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# Executive Orders

## EXECUTIVE ORDER JBE 22-1

### Bond Allocation 2022 Ceiling

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

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

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

- (a) the manner in which the ceiling shall be determined,
- (b) the method to be used in allocating the ceiling,
- (c) the application procedure for obtaining an allocation of Bonds subject to such ceiling, and
- (d) a system of record keeping for such allocations; and

WHEREAS, the Louisiana Housing Corporation (hereafter the “Corporation”) has applied for an allocation of the 2022 ceiling to be used in connection with providing funds for the acquisition, construction, rehabilitation, and equipping of residential rental housing for individuals and families of low and moderate income.

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

SECTION 1: The bond issues, as described in this Section, shall be and are hereby granted allocations from the 2022 ceiling in the amounts shown:

Amount of Allocation	Name of Issuer	Name of Project
\$10,000,000	Louisiana Housing Corporation	Malcolm Kenner Series 2022
\$34,000,000	Louisiana Housing Corporation	The Reserve at Howell Place Series 2022

SECTION 2: The allocation granted herein shall be used only for the bond issues described in Section 1 and for the general purpose set forth in the “Application for Allocation of a Portion of the State of Louisiana’s Private Activity Volume Cap” submitted in connection with the bond issues described in Section 1.

SECTION 3: The allocations granted herein shall be valid and in full force and effect through September 30, 2022.

SECTION 4: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the Governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana on this 10th day of January, 2022.

John Bel Edwards  
Governor

ATTEST BY  
THE GOVERNOR  
R. Kyle Ardoin  
Secretary of State  
2202#003

## EXECUTIVE ORDER JBE 22-2

### Emergency Operations Plan

WHEREAS, the State of Louisiana must be prepared to respond and recover in a coordinated, effective and efficient manner to all the emergencies and disasters to which it is subjected;

WHEREAS, the State of Louisiana must be organized in such a way as to effectively bring available state, federal, and private resources together to support the response and recovery efforts of our local communities;

WHEREAS, it is the policy of the State of Louisiana for all homeland security and emergency preparedness functions to follow the principles outlined in the National Incident Management System, or its successor, and La. R.S. 29:722(C); and

WHEREAS, the State of Louisiana will best achieve effective coordinated emergency planning by updating the state’s current emergency operations order through the replacement of Executive Order Number JBE 2019-12, issued on August 9, 2019 and by the Governor’s Office of Homeland Security and Emergency Preparedness updating its emergency operations plan.

NOW THEREFORE, I, John Bel Edwards, Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and the laws of the state of Louisiana, do hereby order and direct as follows:

#### SECTION 1:

A. The director of the Governor’s Office of Homeland Security and Emergency Preparedness, State of Louisiana, (hereafter “director”), shall direct the State of Louisiana’s emergency and/or disaster operations.

B. The director, or the director’s designee, shall also coordinate the activities of all non-state agencies, departments, and/or organizations involved in emergency management within the State of Louisiana.

**SECTION 2:**

A. This Executive Order shall constitute the State of Louisiana Emergency Operations Plan (“Plan”), which shall be binding on all departments, commissions, boards, agencies, organizations and employees of the State of Louisiana, and on all local governments or political subdivisions of the state authorized or directed to conduct homeland security and emergency management operations.

B. The director shall supplement the provisions of the Plan by prescribing rules, regulations, and procedures. Once adopted, the supplement shall also be binding on all departments, commissions, boards, agencies, organizations and employees of the State of Louisiana, and on all local governments or political subdivisions of the state authorized or directed to conduct homeland security and emergency management operations.

C. Any supplement or subsequent changes to the plan shall continue to follow the principles outlined in the National Incident Management System, or its successor, and also provide for the emergency operations that may be implemented should an emergency and/or disaster strike the State of Louisiana or an area within the State of Louisiana;

**SECTION 3:**

A. The Director shall control the activation and/or implementation of the Plan and the conclusion and/or deactivation of the Plan.

B. The Director shall also control the activation and deactivation of the state Emergency Operations Center (hereafter “Center”).

C. The activation of the Center shall constitute the implementation of the Plan.

**SECTION 4:** The departments, offices, agencies, and organizations of the State of Louisiana government have primary and support responsibilities for the following Emergency Support Functions (ESF) and Recovery Support Functions (RSF):

ESF	ANNEX	DEPARTMENT/AGENCY	PRIMARY /SUPPORT
ESF 1	Transportation	Department of Transportation and Development	P
		Louisiana National Guard	S
		Department of Agriculture and Forestry	S
		Department of Corrections	S
		Department of Education	S
		Louisiana Department of Health	S
		Louisiana State Police	S
		Department of Wildlife and Fisheries	S
		Department of Children and Family Services	S
		Non-Governmental Organizations (NGO)	S
ESF 2	Communications	Governor’s Office of Homeland Security and Emergency Preparedness	P
		Louisiana National Guard	P
		Louisiana State Police	P
		Governor – Division of Administration	S
		Department of Agriculture and Forestry	S
		Department of Corrections	S

		Department of Culture, Recreation & Tourism	S
		Department of Economic Development	S
		Department of Education	S
		Department of Environmental Quality	S
		Governor – Office of Elderly Affairs	S
		Office of the Lieutenant Governor	S
		Louisiana Oil Spill Coordinators Office	S
		Louisiana State University System	S
		Louisiana Department of Health	S
		Department of Justice	S
		Louisiana Workforce Commission	S
		Louisiana Public Service Commission	S
		Louisiana Board of Regents	S
		Department of Revenue	S
		Department of Children and Family Services	S
		Department of Transportation & Development	S
		Department of Wildlife and Fisheries	S
		Non-Governmental Organizations (NGO)	S
ESF 3	Public Works & Engineering	Department of Transportation & Development	P
		Louisiana Coastal Protection and Restoration Authority	P
		Governor – Division of Administration	S
		Louisiana Department of Health	S
		Department of Natural Resources	S
		Department of Environmental Quality	S
		Louisiana National Guard	S
		Non-Governmental Organizations (NGO)	S
ESF 4	Firefighting	Department of Agriculture and Forestry	P
		State Fire Marshal	P
		Louisiana National Guard	S
		Department of Environmental Quality	S
		Department of Transportation and Development	S
		Department of Wildlife and Fisheries	S
		Non-Governmental Organizations (NGO)	S
ESF 5	Emergency Management	Governor’s Office of Homeland Security and Emergency Preparedness	P
		Louisiana National Guard	S
		Department of Agriculture and Forestry	S
		Department of Corrections	S
		Department of Culture, Recreation & Tourism	S
		Department of Economic Development	S
		Department of Education	S
		Department of Environmental Quality	S

