks to pursue further subspecialty training in Louisiana;
5. possesses an unrestricted license or certificate of registration to practice medicine in the country in which the applicant had his or her medical education, having fulfilled all educational requirements to practice medicine in such country;
6. possess a valid Standard ECFMG Certificate issued by the Educational Commission for Foreign Medical Graduates, having taken and successfully passed both the Foreign Medical Graduate Examination in the Medical Sciences (FMGEMS) and the ECFMG English Test;
7. has entered into a binding agreement with his or her native country or with a medical school or college of such country, requiring the applicant's return to such country to practice medicine following conclusion of the program in which the applicant may participate in Louisiana; and
8. has received formal appointment by a Louisiana medical school, contingent on issuance of a visiting foreign national resident permit, to a postgraduate residency or fellowship program, accredited by the Accreditation Council for Graduate Medical Education (ACGME) in a subspecialty of the applicant's primary specialty.

B. Application for a visiting foreign national resident permit must be made on an application form supplied by the board, accompanied by documentation of the applicant's satisfaction of the criteria for eligibility and a nonrefundable application processing fee of \$200.

C. An application form will be supplied by the board only after criteria specified by Subsections A(7) and A(8) of this section have been documented in the following manner:

1. Satisfaction of Subsection (A)(7) must be documented by an original letter or other instrument:

a. signed by the ministry of health of the applicant's country of origin, endorsing the applicant's participation in postgraduate medical training in the United States and certifying that there exists a specific need in such country for physicians with the type of training in which the applicant seeks to participate in Louisiana; or

b. signed by the dean or other academic head of a medical school of the applicant's country of origin, endorsing the applicant's participation in the intended postgraduate medical training program in Louisiana and certifying that the applicant will, upon return to his native country, be appointed to a full time faculty position at such medical school.

2. Satisfaction of Subsection A(8) must be documented by an original letter, signed by the director of the postgraduate training program and co-signed by the dean of the Louisiana medical school at which the applicant will study, certifying that the applicant has been accepted and appointed to residency or fellowship training at such medical school in a subspecialty of the applicant's primary medical specialty and specifying the term of such appointment, not to exceed 24 months. Such letter must be mailed directly to the board by the medical school.

D. Upon submission of a completed application form, an applicant must make a personal appearance, by appointment, before a member of the board and then present the following documentation evidencing satisfaction of criteria Subsections A(2)-(6):

1. an original, valid J-1 visa;
2. the original, or certified copy, of the applicant's doctor of medicine or equivalent degree, together with a certified translation thereof if the original is not in English;
3. an original diploma, certificate or other instrument signed by the dean of the medical school at which the applicant completed his or her primary specialty residency, certifying the applicant's successful completion of such program and its inclusive dates;
4. the original, or certified copy, of the applicant's license or certificate of registration to practice medicine in his or her native country; and
5. an original, valid Standard ECFMG Certificate.

E. The following conditions and restrictions apply to the board's consideration and issuance of any visiting foreign national resident permit:

1. Notwithstanding an applicant's eligibility for a visiting foreign national resident permit under the criteria set forth hereinabove, the board may nonetheless deny issuance of such a permit for any of the causes for which it may deny medical licensure under R.S. 37:1285, or in other instances in which it determines that the application is inconsistent with the purpose and intent of the visiting resident permit program.

2. A visiting foreign national resident permit does not authorize the holder to engage in any manner in the practice of medicine in Louisiana other than at the medical institution and within the scope of the training program designated by the permit.

3. A visiting foreign national permit expires on the last day of the year in which it is issued and must be renewed in the manner that unrestricted medical licenses are renewed. A visiting resident permit may be renewed and continued in force for a maximum of 24 months from the date of its original issuance.

4. Medical training received in Louisiana pursuant to a

visiting foreign national resident permit will not qualify as postgraduate training for purposes of qualifying a foreign medical graduate for unrestricted medical licensure.

5. A visiting foreign national resident permit shall be automatically revoked, and become null and void, effective on any date that:

- a. the permittee's appointment to the designated Louisiana training program is terminated; or
- b. the permittee's J-1 visa is invalidated or expires or another immigrant status is applied for or obtained.

6. Upon prior notice and an opportunity to be heard, a visiting foreign national resident permit may be revoked by the board:

- a. for any of the causes specified by R.S. 37:1285(A);
- b. upon a finding by the board that the permittee has failed to maintain, or did not possess at the time of application, any of the criteria for eligibility specified hereinabove; or
- c. upon a finding by the board that the permittee has exceeded the scope of authority accorded by the visiting foreign national resident permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1272 and R.S. 37:1273.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16: (June 1990).

Subchapter I—License Issuance, Termination, Renewal, Reinstatement

§413. Issuance of License

A. If the qualifications, requirements and procedures prescribed or incorporated by §311 to §313, §323 to §325 or §353 are met to the satisfaction of the board, the board shall issue to the applicant a license to engage in the practice of medicine in the state of Louisiana.

B. A license issued under §311 of this Chapter shall be issued by the board within 30 days following the reporting of the applicant's FLEX scores to the board. A license issued under any other section of this Chapter shall be issued by the board within 15 days following the meeting of the board next following the date on which the applicant's application, evidencing all requisite qualifications, is completed in every respect.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:1274.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 10:914 (November 1984), amended LR 16 (June 1990).

§415. Expiration of Licenses and Permits

A. Every license or permit issued by the board under this Chapter, the expiration date of which is not stated thereon or provided by these rules, shall expire, and hereby become null, void and to no effect, on the last day of the year in which such license or permit was issued.

B. The timely submission of a properly completed application for renewal of a license, but not a permit, as provided by §417 of this Chapter, shall operate to continue the expiring licensing in full force and effect pending issuance of the renewal license.

C. Permits are not subject to renewal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, and R.S. 37:1280.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 10:914 (November 1984), amended LR 16: (June 1990).

§417. Renewal of License

A. Every license issued by the board under this Chapter shall be renewed annually on or before its date of expiration by submitting to the board a properly completed application for renewal, upon forms supplied by the board, together with the renewal fee prescribed in Chapter 1 of these rules.

B. An application for renewal of license form shall be mailed by the board to each person holding a license issued under this Chapter on or before the first day of December of each year. Such form shall be mailed to the most recent address of each licensee as reflected in the official records of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1280 and R.S. 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 10:914 (November 1984), amended LR 16: (June 1990).

§418. Reduced Renewal Fees for Certain Physicians

A. The fee otherwise required for annual renewal of licensure will be reduced by one-half in favor of a physician who holds an unrestricted license to practice medicine issued by the board and who has, prior to the first day of the year for which such renewal will be effective:

1. attained the age of 70 years;

2. voluntarily surrendered to the issuing authorities his or her state license and federal registration to prescribe, dispense or administer controlled substances; and

3. made application to the board for such reduced licensure renewal fee, upon a form supplied by the board, verifying the conditions requisite to such reduced fee and consenting to revocation of any license renewed pursuant to this section upon a finding by the board that the licensee, following issuance of licensure renewal pursuant to this section, continued to hold, obtained, or sought to obtain state licensure or federal registration to prescribe, dispense or administer controlled substances.

B. The fee otherwise required for annual renewal of licensure will be reduced by one-half in favor of a physician who holds an unrestricted license to practice medicine issued by the board and who has, prior to the first day of the year for which such renewal will be effective:

1. ceased to engage in the practice of medicine in any form in this state as a consequence of physical or mental disability;

2. voluntarily surrendered to the issuing authorities his or her state license and federal registration to prescribe, dispense or administer controlled substances; and

3. made application to the board for such reduced licensure renewal fee, upon a form supplied by the board, verifying the conditions requisite to such reduced fee, including independent physician verification of the applicant's physical or mental disability, and consenting to revocation of any license renewed pursuant to this section upon a finding by the board that the licensee, following issuance of licensure renewal pursuant to this section, engaged or sought to engage in any manner in the practice of medicine in this state or continued to hold, obtained, or sought to obtain state licensure or federal registration to prescribe, dispense or administer controlled substances.

C. A physician whose medical license is renewed pursuant to this Section shall not thereafter engage or seek to engage in the active practice of medicine in this state or to prescribe, dispense or administer controlled substances or

other prescription medications except upon prior application to and approval by the board, which, in its discretion, as a condition to reinstatement of full licensure, may require that:

1. that the physician take and successfully pass all or a designated portion of the FLEX or SPEX examination; and/or

2. that the physician provide medical documentation satisfactory to the board that the physician is then physically and mentally capable of practicing medicine with reasonable skill and safety to patients.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1280 and R.S. 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16: (June 1990).

§419. Reinstatement of Expired License

A. A license which has expired may be reinstated by the board subject to the conditions and procedures hereinafter provided, provided that application for reinstatement is made within four years of the date of expiration. A physician whose license has lapsed and expired for a period in excess of four years or who is otherwise ineligible for reinstatement under this Section may apply to the board for an initial original or reciprocal license pursuant to the applicable rules of this Chapter.

B. With respect to an application for reinstatement made more than one year from the date on which the license expired, as a condition of reinstatement, the board may require:

1. that the applicant complete a statistical affidavit, upon a form supplied by the board, and provide the board with a recent photograph;

2. that the applicant possess a current, unrestricted license issued by another state; and/or

3. if the applicant does not at the time of the application possess a current, unrestricted license issued by another state, that the applicant take and successfully pass all or a designated portion of the FLEX or SPEX examination.

C. An applicant whose medical license has been revoked, suspended or placed on probation by the licensing authority of another state or who has voluntarily or involuntarily surrendered his medical license in consideration of the dismissal or discontinuance of pending or threatened administrative or criminal charges, following the date on which his Louisiana medical license expired, shall be deemed ineligible for reinstatement of licensure.

D. An application for reinstatement of licensure meeting the requirements and conditions of this Section may nonetheless be denied for any of the causes for which an application for original licensure may be refused by the board as specified in R.S. 37:1285.

E. An application for reinstatement shall be made upon forms supplied by the board and accompanied by two letters of character recommendation from reputable physicians of the former licensee's last professional location, together with the applicable renewal fee plus a penalty computed as follows:

1. If the application for reinstatement is made less than two years from the date of license expiration, the penalty shall be equal to the renewal fee.

2. If the application for reinstatement is made more than two years but less than three years from the date of license expiration, the penalty shall be equal to twice the renewal fee.

3. If the application for reinstatement is made more than three years from the date of license expiration, the penalty shall be equal to three times the renewal fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 10:914 (November 1984), amended LR 14:86 (February 1988), LR 16: (June 1990).

Subchapter J—Postgraduate Year One (Internship) Registration

§425. Necessity for Registration

A. As used in this Section, *postgraduate year one* (PGY-1) or *internship* means the first year of postgraduate training following graduation from a medical school or college, or a school of osteopathy approved by the board. For purposes of this Section *postgraduate year one* includes only the first year of any such training following graduation from a medical or osteopathic school or college and does not include training which may be designated PGY-1 level subsequent to prior training at such level in any specialty, field or program.

B. No person who does not possess a license or permit issued under this Chapter shall enroll or participate in a postgraduate year one (PGY-1) medical educational program, or internship, unless he is duly registered with the board pursuant to this Subchapter.

C. Notwithstanding registration under this Subchapter, no person who does not possess a license or permit issued under this Chapter shall enroll or participate in a first year postgraduate medical educational program, an internship, or any other program howsoever designated or whenever taken, which permits or requires such persons to exercise independent medical judgment, assume independent responsibility for patient care, or otherwise to engage in the practice of medicine.

D. Upon a finding that a person or registrant has violated the proscriptions of this section, the board may:

1. suspend or revoke such person's registration under this Subchapter or impose probationary conditions thereon;

2. consider and declare such person or registrant ineligible for a medical license or permit under this Chapter; or

3. cause institution or judicial proceedings against such person for injunctive relief, costs and attorneys fees, pursuant to R.S. 37:1286.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 10:914 (November 1984), amended LR 16: (June 1990).

§427. Qualifications for Registration

A. To be eligible for registration under the Subchapter, an applicant shall possess all of the substantive qualifications for licensure specified by §311(A)(1)-(4) and shall be a graduate of an approved American or Canadian medical school or college or school of osteopathic medicine.

B. The burden of satisfying the board as to the qualifications and eligibility of the applicant for registration shall be upon the applicant. An applicant shall not be deemed to possess such qualifications unless the applicant demonstrates and evidences such qualifications in the manner prescribed by, and to the satisfaction of, the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 10:915 (November 1984), LR 16: (June 1990).

§429. Procedural Requirements

A. In addition to the substantive qualifications specified in §427, to be eligible for registration under this Subchapter, an applicant shall:

1. submit to the board a completed application, upon forms supplied by the board, subscribed by the applicant and by the administrator or chief executive officer of the hospital or medical institution in which the postgraduate program is to be conducted, accompanied by a recent photograph of the applicant;

2. make a personal appearance, by appointment, before a member of the board or its designee, or at the office of the board before its designated officer, and present evidence of the qualifications specified by §427; provided, however, that an applicant who has completed his medical or osteopathic education but who does not yet possess a degree as required by §311(A)(4) may be deemed eligible for registration upon submission to the board of a letter subscribed by the dean of an approved medical school or college or of an approved school or college of osteopathy, certifying that the applicant has completed his academic, medical or osteopathic education at such school or college, that the applicant is a candidate for the degree of doctor of medicine or doctor of osteopathy at the next scheduled convocation of such school or college, and specifying the date on which such degree will be awarded; and

3. pay the applicable registration fee, as provided in Chapter 1 of these rules.

B. All documents required to be submitted to the board must be the original thereof. For good cause shown, the board may waive or modify this requirement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 10:915 (November 1984), amended LR 16: (June 1990).

§431. Issuance of Registration

If the qualifications, requirements and procedures prescribed or incorporated by §429 to §431 are met to the satisfaction of the board, the board shall issue a certificate to the applicant evidencing his registration under this Subchapter for enrollment and participation in a first year postgraduate (internship) program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 10:915 (November 1984), amended LR 16: (June 1990).

Delmar Rorison
Executive Director

RULE

**Department of Health and Hospitals
Office of Public Health**

The Department of Health and Hospitals, Office of Public Health has amended the Fee Adjustment Schedule as

contained in the regulations for the Family Planning Program found in the *Louisiana Register*, Vol. 15, No. 6, page 471 (June 20, 1989).

Title 48

PUBLIC HEALTH - GENERAL

Part V. Preventive Health Services

Subpart 13. Family Planning Services

Chapter 37. Fees

§3703. Fee Adjustment Schedule

B. Persons whose income adjusted for family size is at or below 100 percent of poverty as is defined by the United States Community Services Administration poverty guidelines shall not be responsible for payment of services. Persons whose gross family income is at or above 250 percent poverty as is defined by the United States Community Services Administration poverty guidelines shall be charged the full cost of services provided. Between these two levels, fees shall be adjusted in accordance with the formula included in the "Schedule of Charges". Effective June 1990 the current fee schedule is replaced by the following:

% Poverty Income	I	II	III	IV	V	
	100% or Less	101% - 115%	116% - 130%	131% - 145%	146% - 160%	
Family Size	No Charge	10% of Cost	20% of Cost	30% of Cost	40% of Cost	
1	6,280	6,343	7,285	8,227	9,169	
2	8,420	8,504	9,767	11,030	12,293	
3	10,560	10,666	12,250	13,834	15,418	
4	12,700	12,827	14,732	16,637	18,542	
5	14,840	14,988	17,214	19,440	21,666	
6	16,980	17,150	19,697	22,244	24,791	
7	19,120	19,311	22,179	25,047	27,915	
8	21,260	21,473	24,662	27,851	31,040	
9	23,400	23,634	27,144	30,654	34,164	
10	25,540	25,795	29,626	33,457	37,288	
11	27,680	27,957	32,109	36,261	40,413	
12	29,820	30,118	34,591	39,064	43,537	
13	31,960	32,280	37,074	41,868	46,662	
14	34,100	34,441	39,556	44,671	49,786	
15	36,240	36,602	42,038	47,474	52,910	
16	38,380	38,764	44,521	50,278	56,035	
17	40,520	40,925	47,003	53,081	59,159	
% Poverty Income	VI	VII	VIII	IX	X	XI
	161% - 175%	176% - 190%	191% - 205%	206% - 220%	221% - 235%	236% - 250%
Family Size	50% of Cost	60% of Cost	70% of Cost	80% of Cost	90% of Cost	100% of Cost
1	10,111	11,053	11,995	12,937	13,879	14,821
2	13,556	14,819	16,082	17,345	18,608	19,871
3	17,002	18,586	20,170	21,754	23,338	24,922
4	20,447	22,352	24,257	26,162	28,067	29,972
5	23,892	26,118	28,344	30,570	32,796	35,022
6	27,338	29,885	32,432	34,979	37,526	40,073
7	30,783	33,651	36,519	39,387	42,255	45,123
8	34,229	37,418	40,607	43,796	46,985	50,174
9	37,674	41,184	44,694	48,204	51,714	55,224
10	41,119	44,950	48,781	52,612	56,443	60,274
11	44,565	48,717	52,869	57,021	61,173	65,325
12	48,010	52,483	56,956	61,429	65,902	70,375
13	51,456	56,250	61,044	65,838	70,632	75,426

	VI	VII	VIII	IX	X	XI
% Poverty	161% -	176% -	191% -	206% -	221% -	236% -
Income	175%	190%	205%	220%	235%	250%
Family	50% of	60% of	70% of	80% of	90% of	100% of
Size	Cost	Cost	Cost	Cost	Cost	Cost
14	54,901	60,016	65,131	70,246	75,361	80,476
15	58,346	63,782	69,218	74,654	80,090	85,526
16	61,792	67,549	73,306	79,063	84,820	90,577
17	65,237	71,315	77,393	83,471	89,549	95,627

AUTHORITY NOTE: Promulgated in accordance with 42 USC 300; 42 CFR Subpart A, Part 59.5A5

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health Services LR 16: (June 1990).

David L. Ramsey
Secretary

RULE

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, is adopting the following rule in the Title XIX (Medicaid) Program. The rule was published as a notice of intent on April 20, 1990 (Volume 16, No. 4, page 339).

RULE

Beginning July 1, 1990, Medicaid Buy-in for Part A premiums shall be available for disabled working individuals who meet the requirement of §6408 of the Omnibus Budget Reconciliation Act of 1989.

David L. Ramsey
Secretary

RULE

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, is adopting the following rule in the Title XIX (Medicaid) Program. The rule was published as a notice of intent on April 20, 1990 (Volume 16, No. 4, page 340).

RULE

Under the provisions of R.S. 46:1210 and subsequent sections, the Louisiana Committee on Private Child Care within the Department of Health and Hospitals (formerly the Department of Health and Human Resources) hereby declares that the committee, having fulfilled its charge to develop minimum standards for licensure of Class B facilities, formally promulgates such regulations under the title "Mini-

mum Standards for Licensure of Class B Child Day Care Centers."

**Minimum Standards for Licensure
of Class B Child Day Care Centers
Licensing Authority**

The Louisiana Committee on Private Child Care of the Department of Health and Hospitals is charged with the responsibility for developing and publishing standards for the licensing of Class B facilities. The licensing authority of this committee is established by Chapter 14 of Title 46 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 46:1401 through 1424, relative to the licensing and regulation of child care facilities and child placing agencies by the DHH.

A day care center is defined (from R.S. 46:1403.3) as any place or facility operated by any institution, society, agency, corporation, person or persons, or any other group for the primary purpose of providing care, supervision and guidance of seven or more children not related to the caregiver and unaccompanied by parent or guardian, on a regular basis for at least twenty hours in a continuous seven-day week. A day care center that remains open for more than twenty hours in a continuous seven-day week, and in which no individual child remains for more than twenty-four hours in one continuous stay shall be known as a full-time day care center. A day care center that remains open after 9 p.m. shall meet the appropriate regulations established for nighttime care.

The law provides a penalty for operation of any center without a valid license (see R.S. 46:1421). The penalty for operation of any center without a license is a fine "of not less than \$75 or more than \$250 for each day of operation without a license."

If any child-care facility or child placing agency operates without a valid license issued by the department, the department may file suit in the district court in the parish in which the facility is located for injunctive relief, including a temporary restraining order, to restrain the institution, society, agency, corporation, person or persons, or any other group operating the facility or agency from continuing the violation.

It shall be the duty of the department, through its duly authorized agents, to inspect at regular intervals not to exceed one year, or as deemed necessary by the department, and without previous notice all child care facilities and child-placing agencies subject to the provisions.

Licensing Procedure

A. Before beginning operation, it is mandatory to obtain a license from the Health Standards Section of DHH. Application for a license shall be made by submitting the appropriate form provided by the Health Standards Section.

B. All child care facilities, including facilities owned or operated by any governmental, profit, nonprofit, private or church agency, shall be licensed. Licenses shall be of two types: Class A and Class B. License fees for both Class A and Class B day care centers are determined by the number of children for which the center is licensed.

Fees are to be paid prior to renewal of any license expiring after July 1, 1986. If it is determined that the center does not meet the minimum requirements, the license shall be refused.

C. License fees must be paid by all centers obtaining a Class A or Class B license. (However, child care facilities or agencies licensed as a Class B facility and owned or operated by a church or religious organization are exempt from license fees.)

D. The only exemptions to licensure are private or public day schools serving children in grades one and above, pre-kindergartens and kindergartens, Montessori schools and camps, as well as all care given without charge.

E. Application for a license shall be made by writing to the State of Louisiana, Department of Health and Hospitals, Health Standards Section, Box 3767, Baton Rouge, LA 70821. (A copy of the application is provided in the licensure standards booklet.)

F. After the application has been received by the licensing agency, a request will be made by the Office of State Fire Protection, the Office of Preventive and Public Health Services, and any known required local agencies to make an inspection of the location. (They will tell you the areas that you must comply with as per their standards.) We make the request for these inspections; however, it is the responsibility of the facility to obtain the inspections. A fee may be charged by state and/or local offices for the inspections.

G. Field staff from the Health Standards Section of DHH will contact you and make a site inspection and complete a licensing survey.

H. When approvals have been obtained from all local and state agencies, a license will be issued.

I. A license is valid for the period for which it is issued but may be revoked if the practice of the day care center falls to below minimum requirements. The director of the Health Standards Section is authorized to determine the period during which such license will be effective.

J. A license shall apply only to the location stated on the application and such license, once issued, shall not be transferable from one person to another or from one location to another. If the location or ownership of the facility is changed, the license shall be automatically revoked. A new application form shall be completed prior to all license renewals.

K. Class A and Class B license prohibits discrimination by child care facilities and child placement agencies on the basis of race, color, creed, sex, national origin, handicapping conditions, or ancestry.

L. The Health Standards Section of DHH shall be notified before changes are made which might have an effect upon the license (for example, change in age range of children to be served, changes in space).

Licensing Procedure

A. The relicensing procedure is similar to the original licensing procedure. Directors have an opportunity to review the procedure upon request before it is submitted to the Division of Licensing and Certification. Before expiration of the license, reinspections by the Office of Preventive and Public Health Services and the Office of State Fire Marshal shall be required.

B. If the procedure reveals that the center is not meeting minimum requirements, a recommendation will be made that a new license not be issued.

Appeal Procedure

A. The department shall have the power to deny, revoke or refuse to renew a license for a child care facility or child placing agency if an application has failed to comply

with the provisions of this Chapter or any applicable published rule or regulation of the department relating to child care facilities and child placing agencies. If a license is denied, revoked, or withdrawn, the action shall be effective when made and the department shall notify the applicant of such action in writing immediately and of the reason for the denial, revocation, or withdrawal of the license. The department shall take such action with the advice and consent of the child care committee, in the case of Class A facilities, of the private child care committee, in the case of Class B facilities.

B. Upon the refusal of the department to grant a license or upon the revocation of a license, the agency, institution, society, corporation, person or persons, or other group having been refused a license or having had a license revoked shall have the right to appeal such action by submitting a written request to the secretary of the department within 30 days after receipt of the notification of the refusal or revocation. The appeal hearings shall be held no later than 30 days after the request therefor, except as provided in the Administrative Procedure Act and shall be conducted in accordance with applicable regulation of the department and the provisions of R.S. 46:107. This provision shall in no way preclude the right of the party to seek relief through mandamus suit against the department, as provided by law.

C. No Class A or Class B licensed facility which has had its license revoked shall register as a Class B facility without special prior approval by the secretary indicating that it is in compliance with all laws, rules, regulations, and standards applicable to Class B facilities. No Class A licensed facility, against which revocation proceedings are pending, shall register as a Class B facility without special prior approval by the secretary indicating that it is in compliance with all laws, rules, regulations, and standards applicable to Class B facilities.

D. If the license is refused or revoked because the center does not meet minimum requirements for licensure, the procedure is as follows:

1. The secretary of the Department of Health and Hospitals, by registered letter, shall advise the day care center of reasons for refusal or revocation and of its right of appeal.

2. The day care operator may appeal this decision by submitting a written request to the secretary of the Department of Health and Hospitals. This written request must be postmarked within 30 days of the operator's receipt of the above notification.

3. The appeal section of the Department of Health and Hospitals shall set a hearing to be held within 30 days after receipt of such a request. The hearing shall be held in the immediate vicinity of the appellant.

4. An appeal hearing officer of the Department of Health and Hospitals shall conduct the hearing. Within 90 days after the date the appeal is filed, the Department of Health and Hospitals shall advise the appellant by registered letter of the decision, either affirming or reversing the original decision. If the license is refused or revoked, the center shall immediately terminate operation.

Definitions

The following are definitions of terms used in these minimum standards:

1. *Owner* - is the individual or organization that owns the center, but who employs a person to be a full-time director responsible for the operation of the center.

2. *Operator* - is the individual who owns the center and devotes full-time to being the director.

3. *Director* - is an individual employed by the owner of the center or by a board of a church or other organization to be responsible for the operation of the day care center.

4. *Child Care Staff* - is an individual directly involved in the care and supervision of the children in the center.

5. *Department* - is the Louisiana Department of Health and Hospitals.

6. *The Louisiana Advisory Committee on Licensing of Child Care Facilities and Child Placing Agencies* - is the committee that will review and revise licensing standards for Class A licensed centers.

7. *The Louisiana Committee on Private Child Care* - is the committee that writes standards for Class B licensed standards.

8. *Child's Information Form* (optional) - is an information form that gives identifying and pertinent information on each child.

9. *Class A License* - is issued to centers that meet Class A minimum standards.

10. *Class B License* - is issued to centers that meet Class B minimum standards.

11. *Child's Physician Report Form* (optional) - gives medical and immunization information on each child.

12. *Personnel Health Record* (optional) - gives medical information of employees indicating a current check of communicable disease.

13. *Medication Permission Slip* (optional) - gives the day care center parents' permission (and dosage instructions) regarding administering medication to their child.

14. *Transportation Authorization Slip* (optional) - authorized certain parents and other parties to pick up children from day care center on a regular basis.

15. *Temporary Transportation Authorization Slip* (optional) - gives parents' permission for parties other than those already on record at center to pick up their child on a temporary basis.

16. *Discipline Form* (optional) - form to be distributed to each parent and outlines the discipline (corporal or non-corporal punishment) plan to be administered by the center.

17. *Employee Application Form* (optional) - form for day care center employees providing the name, age, address, telephone number, education background, work experience, physical limitations, marital status, number of children, references, background regarding felony record and psychiatric disorder, if any.

Required Records

A. Personnel Records

There shall be on file at the center for each regularly employed and substitute member of the staff a record including the following information:

1. name, age, address, telephone number;
2. health records as required by the Office of Preventive and Public Health Services showing employees free of contagious disease;
3. I-9 (citizenship) and LA R.S. 15:587.1 (fingerprinting).

Furthermore, no felon shall be employed in a Class B facility, unless approved in writing by a district judge of the parish and the local district attorney. This statement shall be kept on file at all times by the child care facility and shall be produced upon request to any law enforcement officer.

No person who has been treated for a psychiatric disorder shall be employed in a Class B child care facility unless a treating physician has certified that the person has recovered and is able to perform his duties. This statement shall be kept on file at all times by the child care facility and shall be produced upon request to any law enforcement officer.

Personnel record should be kept for one year after the employee leaves. Health records may be returned to the staff member upon request.

B. Children's Records

The center shall have on file and available at all time the following records for each child in care:

1. All information required on the Child's Information Form. If a center has enrollment forms which contain all the information included on the Child's Information Form, they may be used.

2. All medical information required by the Office of Preventive and Public Health Services (showing health inoculation records). Children's health records need not be held after the date of withdrawal and should be returned to the parents.

3. Arrangements for the child's return to the parent shall not include third parties or other child care facilities unless written agreement between the day care facility and the parent is on file with the center on the Transportation Authorization Slip.

For temporary occurrences, you may wish to use the Temporary Transportation Authorization Slip.

C. Center Records

1. Current written reports for the Office of State Fire Marshal and Office of Preventive and Public Health Services.

2. Occupation license (when applicable).

3. Certificate of Occupancy (zoning requirement).

4. Written Discipline Policy.

5. Written Menus posted.

Personnel

A. Qualifications

1. Qualifications - Director

a. Must be at least 21 years of age. During the director's absence from the center, an adult staff member must be designated to assume the director's responsibilities.

b. Director may perform other duties within the center as long as it does not interfere with adequate supervision of center.

c. Must have at least one of the following:

1. A bachelor's degree from a regionally accredited college or university with at least 12 credit hours of child development or early childhood education and one year of supervised child care experience in a licensed center.

2. A Child Development Associate Credential which includes practicum.

3. An Associate of Arts degree in child development or a closely related area and one year of supervised child care experience in a licensed center.

4. One year of experience as a director or staff in a licensed child care center plus six credit hours in child care, child development or early childhood education. Fifteen "clock hours" may be substituted for each three credit hours.

5. Diploma from a vocational child care training program approved by the Board of Elementary and Secondary Education or equivalent plus one year of supervised child care experience in a licensed child care center.

Licenses issued after effective date of these standards must meet one of requirements 1-5. All directors employed prior to effective date of these standards will be exempt from meeting director qualifications. These directors, however, are encouraged to work toward one of these requirements.

d. Documentation of the above must be available at the licensed center.

2. Qualifications - Staff

Must be aged 18 years or older. The center may, however, include in the staff/child ratio a person 16 or 17 years old who works under the direct supervision of a qualified adult staff.

3. Qualifications - All Center Staff

All center staff includes the director, child care staff, and any other employees of the center such as the cook, housekeeper, chauffeur, substitutes and volunteers.

a. Each staff member must be known in the community to be of good reputation and meet requirements of LA R.S. 15:587.1.

b. Health Requirements

1) All center staff shall be required to obtain within two weeks before beginning work and at least every three years thereafter a written statement from a physician certifying that the individual:

a) is in good health and is physically able to care for children;

b) is free from infectious and contagious diseases;

c) has no evidence of active tuberculosis. At the time of employment, a negative skin test or a negative chest x-ray is required.

2) the director or any center staff shall not remain at work if he/she has any sign of a contagious disease.

3) Each person living in a private residence, part of which is used as a day care facility, shall meet the same medical requirements as employed personnel.

4) Substitute workers and volunteer workers shall meet the same medical requirements as employed personnel.

5) If any staff members has been treated for a psychiatric disorder, a license shall not be granted until there is sufficient evidence that the staff person has recovered and is able to perform his or her duties. A written statement from the treating psychiatrist or his designated successor is required.

4. Director and center staff employed after the effective date of these regulations must come into compliance with the qualifications.

5. Staff hired prior to the effective date of these regulations must come into compliance with these regulations within 90 days.

B. Required Child Care Staff

1. Required child care staff for centers serving 10 or fewer children (including the operator's and/or staff's own preschool children):

	Number	Staff
10 (if not more than 2 children are under age 2)		1
10 (if 3 or more children are under age 2)		2

2. Required child care staff for centers serving 11 or more children:

Children	Number	Staff
Nonwalkers and toddlers under 12 months	6	1
Toddlers	8	1
2-Year-Olds	12	1
3-Year-Olds	14	1
4-Year-Olds	16	1
5-Year-Olds	20	1
School Age	25	1

When the center serves children of mixed ages, excluding children under two years, an average of the staff ratio may be applied.

3. Only those staff members directly involved in child care and supervision shall be considered in assessing child/staff ratio.

C. Other Required Staff

1. When the number of children at the center exceeds 10, there must be an individual immediately available in case of an emergency.

2. If the number of children exceeds 42, the director shall be a full-time administrator. When the director is not on the premises, there must be an individual designated as responsible for the operation of the center.

3. Provision should be made for a cook who is not responsible for supervising children at the time of meal preparation.

4. If day and night care are offered, there must be separate shifts.

5. If the director is responsible for more than one center, there must be an individual designated as responsible for the operation of each center.

6. There shall be provisions for substitute help if the director or any regular employee is absent from the center.

D. Personnel Training

The provider/director shall plan and implement policies relating to staff development. The policies shall include the following:

1. Provisions for a one-day orientation to center policies and practices and health and safety procedures followed by four days of supervised working with children.

Documentation shall consist of a statement in the employee record signed by the employee and provider/director attesting to having received such orientation.

2. Providers/directors shall conduct, at a minimum, one staff training session each quarter. The training session should include such matters as program planning, sharing new materials, and discussing center policy.

Documentation of the training sessions shall be kept on file in the center.

3. The availability to staff of current reading materials including books, magazines, periodicals, pamphlets and journals relating to child care.

Documentation shall consist of observing that these materials are accessible in the facility to the staff.

4. All staff is to maintain a current certification of CPR training. New employees will have 90 days to comply.

Documentation will be a copy of certificates on file at the center.

Plant and Equipment

A. Indoor/Outdoor Space Required

1. Class B centers must meet all regulations in the Fire and Health Code regulating indoor/outdoor play space.

2. The outdoor play space shall be enclosed in such a manner as to protect the children from traffic hazards and to prevent the children from leaving the premises without proper supervision.

B. Furnishings and Equipment

1. There shall be a working telephone at the center. Appropriate emergency numbers must be posted, such as fire department, police department, and medical facility.

2. Play equipment of sufficient quantity and variety for indoor and outdoor use shall be provided which is appropriate to the needs of the children. The equipment shall be maintained in good repair and shall include equipment which encourages active physical play (for example, climbing apparatus, swings, wheel-toys); and equipment which encourages quiet play or activity (for example, sand, clay, crayons, paints, story and picture books, dolls, puzzles, and music).

3. Should make provisions for storage space within easy reach of the children for the storage of play materials in appropriate play areas.

4. There shall be individual spaces for each child's clothing and personal belongings.

5. Chairs of a suitable size and table space shall be available for each child two years or older.

6. Individual and appropriate sleeping arrangements must be provided for each child. (State and local health requirements regarding sleeping arrangements must be met.) Each child shall be provided with a mat, cot or bed, age appropriate.

7. Smoking is allowed only in designated areas away from children and food preparation areas.

C. Sanitary Requirements

1. The plant and equipment shall conform to state and local ordinances governing sanitation, as certified by a written statement given during the preceding 12 months by an authorized representative of the Office of Health Services. Once an application for licensure is received, the Health Standards Section, DHH, shall request a sanitation inspection.

2. A yearly inspection by the Office of Health is required. The Health Standards Section of DHH shall request this inspection annually.

D. Fire Safety

1. A center shall in all respects meet the requirements of the fire prevention and safety authorities who have jurisdiction over it. Once an application for licensure is received, the Health Standards Section, DHH, shall request a fire inspection by the State Fire Marshal. Thereafter, a yearly report of approval from the fire prevention and safety authorities is required.

2. Fire drills shall be conducted at least every 30 days. These shall be conducted at various times of the day and shall be documented.

3. All personnel are to be trained in emergency and evacuation procedures.

E. Safety Regulations

1. Drugs, poisons, harmful chemicals, equipment and tools shall be locked away from children.

2. Secure railing shall be provided for flights of more than three steps and for porches more than three feet from the ground.

3. Gates shall be provided at the head or foot of each flight of stairs to which children have access. Accordion gates are prohibited.

4. Fences shall be provided where there are open cis-

terns, wells, ditches, fish ponds and swimming pools.

5. First aid supplies shall be available at the day care center. Suggestions for first aid supplies may be obtained from the Red Cross.

6. The center and yard must be clean and free from hazards.

Admission of Children

A. Admission of children shall include an interview with the parent or guardian to secure necessary information about the child and to provide pertinent information about the center's program and policies.

B. The day care director shall ensure that the record on each child is available verifying the child has had or is in the process of receiving all immunizations appropriate to his/her age. These documents shall be part of the child's record. When the child leaves the day care facility, these documents shall be returned to the parent.

C. Parents or guardians shall be provided with a written description of the center's program, policies, fee (if any) annual and daily schedule.

D. Discrimination by child day care centers on the basis of race, color, creed, sex, national origin, handicapping condition or ancestry is prohibited.

Care of Children

A. Nutrition

1. Well-balanced and nourishing meals and snacks shall be made available to children in care for more than four hours.

2. Children in full-time care shall have two snacks and one meal daily.

3. Weekly menus for meals and snacks shall be posted if center prepares food.

4. It is permissible for children to bring their own food to the center as follows:

a. Bottled formula for infants should be supplied by the parents and must be labeled.

b. Children on therapeutic diet prescribed by a physician may bring their own food for meals and snacks if a written request is received and kept on file.

c. Refreshments for special occasions such as birthday parties and holidays with prior approval from the director.

d. Parents should be encouraged to prepare meals which are well-balanced and nutritious.

5. Infants are to be fed and supervised individually.

a. Infants shall be held while feeding. A bottle shall not be propped at any time.

b. Parents should supply center with a schedule of feedings for each infant.

c. Any current feeding recommendations of physicians should be kept on file and followed.

6. Drinking water shall be readily available to the children in single service cups or cups that can be sanitized.

Drinking fountains are permissible. Infants and toddlers should be offered water at intervals.

B. Health Service to the Child

1. No drugs of any type, including aspirin, shall be given by the center personnel unless prescribed by the child's physician or authorized in writing by the parent.

2. Each child in the center shall have all medical information required by the Office of Preventive and Public Health Services.

3. If symptoms of contagious or infectious diseases develop while the child is in care, he shall be placed in isola-

tion until a parent or designated person has been consulted. Any child who has had a 101-degree temperature reading the last 12 hours is suspect. A physician's written certification that the child is free from contagious disease is required before child can return to center.

4. With most other illnesses, children have either already exposed others before becoming obviously ill (e.g., colds), or are not contagious one day after beginning treatment (e.g., strep throat, conjunctivitis, impetigo, ringworm, parasites, head lice, and scabies.) The waiting periods required after the onset of treatment vary with the disease. Check with your local health department for information on specific diseases.

5. The parent or designated person shall be notified if a child develops symptoms of illness or suffers serious accident in child care. (All head injuries should be reported to parents immediately.)

6. Each child shall have on file a statement signed by the parent authorizing the center to administer emergency treatment.

C. Daily Program

1. There shall be a schedule of the day's plan of activities, providing for flexibility and changes, as seem necessary. The program of activities shall be adhered to with reasonable closeness but shall accommodate and have due regard for individual differences among the children. The program shall provide time and materials for both vigorous and quiet activity for children to share or to be alone, indoor and outdoor play and rest. Regular time should be allowed for routines such as washing, lunch, rest, snacks and putting away toys. Active and quiet periods should be alternated so as to guard against overstimulation of the child.

2. Preschool children shall have a rest period of at least one hour.

3. While awake, infants shall not remain in a crib, a baby bed, or a playpen for an excessive period of time.

D. Care for Children During Nighttime Hours

1. The Minimum Standards for child care centers apply to child care centers which provide care during nighttime hours with the inclusion of the following standards as set forth in this section. Any child care center caring for children at night must follow the same requirements for personnel standards as previously stated.

2. In addition, the following standards shall apply:

a. The adult in charge must remain awake all night if a child day care center is providing nighttime care and must make periodic checks on children.

b. Meals must be served to children who are in the center at the ordinary meal times.

c. Each child shall have separate sleeping accommodations.

d. Children of the opposite sex over six years of age shall not sleep in the same room without adult supervision.

e. Evening quiet time activities such as storytime, games, and reading shall be provided to each child arriving before bedtime.

f. No physical restraints shall be used to confine children to bed.

E. Discipline

1. Each center shall establish policy in regard to methods of discipline. This statement must be made available to parents and licensing personnel. Permission must be in writing from the parents for centers to use corporal punishment.

2. Cruel, severe, unusual or unnecessary punishment

shall not be inflicted on children. Derogatory remarks shall not be made in the presence of children about family members of children in care or about the children themselves.

3. No child or group of children shall be allowed to discipline another child.

4. When a child is removed from the group for disciplinary reasons, he should never be out of sight of a staff member.

5. No child shall be deprived of meals or any part of meals for disciplinary reasons.

6. Reports of mistreatment of children coming to the attention of the Office of Community Services - Child Protection Services will be investigated.

F. Abuse and Neglect

Any suspected abuse and/or neglect of a child in a day care center must be reported in accordance with R.S. 14:403.

G. Supervision

1. Children shall be supervised at all times. Preschool children shall never be left alone in any room or outdoors at any time without an adult present.

2. While on duty with a group of children, child care staff members shall devote their entire time in supervision of the children and in participating with them in their activities.

David L. Ramsey
Secretary

RULE

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, is adopting the following rule in the Title XIX (Medicaid) Program. The emergency rulemaking provisions of the Administrative Procedure Act, R.S. 49:953B, were exercised effective February 28, 1990 and published in the *Louisiana Register* Vol. 16, Number 3, page 191 on March 20, 1990 relative to this provision. The rule was published as a notice of intent on April 20, 1990 (Volume 16, No. 4, page 340).

RULE

Information obtained from a federal agency and passed to the state through a computer matching program shall be utilized in conformity to the provisions of Public Law 100-503.

David L. Ramsey
Secretary

RULE

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

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

the following rule in the Title XIX (Medicaid) Program. The rule was published as a notice of intent on April 20, 1990 (Volume 16, No. 4, page 342).

RULE

Effective July 1, 1990, Title XIX reimbursement is available for the services of a licensed/certified pediatric or family nurse practitioner who is not an employee of a Title XIX provider.

David L. Ramsey
Secretary

RULE

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, is adopting the following rule in the Title XIX (Medicaid) Program. The emergency rulemaking provisions of the Administrative Procedure Act, R.S. 49:953B, were exercised effective February 28, 1990 and published in the *Louisiana Register* Vol. 16, Number 3, page 196 on March 20, 1990 relative to this provision. The rule was published as a notice of intent on April 20, 1990 (Volume 16, No. 4, page 343).