		Governor – Division of Administration	S
		Governor – Office of Disability Affairs	S
		Governor – Office of Elderly Affairs	S
		Governor – Office of Indian Affairs	S
		Louisiana Oil Spill Coordinators Office	S
		Louisiana State University System	S
		Louisiana Department of Health	S
		Department of Justice	S
		Louisiana Workforce Commission	S
		Department of Natural Resources	S
		Louisiana Public Service Commission	S
		Louisiana Board of Regents	S
		Office of the Lieutenant Governor	S
		Office of the Lieutenant Governor-Volunteer Louisiana	S
		Department of Revenue	S
		Secretary of State	S
		Department of Children and Family Services	S
		Louisiana State Police	S
		Department of Transportation & Development	S
		Department of the Treasury	S
		Department of Wildlife and Fisheries	S
		Louisiana Coastal Protection and Restoration Authority	S
		Department of Public Safety	S
		State Fire Marshall	S
		Non-Governmental Organizations (NGO)	S
<b>ESF 6</b>	Mass Care, Housing and Human Services	Department of Children and Family Services	P
		Louisiana Workforce Commission	P
		Department of Corrections	S
		Governor's Office of Homeland Security and Emergency Preparedness	S
		Louisiana Housing Corporation	S
		Louisiana National Guard	S
		Department of Agriculture and Forestry	S
		Department of Culture, Recreation and Tourism	S
		Department of Economic Development	S
		Department of Education	S
		Department of Environmental Quality	S
		State Fire Marshal	S
		Governor – Office of Disability Affairs	S
		Governor – Office of Elderly Affairs	S
		Louisiana Department of Health	S
		Louisiana State University System and Ag Center	S
		Department of Insurance	S
		Department of Labor	S
		Department of Natural Resources	S
		Louisiana Public Service Commission	S
		Louisiana Board of Regents	S

		Department of Veterans Affairs	S
		Department of Revenue	S
		Department of Transportation and Development	S
		Department of Wildlife and Fisheries	S
		Louisiana State Police	S
		Office of the Lieutenant Governor	S
		State Treasurer	S
		Non-Governmental Organizations (NGO)	S
<b>ESF 7</b>	Resources Support	Governor's Office of Homeland Security and Emergency Preparedness	P
		Louisiana National Guard	P
		Department of Agriculture & Forestry	S
		Department of Culture, Recreation and Tourism	S
		Department of Economic Development	S
		Department of Environmental Quality	S
		Governor – Division of Administration	S
		Louisiana State University System	S
		Louisiana Department of Health	S
		Louisiana Workforce Commission	S
		Department of Natural Resources	S
		Louisiana Board of Regents	S
		Department of Children and Family Services	S
		Louisiana State Police	S
		Office of the Lieutenant Governor	S
		Department of Transportation & Development	S
		Department of the Treasury	S
		Non-Governmental Organizations (NGO)	S
<b>ESF 8</b>	Public Health & Medical Services	Louisiana Department of Health	P
		Louisiana National Guard	S
		Department of Agriculture and Forestry	S
		Department of Corrections	S
		Department of Children and Family Services	S
		Department of Environmental Quality	S
		Louisiana State University System	S
		Louisiana Board of Regents	S
		State Fire Marshal	S
		Louisiana Workforce Commission	S
		Department of Transportation & Development	S
		Department of Veterans Affairs	S
		Non-Governmental Organizations (NGO)	S
<b>ESF 9</b>	Search & Rescue	Department of Wildlife and Fisheries	P
		State Fire Marshal	P
		Louisiana National Guard	S
		Department of Agriculture and Forestry	S
		Louisiana Department of Health	S
		Department of Corrections	S
		Department of Culture, Recreation, & Tourism	S

		Louisiana State Police	S
		Department of Transportation and Development	S
		Louisiana State University Fire and Emergency Training Institute	S
		Department of Revenue - Office of Alcohol and Tobacco Control	S
		Office of the Lieutenant Governor	S
		Non-Governmental Organizations (NGO)	S
<b>ESF 10</b>	Oil Spill, Hazardous Materials and Radiological	Louisiana State Police	P
		Department of Environmental Quality	P
		Louisiana Oil Spill Coordinators Office	P
		Governor's Office of Homeland Security and Emergency Preparedness	S
		Louisiana Coastal Protection and Restoration Authority	S
		Louisiana National Guard	S
		Department of Agriculture and Forestry	S
		State Fire Marshal	S
		Louisiana State University System	S
		Louisiana Department of Health	S
		Department of Natural Resources	S
		Department of Transportation and Development	S
		Department of Wildlife and Fisheries	S
		Non-Governmental Organizations (NGO)	S
<b>ESF 11</b>	Agriculture	Department of Agriculture & Forestry	P
		Louisiana National Guard	S
		Department of Children and Family Services	S
		Department of Corrections	S
		Department of Environmental Quality	S
		Louisiana Department of Health	S
		Louisiana Board of Regents	S
		Louisiana National Guard	S
		Louisiana State Police	S
		Louisiana State University System	S
		Department of Transportation and Development	S
		Governor's Office of Homeland Security and Emergency Preparedness	S
		Department of Wildlife and Fisheries	S
		Southern University and Ag Center	S
		Non-Governmental Organizations (NGO)	S
<b>ESF 12</b>	Energy and Utilities	Department of Natural Resources/Intrastate Natural Gas	P
		Louisiana Public Service Commission/Power	P
		Louisiana Department of Health	P
		Louisiana Department of Environmental Quality	S
		(Wastewater Utilities)	S