RULE

Transitional Medicaid benefits shall be provided to families who lose AFDC because of a caretaker relative's earnings or loss on income disregards. Under the provisions of the Family Support Act of 1988, Public Law 100-485, §303, such mandatory benefits shall be provided for six months, and extended for an additional six months to each family who had Medicaid coverage during the entirety of the first six-month extension period.

David L. Ramsey
Secretary

RULE

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has adopted the following rule in the Title XIX (Medicaid) Program effective July 1, 1990, pursuant to notice of intent published on April 20, 1990.

Title XIX reimbursement to providers of non-emergency non-ambulance and emergency ambulance services will be increased to compensate providers for the increase in the minimum wage. New rates are as follows:

Non-Emergency Non-Ambulance Service

- \$17.00 two-way transport (1st occupant)
- \$ 8.50 two-way transport (multiple occupants)

- \$ 8.50 one-way transport (1st occupant)
- \$ 4.25 one-way transport (multiple occupants)
- \$.50 per vehicle mile

Emergency Ambulance Services

- \$ 2.50 per vehicle mile

This rule will not apply to non-emergency non-ambulance transportation providers who are providing services under an approved freedom of choice waiver.

David L. Ramsey
Secretary

RULE

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has adopted the following rule in the Title XIX (Medicaid) Program effective June 20, 1990, pursuant to notice of intent published on April 20, 1990.

RULE

Oxygen, breathing equipment such as IPPB (intermittent positive-pressure breathing), CPAP (continuous positive air pressure), and other types of equipment for oxygen delivery not specifically identified as payable in Chapter 19 are not covered under Title XIX (Medicaid) as a payable medical service.

David L. Ramsey
Secretary

RULE

**Department of Natural Resources
Office of Conservation**

(Editor's Note: This rule was published in the February 1990 issue of the *Louisiana Register* and is being repromulgated only to change LAC numbering.)

The Office of Conservation has adopted LAC 43:XIII, Chapter 11, governing pipeline safety concerning drug testing procedures for natural gas and hazardous liquid pipeline company operating personnel as follows:

Title 43

NATURAL RESOURCES

Part XIII. Office of Conservation - Pipeline Safety

Chapter 31. Drug Testing

§3101. Scope and compliance

A. This Chapter requires operators of pipeline facilities subject to CFR Part 192, 193, or 195 to test employees for the presence of prohibited drugs and provide an employee assistance program. However, this Chapter does not apply to operators of "master meter systems" defined in CFR 191.3.

B. Operators with more than 50 employees subject to

drug testing under this Chapter need not comply with this Chapter until April 20, 1990. Operators with 50 or fewer employees subject to drug testing under this Chapter need not comply with this Chapter until August 21, 1990.

C. This Chapter shall not apply to any person for whom compliance with this Chapter would violate the domestic laws or policies of another country.

D. This Chapter is not effective until January 2, 1992, with respect to any person for whom a foreign government contends that application of this Chapter raises questions of compatibility with that country's domestic laws or policies. On or before December 2, 1991, the administrator shall issue any necessary amendment resolving the applicability of this Chapter to such person on and after January 2, 1992.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 16:134 (February 1990), repromulgated LR 16: (June 1990).

§3103. Definitions

Accident means an incident reportable under CFR Part 191 involving gas pipeline facilities or LNG facilities, or an accident reportable under CFR Part 195 involving hazardous liquid pipeline facilities.

Administrator means the administrator of the Research and Special Programs Administration (RSPA), or any person who has been delegated authority in the matter concerned.

DOT Procedures means the "Procedures for Transportation Workplace Drug Testing Programs" published by the Office of the Secretary of Transportation in CFR Part 40 of this title.

Employee means a person who performs on a pipeline or LNG facility an operating, maintenance, or emergency-response function regulated by CFR Part 192, 193, or 195. This does not include clerical, truck driving, accounting, or other functions not subject to CFR Part 192, 193, or 195. The person may be employed by the operator, be a contractor engaged by the operator, or be employed by such a contractor.

Fail a drug test means that the confirmation test result shows positive evidence of the presence under DOT Procedures of a prohibited drug in an employee's system.

Operator means a person who owns or operates pipeline facilities subject to CFR Part 192, 193, or 195.

Pass a drug test means that initial testing or confirmation testing under DOT Procedures does not show evidence of the presence of a prohibited drug in a person's system.

Prohibited drug means any of the following substances specified in Schedule I or Schedule II of the Controlled Substances Act, 21 U.S.C. 801.812 (1981 and 1987 Cum.P.P.): marijuana, cocaine, opiates, amphetamines, and phencyclidine (PCP). In addition, for the purposes of reasonable cause testing, "prohibited drug" includes any substance in Schedule I or II if an operator has obtained prior approval from RSPA, pursuant to the "DOT Procedures" in 49 CFR Part 40, to test for such substance, and if the Department of Health and Human Services has established an approved testing protocol and positive threshold for such substance.

State agency means an agency of any of the several states, the District of Columbia, or Puerto Rico that participates under Section 5 of the Natural Gas Pipeline Safety Act of 1968 (49 App. U.S.C. 1674) or Section 205 of the Hazardous Liquid Pipeline Safety Act of 1979 (49 App. U.S.C. 2009).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 16:134 (February 1990), repromulgated LR 16: (June 1990).

§3105. DOT Procedures

The anti-drug program required by this Chapter must be conducted according to the requirements of this Chapter and the DOT Procedures. In the event of conflict, the provisions of this Chapter prevail. Terms and concepts used in this Chapter have the same meaning as in the DOT Procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 16:134 (February 1990), repromulgated LR 16: (June 1990).

§3107. Anti-drug Plan

Each operator shall maintain and follow a written anti-drug plan that conforms to the requirements of this Chapter and the DOT Procedures. The plan must contain:

A. methods and procedures for compliance with all the requirements of this Chapter, including the employee assistance program;

B. the name and address of each laboratory that analyzes the specimens collected for drug testing; and

C. the name and address of the operator's medical review officer; and

D. procedures for notifying employees of the coverage and provisions of the plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 16:134 (February 1990), repromulgated LR 16: (June 1990).

§3109. Use of Persons who Fail or Refuse a Drug Test

A. An operator may not knowingly use as an employee any person who:

1. fails a drug test required by this Chapter and the medical review officer makes a determination under §3115.D.2; or

2. refuses to take a drug test required by this Chapter.

B. Subsection A.1 of this Section does not apply to a person who has:

1. passed a drug test under DOT Procedures;

2. been recommended by the medical review officer for return to duty in accordance with §3115.C; and

3. not failed a drug test required by this Chapter after returning to duty.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 16:135 (February 1990), repromulgated LR 16: (June 1990).

§3111. Drug Tests Required

Each operator shall conduct the following drug tests for the presence of a prohibited drug:

A. Pre-Employment Testing. No operator may hire or contract for the use of any person as an employee unless that person passes a drug test or is covered by an anti-drug program that conforms to the requirements of this Chapter.

B. Post-Accident Testing. As soon as possible but no later than 32 hours after an accident, an operator shall drug

test each employee whose performance either contributed to the accident or cannot be completely discounted as a contributing factor to the accident. If an employee is injured, unconscious, or otherwise unable to evidence consent to the drug test, all reasonable steps must be taken to obtain a urine sample. An operator may decide not to test under this Subsection but such a decision must be based on the best information available immediately after the accident that the employee's performance could not have contributed to the accident or that, because of the time between that performance and the accident, it is not likely that a drug test would reveal whether the performance was affected by drug use.

C. Random Testing. Each operator shall administer, every 12 months, a number of random drug tests at a rate equal to 50 percent of its employees. Each operator shall select employees for testing by using a random number table or a computer-based random number generator that is matched with an employee's Social Security Number, payroll identification number, or other appropriate identification number. However, during the first 12 months following the institution of random drug testing under this Chapter, each operator shall meet the following conditions:

1. the random drug testing is spread reasonably through the 12-month period;
2. the last test collection during the year is conducted at an annualized rate of 50 percent; and
3. the total number of tests conducted during the 12 months is equal to at least 25 percent of the covered population.

D. Testing Based on Reasonable Cause. Each operator shall drug test each employee when there is reasonable cause to believe the employee is using a prohibited drug. The decision to test must be based on a reasonable and articulable belief that the employee is using a prohibited drug on the basis of specific, contemporaneous physical, behavioral, or performance indicators of probable drug use. At least two of the employee's supervisors, one of whom is trained in detection of the possible symptoms of drug use, shall substantiate and concur in the decision to test an employee. The concurrence between the two supervisors may be by telephone. However, in the case of operators with 50 or fewer employees subject to testing under this Chapter, only one supervisor of the employee trained in detecting possible drug use symptoms shall substantiate the decision to test.

E. Return to Duty Testing. An employee who refuses to take or does not pass a drug test may not return to duty until the employee passes a drug test administered under this Chapter and the medical review officer has determined that the employee may return to duty. An employee who returns to duty shall be subject to a reasonable program of follow-up drug testing without prior notice for not more than 60 months after his or her return to duty.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 16:135 (February 1990), repromulgated LR 16: (June 1990).

§3113. Drug Testing Laboratory

A. Each operator shall use for the drug testing required by this Chapter only drug testing laboratories certified by the Department of Health and Human Services under the DOT Procedures.

B. The drug testing laboratory must permit:

1. inspections by the operator before the laboratory is awarded a testing contract; and

2. unannounced inspections, including examination of records, at any time, by the operator, the administrator, and if the operator is subject to state agency jurisdiction, a representative of that state agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 16:135 (February 1990), repromulgated LR 16: (June 1990).

§3115. Review of Drug Testing Results

A. MRO Appointment. Each operator shall designate or appoint a medical review officer (MRO). If an operator does not have a qualified individual on staff to serve as MRO, the operator may contract for the provision of MRO services as part of its anti-drug program.

B. MRO Qualifications. The MRO must be a licensed physician with knowledge of drug abuse disorders.

C. MRO Duties. The MRO shall perform the following functions for the operator:

1. review the results of drug testing before they are reported to the operator;
2. review and interpret each confirmed positive test result as follows to determine if there is an alternative medical explanation for the confirmed positive test result:
 - a. conduct a medical interview with the individual tested;
 - b. review the individual's medical history and any relevant biomedical factors;
 - c. review all medical records made available by the individual tested to determine if a confirmed positive test resulted from legally prescribed medication;
 - d. if necessary, require that the original specimen be reanalyzed to determine the accuracy of the reported test result; and
 - e. verify that the laboratory report and assessment are correct;
3. determine whether and when an employee who refused to take or did not pass a drug test administered under DOT Procedures may be returned to duty;
4. determine a schedule of unannounced testing, in consultation with the operator, for an employee who has returned to duty;
5. ensure that an employee has been drug tested in accordance with the DOT Procedures before the employee returns to duty.

D. MRO Determinations. The following rules govern MRO determinations:

1. if the MRO determines, after appropriate review, that there is a legitimate medical explanation for the confirmed positive test result other than the unauthorized use of a prohibited drug, the MRO is not required to take further action.
2. if the MRO determines, after appropriate review, that there is no legitimate medical explanation for the confirmed positive test result other than the unauthorized use of a prohibited drug, the MRO shall refer the individual tested to an employee assistance program, or to a personnel or administrative officer for further proceedings in accordance with the operator's anti-drug program.
3. based on a review of laboratory inspection reports, quality assurance and quality control data, and other drug

test results, the MRO may conclude that a particular drug test result is scientifically insufficient for further action. Under these circumstances, the MRO should conclude that the test is negative for the presence of a prohibited drug or drug metabolite in an individual's system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 16:135 (February 1990), repromulgated LR 16: (June 1990).

§3117. Retention of Samples and Retesting

A. Samples that yield positive results on confirmation must be retained by the laboratory in properly secured, long-term, frozen storage for at least 365 days as required by the DOT Procedures. Within this 365-day period, the employee or his representative, the operator, the administrator, or, if the operator is subject to the jurisdiction of a state agency, the state agency may request that the laboratory retain the sample for an additional period. If, within the 365-day period, the laboratory has not received a proper written request to retain the sample for a further reasonable period specified in the request, the sample may be discarded following the end of the 365-day period.

B. If the medical review officer (MRO) determines there is no legitimate medical explanation for a confirmed positive test result other than the unauthorized use of a prohibited drug, the original sample must be retested if the employee makes a written request for retesting within 60 days of receipt of the final test result from the MRO. The employee may specify retesting by the original laboratory or by a second laboratory that is certified by the Department of Health and Hospitals. The operator may require the employee to pay in advance the cost of shipment (if any) and reanalysis of the sample, but the employee must be reimbursed for such expense if the retest is negative.

C. If the employee specifies retesting by a second laboratory, the original laboratory must follow approved chain-of-custody procedures in transferring a portion of the sample.

D. Since some analytes may deteriorate during storage, detected levels of the drug below the detection limits established in the DOT Procedures, but equal to or greater than the established sensitivity of the assay, must, as technically appropriate, be reported and considered corroborative of the original positive results.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 16:136 (February, 1990), repromulgated LR 16: (June 1990).

§3119. Employee Assistance Program

A. Each operator shall provide an employee assistance program (EAP) for its employees and supervisory personnel who will determine whether an employee must be drug tested based on reasonable cause. The operator may establish the EAP as a part of its internal personnel services or the operator may contract with an entity that provides EAP services. Each EAP must include education and training on drug use. At the discretion of the operator, the EAP may include an opportunity for employee rehabilitation.

B. Education under each EAP must include at least the following elements: display and distribution of informational material; display and distribution of a community service hot-line telephone number for employee assistance; and

display and distribution of the employer's policy regarding the use of prohibited drugs.

C. Training under each EAP for supervisory personnel who will determine whether an employee must be drug tested based on reasonable cause must include one 60-minute period of training on the specific, contemporaneous physical, behavioral, and performance indicators of probable drug use.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 16:136 (February, 1990), repromulgated LR 16: (June 1990).

§3121. Contractor Employees

With respect to those employees who are contractors or employed by a contractor, an operator may provide by contract that the drug testing, education, and training required by this Chapter be carried out by the contractor provided:

A. the operator remains responsible for ensuring that the requirements of this Chapter are complied with; and

B. the contractor allows access to property and records by the operator, the administrator, and if the operator is subject to the jurisdiction of a state agency, a representative of the state agency for the purpose of monitoring the operator's compliance with the requirements of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 16:136 (February, 1990), repromulgated LR 16: (June 1990).

§3123. Recordkeeping

A. Each operator shall keep the following records for the periods specified and permit access to the records as provided by Subsection B of this Section:

1. Records that demonstrate the collection process conforms to this Chapter must be kept for at least three years.

2. Records of employee drug test results that show employees failed a drug test, and the type of test failed (e.g., post-accident), and records that demonstrate rehabilitation, if any, must be kept for at least five years, and include the following information:

a. the functions performed by employees who failed a drug test.

b. the prohibited drugs which were used by employees who failed a drug test.

c. the disposition of employees who failed a drug test (e.g., termination, rehabilitation, leave without pay).

d. the age of each employee who failed a drug test.

3. Records of employee drug test results that show employees passed a drug test must be kept for at least one year.

4. A record of the number of employees tested, by type of test (e.g., post-accident), must be kept for at least five years.

5. Records confirming that supervisors and employees have been trained as required by this Chapter must be kept for at least three years.

B. Information regarding an individual's drug testing results or rehabilitation may be released only upon the written consent of the individual, except that such information must be released regardless of consent to the administrator or the representative of a state agency upon request as part

of an accident investigation. Statistical data related to drug testing and rehabilitation that is not name-specific and training records must be made available to the administrator or the representative of a state agency upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 16:136 (February, 1990), repromulgated LR 16: (June 1990).

Ron Gomez
Secretary

RULE

Department of Public Safety and Corrections Corrections Services

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Public Safety and Corrections, Corrections Services, hereby promulgates rules and regulations relative to adult offender telephone use and the policy for regulation.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part I. Corrections

Chapter 3. Adult and Juvenile Services

§314. Adult Offender Telephone Use

A. Purpose

The purpose of this regulation is to establish a formal policy regarding adult offenders' use of telephones at all institutions of Corrections Services.

B. To Whom this Regulation Applies

This regulation applies to all adult offenders of all adult institutions. It is the responsibility of all wardens of adult institutions to implement this regulation and convey its contents to all affected employees and offenders.

C. General

This regulation recognizes the importance of telephone communications in the maintenance of an offender's family ties, as well as the necessity to communicate with attorneys on pending legal matters. Therefore, this regulation is designed to allow the offender reasonable telephone communication with friends, family, and legal counsel without overtaxing the institution's ability to properly maintain security and to avoid abuse of this privilege on the part of any offender.

D. Minimum or Medium Custody (dormitory housing)

1. Personal or Family Calls

Collect telephone access should be available in the dorm on a relatively non-restricted basis (with possible extension of hours on weekends). The specific hours in the various living areas at the individual institutions shall be established by the warden of each institution. The warden shall communicate the telephone schedule to the offender population by posted policy. Reasonable guidelines to ensure an orderly process of "waiting-in-line" will be necessary. The maximum time allowed is basically a function of the phone/offender ratio, but should be limited to a maximum of 15 minutes.

2. Personal or Family Calls (emergency)

In a dormitory housing area, it is sufficient to rely upon the shift supervisor to consider any particularly unique or unusual circumstances.

3. Legal Calls

Offenders are generally able to place legal calls during the noon count and lunch period or after the afternoon count (when "normal office hours" are in effect for attorneys). There will be a 15 minute limit to these calls. The warden shall effect a posted policy which addresses the procedure for gaining permission from staff to place legal calls during normal office hours. Legal calls will be limited to twice per week unless the offender demonstrates in writing the need for additional phone communication. Each housing unit shall maintain a legal phone log for the purpose of monitoring the number of legal calls made by offenders on a weekly basis.

E. Maximum Custody (cellblock housing)

1. Personal or Family Calls (routine)

Collect telephone access is generally located in the cellblock lobby. (In those situations where the phone is on the tier, the offender may be allowed access during the shower or exercise period). Lobby placement may restrict offender access. Therefore, posted policy may limit routine personal calls for offenders assigned to working cellblocks and extended lockdown. The time limit is 15 minutes.

2. Personal or Family Calls (emergency)

a. In all subclasses of maximum custody, the offender is required to request consideration for this type call from the shift supervisor or unit major, who decides if the justification the offender presents warrants the request. That decision is then logged. No frequency for this type call is established as the severity and duration of the emergency will vary greatly. The time limit shall be 15 minutes.

b. The discretion inherent in this type policy should be checked by the "Emergency Review" provision of the Administrative Remedy Procedure (P. 29, Section IX). Timely review can be solicited by the offender.

3. Legal Calls

Offenders are generally able to place legal calls during the noon count and lunch period or after the afternoon count (when "normal office hours" are in effect for attorneys). There will be a 15 minute limit to these calls. The warden shall effect a posted policy which addresses the procedure for gaining permission from staff to place legal calls during normal office hours. Legal calls will be limited to once per week unless the offender in writing demonstrates the need for additional phone communication. Each housing unit shall maintain a legal phone log for the purpose of monitoring the number of legal calls made by offenders on a weekly basis.

F. Incoming calls

1. Personal or Family Calls (routine)

We do not accept or relay messages on a routine basis for any offender.

2. Personal or Family Calls (emergency)

A form will be utilized to verify the nature of the emergency before offender notification is made. Depending upon the emergency, it may be handled by the chaplain, classification officer, or shift supervisor. When approval is required for a phone call, it will be given after the offender is notified of the nature of the emergency.

3. Legal Calls

A form will be utilized to accept and verify requests

from attorneys for phone calls. Complete verification is required prior to processing. If minimum or medium custody, the offender will call from the dormitory during lunch or after work. If maximum custody, the offender may be allowed to call during normal working hours at a time which does not interfere with orderly operation of the unit. Incoming legal calls shall be included in the number of legal calls allowable per week for offenders, unless the attorney or offender demonstrates the need for additional phone use for legal purposes.

G. Documentation

The documentation of the number of legal calls made by the offender as described in Subsections D(3) and E(3) applies only to those calls made by the offender after gaining special permission from staff and not to calls made by the offender during times he has free access to the phone.

H. Third-party Calls

There shall be no third-party telephone calls initiated by any offender without prior approval of the warden. Only in exceptional cases shall third-party calls be allowed.

I. Calls to Staff

Offenders shall not be allowed to call any member of the staff of the individual institutions or headquarters. All communications by offenders to staff shall be by written communication only.

J. The effective date of this regulation is June 20, 1990.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:829.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 16: (June 1990).

Bruce N. Lynn
Secretary

RULE

Department of Public Safety and Corrections Corrections Services

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Public Safety and Corrections, Corrections Services, hereby promulgates rules and regulations relative to nepotism and the policy for regulation.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT Part I. Corrections

Chapter 2. Personnel

§201. Nepotism

A. Purpose

The purpose of this regulation is to establish a formal policy on nepotism in conformity with R.S. 42:1119 for all employees of Corrections Services.

B. Responsibility

It is the responsibility of the secretary, deputy secretary, undersecretary, assistant secretaries and all institution, division, unit and section heads to ensure compliance with

this regulation and to advise their respective employees who are affected by the contents.

C. General

It is the policy of the Department of Public Safety and Corrections, Corrections Services, to comply with the provisions of the statutes by monitoring and evaluating the kinship of current and prospective employees.