		Department of Agriculture & Forestry	S
		Louisiana National Guard	S
		Non-Governmental Organizations (NGO)	S
<b>ESF 13</b>	Public Safety and Security	Louisiana State Police	P
		Department of Justice	P
		Department of Agriculture and Forestry	S
		Department of Corrections	S
		Department of Culture, Recreation and Tourism	S
		Department of Revenue - Office of Alcohol and Tobacco Control	S
		Department of Transportation and Development	S
		Department of Wildlife and Fisheries	S
		Louisiana National Guard	S
		Office of Juvenile Justice	S
		Office of the Lieutenant Governor	S
		Office of the State Fire Marshal	S
<b>ESF 14</b>		In accordance with the National Disaster Recovery Framework, ESF 14 will be organized into Recovery Support Functions (RSF).	
		Governor's Office of Homeland Security and Emergency Preparedness (GOHSEP)	P
<b>RSF 1</b>	<b>Community Planning and Capacity Building</b>	Office of Community Development	P
		Governor's Office of Homeland Security and Emergency Preparedness (GOHSEP)	S
		Governor's Office of Disability Affairs	S
		Governor's Office of Elderly Affairs	S
		Louisiana Economic Development	S
		Louisiana Workforce Commission	S
		Department of Agriculture and Forestry	S
		Department of Insurance	S
		Department of Revenue	S
		University of Louisiana at Lafayette/NIMSAT	S
		Louisiana State University/SDMI	S
		Office of Financial Institutions	S
		Office of the Lieutenant Governor-Volunteer Louisiana	S
		Department of Education	S
		Louisiana VOAD	S
		Department of Transportation and Development	S
<b>RSF 2</b>	<b>Economic</b>	Louisiana Economic Development	P
		Governor's Office of Homeland Security and Emergency Preparedness (GOHSEP)	S
		Louisiana Workforce Commission	S
		Department of Agriculture and Forestry	S
		Department of Insurance	S
		Department of Revenue	S
		University of Louisiana at Lafayette/NIMSAT	S
		Louisiana State University/SDMI	S

		Office of Financial Institutions	S
		Office of the Lieutenant Governor	S
		Department of Education	S
		Department of Transportation and Development	S
		LSU/Southern Agriculture Centers	S
		Department of Environmental Quality	S
		Louisiana Sea Grant@ LSU	S
		Louisiana Housing Corporation	S
		Louisiana Department of Health	S
		Louisiana VOAD	S
		Governor's Office of Disability Affairs	S
		Governor's Office of Elderly Affairs	S
<b>RSF 3</b>	<b>Health and Social Services</b>	Louisiana Department of Health	P
		Department of Children and Family Services	P
		Department of Education	P
		Louisiana State University Health Sciences	S
		Governor's Office of Homeland Security and Emergency Preparedness (GOHSEP)	S
		Louisiana Board of Regents	S
		Office of Community Development	S
		Louisiana VOAD	S
		Office of the Lieutenant Governor	S
		Governor's Office of Disability Affairs	S
		Governor's Office of Elderly Affairs	S
		Governor's Office – Children's Cabinet	S
		Louisiana Housing Corporation	S
		Louisiana Workforce Commission	S
		Louisiana Board of Regents	S
		Louisiana Department of Corrections	S
		Louisiana Department of Environmental Quality	S
		Louisiana Department of Revenue	S
		Louisiana United Way & 211	S
		Feeding Louisiana	S
<b>RSF 4</b>	<b>Housing</b>	Louisiana Housing Corporation	P
		Department of Children and Family Services	S
		Governor's Office of Homeland Security and Emergency Preparedness (GOHSEP)	S
		Louisiana Economic Development	S
		Louisiana VOAD	S
		Office of the Lieutenant Governor-Volunteer Louisiana	S
		Governor's Office of Disability Affairs	S
		Governor's Office of Elderly Affairs	S
<b>RSF 5</b>	<b>Infrastructure Systems</b>	Department of Transportation and Development	P
		Coastal Protection and Restoration Authority	P
		Governor's Office of Homeland Security and Emergency Preparedness (GOHSEP)	S

		Office of Community Development	S
		Office of Financial Institutions	S
		Department of Agriculture and Forestry	S
		Department of Insurance	S
		Public Service Commission	S
		Louisiana Economic Development	S
		Department of Environmental Quality	S
		Department of Natural Resources	S
		Department of Corrections	S
		Department of Public Safety	S
		Louisiana Oil Spill Coordination Officer	S
		Office of the State Fire Marshall	S
		Louisiana Housing Corporation	S
		Louisiana Department of Health	S
		Louisiana Department of Education	S
		Louisiana National Guard	S
		Governor's Office of Disability Affairs	S
		Governor's Office of Elderly Affairs	S
<b>RSF 6</b>	<b>Natural and Cultural Resources</b>	Louisiana Department of Wildlife and Fisheries	P
		Coastal Protection and Restoration Authority	P
		Governor's Office of Homeland Security and Emergency Preparedness (GOHSEP)	S
		Department of Natural Resources	S
		Department of Environmental Quality	S
		Department of Culture, Recreation, and Tourism	S
		Department of Agriculture and Forestry	S
		Office of the Lieutenant Governor	S
		Office of Community Development	S
		Secretary of State	S
		Governor's Office of Disability Affairs	S
		Governor's Office of Elderly Affairs	S
<b>ESF 15</b>	<b>Emergency Public Information</b>	Governor's Office of Homeland Security and Emergency Preparedness	P
		Louisiana National Guard	S
		Senate and House Legislative Liaisons	S
		Department of Agriculture and Forestry	S
		Department of Corrections	S
		Department of Culture, Recreation & Tourism	S
		Office of the Lieutenant Governor	S
		Department of Economic Development	S
		Department of Education	S
		Department of Environmental Quality	S
		State Fire Marshal	S
		Governor – Division of Administration	S
		Governor – Office of Disability Affairs	S



		Governor – Office of Elderly Affairs	S
		Governor – Office of Financial Institutions	S
		Governor – Office of Indian Affairs	S
		Louisiana Oil Spill Coordinators Office	S
		Louisiana State University System	S
		Louisiana Department of Health	S
		Department of Justice	S
		Department of Insurance	S
		Louisiana Workforce Commission	S
		Department of Natural Resources	S
		Louisiana Public Service Commission	S
		Louisiana Board of Regents	S
		Department of Revenue	S
		Department of Children and Family Services	S
		Secretary of State	S
		Louisiana State Police	S
		Department of Transportation and Development	S
		Department of the Treasury	S
		Department of Wildlife and Fisheries	S
		Louisiana Coastal Protection and Restoration Authority	S
		Non-Governmental Organizations (NGO)	S
<b>ESF 16</b>	Military Support to Civilian Affairs	Louisiana National Guard	P
<b>ESF 17</b>	Cyber Incident Response Management	Division of Administration	P
		Louisiana National Guard	P
		Governor’s Office of Homeland Security and Emergency Preparedness (GOHSEP)	S
		Louisiana State Police-LA SAFE	S
		Department of Justice	S
		Louisiana Board of Regents	S
		LSU-SDMI	S
		Louisiana Optical Network Initiative (LONI Network)	S
		Louisiana Cyber Innovation Center	S
		Office of the Attorney General	S
		Office of the Governor	S
		Office of the Lieutenant Governor	S
		Secretary of State	S
		Department of the Treasury	S
		Louisiana Commissioner of Insurance	S
		Louisiana Department of Health	S
		Department of Agriculture and Forestry	S
		Louisiana Public Service Commission	S
		Louisiana Workforce Commission	S
		Department of Education	S
		Department of Children and Family Services	S
		Department of Wildlife and Fisheries	S

		Department of Natural Resources	S
		Department of Environmental Quality	S

SECTION 5: The head of each department, office, agency, and organization identified in Section 4 of this Order shall designate both an emergency coordinator and an alternate coordinator to act on the department’s behalf during an emergency situation, and furnish the director with their names and all phone numbers. The head shall also designate a Continuity of Operations Plan (COOP) coordinator who will prepare and maintain plans, procedures, arrangements, and agreements to ensure that the organization will continue to carry out its mission in an emergency or disaster.

SECTION 6: The head of each department, office, agency, and organization identified in Section 4 of this Order shall designate both an emergency coordinator and an alternate coordinator to act on the department’s behalf during an emergency situation, and furnish the director with their names and all phone numbers. The head shall also designate a Continuity of Operations Plan (COOP) coordinator who will prepare and maintain plans, procedures, arrangements, and agreements to ensure that the organization will continue to carry out its mission in an emergency or disaster.

SECTION 7: The head of each department assigned emergency support or recovery support responsibilities in Section 4 of this Order shall assist its primary department in the preparation of their procedures and/or any other documents necessary to support the Plan.

SECTION 8: The head of each department assigned a primary and/or a support responsibility in Section 4 of this Order will:

A. Staff the State Emergency Operations Center and or Joint Field Office with personnel during training exercises and emergencies as requested by the director;

B. Maintain and operate a 24-hour response capability in the department headquarters, or in the department’s designated Emergency Operations Center, when the Plan is implemented;

C. Participate in exercises of the Plan when scheduled by the Director;

D. Participate in, and conduct, training essential to implementation of the department’s assigned emergency service;

E. Conduct an annual internal review to update the details of their department’s implementing procedures and advise the director of needed modifications of their implementing procedures; and

F. Maintain logs, records, and reporting systems required by all state and federal laws, rules, and regulations.

SECTION 9: All departments, commissions, boards, agencies and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate in the implementation of this Order.

SECTION 10: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the governor or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana in the City of Baton Rouge, on this 12th day of January, 2022.

John Bel Edwards  
Governor

ATTEST BY  
THE GOVERNOR  
R. Kyle Ardoin  
Secretary of State  
2202#004

### EXECUTIVE ORDER JBE 22-3

#### Statewide Litter Abatement and Beautification

WHEREAS Louisiana is known as the “Sportsman’s Paradise” and is recognized worldwide for its tourism, natural beauty, outdoor opportunities, beautiful architecture and historic communities, biodiversity;

WHEREAS litter, the uncontrolled release of solid waste, is a blight on Louisiana’s natural areas, cities, towns, roadways, and waterways;

WHEREAS, whether trash, debris, or other items, litter that has been discarded improperly can end up along roadsides, in waterways, or otherwise be uncontained and improperly managed;

WHEREAS, litter has a detrimental impact on Louisiana’s economic development by negatively impacting investment, infrastructure, and tourism;

WHEREAS, litter also adversely impacts neighborhoods and communities, including quality of life, crime and other undesirable impacts;

WHEREAS, discarded items can impede waterways and exacerbate flooding concerns in flood-prone areas of the State;

WHEREAS, litter poses a threat to Louisiana’s wildlife as birds and marine life can become entangled in refuse or consumer discarded items;

WHEREAS, following hurricanes, floods and tornadoes litter issues can be exacerbated due to widespread damage and resulting debris; and

WHEREAS, a coordinated effort of state, local, private industry, non-profit, and Louisiana residents can help to combat and minimize litter, identify and pursue educational and funding opportunities, and generate new ideas to reduce litter in our communities.

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

SECTION 1: In partnership with the Lieutenant Governor's Office and Keep Louisiana Beautiful, the fourth Saturday of every month in 2022 shall be designated as "Love the Boot. Don't Pollute" Day and April 18-24 as “Love the Boot Week” to encourage private citizens, families, businesses, community groups, local government entities, and others to identify neighborhoods, parks, roadways and other spaces to organize cleanups (<https://keeplouisianabeautiful.org/love-the-boot/organize-an-event/>) by safely picking up and disposing of litter.

SECTION 2: The Governor’s Task Force on Statewide Litter Abatement and Beautification (hereafter “Task Force”) is hereby established and created within the executive branch. The Task Force shall be administered by the Lieutenant Governor’s Office, Keep Louisiana Beautiful Program.

SECTION 3: The duties of the Task Force shall include but are not limited to the following:

A. Building an understanding of the key drivers of litter and barriers to litter abatement from the production of items that may become litter to consumer behavior with respect to litter;

B. Identifying solutions to reduce the presence of litter throughout Louisiana’s roads, waterways, public spaces, parks, and communities; and

C. Establishing shared goals and values for litter abatement.

SECTION 4: On or before July 1, 2022, the Task Force shall submit an initial report including its recommendations and key priorities to the Governor.

SECTION 5: There shall be a chair of the Task Force who shall be appointed by the Governor. All other officers, if any, shall be elected by the members of the Task Force.

SECTION 6: The Task Force shall be comprised of a maximum of 26 members who, unless otherwise specified, shall be designated by and serve at the pleasure of the Governor. The membership shall include:

1. The Governor or his designee;
2. The Lieutenant Governor or his designee;
3. Commissioner of the Department of Administration or his designee;
4. The Secretary of the Department of Environmental Quality or his designee;
5. The Secretary of the Department of Corrections or his designee;
6. The Secretary of the Department of Economic Development or his designee;
7. The Secretary of the Transportation and Development or his designee;
8. The Secretary of the Department of Wildlife and Fisheries or his designee;
9. Deputy Secretary of the Department of Public Safety and Corrections
10. The Executive Assistant to the Governor for Coastal Activities or his designee;
11. One representative nominated by the Louisiana’s Sheriffs Association;
12. One representative nominated by the Louisiana District Attorneys Association;
13. One representative nominated by the Louisiana Association of Chamber of Commerce Executives;
14. One representative from the environmental non-profit sector;
15. One representative from the Louisiana Municipal Association;
16. One representative from the Police Jury Association of Louisiana;
17. One representative of the tourism industry;
18. One representative from the recycling/waste management industry;

19. One representative from Louisiana's higher education system;

20. One representative from the Louisiana Department of Education;

21. One representative of statewide foundations;

22. One representative from a local chamber of commerce;

23. One representative from a local housing authority;

24. One representative from a local homeowner's association;

25. One representative from the trucking industry; and

26. One representative from the construction industry.

SECTION 7: The Task Force shall meet at regularly scheduled intervals and at the call of the chair.