D. Definitions

1. *Agency Head* - The chief officer of a department, office, division, agency, commission, board, committee, or other organizational unit of a governmental entity.

2. *Immediate Family* — The children, brothers, sisters, parents, spouse, and parents of the spouse.

3. *Public Servant* — A public employee or an elected official.

E. Procedures

1. Kinship will be monitored and evaluated to ensure that, where reasonably possible, no public servant, serving as an agency head, employs any member of his immediate family to work in his work unit. (Agency heads include not only the secretary, wardens, and superintendents, but also division, unit and section heads or anyone who is in charge of a work unit, i.e. a person who can hire, fire, promote, and supervise workers within a unit.)

2. All new employees will complete the "Relatives Employed" form along with other required employment forms (see Unit Personnel Procedures - Processing and Appointment SF-1).

3. All current employees will report applicable changes to their immediate supervisor and human resource director/coordinator and will complete an updated "Relatives Employed" form.

4. All "Relatives Employed" forms will be reviewed and evaluated for policy conformance by the human resource director/coordinator of each unit. Non-conformance and/or possibilities of non-conformance will be immediately reported, in writing, to the warden/superintendent/unit head.

5. The warden/superintendent/unit head will notify the secretary in writing of the situation. The secretary will take appropriate action based on the department's operational needs within legal and ethical determinations.

6. All "Relatives Employed" forms will be maintained in the unit and central personnel files.

F. Exceptions

1. This policy will not affect any Department of Public Safety and Corrections, Corrections Services' employee hired prior to the effective date of the statute - April 1, 1980.

2. This policy will not affect an employee whose immediate family member becomes an agency head as long as the employee has been employed by this department for at least one year prior to the immediate family member's appointment to the agency head position.

G. The effective date of this regulation is June 20, 1990.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1119.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 16: (June 1990).

Bruce N. Lynn
Secretary

RULE

**Department of Social Services
Office of the Secretary**

In accordance with the application provisions of the Administrative Procedure Act R.S. 49:950 at seq., notice is hereby given that the Louisiana Department of Social Services has amended the department rule as published in the *Louisiana Register*, Volume 15, No. 6 of June 6, 1989.

The department has extended the termination date of the current Low-Income Home Energy Assistance Program (LIHEAP) - Home Energy Assistance (HEA) program year from June 30, 1990 to December 31, 1990.

No written or oral comments were received concerning this amendment.

May Nelson
Secretary

RULE

**Department of Social Services
Office of Community Services**

The Louisiana Department of Social Services (DSS) has adopted a rule to obligate \$770,000 in federal funding allocated to the state for Federal Fiscal Year 1990 under the Emergency Shelter Grants Program (ESGP) of the U.S. Department of Housing and Urban Development (HUD). DSS's distribution of funds has been undertaken in accordance with Public Law 100-77, the Stewart B. McKinney Homeless Assistance Act, as amended, and with federal regulations for the Emergency Shelter Grants Program set forth at 24 CFR Part 576 and published as a final rule in the *Federal Register* Vol. 54, No. 214, Tuesday, November 7, 1989, pages 46794 - 46810.

Funding authorized under the Emergency Shelter Grants Program is dedicated for the purposes of rehabilitation or conversion of buildings for use as emergency shelters for the homeless, for certain operating and social services expenses in connection with homeless shelter, and for homeless prevention activities. In compliance with federal requirements, allocated funds are being awarded to units of local government which are making available the total grant amounts to private nonprofit organizations for use in eligible activities.

From funding applications received by DSS, the following applicant units of general local government have been awarded ESGP funding in the amounts listed below:

Beauregard Parish: \$65,000;
East Baton Rouge Parish: \$150,000;
Iberia Parish: \$75,000;
City of Lafayette: \$110,000;
City of New Orleans: \$150,000;
Rapides Parish: \$110,000;
City of Shreveport: \$110,000.

The recipient units of local government meet the prescribed criterion of 30,000 minimum population and have demonstrated unmet need for emergency shelter in their respective jurisdictions.

In compliance with federal regulations, DSS's obligation of grant amounts was concluded within 65 days of HUD's approval of the state's ESGP application. Each state recipient has secured matching funds, including in-kind contributions, in an amount at least equal to its ESGP grant amount.

Further information on the State Emergency Shelter Grants Program may be obtained by writing to DSS/Office of Community Services, Box 44367, Baton Rouge, LA 70804 or by telephoning (504) 342-2277.

May Nelson
Secretary

RULE

**Department of Transportation and Development
Division of Aviation**

Notice is hereby given that the Department of Transportation and Development, pursuant to notice of intent published April 20, 1990, and under the authority contained in Act 451 of the 1989 Regular Session of the Louisiana Legislature, adopted as a rule Title 70, Part IX, Chapter 7 entitled "Louisiana Aviation Program Needs and Project Priority Process", which publication may be viewed during office hours at the Office of the State Register, 900 Riverside North, Baton Rouge, LA, or the Department of Transportation and Development, Room 240, 1201 Capitol Access Road, Baton Rouge, LA.

Joseph Wax
Deputy Secretary

RULE

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

In accordance with Act 301 of the 1987 Louisiana Legislature, the Louisiana Wildlife and Fisheries Commission has declared June 9 and 10, 1990 as free recreational fishing days in Louisiana to coincide with National Fishing Week June 4-10, 1990. On the two above mentioned free fishing days, residents and non-residents may exercise the privilege of a licensed recreational fisherman without purchase of any otherwise necessary recreational fishing license.

CITATION: None - Changes Annually

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:302.7.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 16: June 1990).

Warren Pol
Chairman

RULE

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

In accordance with the Notice of Intent published in the April, 1990 *Louisiana Register*, the Louisiana Wildlife and Fisheries Commission, at its regular monthly meeting in June hereby adopts regulations on open hunting season dates, bag limit, methods of taking, and rules and regulations on department-operated wildlife management areas for the period October 1, 1990-May 15, 1991.

Authority to establish regulation is vested in the Commission by Section 115 of Title 56 of the Revised Statutes of 1950. A synopsis of season dates follows:

**SUMMARY OF 1990-91
HUNTING SEASON REGIONS**

- 20 Quail: Nov. 22-Feb. 28 Daily Bag Limit 10, Possession
- 16 Rabbit: Oct. 6-Feb. 28 Daily Bag Limit 8, Possession
- 16 Squirrel: Oct. 6-Jan. 27 Daily Bag Limit 8, Possession
- 16 Deer: One per day, 6 per season
- Area 1 - 60 days
 - 16 days still hunting only Nov. 10-25
 - 7 days still hunting only Dec. 1-7 (Muzzleloader)
 - 37 days with or without dogs Dec. 8-Jan. 13
- Area 2 - 60 days
 - 28 days still hunting only Nov. 3-30
 - 7 days still hunting only Dec. 1-7 (Muzzleloader)
 - 25 days with or without dogs Dec. 8-Jan. 1
- Area 3 - 60 days
 - 28 days still hunting only Nov. 3-30
 - 7 days still hunting only Dec. 1-7 (Muzzleloader)
 - 25 days still hunting only Dec. 8-Jan. 1
- Area 4 - 46 days
 - 9 days still hunting only Nov. 17-25
 - 7 days still hunting only Dec. 1-7 (Muzzleloader)
 - 30 days still hunting only Dec. 8-Jan. 6
- Area 5 - 16 days
 - 9 days still hunting only Nov. 17-25
 - 7 days still hunting only Dec. 1-7 (Muzzleloader)
- Turkey - One per day, 3 per season
 - Area A - 30 days. March 30-April 28
 - Area B - 37 days. March 23-April 28
 - Area C - 9 days. April 20-April 28
 - Area D - 16 days. April 13-April 28

For those interested, a more detailed copy of the rules and regulations may be viewed at the office of the State Register or is available upon request to Hugh A. Bateman, Administrator, Game Division, Box 98000, Baton Rouge, LA 70898-9000.

CITATION: None changes annually

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 16: (June 1990).

Warren Pol
Chairman

RULE

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

The Louisiana Wildlife and Fisheries Commission does hereby adopt the following rules and regulations regarding the harvest of snapper, grouper, sea basses, jewfish, and amberjack within and without Louisiana's territorial waters:

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishing

§335. Daily Take, Possession and Size Limits Set by Commission

Species	Recreational Bag Limits
Red snapper	7 fish per person per day
Queen, mutton, schoolmaster, blackfin, cubera, gray, dog, mahogany, silk, yellowtail snappers, and wenchman	10 fish per person per day (in aggregate)
All groupers	5 fish per person per day (in aggregate)
Greater amberjack	3 fish per person per day

All persons who do not possess a permit issued by the National Marine Fisheries Service under the Federal Fishery Management Plan for the Gulf of Mexico Reef Fish Resources are limited to the recreational bag limit.

A person subject to a bag limit may not possess during a single day, regardless of the number of trips or the duration of a trip, any reef fish in excess of the bag limits.

For charter vessels and headboats as defined in Federal Regulations 50 CFR Part 641 as amended by FR Vol. 55, No. 14, there will be an allowance for up to two daily bag limits on multi-day trips provided the vessel has two licensed operators aboard as required by the U.S. Coast Guard for trips of over 12 hours, and each passenger is issued and has in possession a receipt issued on behalf of the vessel that verifies the length of the trip.

Species	Minimum Size Limits
Red snapper	13 inches total length
Gray, mutton and yellowtail snapper	12 inches total length
Lane and vermilion snapper	8 inches total length
Red, gag, black, yellowfin and nassau grouper	20 inches total length
Jewfish	50 inches total length
Greater amberjack	28 inches fork length (recreational) 36 inches fork length (commercial)
Black seabass	8 inches total length

Federal regulations 50 CFR Part 641 as amended by FR Vol. 55, No 14, defines charter vessels and headboats as follows:

Notices of Intent

Charter vessel means a vessel whose operator is licensed by the U.S. Coast Guard to carry six or fewer paying passengers and whose passengers fish for a fee. A charter vessel with a permit to fish on a commercial quota for reef fish is under charter when it carries a passenger who fishes for a fee, or when there are more than three persons aboard including operator and crew.

Headboat means a vessel whose operator is licensed by the U.S. Coast Guard to carry seven or more paying passengers and whose passengers fish for a fee. A headboat with a permit to fish on a commercial quota for reef fish is operating as a headboat when it carries a passenger who fishes for a fee, or when there are more than three persons aboard including operator and crew.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:326.1 and 326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 16: (June 1990).

Virginia Van Sickle
Secretary

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

The shrimp season in Louisiana's offshore territorial waters seaward of the inside-outside shrimp line as described in R.S. 56:495 and 56:497 will open at 6 a.m., Monday, March 12, 1990, and remain open until further notice. The secretary of the department shall have the authority to close this season should conditions warrant.

From March 1, 1990 to the opening of the 1990 spring inshore shrimp season, the secretary of the Department of Wildlife and Fisheries shall have the authority to open and close special seasons in the inshore waters for the harvest of shrimp should this harvest be feasible without the destruction of small brown shrimp.

CITATION NOTE: None - Changes annually

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:495, and R.S. 56:497.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 16: (June 1990).

Warren Pol
Chairman

NOTICE OF INTENT

Department of Economic Development Board of Architectural Examiners

Under the authority of R.S. 37:144 and in accordance with the provisions of R.S. 49:950 et seq., the Board of Architectural Examiners gives notice that rulemaking procedures have been initiated for the amendment of Rule §703 pertaining to the review of examinations and answers of the candidate.

Title 46

PROFESSIONAL AND OCCUPATIONS STANDARDS Part I. Architects

Chapter 7. The Examination

§703. Review of Examination and Answers of the Candidate; Reversing Grades

A. Except as set forth in the following provisions, a candidate will not be permitted to review his/her examination or answers thereto.

B. On a trial basis a candidate will be permitted to review his/her failing solutions to Division B Graphic and Division C of the ARE at a review to be conducted by a master juror or other qualified person. Candidates choosing to attend the review will be required to pay for the cost of the review (including copying the solutions), and the review will be canceled if in the opinion of the board insufficient interest is shown.

C. A candidate who has passed Division B Graphic or Division C of the ARE will be permitted to obtain a copy of his/her passing solution(s) if the candidate: (i) requests in writing such a copy prior to the deadline set by the board for copying the failing solutions for the review provided in §703(B) above, and (ii) pays the fee established by the board to cover the costs of copying the solution(s). A candidate will not be permitted to obtain the original solution(s) of such examinations.

D. The board will not reverse the grade received by a candidate from NCARB.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:145-146.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Architectural Examiners, December 1965, amended May 1973 promulgated LR 4:334 (September 1978), LR 10:738 (October 1984), repealed and adopted by the Department of Economic Development, Board of Architectural Examiners, LR 15:1 (January 1989), LR 16:

Interested persons may submit written comments on this proposed rule to Ms. Mary "Teeny" Simmons, Executive Director, Board of Architectural Examiners, 8017 Jefferson Highway, Suite B2, Baton Rouge, LA 70809.

Mary "Teeny" Simmons
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules**

**Rule Title: §703 - Review of Examination and Answers of
the Candidate; Reversing Grade**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

If a candidate desires to review his/her failing solutions to Division B Graphic and/or Division C of the Architectural Registration Examination ("ARE"), that candidate will be required to attend a review by a master juror of that division and pay a review fee of \$20 per division. The review fees are estimated to cover the cost of the reviews including copying the solutions. A candidate desiring to obtain a copy of his/her passing solution to such divisions will be required to pay a copying fee to cover the board's cost of handling, copying, and mailing the copy.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The total revenues collected will be determined by the number of failing candidates who decide to participate in the reviews and the number of passing candidates who choose to obtain copies of their solutions. Since the fees charged are intended to cover the board's costs in performing the requested service, the revenue collections will be offset by the board's anticipated expenses.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS
TO DIRECTLY AFFECTED PERSONS OR NON-
GOVERNMENTAL GROUPS (Summary)**

If a candidate desires to review his/her failing solution to Division B Graphic and/or Division C of the ARE, that candidate will be required to attend a review by a master juror of these divisions and pay a review fee of \$20 per division. Whether a candidate chooses to review his/her solutions is purely optional with that candidate.

A candidate desiring to obtain a copy of his/her passing solution will be required to pay a copying fee to cover the board's cost of handling, copying, and mailing the copy.

**IV. ESTIMATED EFFECT ON COMPETITION AND EM-
PLOYMENT (Summary)**

This amendment removes the prohibition in the current rules against a candidate reviewing his/her solutions to Division B Graphic and Division C of the ARE. A few candidates have contended that a review of their failing solutions to these divisions would facilitate an understanding of and assist them in future examinations. If these candidates are correct, theoretically more candidates should pass these divisions which would increase the number of licensed architects. A review of a passing solution should have no effect on competition or employment.

Mary "Teeny" Simmons
Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Economic Development
Board of Architectural Examiners**

Under the authority of La. R.S. 37:144 and in accordance with the provisions of La. R.S. 49:950 et seq., the Board of Architectural Examiners gives notice that rulemaking procedures have been initiated for the adoption of Rule §1113 pertaining to the board's interpretation of La. R.S. 37:155(4)(c).

PROPOSED RULE

§1113. Interpretation of La. R.S. 37:155(4)(c)

As set forth in La. R.S. 37:155(4)(c), renovations or alterations of any size building which do not affect the structural integrity or life safety, exclusive of building finishes and furnishings, are exempted from the Licensing Law, La. R.S.37:141 et seq. Renovations or alterations which exceed \$125,000 are exempted from the Licensing Law only if the applicant documents to the satisfaction of the state fire marshal that the project does not affect structural integrity or life safety.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:145-146.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Architectural Examiners, LR 16:

Interested persons may submit written comments on this proposed rule to Ms. Mary "Teeny" Simmons, Executive Director, Board of Architectural Examiners, 8017 Jefferson Highway, Suite B2, Baton Rouge, LA 70809.

Mary "Teeny" Simmons
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules**

Rule Title: §1113 - Interpretation of La. R.S. 37:155(4)(c)

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There is no impact on cost to the agency through amendment of this rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There is no effect on revenues through this rule change.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS
TO DIRECTLY AFFECTED PERSONS OR NON-
GOVERNMENTAL GROUPS (Summary)**

There are no cost or economic benefits to directly affected persons or non-governmental groups associated with this rule.

**IV. ESTIMATED EFFECT ON COMPETITION AND EM-
PLOYMENT (Summary)**

This rule change will not affect competition or employment.

Mary "Teeny" Simmons
Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Economic Development Office of Financial Institutions

In accordance with the Administrative Procedure Act (R.S. 49:950 et seq.) and pursuant to the authority granted to the Commissioner of Financial Institutions in his capacity as Commissioner of Securities by R.S. 51:709(15) and 710(D), notice is hereby given that the commissioner intends to adopt a rule under Chapter 7, consisting of Sections 701 through 707 of a new Chapter 7 defining private offering exemptions from the requirement of registration of securities under the Louisiana Securities Law.

The proposed rule rescinds the private offering exemptions comprising the existing Chapter 7 and replaces them with revised private offering exemptions more similar to the Uniform Limited Offering Exemption of the North American Securities Administrators Association, Inc. and the federal exemption under Section 4(2) of the Securities Act of 1933, as amended.

Interested parties may request copies of the proposed rule at the office of the State Register, 900 Riverside North, Baton Rouge, LA 70804 as well as submit written comments or make written inquiries concerning the rule until 4:30 p.m., July 20, 1990, at the following address: Harry C. Stansbury, Deputy Commissioner of Securities, 325 Loyola Avenue, Suite 315, New Orleans, LA 70112-1878. He is the person responsible for responding to inquiries concerning the proposed rule.

Harry C. Stansbury
Deputy Commissioner of Securities

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Private Offering Exemptions

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No implementation costs are involved.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The current rule provides for a \$300 filing fee for private offerings and the proposed rule does not change that fee. Hence, there will be no effect on revenue collections for the state.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
The estimated costs to directly affected persons will remain the same by the implementation of this rule but will result in a slight economic benefit to such persons by allowing them to avoid the fees associated with the registration of securities under this exemption.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no impact on competition or employment in the public or private sector.

Fred C. Dent
Commissioner

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Economic Development Real Estate Commission

Notice is hereby given that the Real Estate Commission will consider the repeal of the following rule:

LAC 46:LXVII, Subpart I, Chapter 59, Section 5903, providing for the waiver of renewal requirements for employees of the Commission.

Copies of the deleted rule will be available for public inspection between the hours of 8 a.m. and 4:30 p.m. on any working day at the office of the Louisiana Real Estate Commission, 9071 Interline Avenue, Baton Rouge, LA 70809, or may be obtained by writing Bert Coles Bernard, Public Information Representative, Louisiana Real Estate Commission, Box 14785, Baton Rouge, LA 70898. Interested parties may direct inquiries and present their views in writing to the commission.

Jane H. Moody
Executive Director

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Waiver of Renewal Requirements

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no impact on cost to the agency by repeal of this rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no impact on revenues to the agency through repeal of this rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
Applicable costs to those minimal number of individuals affected by deletion of this rule would be the cost of transfer to inactive status (\$25) and the cost of continuing education required (average cost from private vendors is \$5 per hour), however, courses are offered free of charge by the Louisiana Real Estate Commission.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There should be no effect on employment by deletion of this rule. Persons seeking employment with the Louisiana Real Estate Commission are made aware, prior to hiring, that they cannot maintain an active license.

Jane H. Moody
Executive Director

David W. Hood
Senior Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

Amendments to Nonpublic School Standards

In accordance with LRS 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved an

amendment to the nonpublic school standards to conform with public standard 2.090.08 of Bulletin 741 to state that "Beginning with the 1990-91 school year, Introduction to Algebra (Bulletin 1802) shall be required in the area of mathematics for all eighth grade students," and also with public standards 2.099.01 and 2.105.15 (Bulletin 741) to provide that "Credit in Integrated Algebra/Geometry can count as one of the three units in mathematics required for high school graduation."

Interested persons may comment on the proposed policy change and/or additions in writing, until 4:30 p.m., August 8, 1990 at the following address: State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Em Tampke
Executive Director

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Non-Public Introduction to Algebra Integrated Algebra/Geometry

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The minimum estimated cost to the state in fiscal year 1990-91 is \$57,400 to purchase additional textbooks, in-service teachers, pay for substitute teachers, to provide supplementary materials and teaching aids and to reprint and distribute pages of Bulletin 741 for nonpublic schools.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No effect on revenue collections of state and local governmental units is expected.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
No direct cost is anticipated.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
Since these are new courses which replace existing courses, no drastic effect on competition and employment is anticipated. However, these courses are more demanding courses than the courses they are replacing, so these changes could provide some additional jobs for teachers who have mathematics certification, but this impact is not expected to be significant.