SECTION 8: Task Force members shall not receive additional compensation or a per diem from the Office of the Governor for serving on the Task Force. Task Force members who are an employee or an elected public official of the state of Louisiana or a political subdivision of the state of Louisiana may seek reimbursement of travel expenses, in accordance with PPM 49, from their employing and/or elected department, agency and/or office. Task Force members who are also a member of the Louisiana Legislature may seek a per diem from the Louisiana State Senate or House of Representatives, as appropriate, for their attendance.

SECTION 9: This Order is effective upon signature and shall continue in effect until, amended, modified, terminated, or rescinded by the Governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana on this 18th day of January, 2022.

John Bel Edwards  
Governor

ATTEST BY  
THE GOVERNOR  
R. Kyle Ardoin  
Secretary of State  
2202#005

#### EXECUTIVE ORDER JBE 22-4

##### Elections—Suspending and Rescheduling Deadline to Order Special Elections

WHEREAS, pursuant to the Louisiana Homeland Security and Emergency Assistance and Disaster Act, La. R.S. 29:721, et seq., on March 11, 2020 in Proclamation Number 25 JBE 2020, the Governor declared that a statewide public health emergency existed in the State of Louisiana because of COVID-19 and expressly empowered the Governor's Office of Homeland Security and Emergency Preparedness and the Secretary of the Department of Health and/or the State Health Officer to take all actions authorized under state law;

WHEREAS, La. R.S. 29:761 provides that "[b]ecause the government must do all that is reasonable and necessary to protect the health and safety of its citizens;

because new and emerging dangers, including emergent and resurgent infectious diseases ... pose serious and immediate threats; because a renewed focus on the prevention, detection, management, and containment of public health emergencies is essential; and because emergency health threats ... may require the exercise of extraordinary government powers and functions, the state must have the ability to respond, rapidly and effectively, to potential or actual public health emergencies;"

WHEREAS, on December 21, 2021, the Governor renewed the emergency declaration for the COVID-19 Emergency, citing rising cases and the increased exposure due to gatherings during the holiday season; and on January 19, 2022, the Governor again renewed the emergency declaration in Proclamation No. 6 JBE 2022;

WHEREAS, the first cases of the Omicron variant of COVID-19 were confirmed in the United States in December, 2021;

WHEREAS, Louisiana Department of Health issued a press release on December 29, 2021 that Omicron cases were elevated in the state, and that "the Centers for Disease Control and Prevention (CDC) estimates the proportion of Omicron in HHS Region 6 (which includes Arkansas, Louisiana, New Mexico, Oklahoma and Texas) is 86.7%. Furthermore, 95% of parishes are at the 2 highest levels of community transmission;"

WHEREAS, parish and municipal employees are currently experiencing personnel shortages and absences due to the increase in reported Omicron variant cases since December;

WHEREAS, under La. R.S. 18:402(E)(1), the deadline to issue a proclamation ordering a special election for Spring 2022 was December 29, 2021, four weeks prior to the opening of the qualifying period for the special primary election;

WHEREAS, personnel shortages in the state due to Omicron infection rates have posed numerous challenges for parish and municipal government officials to meet the deadline for calling special elections for a primary date on March 26, 2022, and a general election date on April 30, 2022;

WHEREAS, Secretary of State Kyle Ardoin, in an Emergency Certification on January 20, 2022, certified to the Governor that a continued state of emergency exists that poses obstacles to parish and municipal officials in meeting the deadline established under La. R.S. 18:402(E)(1) for scheduling a spring primary election for March 26, 2022 and a general election date for April 30, 2022; and Secretary Ardoin recommended that an executive order be issued to suspend the December 29, 2021 deadline and reschedule it to January 21, 2022; and

WHEREAS, a state of emergency exists and it is necessary to suspend and reschedule the deadline established under La. R.S. 18:402(E)(1) to protect the health and safety of the voters of Louisiana.

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

SECTION 1: The provisions of La. R.S. 18:402(E)(1), which would have set a December 29, 2021, deadline for parish and municipal officials to issue a

proclamation ordering a special election, are hereby suspended.

SECTION 2: The deadline for parish and municipal officials to issue a proclamation ordering a special election under La. R.S. 18:402(E)(1), previously set for December 29, 2021, is hereby rescheduled to January 21, 2022, for a special primary election on March 26, 2022, and a general election on April 30, 2022, with qualifying dates set for January 26 through January 28, 2022.

SECTION 3: The deadline for ordering proposition elections pursuant to La. R.S. 18:1285(B) or La. R.S. 18:1300(C), previously set for December 29, 2022, shall not be suspended or rescheduled.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana in the City of Baton Rouge, on this 21st day of January, 2022.

John Bel Edwards  
Governor

ATTEST BY  
THE GOVERNOR  
R. Kyle Ardoin  
Secretary of State  
2202#27

**EXECUTIVE ORDER JBE 22-5**

**Carry-Forward Bond Allocation 2021**

WHEREAS, pursuant to the Tax Reform Act of 1986 and Act 51 of the 1986 Regular Session of the Louisiana Legislature (hereafter “Act”), Executive Order Number JBE 2016-35 was issued to establish

(1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year 2016 and subsequent calendar years;

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

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

WHEREAS, Section 4(H) of Executive Order Number JBE 2016-35 provides that if the ceiling for a calendar year exceeds the aggregate amount of bonds subject to the private activity bond volume limit issued during the year by all issuers, by executive order, the Governor may allocate the excess amount to issuers or an issuer for use as a carry-forward for one or more carry-forward projects permitted under the Act;

WHEREAS, the sum of five hundred ten million nine hundred eighty-four thousand nine hundred and eighty dollars (\$510,984,980) represents the amount of the ceiling determined by the staff of the Louisiana State Bond Commission (“SBC”) for private activity bond volume limits for the year 2021 (“2021 Ceiling”);

WHEREAS, three hundred ninety-three million four thousand nine hundred forty-three dollars (\$393,004,943) of the 2021 Ceiling was not allocated during the 2021 calendar year; and

WHEREAS, the SBC has determined that three hundred ninety-three million four thousand nine hundred

forty-three dollars (\$393,004,943) of the 2021 Ceiling is eligible for carry-forward, and the Governor desires to allocate this amount as carry-forward for projects which are permitted and eligible under the Act.

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

SECTION 1: Pursuant to and in accordance with the provisions of Section 146(f) of the Internal Revenue Code of 1986, as amended, and in accordance with the request for carry-forward filed by the designated issuer, the excess private activity bond volume limit under the 2021 Ceiling is hereby allocated to the following issuer(s), for the following carry-forward project(s), and in the following amount(s):

Issuer	Carry-Forward Project	Carry-Forward Amount
Louisiana Housing Corporation	Multifamily Housing	\$42,004,943
Louisiana Public Facilities Authority	ElementUS	\$30,000,000
Louisiana Public Facilities Authority	DG Fuels	\$50,000,000
Louisiana Community Development Authority	LA Green Fuels	\$250,000,000
Louisiana Community Development Authority	American Biocarbon	\$21,000,000

SECTION 2: All references in this Order to the singular shall include the plural, and all plural references shall include the singular.

SECTION 3: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the Governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana in the City of Baton Rouge, on this 11th day of February, 2022.

John Bel Edwards  
Governor

ATTEST BY  
THE GOVERNOR  
R. Kyle Ardoin  
Secretary of State  
2202#056

**EXECUTIVE ORDER JBE 22-6**

**Flags at Half-Staff—Senator Sydney Banks Nelson**

WHEREAS, Sydney Banks “Syd” Nelson, a former distinguished member of the Senate of the Legislature of Louisiana, died on January 10, 2022, at the age of 86;

WHEREAS, he is survived by his loving wife of 63 years, Gail Anderson Nelson, daughter Denise Dawn Nelson Akers, son Sydney Stephen Nelson, four grandchildren, and two great-grandchildren, as well as many extended family and dear friends;

WHEREAS, he attended the University of Oklahoma on a Naval ROTC scholarship, and earned a degree in accounting; after proudly serving his nation in the United

States Navy, he attended the Louisiana State University Law Center, excelling in his studies before embarking upon a successful and storied career as a preeminent attorney in the State of Louisiana;

WHEREAS, he served his state and his home of Northern Louisiana in the Louisiana State Senate for twelve years, first taking office in 1980; he is widely remembered for showing such strength of character during his tenure of service that he earned the moniker the “Conscience of the Senate;” and

WHEREAS, Sydney Banks “Syd” Nelson lived a life of tremendous faith, integrity, and honor, and his service as a public servant and lawmaker to the State of Louisiana will long be remembered.

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

SECTION 1: As an expression of respect and to honor Sydney Banks “Syd” Nelson, the flags of the United States and the State of Louisiana shall be flown at half-staff over the State Capitol and all state buildings from sunrise until sunset on Wednesday, February 9, 2022.

SECTION 2: This Order is effective upon signature and shall remain in effect until sunset, February 9, 2022.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana in the City of Baton Rouge, on this 8th day of February, 2022.

John Bel Edwards  
Governor

ATTEST BY  
THE GOVERNOR  
R. Kyle Ardoin  
Secretary of State  
2202#028

# Emergency Rules

## DECLARATION OF EMERGENCY

### Department of Children and Family Services Economic Stability Section

#### TANF Fatherhood (LAC 67:III.5571)

The Department of Children and Family Services (DCFS), Economic Stability, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to amend LAC 67:III, Subpart 15 Temporary Assistance for Needy Families (TANF) Initiatives, Chapter 55 TANF Initiatives, §5571 Parenting/Fatherhood Services Program (Effective September 30, 2002). This Emergency Rule shall be effective February 1, 2022 and shall remain in effect for the maximum period of the Administrative Procedure Act.

Pursuant to Louisiana's Temporary Assistance for Needy Families (TANF) Block Grant, amendment of §5571 is required to update the TANF goal and eligibility criteria. TANF goal 2 (to end the dependence of needy parents on government benefits by promoting job preparation, work, and marriage) is being removed and the income eligibility criteria related to goal 2 is being removed. TANF goal 4 meets the initiative's objectives and its associated eligibility criteria allows the most flexibility for providers to serve a wide variety of disadvantaged families.

The department considers emergency action necessary to facilitate the expenditure of TANF funds. The authorization to promulgate emergency rules to facilitate the expenditure of TANF funds is contained in Act 119 of the 2021 Regular Session of the Louisiana Legislature.

#### Title 67

#### SOCIAL SERVICES

#### Part III. Economic Stability

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

#### Chapter 55. TANF Initiatives

#### §5571. Parenting/Fatherhood Services Program (Effective September 30, 2002)

A. The department shall enter into contracts to create programs that will assist fathers with various skills which may include but are not limited to employment, life, positive parenting, fatherhood, marriage and/or relationship building activities, and other skills in order to increase their ability to provide emotional and financial support for their children and build a solid foundation for stronger relationships between mothers and fathers.

B. These services meet TANF goal 4, to encourage the formation and maintenance of two-parent families by eliminating emotional, social, financial, and legal barriers that hinder a father's ability to be fully engaged in his children's lives.

C. Eligibility for services is limited to fathers of minor children. The mothers of their children, as well as their children, are eligible to participate in program activities.

D. Services are considered non-assistance by the agency.  
AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 13, 2002 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 29:191 (February 2003), amended LR 34:697 (April 2008), amended by the Department of Children and Family Services, Economic Stability Section, LR 48:

Marketa Garner Walters  
Secretary

2202#014

## DECLARATION OF EMERGENCY

### Board of Elementary and Secondary Education

#### Bulletin 139—Louisiana Early Childhood Care and Development Fund Programs—CCAP Household Eligibility (LAC28:CLXV.509 and 515)

In accordance with the provisions of R.S. 17:6(A)(10) and the Administrative Procedure Act (APA), R.S. 49:953(B)(1) et seq., the Board of Elementary and Secondary Education has amended LAC28:CLXV.Bulletin 139—Louisiana Early Childhood Care and Development Fund Programs. The revisions increase the daily Child Care Assistance Program (CCAP) reimbursement rates and increase the income eligibility for CCAP to 85 percent of the State Median Income. This Declaration of Emergency, effective February 1, 2022, is for a period of 180 days from adoption, or until finally adopted as Rule.