Graig A. Luscombe
Deputy Superintendent

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

Amend Bulletin 746, Part B
Vocational and Technical Personnel

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board

of Elementary and Secondary Education approved a revision of Bulletin 746, *Louisiana Standards for State Certification of School Personnel*, Part B Vocational-Technical Personnel-Postsecondary. The entire document may be seen in the Office of the *Louisiana Register*, 900 Riverside North, Room 512, the Office of the Board of Elementary and Secondary Education, or in the Office of Vocational Education in the State Department of Education. The major changes in this document are:

1. A new certification requirement for:
 - a. special program coordinator;
 - b. curriculum coordinator;
 - c. adult basic education/GED instructor.
2. Types of certificates:
 - a. intern vo-tech certificate;
 - b. one-year temporary vo-tech certificate;
 - c. five-year renewable vo-tech certificate;
3. Occupational Competency:
 - a. licensing/certification: a valid state and/or national license or certification for specific programs;
 - b. testing programs: occupational competency requirement covers all program areas that do not require a license or degree. The instructor must pass the written portion of the National Competency Test prior to being hired. During the first year, the instructor must pass the performance phase of the National Occupational Competency Test.
4. Course Requirements:
 - a. all vocational and technical personnel must complete the New Instructor Workshop Course (3 semester hours). Instructors with a high school diploma must earn each year at least three VTIE semester hours until a minimum of 18 hours have been completed (six hours must be the two required VTIE core courses) and 12 hours selected from the approved list of VTIE courses. Instructors with a degree must earn 12 semester hours on the same basis. Instructors with a degree in education must earn nine hours on the same basis.
5. Renewal of Certificates
 - a. completion of the New Instructor Workshop;
 - b. completion of the 18 VTIE semester hours;
 - c. recommendation of the appropriate administrator;
 - d. accumulation of 150 Professional Development Points in a five-year period.

Interested persons may comment on the proposed policy change and/or additions in writing, until 4:30 p.m., August 8, 1990 at the following address: State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Em Tampke
Executive Director

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Louisiana Standards for State Rule Certification of School Personnel Bulletin 746 - Part B Vocational-Technical Personnel

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The estimated implementation costs to the state governmental unit to print (\$600) and to disseminate (\$175)

the 1990 postsecondary certification revision for Bulletin 746 - Part B will be approximately \$775 from federal funds.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There should be no effect on revenue collection at the state or local level.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There should be no effect on cost and/or economic benefits to directly affected persons in non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Occupational competency requirements, VTIE requirements, and renewal standards will increase competition in that the more qualified and competent personnel will be employed.

Graig A. Luscombe
Deputy Superintendent

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1566,
Pupil Progression Guidelines

In accordance with the LRS 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved revised Bulletin 1566, Pupil Progression Guidelines, including revised Regulations for the Implementation of Remedial Education Programs Related to the LEAP/CRT Program. These guidelines were also adopted as an emergency rule. See May, 1990 issue of the *Louisiana Register* for complete text of guidelines and regulations.

Interested persons may comment on the proposed policy change and/or additions in writing, until 4:30 p.m., August 8, 1990 at the following address: State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Em Tampke
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules**

Rule Title: Bulletin 1566, Guidelines for Pupil Progression (Revised 1990)

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is estimated that approximately \$350 would be needed to print Bulletin 1566 (revised 1990) and to disseminate this information to all public school systems in the state.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There should be no effect on revenue collections at the state or local level.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There should be no effect on costs or benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no impact on competition and employment.

Graig A. Luscombe
Deputy Superintendent

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

Drug-Free Schools and Communities
State Application

In accordance with LRS 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved the Drug-Free Schools and Communities State Application. This is an application for federal financial assistance under Part B of the Drug-Free Schools and Communities Act of 1986. This application covers programs to be funded from federal fiscal year 1990, 1991, and 1992 appropriations and becomes the State Plan for the Drug-Free Schools and Communities Program which provides guidelines for implementation of the program. The application may be seen in the Office of the State Register, 900 Riverside North, Baton Rouge, LA or at the Office of Consolidated Education Programs, State Department of Education, or in the Office of the Board of Elementary and Secondary Education, Room 104 of the State Department of Education in Baton Rouge, Louisiana.

Interested persons may comment on the proposed policy change and/or additions in writing, until 4:30 p.m., August 8, 1990 at the following address: State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Em Tampke
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules**

Rule Title: Drug-Free Schools and Communities Act (DFSCA)

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be an increase in implementation costs at the State Department of Education (SDE) and the local education agency (LEA) levels as authorized through the Drug-Free Schools and Communities Act (DFSCA) of 1986. The implementation costs will come from federal

appropriations. The SDE will retain \$771,428 for implementation costs for FY 1990-91.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The State of Louisiana will receive \$9,287,821 as authorized by the Act for state fiscal year 1990-91. The following breakdown of funds is provided by law:

Funds to the LEAs	6,080,559
Emergency Grants (to LEAs meeting Criteria)	492,666
Governor's Discretionary Grants	1,883,168
Administrative-Technical Assistance funds SDE	723,142
Administrative funds-Governor	48,286

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

All youth (below the age of 21) in Louisiana would be directly impacted through the provision of drug abuse education/prevention programs and services made available through these federal funds. Parents and community organizations would also benefit.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

LEAs and community organizations may hire or add personnel with funds provided to them in the program. SEA may hire additional personnel with the increase in administrative funds granted.

Graig A. Luscombe
Deputy Superintendent

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

Education Majors Program

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved the following Education Majors Program. This program will provide scholarships to academically talented students who will obtain a bachelor's degree in education which will qualify them to become certified classroom teachers.

This project is made possible through a grant awarded by the State Board of Elementary and Secondary Education from the Louisiana Quality Education Support Fund (8g).

Education Majors Scholarship Program

I. Program Description

The Education Majors Scholarship Program's purpose is to bring about an adequate supply of Louisiana student applicants who will obtain a bachelor's degree in education in Louisiana and will ultimately become certified classroom teachers within the state. Therefore, the Education Majors Scholarship Program requires that the recipient shall:

1. Teach preschool, elementary school, or secondary school on a full-time basis in a state-approved public or non-public school for a period of one semester of teaching service for each semester of Education Majors funding received.
2. Fulfill the repayment obligations (service or monetary) within 10 years after completing the postsecondary edu-

cation/bachelor's degree program for which the Education Majors Scholarship funding was awarded.

3. Provide evidence of compliance with the teaching obligations to the LDE.

II. Service Payback

The Education Majors Scholarship is a service payback award which allows qualified undergraduate students to accept funding, graduate, and teach one semester in a state-approved public or non-public Louisiana school for each semester of funding. Teaching service cancels funding received.

III. Eligibility Requirements

To be eligible to apply for this scholarship, an individual shall meet the following minimum criteria:

1. Resident Status - Applicant must be a resident of Louisiana for one year and graduate of a Louisiana public or an approved private high school.

2. University Selection - Must be a public or independent college or university in the state of Louisiana with a program leading toward teacher certification.

3. Personal Qualifications - Applicant must desire to become a teacher and have been accepted to enroll or is enrolled in a public or independent college or university in Louisiana.

4. Scholastic Requirements - High school graduates must have a minimum ACT score of 22 or a minimum ACT score of 20 with a grade point average of at least 3.0 on a 4.0 scale. College applicants must have a minimum college grade point average of 3.0 on a 4.0 scale. ACT scores will not be used for college applicants.

Due to the large number of applicants that meet minimum criteria for scholarship eligibility, a formula was developed to rank all applications. The formula includes the grade point average and the ACT score, with additional quantitative consideration given to college upperclassmen.

To retain the scholarship, a recipient must earn a 3.0 or better cumulative grade point average. The recipient must be enrolled as a full-time student carrying and earning 12 or more hours at a semester university or eight or more hours at a quarter university. Pass/Fail, CLEP, and Remedial courses do not meet this requirement and will not be considered.

IV. Application Process

The Louisiana Department of Education prepares and distributes application forms annually to all high school guidance counselors and college and university financial aid offices in the state. Applications must be completed as directed on the form prior to submission to the LDE Education Majors Scholarship Office.

A. High School Applicants

High school applicants must submit the application along with a copy of an official seven-semester high school transcript, a copy of ACT and/or SAT scores, and a statement of grade point average signed by the high school guidance counselor.

B. College Applicants

College students who have completed at least 12 semester hours must submit a college transcript indicating cumulative grade point average along with the application.

C. GED Applicants

Applicants with a Louisiana GED diploma may apply for this scholarship by submitting applicable transcripts and test scores along with the application form.

The annual deadline for scholarship application is March 30. If the application form is incomplete, inaccurate,

or submitted past the deadline date, the applicant will be declared ineligible. Only the current form will be accepted.

The Scholarship Office will review application forms and scholastic records and rank all submissions accordingly. All applicants will be notified of their scholarship status by letter before Fall semester/quarter registration.

V. Award Disbursement

Scholarship awards will be sent directly to recipients upon receipt of a duly executed promissory note, verification of full-time enrollment from the college or university, and confirmation of qualifying grade point averages.

Scholarships are awarded on a semester basis in amounts of \$1,000 per semester. Funds disbursed to a recipient may not exceed \$2,000 per year or a total amount of \$8,000 for any approved applicant. The recipient may receive other financial aid provided by state funds.

In the event state-appropriated funds are insufficient for full funding of this program, the Education Majors Scholarship Office will determine distribution of available funds.

VI. Compliance

If the recipient fails to meet the conditions of the Education Majors Scholarship or if LDE determines that the recipient is no longer pursuing a course of study leading to a bachelor's degree in education in Louisiana at a preschool, elementary school, or secondary school level, the agreement is subject to cancellation and the recipient is subject to these conditions:

1. Repay the amount of Education Majors Scholarship funding received, prorated according to the amount of time of the teaching obligation not completed, as determined by LDE and the information collected on the Education Majors monitoring system.

2. Pay a simple, per annum interest charge on the outstanding principal.

3. Pay all attorney fees, collection costs, and other costs necessary for the collection of any amount not paid when due LDE.

VII. Interest

The interest charge accrues from the date of the initial Education Majors Scholarship payment, if LDE has determined that the recipient is no longer pursuing a course of study leading to a bachelor's degree in education in Louisiana at the preschool, elementary school, or secondary school level; or the day after that portion of the scholarship period for which the teaching obligation has been fulfilled.

VIII. Repayment

A recipient shall enter repayment status given the following circumstances: (1) on the first calendar month after LDE has determined that the recipient is no longer pursuing a course of study leading to a bachelor's degree in education in Louisiana at the preschool, elementary school, or secondary school level, but not before six months have elapsed after the end of the recipient's full-time enrollment in such a course of study, (2) on the day that the recipient informs LDE and does not plan to fulfill the teaching obligation, or (3) on the latest date on which the recipient must have begun teaching after completing the bachelor's degree in education in Louisiana for which the Education Majors Scholarship funding was awarded, as determined by LDE.

A recipient shall make payments to LDE which cover principal, interest, and any attorney fees and/or collection costs necessary, according to a schedule established by LDE which calls for complete repayment within 10 years after the recipient enters repayment status, and said amount shall be

no less than \$1,200 per year, or the unpaid balance, whichever is less, unless the recipient's inability to pay this amount because of financial conditions has been established to LDE's satisfaction.

LDE shall not require Education Majors Scholarship repayments amounting to more than \$1,200 annually, unless higher payments are needed to complete the entire repayment within the 10-year period required by this program.

The recipient shall be responsible for interest accrued from the beginning of the repayment period. LDE shall capitalize any accrued unpaid interests at the time it establishes a recipient's repayment schedule.

XI. Deferment

Only through approval by the Education Majors Scholarship Office may a recipient fail to enroll for or drop from a regular school session (excluding summer sessions) and maintain the scholarships. Deferments are granted for justifiable reasons only. All requests for deferments must be submitted in writing to the Scholarship Office.

A recipient is not considered in violation of the repayment schedule during deferment. To qualify for stated deferments, a recipient shall notify LDE, in writing, to claim a deferment and provide supporting documentation. To remain on a deferment status, support documentation must be re-submitted at six-month intervals. The deferments acknowledged by LDE, with supporting documentation required for each deferment, are listed below:

A. *Education Deferment* - Engaging in a full-time course of graduate/professional study at an institution of higher education, only after completion of the bachelor's degree in education at a Louisiana institution of higher education. Recipient is responsible for furnishing the LDE with a grade report at the end of each semester/quarter from the institution of higher education. This grade report must contain the name of the Education Majors Scholarship recipient, social security number, semester/quarter grade point average, cumulative grade point average, and the number of hours carried and earned.

B. *Military Deferment* - Serving as a member of the armed services of the United States (not to exceed three years). Recipient must submit a notarized statement from a commanding officer.

C. *Medical Deferment* - Temporary total disability of recipient, or temporary total disability of recipient's spouse if established that recipient is unable to secure employment because of the need to care for the spouse (not to exceed three years). Recipient must submit a notarized statement from the attending physician at six-month intervals.

D. *Unemployment Deferment* - Inability on the part of the recipient to find full-time employment in the United States despite conscientious efforts to seek such employment (not to exceed a period of one year). Recipient must submit a notarized document from businesses/schools where employment was sought.

E. *Authorized Deferment* - Temporarily not enrolled in a college or university for justifiable reasons as determined and approved by LDE (not to exceed a maximum of one year).

LDE shall extend the service payback scholarship period of repayment by a period equal to the deferment time, if the recipient meets the conditions of deferment, has submitted to LDE proper documentation for deferment, and has written approval from LDE authorizing the deferment.

Interest charges shall continue to accrue during the

deferment period.

X. Cancellation

Active scholarship recipients who intend to enroll at a university other than that stated on the application or transfer to a university other than the one indicated on the application must notify the Education Majors Scholarship Office in writing prior to the beginning of the semester. Failure to do so may result in permanent cancellation of the scholarship.

The Education Majors Scholarship note is canceled after the recipient teaches preschool, elementary school, or secondary school education in Louisiana for the same number of semesters that the recipient received the Education Majors funding. The obligation of the recipient to repay the Education Majors Scholarship note shall be canceled if LDE determines so with acceptable documentation. The reasons are as follows:

1. recipient's death;
2. total and permanent disability of recipient or recipient's spouse;
3. recipient serves as full-time teacher in a state-approved public or non-public school in Louisiana's K-12 system. The Education Majors Scholarship Program requires that the recipient teach one semester for each semester of Education Majors funding received.

XI. Non-Compliance

After receiving notification from LDE regarding non-compliance, the recipient may make a written appeal to LDE. Recipient must have acceptable justification and supporting documentation. The Bureau of Continuing Education will investigate appeals and report findings to the recipient.

Interested persons may comment on the proposed policy change and/or additions in writing, until 4:30 p.m., August 8, 1990 at the following address: State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Em Tampke
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules**

Rule Title: Education Majors Scholarship Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no estimated implementation costs associated with the adoption of these rules. The Education Majors Scholarship Program has been awarded \$2,000,000 of 8(g) funds for Fiscal Year 1990-91. Administrative costs for Fiscal Year 1990-91 are estimated at \$124,000.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated effect on revenue collections of state or local governmental units as application fees and processing fees are not charged by this scholarship program.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Eligible undergraduate students majoring in an education degree program with the intent of becoming certified classroom teachers will be awarded scholarships in the amount of \$1,000 per semester (not to exceed \$2,000 per

year) in return for a commitment to teach in the Louisiana K-12 school system.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment as a result of the adoption of this program.

Graig A. Luscombe
Deputy Superintendent

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

Amend Nonpublic Elementary
Summer School Standards

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved amendments to the nonpublic elementary summer school standards 6.113.09, 6.113.12, 6.113.14, and 6.113.15 as stated below to conform to the public school standards. Also adopted as an emergency rule. Effective date of this amendment is April 26, 1990.

6.113.09. Instruction — A student attending summer school for promotional purposes shall not enroll for more than two subjects.

6.113.12. Attendance — The minimum attendance for all elementary students to receive credit or pass a subject shall be 60 hours for one subject.

The school may impose a more strict minimum attendance policy.

6.113.14. Time Requirements — A summer school term shall be operated for minimum period of 35 days (five days per week for seven weeks).

6.113.15. Daily time requirements are as follows:

Program	35 days	Total Hours
Removal of Deficiencies	120 min. per subject	70

Two subjects may be taken in summer school for the removal of deficiencies.

Interested persons may comment on the proposed policy change and/or additions in writing, until 4:30 p.m., August 8, 1990 at the following address: State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Em Tampke
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules**

Rule Title: Bulletin 741, Non-Public School Standards

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is estimated that approximately \$200 would be needed to reprint pages 41 and 42 of Bulletin 741, Non-public School Standards and to disseminate this information to all nonpublic schools and local school systems.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There should be no effect on revenue collection at the state or local level.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There should be no effect on costs or benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no impact on competition and employment.

Graig A. Luscombe
Deputy Superintendent

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

**Guidelines for the Post-Baccalaureate
Scholarship Program
FY 90-91**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved the following Guidelines for the Post-Baccalaureate Scholarship Program, FY 90-91. The Post-Baccalaureate Scholarship Program will provide scholarships for an alternative certification program to persons holding a bachelor's degree in fields other than education.

This project is made possible through a grant awarded by the State Board of Elementary and Secondary Education from the Louisiana Quality Education Support Fund (8g).

**Post-Baccalaureate Scholarship Program
Louisiana Department of Education**

I. Program Description

The Post-Baccalaureate Scholarship Program is designed with the intent of augmenting the number of fully certified teachers in the State of Louisiana. The goal is to make the pursuit of certification more attractive to individuals who already hold bachelor degrees but who do not hold Louisiana teaching certification. It is additionally designed to attract high quality people into the profession and to make it financially, professionally, and personally worthwhile for them to enter the field through the issuance of scholarships up to a maximum of \$4,000 per individual.

There are three main goals of the Post-Baccalaureate Scholarship Program:

1. to produce highly qualified degreed teachers in a timely manner;
2. to retain these newly certified teachers in the classrooms of Louisiana for an extended period of time; and
3. to develop and provide a successful vehicle for the BESE-adopted Alternative Certification Program in the areas of lower elementary, upper elementary, special education, and secondary subjects.

II. Application Process

A. Recruitment

The recruitment process of candidates under the Scholarship Program will seek to attract the most qualified persons with special emphasis on the recruitment of minorities. Dissemination efforts to attract the "best" and the "brightest" will center on state universities, local school systems, major Louisiana newspapers, educational organizations, public television, and other major sources of public information.

B. Distribution

1. Application forms will be prepared and distributed by the Department of Education, Bureau of Continuing Education.

2. Application forms will be distributed to the 66 city/parish superintendents' offices, the Superintendent of Special School District #1, the School for the Deaf, the director of the Correctional Institutions, all principals of state approved non-public schools, and University Colleges of Education and Financial Aid Offices.

3. Candidates will be required to complete and make formal application for a scholarship before the advertised due date.

4. The candidate will be considered ineligible if the application form is incomplete, inaccurate, or submitted past the deadline date. ONLY the current form will be accepted.

III. Eligibility

A. Participants

1. A candidate must have completed a baccalaureate degree from a regionally accredited institution with a Major or other concentration in a teacher certification area.

2. A candidate must have attained an overall grade point average (GPA) of at least a 2.5 on a 4.0 scale in order to begin the eligibility process. This is verifiable through an official university transcript.

3. A candidate shall be a resident of the state of Louisiana and a U.S. Citizen, and be accepted to enroll in a Louisiana regionally accredited institution.

4. A candidate shall receive a score on a rating sheet in order to determine his eligibility. This score is based upon the following components: Academic ability, special academic achievement, communication skills and critical need area. The cumulative score will be used when ranking is necessary within a given number of available scholarships.

B. Review/Evaluation Process

1. A candidate shall pursue the BESE-adopted requirements for the Alternative Post-Baccalaureate Certification Program as outlined. Written evaluations (prescriptions) will be provided to candidates by each respective university's College of Education. This will outline the courses and number of hours required for certification and will determine the recipient's allocation. All alterations to this initial evaluation must be approved by the State Department of Education, Bureau of Continuing Education.

2. A candidate's original document will be housed along with the notarized agreement, the signed promissory note, updated prescriptions and all correspondence in an individual file at the SDE. Copies of all pertinent documents will be sent to the respective universities for their files.

IV. Allocation of Funds

1. The Post-Baccalaureate Scholarship will be available for a maximum amount \$4,000 over a maximum of two years, or for a maximum of \$2,000 per year. NOTE: For the purposes of this program, a year is defined as the respective Fall, Winter, Spring, and Summer semesters/quarters.

2. In order to receive the maximum of \$4,000 for two

years, a recipient must successfully complete a minimum of 21 hours a year of coursework with no less than an attained average of 2.5.

3. Any recipient with a prescription of less than 21 hours will receive a prorated amount of \$2,000. (For example: 12 hours is 12/21 of \$2,000; 9/21 of \$2,000; 18/21 of \$2,000)

4. Any recipient with a prescription of more than 21 hours but less than 42 hours would receive a prorated amount of \$2,000 for the second year. (For example: 12 hours is 12/21 of \$2,000; 9/21 of \$2,000; 18/21 of \$2,000)

NOTE: This is assuming that a recipient has satisfactorily met the conditions of item number 2.

5. A recipient will be awarded the full year's scholarship allocation in the Fall. A Letter of Intent, a notarized agreement and a promissory note will be signed by the recipient and returned to the Bureau of Continuing Education prior to the allocations.

6. The scholarship money will be sent to the student who will be responsible for registration fees and education-related expenses throughout the year.

7. Scholarships are nonrenewable and must track the approved program.

V. Service Paycheck

A. A candidate shall complete certification in lower elementary grades, upper elementary grades, special education, or secondary grades.

B. Upon completion and certification, a recipient shall be required to teach lower elementary, upper elementary, special education, or secondary grades in a state-approved public or non-public elementary or secondary Louisiana school for a four-year period, or for a two-year period if in a "Critical Need" parish as determined by the SDE. Upon satisfactory completion of the service payback period, the obligation to repay the scholarship monies shall be cancelled.