#### Title 28

#### EDUCATION

#### Part CLXV. Bulletin 139—Louisiana Child Care and Development Fund Programs §509. Certification Requirements for Non- Categorically Eligible Households

A. To be certified as a CCAP household, households that are not categorically eligible for participation in CCAP must meet the following requirements:

1. include at least one child who is eligible for CCAP as provided in §503.A;
2. meet all criteria provided in §507.A;
3. have household income that does not exceed 85 percent of the state median income for a household of the same size. *Household income* is defined as:

3.a. - 6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.28. and 45 CFR Parts 98 and 99.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:43 (January 2016), amended LR 42:2175 (December 2016), LR 44:261 (February 2018), effective March 1, 2018, LR 45:900 (July 2019), LR 46:1373 (October 2020), LR 47:573 (May 2021), LR 48:

**§515. Payments Made on Behalf of Households**

A. The state maximum daily rates for CCAP care are as follows.

Child Care Provider Type	Regular Care	Regular Care for Toddlers	Regular Care for Infants	Special Needs Care Incentive	Special Needs Care Incentive for Toddlers	Special Needs Care Incentive for Infants
Type III Early Learning Center	\$31.50	\$42.00	\$68.00	\$39.69	\$52.92	\$85.68
School Child Care Center	\$24.00	\$24.00	\$24.00	\$30.24	\$30.24	\$30.24
Family Child Care Provider	\$29.00	\$42.00	\$61.00	\$36.54	\$52.92	\$76.86
In-Home Provider	\$25.00	\$25.25	\$26.65	\$31.50	\$31.82	\$33.58
Military Child Care Centers	\$31.50	\$42.00	\$68.00	\$39.69	\$52.92	\$85.68

B. - G. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and R.S. 17:6 and 17:407.28.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2116 (October 2015), amended LR 42:44 (January 2016), LR 42:1870 (November 2016), LR 44:801 (April 2018), LR 45:1745 (December 2019), LR 47:573 (May 2021). LR 48:

James Garvey  
President

2202#007

**DECLARATION OF EMERGENCY**

**Board of Elementary and Secondary Education**

Bulletin 746—Louisiana Standards for State Certification of School Personnel  
(LAC 28:CXXXI.Chapters 3, 5, 7, 11, 13,15 and 23)

Editor’s Note: In accordance with R.S. 49:954.1, this Emergency Rule is being published without regard to its validity. The contents of this Emergency Rule contain numerous errors to be addressed by the promulgating agency.

In accordance with the provisions of R.S. 17:6(A)(10) and the Administrative Procedure Act (APA), R.S. 49:953(B)(1) et seq., the Board of Elementary and Secondary Education has LAC 28:CXXXI in Bulletin 746—*Louisiana Standards for State Certification of School Personnel*. The proposed revisions: adopt new high school and middle school Math Praxis exams; remove the requirement that teaching experience be in an educator area of certification as a condition of advancing a teaching certificate; require teacher preparation providers to submit all practitioner license (PL) applications; allow the issuance of Temporary Authority to

Teach (TAT) certifications to applicants who fail to meet minimum grade point average requirements, contingent upon the applicant's satisfactory completion of a personal interview by the employing school system; allow a “family childcare” child development associate (CDA) credential for purposes of earning an ancillary Early Childhood Certificate; allow uncertified nonpublic school educators to serve as mentor teachers; align Child Nutrition Coordinator requirements with Federal regulations; align CTTIE certificate structure issuance and renewal with standard teaching certification; reduce the number of years of teaching experience for Educational Leader Certificate Level 3 (EDL3) and Out-of-State Superintendent (OSS) from 5 years to 3 years; and provide for technical edits. This Declaration of Emergency, effective February 14, 2022, is for a period of 180 days from adoption, or until finally adopted as Rule.

**Title 28  
EDUCATION**

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

**Chapter 2. Initial Teacher Certification  
Subchapter B. Testing Required for Certification Areas §303. Certification Exams and Scores**

A. A teacher applicant for certification must successfully complete the appropriate written or computer-delivered assessment identified in this Section prior to issuance of a Louisiana educator certification.

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

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

b. Applicants possessing a non-education graduate degree from an institution accredited in accordance with 34 CFR 602 will be exempted from the core skills exam.

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

Core Academic Skills for Educators	Test #	Score	Effective Date
Reading	5712	156	Effective 1/1/14 to 12/31/2020
Writing	5722	162	
Mathematics	5732	150	

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

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

## 2. Principles of Learning and Teaching (PLT) Exams

Principles of Learning and Teaching: Early Childhood	0621 or 5621	157	Effective 1/1/12
Principles of Learning and Teaching: K-6	0622 or 5622	160	
Principles of Learning and Teaching: 5-9	0623 or 5623	160	
Principles of Learning and Teaching: 7-12	0624 or 5624	157	

### B. Content and Pedagogy Requirements

Certification Area	Name of Praxis Test	Content Exam Score	Pedagogy: Principles of Learning and Teaching		
			PLT K-6 (#0622 or 5622)	PLT 5-9 (#0623 or 5623)	PLT 7-12 (#0624 or 5624)
Birth to Kindergarten	Early Childhood Content Knowledge (5022/5025 after September 2015)	160 (for 5022)	PLT: Early Childhood 0621 or 5621 (Score 157)		
	Early Childhood Education (5025) or Education of Young Children (5024) or PreK Education (5531)	156 (for 5025)  160  155			
Early Childhood PK-3	Elementary Content Knowledge (0014 or 5014) prior to 9/1/15	150	PLT: Early Childhood 0621 or 5621 (Score 157)		
Early Childhood PK-3	Effective 9/1/15 to 8/31/17 Elementary Education: Content Knowledge (5018) or Elementary Education: Multiple Subjects (5001) Reading/Language Arts(5002) Mathematics (5003) Social Studies (5004) Science (5005)	163  157 157 155 159	PLT: Early Childhood 0621 or 5621 (Score 157)		
	Mandatory 9/1/17 Elementary Education: Multiple Subjects (5001) Reading/Language Arts(5002) Mathematics (5003) Social Studies (5004) Science (5005)	157 157 155 159			
Grades 1-5	Elementary Content Knowledge (0014 or 5014) prior to 9/1/15	150	160	---	---
Grades 1-5	Effective 9/1/15 to 8/31/17 Elementary Education: Content Knowledge (5018) or Elementary Education: Multiple Subjects (5001) Reading/Language Arts(5002) Mathematics (5003) Social Studies (5004) Science (5005)	163  157 157 155 159	160		
	Mandatory 9/1/17 Elementary Education: Multiple Subjects (5001) Reading/Language Arts(5002) Mathematics (5003) Social Studies (5004) Science (5005)	157 157 155 159			
Grades 4-8 Mathematics	Middle School Mathematics (0069) Prior to 1/1/14	148	---	160	---
	Middle School Mathematics (5169) Effective 1/1/14 Effective 1/1/14-8/31/2022 Middle School Mathematics (5164) Effective 9/1/2021	165  157			
Grades 4-8 Science	Middle School Science (0439) Prior to 6/8/14 Middle School Science (5440) Effective 6/8/14 to 3/31/2022 Middle School Science (5442) Effective 4/1/2021	150 150 152	---	160	---
Grades 4-8 Social Studies	Middle School Social Studies (0089 or 5089)	149	---	160	---
Grades 4-8 English/ Language Arts	Middle School English/Language Arts (0049 or 5049) Prior to 1/1/14	160	---	160	---
	Middle School English (5047) Effective 1/1/14	164			