C. This employment will be verified yearly by the Bureau of Continuing Education. Service should be on a continuous basis. Any deviation from this will be handled on an individual basis.

VI. Compliance Requirements

If the recipient fails to meet the conditions of the Post-Baccalaureate Scholarship Agreement, or if the SDE determines that the recipient is no longer pursuing a course of study leading to teacher certification in Louisiana at the lower elementary, upper elementary, special education, or secondary level, the agreement shall be subject to cancellation and the recipient shall be subject to the following conditions:

A. The recipient shall repay the amount of Post-Baccalaureate Certification Scholarship funding received, prorated according to the amount of time of the teaching not completed. This shall be determined by SDE from the information collected on the Certification Monitoring Checklists, one while in school and the other after certification.

B. The recipient shall pay a simple, per annum interest charge at the judicial rate on the outstanding principal.

C. The recipient shall pay all attorney fees, collection costs, and other costs necessary for the collections of any amount not paid when due SDE.

D. The method of repayment, the conditions for the deferment of debt, and the conditions for cancellation of debt are provided on the Agreement form that a recipient has signed and notarized.

VII. Appeal Process

After receiving notification from SDE of recipient's

non-compliance, after cancellation of the agreement, or after recipient enters repayment status, the recipient may file a written appeal to SDE within 15 days of notification of denial of funds. Recipient must have acceptable justification and supporting documentation to support his/her appeal. The SDE will review appeal documents and make a final determination on the appeal. The recipient may appeal to the State Board of Elementary and Secondary Education if an appeal has been denied by making a written request within 15 days following the notification of denial.

Interested persons may comment on the proposed policy change and/or additions in writing, until 4:30 p.m., August 8, 1990 at the following address: State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Em Tampke
Executive Director

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Post-Baccalaureate Scholarship Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no estimated implementation costs associated with the adoption of these rules. The Post-Baccalaureate Scholarship Program has been awarded \$500,000 in 8(g) funds for Fiscal Year 1989-90 and 1990-91. Administrative costs are estimated at \$42,156 for Fiscal Year 1990-91.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated effect on revenue collections of state or local governmental units as application fees and processing fees are not charged by this scholarship program.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Selected individuals with non-education degrees seeking a Louisiana teaching certificate will be given scholarships of up to \$4,000.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment as a result of the adoption of this program.

Graig A. Luscombe
Deputy Superintendent

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

Program Plan for the Administration
of Vocational Education
FY 1991-1992

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board

of Elementary and Secondary Education approved the Program Plan for the Administration of Vocational Education, FY 1991-92. Copies of the plan may be seen in the Office of the Louisiana Register, 900 Riverside North, Room 512, or in the Office of Vocational Education, State Department of Education or in the Office of the Board of Elementary and Secondary Education, located in Room 104 of the Education Building in Baton Rouge, LA.

Interested persons may comment on the proposed policy change and/or additions in writing, until 4:30 p.m., August 8, 1990 at the following address: State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Em Tampke
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules**

Rule Title: Carl Perkins Vocational Education Act

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The State of Louisiana will incur costs to administer the program plan for the Administration of Vocational Education according to the Carl D. Perkins Act in the amount of \$3.1 million.

Local education agencies, technical institutes, and teacher training universities will incur costs of approximately \$15 million annually to administer the plan. These monies have been previously appropriated by the Louisiana Legislature for this purpose.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Louisiana will receive approximately \$18 million of Carl D. Perkins Act monies as a result of this plan. The amounts of funds used by the participating agencies are as follows:

State Department of Education	\$3.1 million
Local education agencies	9.5
Universities	.6
Vocational Technical Schools	5.4

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Students (unduplicated count) enrolled in the vocational program who will benefit from programs supported by these funds total 162,119. A breakdown of student enrollments is as follows: technical institutes, 25,577; local school systems, 134,562, and universities (approximately), 1,980.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The effect of the program plan for the Administration of Vocational Education will focus on employment and assist in providing a more skilled workforce; thus, affording better employment opportunities to the participants. The annual number who will complete the program under this plan is approximately 12,572. This includes 8,937 at the secondary level and 3,435 at the postsecondary level.

Graig A. Luscombe
Deputy Superintendent

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

Amend Regulations for the Tuition Exemption Continuing Education Program for VTIE Teachers

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved the following amendment to the Regulations for the Tuition Exemption Continuing Education Program for VTIE Teachers. The VTIE Tuition Exemption Program will upgrade the teaching skills of Louisiana's full-time vo-tech or secondary teachers holding a VTIE certificate.

This project is made possible through a grant awarded by the State Board of Elementary and Secondary Education from the Louisiana Quality Education Support Fund (8g).

VII. COLLEGES AND UNIVERSITIES PROCEDURES ADD:

A. The college or university shall accept the application for tuition exemption only if the application form has a VTIE stamp and has received prior approval from the Department of Education, Office of Vocational Education, Postsecondary Vocational Education Bureau.

RENUMBER REMAINING PARAGRAPHS ACCORDINGLY.

Interested persons may comment on the proposed policy change and/or additions in writing, until 4:30 p.m., August 8, 1990 at the following address: State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Em Tampke
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules**

Rule Title: Tuition Exemption Continuing Education Program for VTIE Teachers

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The program for VTIE Tuition Exemption has been appropriated \$60,000 in 8(g) funds (FY 1990-91) which will result in fewer applications being approved since less money is appropriated.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Any full-time postsecondary vocational-technical personnel or secondary VTIE instructor holding a VTIE certificate who is regularly employed or on approved sabbatical leave from a technical institute or secondary school listed on the annual school report as a member of the faculty of a state-approved public technical institute or secondary school under the jurisdiction of the State Board of Elementary and Secondary Education would be eligible for VTIE tuition exemption at the state's colleges and universities.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition or employment.

Graig A. Luscombe
Deputy Superintendent

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Board of Elementary and Secondary Education

Revised Policy on Collecting Tuition Fees
for Technical Institutes

In accordance with LRS 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved the following revision to the procedure for collection of tuition fees at the Technical Institutes (Vocational-Technical Schools).

Amend No. 9 to read:

9. Each technical institute shall follow the administrative guidelines as established by the state Department of Education, Office of Vocational Education, for the internal fiscal and accounting procedures for both the collection and accountability of all self-generated funds.

a. All self-generated funds shall be deposited daily as required by LRS 49:308 and the Financial Accountability Control System (FACS) Procedures Manual, Section III F-2.

b. Registration, tuition, and reenrollment fees may be paid by check, money order, or cash.

c. All fees, other than registration, tuition, and reenrollment, shall be paid by certified check, money order or cash only, i.e. textbooks, canteen sales, supplies, etc.

Amend No. 10 to read:

10. All technical institutes may collect tuition fees in advance on a monthly, quarterly, term, semi-annual, or annual basis. All tuition fees for specialized training programs shall be collected by the first day of training.

Interested persons may comment on the proposed policy change and/or additions in writing, until 4:30 p.m., August 8, 1990 at the following address: State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Em Tampke
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules**

Rule Title: Revised Policy Collection of Tuition Fees

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This is revising the Board of Elementary and Secondary Education policy on collection/tuition fees. The cost to implement this change would be approximately \$75. This would be for printing and postage and to mail out the revision to the policy manual.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be a more efficient method of collecting tuition

and be in compliance with state laws and FACS regulations.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There will be no costs or economic benefits to the affected groups. We will collect tuition fees in a more efficient manner and be in compliance with state laws and regulations.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment as a result of this action.

Graig A. Luscombe
Deputy Superintendent

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Education
Proprietary School Commission**

Add to Title 3, Section 1, License, the Advisory Commission on Proprietary Schools, Louisiana State Department of Education, Rules and Regulations, Bulletin 1443.

Cessation of Payments into the Student Protection Fund

Whenever the Student Protection Fund drops below seven hundred and fifty thousand dollars (\$750,000), collections shall resume according to R.S. 17:3141.16. Such collections shall cease again when the fund accumulates to one million dollars, but shall resume when the fund drops below seven hundred and fifty thousand dollars (\$750,000).

Inquiries and comments should be addressed in writing to Andrew H. Gasperecz, Executive Secretary, Louisiana Proprietary School Commission, State Department of Education, Box 94064, Baton Rouge, LA 70804-9064, through July 15, 1990.

The public hearing will be held at 10 a.m., July 25, 1990, in the 8th floor conference room, State Department of Education Building, 626 North Fourth Street, Baton Rouge, LA.

Andrew H. Gasperecz
Executive Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules**

**Rule Title: Cessation of Payments
Into The Student Protection Fund**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

All costs of the Proprietary School Bureau are self-generated by license fees paid to the Bureau by licensees. There will be an estimated cost of \$50 for printing and mailing this rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of State or Local Governmental Units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There will be no costs to directly affected persons or non-governmental groups. However, the Student Protection Fund was created for the protection of students in the event a licensed school causes financial harm.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition or employment.

Andrew H. Gasperecz
Executive Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Employment and Training
Office of Workers' Compensation**

In accordance with the provisions of R.S. 49:950, et seq., of the Louisiana Administrative Procedure Act, and under the authority of R.S. 23:1034.2 and R.S. 23:1203 of Act 938 of 1988 Louisiana Regular Legislative Session, the Office of Workers' Compensation, through the Department of Employment and Training, hereby gives notice of its intent to adopt a rule for the establishment of a medical reimbursement fee schedule for drugs, supplies, hospital care and services, medical and surgical treatment and any non-medical treatment recognized by the laws of this state as legal and due under the Workers' Compensation Act, and is applicable to any person or corporation who renders such care, services or treatment, or provides such drugs or supplies, to state employees covered by Chapter 10 of Title 23 of the Louisiana Revised Statutes of 1950. This medical reimbursement fee schedule establishes a basis for billing and payment of medical services provided all injured state employees and shall be applicable exclusively to state employees.

The Office of Workers' Compensation is adopting this fee schedule as was previously established and used by the Office of Risk Management. Changes in the fee schedule made by the Office of Workers' Compensation are of form and not of substance.

The Legal section of the Office of Workers' Compensation shall make available for public scrutiny a copy of the medical fee schedule at 1001 North 23rd Street, Baton Rouge, LA 70804. Written comments regarding this proposed rule should be forwarded to Stephen W. Cavanaugh, Director, Office of Workers' Compensation, Box 94040, Baton Rouge, LA 70804-9040. Verbal comments may be presented at a hearing on June 29, 1990, 9 a.m., in the Fourth Floor Conference Room of the Department of Employment and Training, Annex Building, 1001 North 23rd Street, Baton Rouge, LA 70804.

Stephen W. Cavanaugh
Director

**Fiscal and Economic Impact Statement
For Administrative Rules**

Rule Title: Medical Reimbursement Fee Schedule

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Providers of health care will be limited to the mean of the usual and customary charges for services rendered. The medical reimbursement fee schedule will realize a savings for the state when state employees are injured. However, the savings to the state is not readily ascertainable. Because the fee schedule provides a basis for billing and payment of medical services under the workers' compensation laws of the state of Louisiana, it is impossible to calculate the savings to the state.

The medical reimbursement fee schedule was developed by the Office of Risk Management. This fee schedule is being adopted by the Office of Workers' Compensation. Therefore, this agency did not incur the cost to develop the fee schedule. However, the cost of the state government to provide the public with a copy of the fee schedule in the fiscal year will be approximately \$35,000, assuming 4,000 copies are distributed.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Copies of the rules will be provided by the Office of Workers' Compensation at a charge of \$8.75 per copy. The revenue expected to be generated by the Office of Workers' Compensation will be \$35,000.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Nongovernmental persons or institutions will benefit from the implementation of this medical fee schedule in that physicians and injured state employees will have a guide to determine the cost of all medical services provided injured state employees by physicians. Nongovernmental persons or institutions will pay a minimal fee of \$8.75 to obtain a copy of the medical fee schedule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Because the medical reimbursement fee schedule is designed to provide guidance to health care providers when rendering services to injured state employees, the impact is not directly felt on employment or competition. Employers, through their insurance companies (i.e., Risk Management), will realize a reduction in medical payments because health care providers will be limited to the schedule's provisions when charging for medical services as a result of an on-the-job injury.

Stephen Cavanaugh
Assistant Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Environmental Quality
Office of Solid and Hazardous Waste**

Under the authority of the Louisiana 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 Hazardous Waste Regulations, LAC 33:V.109, 517, 709, 1905, 2703, 2721, 3326, 5109, 5117, 5119, and 5139 (Geotechnical Amendment I, Log No. HW23).

These proposed amendments clarify the intent and purpose of various regulations by deleting specific language from one section and adding the identical language to other sections. Also, various definitions are added to conform to the Code of Federal Regulations, Title 40.

These proposed regulations are to become effective on August 20, 1990 or as soon thereafter as practical upon publication in the *Louisiana Register*.

A public hearing will be held on July 6, 1990, at 1:30 p.m. in the Mineral Board Hearing Room, State Land and Natural Resources Building. Interested persons are invited to attend and submit oral comments on the proposed amendments.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental Quality

- Hazardous Waste

Chapter 1. General Provisions and Definitions

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§109. Definitions

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Confined Aquifer -- an aquifer bounded above and below by impermeable beds or by beds of distinctly lower permeability than that of the aquifer itself; an aquifer containing confined ground water.

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Treatment Zone -- a soil area of the unsaturated zone of a land treatment unit within which hazardous constituents are degraded, transformed, or immobilized.

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Existing Portion -- that land surface area of an existing waste management unit, included in the original Part I permit application, on which wastes have been placed prior to the issuance of a permit.

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Well -- any shaft or pit dug or bored into the earth, generally of a cylindrical form, and often walled with bricks or tubing to prevent the earth from caving in.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, in LR 10:200 (March 1984), as amended in LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 16:

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Chapter 5. Permit Application Contents

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Subchapter D. Part II General Permit Information Requirements

§517. Part II Information Requirements (the Formal Permit Application)

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T. Facility Location Information:

1. Seismic Standard

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a. The owner or operator shall demonstrate compliance with the seismic standard. This demonstration may be made using either published geologic data (including federal hazardous waste regulations) or data obtained from field investigations carried out by the applicant. The information provided must be of such quality to be acceptable to geologists experienced in identifying and evaluating seismic activity. The information submitted must show that either:

* * * * *

ii. No faults pass within 200 feet of the portions of the facility where treatment, storage, or disposal of hazardous waste will be conducted based on data from a comprehensive geologic analysis of the site. Unless a site analysis is otherwise conclusive concerning the absence of faults within 200 feet of such portions of the facility, data shall be obtained from a subsurface exploration (trenching) of the area within a distance no less than 200 feet from portions of the facility where treatment, storage, or disposal of hazardous waste will be conducted. Such trenching shall be performed in a direction that is perpendicular to known faults (which have had displacement in Holocene time) passing within 3,000 feet of the portions of the facility where treatment, storage, or disposal of hazardous waste will be conducted. Such investigation shall document with supporting maps and other analyses the location of any faults found, and shall be certified by an independent Louisiana registered professional engineer or geologist.

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3. Site geology, including:

a. certification by a geologist or Louisiana licensed professional engineer specializing in geotechnical engineering that the ground and subsurface conditions at the site are acceptable for the planned purposes of the facility;

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AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, in LR 10:200 (March 1984), as amended by LR 10:280 (April 1984), LR 13:433 (August 1987), as amended LR 16:

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Chapter 7. Administrative Procedures for Treatment, Storage, and Disposal Facility Permits

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Subchapter B. Hearings

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§709. Adjudicatory Hearings

A. Adjudicatory or adjudicative hearings shall be conducted in accordance with the Administrative Procedure Act (RS 49:950 et seq.) for the following:

1. all permit applications for commercial hazardous waste treatment, storage, and/or disposal facilities and commercial recyclers, prior to deciding to prepare a draft permit; and

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AUTHORITY NOTE: Promulgated in accordance with RS 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, in LR 10:200 (March 1984), as amended LR 16:

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Chapter 19. Tanks

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§1905. Design and Installation of New Tank Systems or Components

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B. The owner or operator of a new tank system must ensure that proper handling procedures are adhered to in order to prevent damage to the system during installation. Prior to covering, enclosing, or placing a new tank system or component in use, an independent, qualified installation inspector or an independent, qualified, Louisiana registered professional engineer, either of whom is trained and experienced in the proper installation of tank systems or components, must inspect the system for the presence of any of the following items:

* * * * *

AUTHORITY NOTE: Promulgated in accordance with RS 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, in LR 10:200 (March 1984), as amended LR 13:651 (November 1987), LR 16:

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Chapter 27. Land Treatment

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§2703. Design and Operating Requirements

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I. Landfarms shall be isolated from contact with public, private, irrigation, or livestock water supplies, both surface and underground. A permit application shall address the technical requirements of LAC 33:V. Chapters 15, 27, 33, 35, and 37.

J. Requirements

1. Soils shall be fine-grained with high clay or organic content (e.g., CL, OL, MH, CH, and OH under the Unified Soil Classification System).

2. Soils shall maintain a high cation exchange capacity to absorb metallic elements in the waste by natural (pH range of the soil) or artificial means (additives).

3. Landfarms shall be located in a hydrologic section where the historic high water table is at a safe depth below the zone of incorporation, or the water table at the site shall be controlled to a safe depth below this zone (see LAC 33:V.2705.C.2).

4. Topography shall provide for drainage to prevent ponding.

5. Land slope shall be controlled to prevent erosion.

6. Run-off shall be collected and contained and disposed of by irrigation through reapplication to the treatment zone during drought periods, evaporation, or treatment. Any discharge into the off-site environment shall be governed by a NPDES permit.

7. Ground-water monitoring systems shall be installed that meet with the approval of the administrative authority.

AUTHORITY NOTE: Promulgated in accordance with RS 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), as amended LR 16:

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Chapter 33. Ground Water Protection

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§3326. Fees

Repealed

AUTHORITY NOTE: Promulgated in accordance with RS 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Ground Water Division, LR 14:620 (September 1988), amended by Hazardous Waste Division, LR 16:399 (May 1990) Repealed LR 16:

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Chapter 51. Fee Schedules

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§5109. Application Fees

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B. Each application thereto for which a fee is prescribed shall be accompanied by a remittance in the full amount of the fee. No application or amendments thereto shall be accepted or processed prior to payment of the full amount specified unless approved by the administrative authority. Major amendments of applications for operating permits, closure/post-closure permits, and modifications of permits may be considered as separate applications for purposes of calculating fees.

AUTHORITY NOTE: Promulgated in accordance with RS 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 10:200 (March 1984), amended LR 11:533 (May 1985), LR 12:676 (October 1986), LR 16:

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§5117. Annual Monitoring and Maintenance Fees - Treaters, Storers, and/or Disposers

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AUTHORITY NOTE: Promulgated in accordance with RS 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), as amended LR 11:533 (May 1985), LR 12:321 (May, 1986) LR 12:676 (October 1986), LR 13:433 (August 1987), LR 16:

§5119. Calculation of Annual Maintenance Fees

A. Formula to apportion fees

Annual Fee = fee per site + fee per facility + fee based on volume + annual research and development fee + administrative cost fee + land disposal prohibitions fee.

Off-site Disposer (Commercial) \$48,800

Off-site Disposer (Non-commercial) \$ 9,760

On-site Disposer \$ 4,880

B. Fee Per Hazardous Waste Facility Type

Unit Type New Fee

Container/Storage Tanks \$ 1,273

Incinerators \$ 2,270

Landfills/Treatment, etc. \$ 3,270

C. Fee Based on Volume

Less than 1,000 tons \$ 1,952

Less than 10,000 tons \$ 3,904

Less than 100,000 tons \$ 5,856

Less than 1,000,000 tons \$ 7,808

More than 1,000,000 tons \$ 9,760

D. Annual Research and Development Fee

(Fee per site + fee per facility + fee based on vol-

ume) × 0.25 = Annual Research and Development Fee
 E. Administrative Cost Fee
 (Fee per site + fee per facility + fee based on volume) × 0.30 = Administrative Cost Fee

[Note: The higher fee for off-site disposal is due to cost of the manifest system and emergency response to transport spills. (Neither cost is applicable to on-site disposers.)]

F. Land Disposal Prohibitions Fee

Treatment, processing (including use, reuse, recycling), and/or disposal facility annual fee (not on storage facilities). This fee applies to facilities handling wastes subject to the land disposal prohibitions in LAC 33:V. Chapter 22.

On-site	\$1,000
Off-site Non-commercial	\$2,000
Off-site Commercial	\$5,000

G. Ground-Water Protection Fee (applies only to sites with ground-water monitoring) in accordance with LAC 33:V.5139.

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AUTHORITY NOTE: Promulgated in accordance with RS 30:1051 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984) as amended LR 11:533 (May 1985), LR 12:318 (May 1986), LR 12:676 (October 1986), LR 13:433 (August 1987), LR 16:

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§5139. Ground-Water Protection Fee

A. Ground-Water Fee

1. Annual Report Review Fee

This fee covers the cost of reviewing the ground-water annual report required by both the Hazardous and Solid Waste Regulations.

Hazardous Waste Facilities	\$1,000 each
Solid Waste Facilities	\$ 250 each

2. Permit Review Fee

This fee covers the cost of reviewing permits for geology, geotechnical design, and ground-water protection aspects.

Hazardous Waste Facilities (1 time)	\$5,000 each
Permit Modifications Class 1 and 2	\$ 200 each
Class 3	\$ 750 each
Solid Waste Facilities (1 time)	\$2,000 each
Permit Modifications Major	\$ 500 each
Minor	\$ 200 each

3. Corrective Action Oversight (annual)

This fee covers the cost of review and approval of plans and actions to clean up ground water that has been contaminated by a facility.

Hazardous Waste Facilities	\$10,000 each
Solid Waste Facilities	\$ 5,000 each

4. Facility Inspection Fee (annual)

This fee covers the cost of inspecting the various facilities to assure compliance with the ground-water protection aspects of the facilities' permits

Hazardous Waste Facilities with sampling	\$1,000 each \$7,500 each
Solid Waste Facilities with sampling	\$ 500 each \$1,500 each

5. Ground-Water Monitoring Systems Installation Permit

This fee covers the cost of reviewing the geology and design of proposed ground-water monitoring systems to ensure compliance with department specifications.

Each Well	\$500
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6. Ground-Water Monitoring Systems Inspection Fee (Annual)

This fee covers the cost of inspecting monitoring systems to ensure that they are functioning properly and continue to maintain their integrity.

Each Well	\$250
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7. Oversight of Abandonment Procedures

This fee covers the cost of reviewing plans to plug and abandon all ground-water monitoring systems (monitoring wells, piezometers, observation wells, and recovery wells) to ensure that they do not pose a potential threat to ground water.

Casing pulled	\$100 each
Casing reamed out	\$200 each
Casing left in place	\$500 each

AUTHORITY NOTE: Promulgated in accordance with RS 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Ground Water Division, LR 14:620 (September 1988), amended, Office of Solid and Hazardous Waste, LR 16:399 (May 1990), LR 16:

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All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than Monday, July 9, 1990, at 4:30 p.m., to Roger Hartzog, Enforcement and Regulatory Compliance Division, Box 44066, Baton Rouge, LA, 70804. Commentors should reference this proposed regulation by the Log Number HW23.

Timothy W. Hardy
 Assistant Secretary

**Fiscal and Economic Impact Statement
 For Administrative Rules
 Rule Title: Geotechnical Amendment I
 Chapter 1,5,7,19,27,33, and 51**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
 Additional cost to the Department of Environmental Quality resulting from the implementation of these rules are expected to be minimal. Local governments should not be affected.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
 Revenue collections of local governments should not be affected.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
 The regulated facilities will experience no additional costs.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
 Little or minimal, if any impact on competition or employment is expected.

Timothy W. Hardy
 Assistant Secretary

David W. Hood
 Senior Fiscal Analyst

NOTICE OF INTENT

**Office of the Governor
Division of Administration
Federal Property Assistance Agency**

Notice is hereby given that Louisiana Federal Property Assistance Agency proposes to amend its Plan of Operation as adopted in the *Louisiana Register* of December 20, 1983, Volume 9, Number 12 as follows:

1. A revision of the method used to compute handling/service charges will be made by deleting the standardized ratio table and taking into consideration the original acquisition cost, present value, screening cost, quantity, condition and desirability of property and transportation expenses in order to afford more equitable service and handling charges.

2. To call attention to another segment of the population which is being provided assistance through the federal property donation program, namely, the homeless activities in our state. The Stewart B. McKinney Homeless Assistance Act (Public Law 100-77) was enacted July 22, 1987 to provide federal surplus personal property to nonprofit, tax-exempt institutions or organizations that provide assistance to homeless individuals.

This reference material may be viewed at the office of the State Register, 900 Riverside North, Baton Rouge, LA 70804.

Interested persons may submit oral or written comments through July 15, 1990, to: Don C. Marrero, Director; Louisiana Federal Property Assistance Agency, 1635 Foss Drive, Box 94095, Baton Rouge, LA 70804-9095, Telephone: 504-342-7860.

Don C. Marrero
Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Plan of Operation**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no implementation costs/savings to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
There will be no costs and/or economic benefits to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition and employment.

Don C. Marrero
Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Embalmers and Funeral Directors**

The Department of Health and Hospitals, Board of Embalmers and Funeral Directors, in accordance with R.S. 37:840 gives notice that rulemaking procedures have been instituted to amend LAC 46:XXXVII.901 to read as follows:

Title 46

**PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XXXVII. Embalmers and Funeral Directors**

Chapter 9. Internship

§901. Requirements for Embalming

A. Any person desiring to engage in the practice of embalming and the profession of funeral directing in this state shall serve as an intern within the state of Louisiana for one year and must meet the following requirements:

1. The intern shall serve his internship within the state of Louisiana for one year under the direct supervision of a Louisiana licensed embalmer/funeral director.

2. The intern shall have actively assisted in the preparation of at least 25 dead human bodies during his period of internship and shall have actively assisted in conducting at least 25 funerals during his period of internship.

3. The intern must have a high school diploma or the equivalent G.E.D. certificate at the time of making application for internship.

4. While serving the term of internship, the intern must work on a full-time basis, that is a minimum of 40 hours per week. Half of the hours worked, on a weekly basis, must be worked during the hours 7 a.m. and 5 p.m. while the other half of the hours worked on a weekly basis may be served any hours of the day or night.

5. The employment at the funeral home must be the intern's principal occupation.

6. The employment of the intern at the funeral home must be verified by the state board's inspector during any of the required inspections of the intern. Verification of employment will be made by presenting the quarterly returns submitted either to the Internal Revenue Service of the Louisiana Department of Revenue and Taxation, or, alternatively, some other official form used to verify employment, to the state board's inspector for his review.

7. A work schedule must be submitted with the intern's application showing hours to be worked and duties to be performed. Any changes or modifications within the original work schedule must be forwarded to the board's office within 14 days of the change.

8. The internship may be registered and the intern receive up to six months credit prior to matriculation in an accredited college of mortuary science (funeral service). The internship must be completed within 12 months after graduation from embalming school.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, amended March 1974, promulgated LR 5:277 (September 1979), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 15: (January 1989), LR 16:

Interested persons may direct comments/inquiries to the State Board of Embalmers and Funeral Directors, Box

8757, Metairie, LA 70011, (504) 838-5109. Written comments on the proposed change will be received through July 10, 1990.

Lloyd E. Eagan
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: §901, Internships**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No costs or savings to state or local governmental units are expected.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No effect on revenue collections is anticipated.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
Interns who may have attended mortuary science colleges prior to working in a funeral home and later found out they are not suited to the profession have paid tuition for an education they found they were unable to utilize. This rule change may keep others from making the same mistake by exposing them to the profession prior to matriculation.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no effect on competition or employment estimated.

Lloyd E. Eagan
Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Examiners for Nursing Home Administrators**

The Louisiana State Board of Examiners for Nursing Home Administrators intends to adopt a change in Chapter 11, §1103.B.2. of Title 46 XLIX as follows to amend an existing Rule by adding.

Chapter 11. Licenses

§1103. Registration of Licenses and Certificates

B.1...

2. A licensed nursing home administrator no longer practicing in Louisiana may place his license in an inactive status. He shall continue to register his license biennially but is exempt from continuing education requirements. Should he wish to reactivate his license he must undergo 60 days of on-site re-orientation under supervision of a board approved preceptor, unless such person has been actively practicing in another state and meets Louisiana continuing education requirements.

Interested persons may submit written comments on the proposed regulation until 3 p.m., July 25, 1990 at the following address, Winborn E. Davis, Executive Director, Louisiana State Board of Examiners for Nursing Home Adminis-

trators, Suite 100, 4550 North Boulevard, Baton Rouge, LA 70806.

Winborn E. Davis
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: LAC 46:XLIX.1103**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no costs or savings to state or local government units to implement this change.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on Revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
Administrators who place their license in inactive status will save the costs of taking 30 hours of continuing education per biennium. We cannot estimate the savings per person as some seminars are free, others cost up to \$200 per day.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition or employment.

Winborn E. Davis
Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Health and Hospitals
Office of Public Health**

In accordance with the provision of the Administrative Procedure Act R.S. 49:950 et seq., the Department of Health and Hospitals, Office of Public Health gives notice of intent to modify medical eligibility rules for the Office of Public Health AZT program.

The new medical category declares asymptomatic HIV infected individuals with a T4-cell count of 500 or less medically eligible for AZT. Fiscal eligibility remains at 200 percent of the current Federal Poverty Guidelines, but patients will now be required to verify income. Additionally, any distribution of AZT will be limited to prescriptions of 500 mg/day.

A. Criteria for Patient Eligibility for Azidothymidine (AZT):

1) The patient must have been diagnosed with AIDS or patient must be HIV positive and have a T4-cell count of 500 or less.

2) The patient must be willing to be followed as felt necessary by his/her physician. Poor patient compliance can be reason for discontinuing medication.

3) The patient's financial status is within the definition of 200 percent of the federal poverty level as follows:

1 person household	\$1,047/month
2 person household	\$1,404/month
3 person household	\$1,761/month
4 person household	\$2,116/month

4) The patient must have no other financial means for access to AZT.

B. Program Referral Procedures:

All referrals of potential recipients shall be directed to the program review board by the patient's physician. The referring physician shall assure that the patient meets all of the above stated eligibility criteria.

A referral form for use by the referring physician has been developed and will be distributed through the Parish Health Units or by calling the Office of Public Health Epidemiology Section, at (504) 568-5005. The referral form contains instructions for proper completion and routing to the review board for their consideration for program participation.

The review board shall review all applications on a first come first serve basis using the above criteria to determine eligibility for approved participation in the program at no cost to patients.

Interested parties may submit their comments by July 16, 1990 to the following address: Dr. Louise McFarland or Dr. Mark Dal Carso, Epidemiology Section, Department of Health and Hospitals, Office of Public Health, Box 60630, New Orleans, LA 70160.

David Ramsey
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules**

Rule Title: AIDS Drug Reimbursement Program

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no estimated implementation costs associated with the adoption of the proposed rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Federal funds in the amount of \$381,000 for the purchase of drugs are expected to be received during fiscal year 1991.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
There are no estimated costs to persons or non-governmental groups who are directly affected by this rule. Program recipients may possibly experience a delay in the fatality of their illness/disease.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There should be no effect on competition or employment.

Dr. Joel L. Nitzkin, D.P.A.
Acting Assistant Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, proposes to adopt the following rule in the Medical Assistance Program.

Current non-emergency ambulance transportation policy is based on the medical certification of necessity as follows:

1. A doctor certifies by written statement that the recipient was in need of ambulance transportation and that transportation such as an automobile, van, or taxi could not be used.
2. The doctor certifies that non-emergency ambulance transportation was needed.
3. The doctor also certifies that the recipient had to be transported to a specific facility to receive the appropriate medical services.
4. In the case of a nursing home recipient, a staff nurse can sign the doctor's name to the Medical Transportation Certification Form based on the doctor's verbal order that an ambulance be used to transport the recipient. The doctor will be required to countersign the order on his/her next visit to the nursing home.

A recent review of utilization by Bureau of Health Services Financing and UNISYS Corporation (the agency's fiscal intermediary) in conjunction with the Office of Attorney General of non-emergency ambulance transportation provided to recipients in 14 nursing facilities located in an eight-parish region disclosed that, in many instances, documentation of medical necessity in the facility's records was incomplete and/or transport by ambulance may have been medically inappropriate. However, in all instances the physician's signature was present on forms required for payment of the ambulance transportation claim.

In order to facilitate implementation of the recommendations arising from the study and ensure that regular non-emergency medical transportation is utilized when appropriate, policy pertinent to determination of medical necessity is being revised. For those recipients residing in a nursing facility, the facility director of nursing shall specify:

1. the medical condition which requires that the recipient be transported by ambulance;
2. transport to the medical facility specified as the destination is necessary to receive appropriate medical service;
3. whether emergency or non-emergency ambulance transport is necessary.

Physician concurrence with the decision recorded by the facility's director of nursing is necessary under the proposed rule. Standing orders by the physician are sufficient documentation of physician concurrence. Such standing orders must specify the medical condition which requires travel by ambulance, the length of time for which ambulance transport will be necessary, and be signed and dated by the physician. A copy of the written orders must be attached to the medical certification form.

In the absence of written orders, the physician shall indicate on the attachment to the billing form whether he agrees with the statement of medical necessity by the nursing facility. An indication of agreement shall specify that the

condition of the patient is as stated, transport by ambulance was necessary, and transport to the designated facility was necessary to receive appropriate care. If the physician disagrees with any of the information furnished by the nursing facility, he shall so indicate on the attachment to the billing form. Disagreement by the physician shall constitute sufficient grounds for denial of payment at the non-emergency ambulance rate. Under this circumstance, the transportation provider will be allowed to seek reimbursement as a non-emergency non-ambulance transportation (car, cab, van) service.

Documentation for the facility shall consist of a copy of the medical transportation certification filed in the patient's facility record. At the time of transport, a copy of the form shall be filed in the recipient's record in the nursing facility. This copy shall be complete with the possible exception of the physician concurrence statement if such statement is to be obtained at the trip destination. It shall be signed by the director of nursing, ambulance driver and ambulance attendant, and dated. The ambulance transportation provider shall be responsible for obtaining the substantiating physician's signature at the destination if concurrence was not previously documented.

Ambulance providers who submit paper claims shall submit with the claim the medical certification form, including a copy of the physician's written orders, if applicable. Every paper claim shall have attached documentation of medical necessity including physician concurrence. Ambulance providers who tape bill shall retain the medical certification form, including a copy of the physician's written orders, if applicable. Forms shall be retained in the provider's place of business for a period of three years, and available for review upon request.

Provisions of this proposed rule are applicable only to non-emergency ambulance transportation provided to recipients of long term care facilities. Statement of medical necessity for transport of Medicaid recipients who do not reside in a nursing facility shall continue to be provided by the physician.

PROPOSED RULE

Documentation of medical necessity for non-emergency ambulance transport of Medicaid-eligible Long Term Care patients shall be the responsibility of the nursing facility, with concurrence by a physician.

For those recipients residing in a nursing facility, the facility director of nursing shall specify:

1. the medical condition which requires that the recipient be transported by ambulance;
2. transport to the medical facility specified as the destination is necessary to receive appropriate medical service;
3. whether emergency or non-emergency ambulance transport is necessary.

Physician concurrence with the decision recorded by the facility's director of nursing is necessary. Disagreement by the physician shall constitute sufficient grounds for denial of payment for transport at the non-emergency ambulance rate. Payment may be made at the non-emergency non-ambulance transportation (car, cab, van) rate.

Documentation for the facility shall consist of a copy of the medical transportation certification filed in the patient's facility record.

Ambulance providers who submit paper claims shall submit with the claim the medical certification form, includ-

ing a copy of the physician's written orders, if applicable. Every paper claim shall have attached documentation of medical necessity including physician concurrence. Ambulance providers who tape bill shall retain the medical certification form, including a copy of the physician's written orders, if applicable. Forms shall be retained in the provider's place of business for a period of three years, and available for review upon request.

Interested persons may submit written comments to the following address: Carolyn Maggio, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. She is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on this proposed rule will be held on July 6, 1990 in the Department of Transportation and Development Auditorium, 1201 Capitol Access Road, Baton Rouge, LA beginning at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

David L. Ramsey
Secretary

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Medical Necessity for Ambulance Transport

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Implementation savings are unknown.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The effect of this proposed rule on revenue collections is unknown.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
No revenue impact for long term care recipients who are transported is anticipated.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
This proposed rule will have no impact on competition or employment.

Carolyn O. Maggio
Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Public Safety and Corrections Corrections Services

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Public Safety and Corrections, Corrections Services, hereby gives notice of its intent to promulgate rules and regulations relative to the regulation of air traffic at its institutions.

Chapter 1. Secretary's Office §105. Regulation of Air Traffic

A. Purpose

The purpose of this regulation is to establish the policy

of the Department of Public Safety and Corrections, Corrections Services, with regard to air traffic at each adult correctional institution.

B. Responsibility

It is the responsibility of the warden of each adult correctional institution to ensure compliance with this regulation and to advise their respective employees who are affected by the contents. Each warden is responsible for working with the control center of the institution to ensure proper implementation.

C. General

It is the policy of Corrections Services to monitor all incoming and outgoing aircraft to and from the institutions.

D. Procedures

1. Individuals who have reason to come to the institutions via aircraft must request permission and receive authorization in advance, by telephone or in writing, to land at the institution, and specifically to land on the airstrip at the Louisiana State Penitentiary.

2. The request will be directed to the warden's office during regular office hours Monday through Friday. Calls received after hours or on weekends or holidays will be handled by the duty warden.

3. The individual requesting permission to land must provide the following information:

- a. reason for coming to the institution;
- b. date and expected time of arrival;
- c. number and names of people aboard aircraft;
- d. type of aircraft, color, and registration number.

4. The warden's office will notify the control center of approved air traffic. The control center will notify the prison towers to inform the officer of the incoming air traffic, the expected time of arrival, and description of the aircraft. The tower officer will in turn inform the control center when the aircraft arrives. The control center will then dispatch roving security to meet the incoming aircraft and to verify the identification of the occupants and provide ground transportation when necessary.

5. A log will be maintained by roving security of all aircraft that land at or depart from the institution. This log will contain the date, time of arrival, type of aircraft, color, registration number, and the names of the passengers.

6. Low flying aircraft attempting to land anywhere within any of the institutions will be reported to the control center immediately. The control center will notify roving security and other appropriate personnel.

7. Each warden is responsible for developing written procedures for handling unauthorized and/or emergency landing situations, and for securing inmates in the immediate area.

8. Each warden shall develop a procedure for the implementation of this regulation and submit the procedure to the secretary for approval.

E. The effective date of this regulation is August 20, 1990.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:823.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 16:.

Interested persons may submit written comments to the following address: Larry Smith, Deputy Secretary, Department of Public Safety and Corrections, Box 94304, Baton

Rouge, LA 70804-9304. Comments will be accepted through the close of business, 4:30 p.m., July 15, 1990. Copies of the proposed regulation may also be obtained from the above mentioned address.

Bruce N. Lynn
Secretary

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Regulation of Air Traffic

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no implementation costs or savings to state or local governmental units associated with this rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections of state or local governmental units associated with this rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
There will be no costs and/or economic benefits to directly affected persons or non-governmental groups associated with this rule.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The proposed rule will have no effect on competition and employment.

Bruce N. Lynn
Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Public Safety and Corrections Corrections Services

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Public Safety and Corrections, Corrections Services, hereby gives notice of its intent to promulgate rules and regulations relative to the release of offenders to sheriffs to attend funerals and the policy for regulation.

Chapter 3. Adult and Juvenile Services

§306. Release of Offenders to Sheriffs to Attend Funerals

A. Purpose

The purpose of this regulation is to establish procedures for the release of adult offenders in the custody of the Department of Public Safety and Corrections to sheriffs for the purpose of attending the funeral of a family member.

B. Responsibility

It is the responsibility of the assistant secretary of the office of adult services and all wardens of each adult correctional institution to ensure compliance with this regulation and to advise their respective employees who are affected by the contents.

C. General

Department Regulation 30-7C, Escorted Inmate Absences, gives the wardens a great deal of latitude in granting this privilege. When the warden, at his discretion, denies a request for an escorted absence for an offender to attend the funeral/wake of a close family member as described in Department Regulation 30-7, there are occasions when the sheriff of the parish where the funeral is taking place requests permission to provide this service.

D. Procedures

1. In order for the sheriff to be allowed to provide the escort, the following criteria must be met:

a. The warden and the Office of Adult Services must ascertain and agree that releasing the offender to the custody of the sheriff does not pose a risk to the general public or to the transporting officers.

b. The warden and the Office of Adult Services must ascertain and agree that the offender is not a significant escape risk.

c. The offender's presence at the funeral is not likely to evoke adverse public reaction.

d. The offender does not suffer from any medical or psychological problems which would preclude an escorted absence.

2. If the above criteria are met, the Office of Adult Services must advise the institution, in writing, that they are authorized to release the offender to the custody of the sheriff's office per Department Regulation 30-7E.

3. Before releasing the offender to the transporting officers, the officers must sign a form labeled Release to Custody of Sheriff.

4. Under no circumstance is the release to exceed 72 hours.

E. The effective date of this regulation is August 20, 1990.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:833.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 16:.

Interested persons may submit written comments to the following address: Larry Smith, Deputy Secretary, Department of Public Safety and Corrections, Box 94304, Baton Rouge, LA 70804-9304. Comments will be accepted through the close of business, 4:30 p.m., July 15, 1990. Copies of the proposed regulation may also be obtained from the above mentioned address.

Bruce N. Lynn
Secretary

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Release of Offenders to Sheriffs to Attend Funerals

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no implementation costs or savings to state or local governmental units associated with this rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units associated with this rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There will be no costs and/or economic benefits to directly affected persons or non-governmental groups associated with this rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will have no effect on competition and employment.

Bruce N. Lynn
Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Transportation and Development Board of Registration for Professional Engineers and Land Surveyors

In accordance with R.S. 49:950, et seq., notice is hereby given that the Louisiana State Board of Registration for Professional Engineers and Land Surveyors intends to revise LAC 46:LXI as follows:

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS Part LXI. Professional Engineers and Land Surveyors

Chapter 1. General Provisions

§105. Definitions

A. - F.2 ...

G. *Bona fide employee* as used in these rules shall mean a person in the service of a registrant under a contract of hire, expressed or implied, oral or written, where the registrant's employer has the power or right to control and direct the employee in the material details of how the work is to be performed and the registrant's employer pays wages or a salary directly to the employee, pays a share of social security and federal unemployment tax, withholds federal income tax, and the employee's share of social security payments, provides training, furnishes tools and materials, and sets hours of work. Generally such employees work full time for the employer, perform work at a location assigned by the employer, and do not offer their services to the general public.

H. *Bona fide established commercial marketing agency* as used in these rules shall mean a business which is specifically devoted to public relations, advertising and promoting the services of a client, and which may be appropriately licensed as required by state statutes.

I. *Practice of land surveying* is defined in R.S. 37:682. The board recognizes that there exists a close relationship between land surveying and some areas of engineering, with some activities common to both professions. However, survey work related to property boundaries must be performed under the supervision of a professional land surveyor. Presented below are guidelines which shall be used as an aid in determining the types of surveying services which may be rendered by professional land surveyors or professional engineers.

1. Functions unique to land surveying which must be performed by or under the direct supervision of a registered professional land surveyor:

- a. boundary surveys
- b. subdivision surveys and plats
- c. public land surveys
- d. the following when they do require the establishment of the relationship of property ownership boundaries, i.e., fee title, servitudes, easements, rights-of-way, leases, etc.

1. mine surveys
2. surveys for record drawings
3. topographical surveys
4. layout surveys for construction
5. hydrographic surveys
6. mapping
- e. all other surveys that require the establishment of relationships to property ownership boundaries.

2. Functions common to land surveying and engineering, surveying which must be performed by or under the direct supervision of a registered professional engineer or registered professional land surveyor. Such surveys do not require the establishment of the relationship of property ownership boundaries such as, but not limited to:

- a. topographic surveys
- b. horizontal and vertical control surveys
- c. layout surveys for construction
- d. surveys for record drawings
- e. profiles and cross sections
- f. quantity and measurement surveys
- g. cartographic surveys
- h. hydrographic surveys
- i. geodetic surveys
- j. mine surveys
- k. site grading plans

All of the above type surveys (2a through 2k), regardless of the method by which they are performed, including photogrammetric methods, must be performed by or under the direct supervision of a registered professional land surveyor or a registered professional engineer.

3. Professional services which require the application of engineering principles and the interpretation of engineering data must be performed by or under the direct supervision of a registered professional engineer.

Chapter 3. Requirements for Certification and Registration of Individuals and Temporary Permit to Practice Engineering

§303. Land Surveyor-in-Training Certification

A. - B. ...

1. Graduation Plus Examination (Until January 1, 1991)

...

2. Education, Experience, Plus Examination (Until January 1, 1991)

...

3. Experience Plus Examination (Until January 1, 1991)

4. Baccalaureate Degree Graduate

The applicant shall be a graduate holding a baccalaureate degree from a curriculum of four years or more who has completed at least 30 semester credit hours, or the equivalent approved by the board, in land surveying, mapping, and real property courses approved by the board, who is of good character and reputation, who has passed the oral

and written examinations required by the board, and who has satisfied the requirements of R.S. 37:694.

§311. Land Surveyor Registration

A. - B. ...

1. Graduation Plus Examination (Until January 1, 1995)

...

2. Education, Experience, Plus Examination (Until January 1, 1995)

...

3. Experience Plus Examination (Until January 1, 1995)

...

4. ...

...

5. Graduation Plus Engineering Registration (Until January 1, 1995)

...

6. Baccalaureate Degree Graduate

The applicant shall be a graduate holding a baccalaureate degree from a curriculum of four years or more who has completed at least 30 semester credit hours or the equivalent approved by the board, in land surveying, mapping, and real property courses approved by the board, who has had at least four years or more combined office and field experience in land surveying, including two years or more experience in responsible charge of land surveying projects under the supervision of a professional land surveyor registered or licensed by the appropriate authority, who has passed the oral and written examinations required by the board in the laws, procedures and practices of land surveying, who is of good character and reputation, and who has satisfied the requirements of R.S. 37:694.

7. Land Surveyor-in-Training

The applicant shall be a person who is certified as a land surveyor-in-training by this board who has acquired at least eight years or more of combined office and field experience in land surveying, including six years or more experience in responsible charge of land surveying projects under the supervision of a professional land surveyor registered or licensed by the appropriate authority, who has passed the oral and written examinations required by the board in the laws, procedures and practices of land surveying, who is of good character and reputation, and who has satisfied the requirements of R.S. 37:694.

Chapter 5. Rules Governing Corporations and Firms

§501. General Rules

...

A. Unless otherwise provided, unincorporated individual proprietorships which bear the full name of the owner who is a Louisiana registered professional are exempt from the application of this Chapter. Such firms are not required to be registered as qualified engineering or surveying firms with the board. Unincorporated individual proprietorships that do not bear the full name of the owner who is a Louisiana registered professional must be registered with the board as a qualified engineering or surveying firm and must comply with all the provisions of this Chapter.

B. - C. ...

D. Joint ventures that provide or offer to provide professional services will not be required to register as separate entities. Nevertheless, any firm (including those individual proprietorships otherwise excluded under [A]) that provides or offers to provide professional services in conjunction with

its participation in a joint venture can do so only if it complies with the provisions of these rules. In addition, any supervising professional who participates in a joint venture shall be responsible for assuring that all professional services performed by the joint venture are rendered in conformity with the provisions of these rules.

E. A firm must be registered with the board before it may provide or offer to provide either professional engineering or professional land surveying services.

F. A firm which has in its title the word "engineering" or "surveying" or any derivative thereof shall be construed to be offering to provide engineering or land surveying services and therefore must be registered with the board before doing business in the state of Louisiana, unless it has in its title modifying or explanatory words which would, in their ordinary meaning, negate the inference of the professional practice of engineering or land surveying.

G. A firm may provide or offer to provide both professional engineering and professional land surveying services; provided, however, that the firm must qualify separately as an engineering firm and as a land surveying firm, and the requirements of this Chapter will apply separately to provision of or offers to provide professional engineering services and professional land surveying services.

H. A firm may provide or offer to provide both professional services and related licensed professional services, such as architecture and landscape architecture; provided, however, that the firm must be registered under and comply with the provisions of this Chapter.

Chapter 15. Examinations

§1501. General

A. - E. ...

F. Any applicant found to have engaged in conduct which subverts or attempts to subvert the engineering or land surveying examination process may, at the discretion of the board, have his or her scores on the examination withheld and/or declared invalid, have disciplinary action taken as described in Louisiana R.S. 37:698 A and/or be subject to the imposition of other appropriate sanctions.

G. The board may require applicants to demonstrate their knowledge of the law, rules of the board, and the English language by requiring either oral or written examinations.

H. Applicants will be informed by mail only as to whether they passed or failed an examination. Numerical grades will not be released by the board.

§1515. Re-Examinations

A. A person who fails an examination will be eligible to apply to retake the examination six months after his last failure. The earliest such applicant could be rescheduled for an examination following a failed examination is one year after the last failure.

B. Before an applicant is given approval to retake an examination, he may be required to appear before the board or a committee of the board for an oral interview/oral examination.

Chapter 17. Rules Governing the Use of Seals

§1701. Seal Rules

...

A. Each registered professional engineer or professional land surveyor, upon registration, shall obtain an official seal. The size and design of the seal shall conform to the specifications in Subsection I of this Section.

B. The registrant shall affix his seal, sign his name,

and place the date of execution on all engineering and surveying documents that have been issued by the registrant to a client or any public or governmental agency as completed work. A facsimile signature is not acceptable. Preliminary documents, so marked in large bold letters, shall contain a statement that the documents are not to be used for construction, bidding, recordation, conveyance, sales, or as the basis for the issuance of a permit. Preliminary documents are not required to have the registrant's seal and signature affixed, but must bear the name and registration number of the registrant, and the firm's name, if applicable.

C. The application of the registrant's seal, signature, and date shall constitute certification that the work thereon was done by him or under his direct supervision.

1. Drawings and Plats - In case of multiple sealings, the first or title page shall be sealed and signed by the registrant or registrants in responsible charge. In addition, each sheet shall be sealed by the registrant or registrants responsible for each sheet. In the case of a firm, partnership or corporation, each sheet shall be sealed and signed by the registrant or registrants responsible for that sheet and the registrant(s) in responsible charge shall sign and seal the title or first sheet.

2. Specifications, reports, design calculations and information - In the case of specifications of multiple pages, the first or title page of each document shall be sealed and signed by the registrant or registrants involved. Subsequent revisions shall be dated and initialed by the registrant in responsible charge whose seal and signature appears on the first or title page. In the case of a firm, partnership or corporation, the registrant in responsible charge shall sign and seal the title of the first sheet.

D. No registrant shall affix his seal or signature to reports, plats, sketches, working drawings, specifications, design calculations or other engineering and land surveying documents developed by others not under his complete direction and control and not subject to the authority of that registrant, except as stated in LAC 46:LXI.1701.H below.

E. Plans, specifications, drawings, reports or other documents will be deemed to have been prepared under the personal supervision and complete direction and control of a registrant only when:

1. the client requesting preparation of such plans, specifications, drawings, reports or other documents makes the request directly to the registrant, or the registrant's bona fide employee as long as the employee works in the registrant's place(s) of business;

2. the registrant supervises the preparation of the plans, specifications, drawings, reports or other documents and has input into their preparation prior to their completion;

3. the registrant reviews the final plans, specifications, drawings, reports or other documents; and

4. the registrant has the authority to, and does, make any necessary and appropriate changes to the final plans, specifications, drawings, reports or other documents.

F. No registrant shall affix his seal or signature to documents having titles or identities excluding the registrant's name unless:

1. such documents were indeed developed by the registrant under the registrant's personal supervision and direct control;

2. the registrant shall exercise full authority to determine their development; and,

3. except as set forth in LAC 46:LXI.1701.H below.

G. In the case of a temporary permit issued to a registrant of another state, the registrant shall affix the seal of his state of registration, his signature, the date of execution and his Louisiana temporary permit number to all of his work.

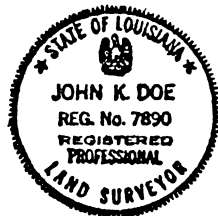
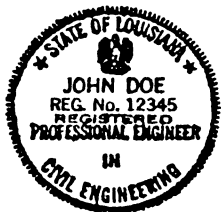
H. In the case of an individual registrant checking the work of and taking the professional responsibility for an out of state individual registrant, the Louisiana registrant shall completely check and have complete dominion and control of the design. Such complete dominion and control shall include possession of the sealed and signed reproducible construction drawings, with complete signed and sealed design calculations indicating all changes in design.

I. Seal Design Requirements

1. The design of the seal shall have the following minimum information:

- State of Louisiana
- Registrant's name
- Registrant's Registration Number
- Contain the words "Professional Engineer in _____ Engineering" or "Registered Professional Land Surveyor."

2. Indicated below is a sample of the seal design authorized by the board. Seals of two different sizes will be acceptable, a pocket seal, the size commercially designated as 1 5/8 inch seal, or a desk seal, commercially designated as a two-inch seal. Rubber stamps or computer generated stamps of the same design and size are acceptable for use. Facsimile signatures are not acceptable (LAC 46:LXI.1701.B).



Chapter 21. Rules of Professional Conduct
§2101. Scope; Knowledge; Definition of "Registrant"

A. - C. ...

D. A registrant possessing personal knowledge of a violation of Statutes 37:681 thru 37:703 or the board rules found in LAC 46:LXI shall report such knowledge to the board in writing and shall cooperate with the board in furnishing such further information or assistance as it may require.

§2103. Registrants

A. - C.2 ...

3. Registrants may not accept the responsibility for, nor review, revise, sign, or seal drawings when such plans are begun by persons not properly registered and qualified; or do any other act to enable either such registrants or the project owners, directly or indirectly, to evade the requirements of R.S. 37:681 through 37:703.

D. Registrants shall submit to a client only that work (plans, specifications, reports, and other documents) prepared by the registrant or by a bona fide employee (or subordinate) of the registrant which is under the registrant's complete direction and control; however, registrants, as a third party, may complete, correct, revise, or add to the work of another registrant or other related design professional, if allowed by Louisiana Statutes, when engaged to do so by a client, provided:

1. The client furnishes the documentation of all such work submitted to him by the previous registrant(s), or other related design professional(s).

2. The previous registrants or other related design professionals are notified in writing by the registrant of the engagement referred to herein immediately upon acceptance of the engagement; and,

3. All work completed, corrected, revised, or added to shall contain a notation describing the work done by the registrant now in responsible charge, shall have the seal and signature of the registrant affixed thereto, the date of execution, and shall become the responsibility of the registrant.

Interested persons may submit written comments or offer amendments to the proposed rules to the Board Office at 1055 St. Charles Avenue, Suite 415, New Orleans, LA 70130, at any time prior to July 20, 1990. The board proposes to consider and take action on the adoption of these rules at a meeting in its office at 11 a.m. on July 24, 1990.

By order of the Louisiana State Board of Registration for Professional Engineers and Land Surveyors.

Paul L. Landry, P. E.
 Executive Secretary

Fiscal and Economic Impact Statement
For Administrative Rules

Rule Title: Title 46, Part LXI, Subpart 1, Rules

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
None
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no effect on revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There are no estimated effects on competition and employment.

Paul L. Landry, P. E.
 Executive Secretary

David W. Hood
 Senior Fiscal Analyst

NOTICE OF INTENT

Department of Transportation and Development
Division of Flood Control and Water Management

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Transportation and Development, Division of Flood Control and Water Management hereby proposes to adopt interim rules for the Port Construction and Development Priority Program. These proposed rules can be viewed in their entirety in the Emergency Rule Section of this issue of the *Louisiana Register*.

All interested persons may submit comments on the proposed regulations to Dot McConnell, Department of

D. J. Webre, Jr., P.E.
Project Support Chief

**Fiscal and Economic Impact Statement
For Administrative Rules**

Rule Title: Port Construction and Priority Program

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The program requires a local match of 25 percent. Therefore, under the assumption that \$22 million of state revenues will be available, a local matching amount of approximately \$7 million will be required. This will be a total impact of over \$29 million in construction. The 25 percent local cost share may be in the form of dedicated tax revenues, loan guarantees, repayable debt, gifts, grants, or expenditures for construction of port and related facilities at ports and port-related industrial parks.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
None.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
It is anticipated that this program will provide a significant economic benefit to the maritime industry in Louisiana. By assisting the ports with their infrastructural needs, inducements will be provided for new clients and a growing labor force.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
None.

Neil Wagoner
Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of the Treasury
Board of Trustees of the
State Employees Group Benefits Program**

Notice is hereby given that the Louisiana Department of the Treasury, Board of Trustees of the State Employees Group Benefits Program intends to amend its Plan Document of Benefits as follows to impose a \$50 deductible for emergency room treatment unless the Covered Person is hospitalized immediately following the emergency room Treatment:

Add the following language under SCHEDULE OF BENEFITS, COMPREHENSIVE MEDICAL BENEFITS ...
Deductibles: ...

Emergency room institutional charges for each visit unless the Covered Person is hospitalized immediately following emergency room Treatment \$50"

Comments or objections will be accepted, in writing, by the Executive Director of the State Employees Group Benefits Program until 4:30 p.m. on July 9, 1990 at the following address: Tommy D. Teague, Acting Executive Director, State Employees Group Benefits Program, Box 44036, Baton Rouge, LA 70804.

Tommy D. Teague
Acting Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules**

Rule Title: Emergency Room Deductible

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This proposed rule change clarifies existing contract provisions and will produce no material modification to the plan of benefits. Implementation of this change will have no fiscal impact on this program or to any state or local governmental unit.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This proposed rule change will have no effect on the revenue collections of state or local governmental units nor of the State Employees Group Benefits Program.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
There will be no economic benefit or costs to the directly affected persons, this program's plan members and their dependents, as a result of this proposed change.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
This clarification of benefit provisions will have no effect on competition or employment.

Tommy D. Teague
Acting Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of the Treasury
Board of Trustees of the
State Employees Group Benefits Program**

Notice is hereby given that the Louisiana Department of the Treasury, Board of Trustees of the State Employees Group Benefits Program intends to amend the Plan Document of Benefits to put in place a Utilization Review penalty maximum, effective July 1, 1990, as follows:

Amend Article 3, Section II, as follows:

E. Benefits otherwise payable under this plan will be reduced to 50 percent, subject to a maximum penalty of \$2,000 per occurrence, for:

Comments or objections will be accepted, in writing, by the Executive Director of the State Employees Group Benefits Program until 4:30 p.m. on July 9, 1990, at the following address: Tommy D. Teague, Acting Executive Director, State Employees Group Benefits Program, Box 44036, Baton Rouge, LA 70804.

Tommy D. Teague
Acting Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Utilization Review Maximum Penalty**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no implementation costs; however, the State Employees Group Benefits Program will pay additional health claims benefits in the approximate amount of \$211,146 in FY 90/91 according to the Martin E. Segal Company, consulting actuary.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This rule change will have no effect on the revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The directly affected persons, the plan members of the State Employees Group Benefits Program, will receive an economic benefit to the extent that the penalty, for failing to comply with the utilization review program, is capped at \$2,000.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Competition and employment will not be affected by this rule change.

Tommy D. Teague
Acting Executive Director

David W. Hood
Senior Fiscal Analyst

Fee Action

FEE ACTION

Department of Health and Hospitals Board of Dentistry

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq. and the Dental Practice Act, R.S. 37:769, notice is hereby given that the Louisiana State Board of Dentistry has adopted the following amended fee schedules, to-wit:

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXXIII. Dental Health Professionals

Chapter 4. Fees and Costs

Subchapter C. Fees for Dentists

§415. Licenses, Permits and Examinations

For processing applications for licensure, permits and examination, the following fees shall be payable in advance to the board:

- A. Examination and licensing of dental applicant \$400
- B. Temporary dental license \$100
- C. Issuance of a restricted dental license (excluding advanced education students and dental residents) . . \$200
- D. Annual renewal fee for dental license \$150

- E. Annual renewal fee for restricted dental license (excluding advanced education students and dental residents) \$150
- F. Replacement or duplicate dental license, certificate, temporary permit. \$ 50
- G. Delinquency fee in addition to renewal fee for any dental license \$250
- H. Reinstatement of a license which has been suspended, revoked or which has lapsed by non-renewal . \$500
- I. Annual processing fee for application for retired dentist classification \$ 25
- J. Restricted dental license, advanced education students and dental residents:
 - 1. For period July 1 - December 31 \$100
 - 2. For each full year
(January 1 - December 31) thereafter \$200
 - 3. For period January 1 - June 30 \$100

Subchapter D. Fees for Dental Hygienists

§419. Licenses, Permits and Examinations

For processing applications for licensure, permits and examination, the following fees shall be payable in advance to the board:

- A. Examination and licensing of dental hygienist applicant \$200
 - B. Temporary dental hygienist permit. \$100
 - C. Annual renewal fee for dental hygienist license \$ 50
 - D. Replacement or duplicate dental hygienist license, certificate, temporary permit. \$ 50
 - E. Delinquency fee in addition to renewal fee for any dental hygienist license \$100
 - F. Reinstatement of a dental hygienist license which has been suspended, revoked or which has lapsed by non-renewal \$250
 - G. Annual processing fee for application for nonpracticing dental hygienist status \$ 25
- AUTHORITY NOTE: Promulgated in accordance with R.S. 37:769 as amended by Act 458 of 1988.

HISTORICAL NOTE: Promulgated by Department of Health and Human Resources, Board of Dentistry, LR 14:791 (November, 1988), amended LR 16: (June 1990).

Barry Ogden
Executive Director

Potpourri

POTPOURRI

POTPOURRI

Department of Environmental Quality Office of Water Resources

"The Ground Water Protection Division of the Office of Water Resources of the Department of Environmental Quality has issued a first draft of the *Proposed Guidelines for the Construction of Ground Water Monitoring Wells at Solid and Hazardous Waste Facilities Regulated by the Department of Environmental Quality*.

These guidelines are being offered prior to rulemaking for review and comment for 60 days. Only written comments will be considered at this time. The period for written comments will close August 20, 1990. At the end of this period, a public meeting will be held to receive comments from all affected parties and the public.

Copies of the proposed guidelines are available for review at all DEQ regional offices or may be obtained from the Ground Water Protection Division, Box 44274, Baton Rouge, LA 70804.

Roger Hartzog
Program Manager

POTPOURRI

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

The Bureau of Health Services Financing published a notice of intent in the April 20, 1990 issue of the *Louisiana Register* to revise the policies and procedures of the Facility Need Review Program relating to the availability of beds for enrollment in the Medicaid Program. A number of comments have been received from the public regarding the proposed rule. To allow additional time to study the issues presented in these comments, publication of the Final Rule will be delayed 30 days.

David L. Ramsey
Secretary

Department of Natural Resources Office of the Secretary Fishermen's Gear Compensation Fund

In accordance with the provisions of R.S. 56:700.1 et seq., notice is given that 16 claims in the amount of \$33,150.35 were received in the month of May, 1990. 31 claims in the amount of \$39,148.59 were paid, and eight claims were denied.

Loran C. coordinates of reported underwater obstructions are:

29090	46835
29205	47012
27295	46945
27535	46910
28930	47025
28949	47021
27421	46974
28978	46902
29105	46960
26908	46966
27838	46863
27904	46864
27019	46952
27907	46837

Any person may obtain a list of names of claimants, and amounts paid, by submitting a request to Fishermen's Gear Compensation Fund, Box 94396, Baton Rouge, LA 70804, or by telephone (504) 342-0122.

Ron Gomez
Secretary

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