C. Certification Areas  
 1. Grades 6-12 Certification

Grades 6-12 Certification Areas					
Certification Area	Name of PRAXIS Test	Score			PLT 7-12
Agriculture	Agriculture (0700) Prior to 6/8/14	510	---	---	157
	Agriculture (5701) Effective 6/8/14	147			
Algebra I	Algebra I (5162) Effective 8/14/18	157			
	Middle School Mathematics (5169) Effective 1/1/14-8/31/2022	165			
	Middle School Mathematics (5164) Effective 9/1/2021	157			
American Sign Language	American Sign Language Proficiency Interview (ASLPI-0634)	3+170	World Languages Pedagogy 0841 (Score 158)		
Biology	Biology: Content Knowledge (0235 or 5235)	150	---	---	157
Business	Business Education: Content Knowledge (0101 or 5101)	154	---	---	157
Chemistry	Chemistry: Content Knowledge (0245 or 5245)	151			157
Chinese	Chinese (Mandarin): World Language (5665)	164	PLT7-12 (Score 157) until 6/30/13; After 6/30/13 World Languages Pedagogy 0841 (Score 158)		
English	English Language, Literature, and Composition: Content Knowledge (0041 or 5041)	160	---	---	157
	Pedagogy (0043) Prior to 1/1/14	130			
	English Language Arts: Content and Analysis (5039) Effective 1/1/14	168			
Family and Consumer Sciences	Family and Consumer Sciences (0121 or 5121) Prior to 6/8/14	141	---	---	157
	Family and Consumer Sciences (5122) Effective 6/8/14	153			
French	French: World Language (5174)	157	PLT7-12 (Score 157) until 6/30/13; After 6/30/13 World Languages Pedagogy 0841 (Score 158)		
General Science	General Science: Content Knowledge (0435 or 5435)	156	---	---	157
German	German: World Language (5183)	157	PLT7-12 (Score 157) until 6/30/13; After 6/30/13 World Languages Pedagogy 0841 (Score 158)		
Mathematics	Mathematics: Content Knowledge (0061 or 5061) Effective 6/1/10-12/31/13	135	---	---	157
	Mathematics: Content Knowledge (5161) Effective 1/1/14-8/31/2022	160			
	Mathematics: Content Knowledge (5165) Effective 9/1/2021	159			
Physics	Physics: Content Knowledge (0265 or 5265)	141			157
Social Studies	Social Studies: Content and Interpretation (0086 or 5086)	*153	---	---	157
Spanish	Spanish: World Language (5195)	157	PLT7-12 (Score 157) until 6/30/13; After 6/30/13 World languages Pedagogy 0841 (Score 158)		
Speech	Speech Communications (0221 or 5221)	146	---	---	157
Technology Education	Technology Education (0051 or 5051)	159	---	---	157
Computer Science Earth Science Environmental Science Journalism Latin Marketing	At this time, a content area exam is not required for certification in Louisiana.	---	---	---	157

\* The passing score for tests taken prior to January 1, 2020 is 160.

2. All-Level K-12 Certification

All-Level K-12 Certification Areas							
Subject Area	Praxis Test	Score	PLT K-6		PLT 5-9		PLT 7-12
Grades K-12 Art	Art: Content Knowledge (0134 or 5134)	159	160	or	160	or	157
Grades K-12 Dance	None Available**	---	160		160	or	157
Grades K-12 Foreign Languages	Chinese (Mandarin): World Language (5665)	164	PLT K-6 (Score 160) or PLT 5-9 (Score 160) or PL7-12 (Score 157) until 6/30/13; After 6/30/13 World Languages Pedagogy 0841 (Score 158)				
	French: World Language (5174)	157					
	German: World Language (5183)	157					
	Spanish: World Language (5195)	157					
	American Sign Language Proficiency Interview (ASLPI - 0634)	3+ 170					
Grades K-12 Music	Music: Content Knowledge (0113 or 5113)	151	160	or	160	or	157
Grades K-12 Health and Physical Education	Physical Education: Content Knowledge (0091 or 5091), Prior to 6/8/14	146	160		160	or	157
	Health and Physical Education (5857), Effective 6/8/14	160					

\*\*At this time, a content area exam is not required for certification in Louisiana

D. Special Education Areas

Area	Content Exam	Score	Pedagogy Requirement	Score
All Special Education Area(s)				
Early Interventionist	Prior to 9/1/15: Elementary Content Knowledge prior to 9/1/15 (0014 or 5014)	150	Effective 1/1/12: Special Education: Core Knowledge and Applications (0354 or 5354) and Principles of Learning and Teaching: Early Childhood (0621 or 5621) Effective 1/1/14: Special Education: Early Childhood (0691) and Principles of Learning and Teaching: Early Childhood (0621 or 5621)	145
	Effective 9/1/15 to 8/31/17 Elementary Education: Content Knowledge (5018)	163		
	or Elementary Education: Multiple Subjects (5001)			
	Reading/Language Arts (5002)	157		
	Mathematics (5003)	157		
	Social Studies (5004)	155		
	Science (5005)	159		
	Mandatory 9/1/17 Elementary Education: Multiple Subjects (5001)			
	Reading/Language Arts (5002)	157		
	Mathematics (5003)	157		
Social Studies (5004)	155			
Science (5005)	159			
Deaf and Hard of Hearing	Prior to 9/1/15: Elementary Content Knowledge (0014 or 5014)	150	Effective 11/1/11: Special Education: Core Knowledge and Applications (0354 or 5354) and Education of Deaf and Hard of Hearing Students (0271) Effective 1/1/14: Special Education: Core Knowledge and Applications (0354 or 5354) and Special Education: Education of Deaf and Hard of Hearing Students (0272 or 5272)	145
	Effective 9/1/15 to 8/31/17: Elementary Education: Content Knowledge (5018)	163		
	or Elementary Education: Multiple Subjects (5001)			
	Reading/Language Arts(5002)	157		
	Mathematics (5003)	157		
	Social Studies (5004)	155		
	Science (5005)	159		
	Mandatory 9/1/17: Elementary Education: Multiple Subjects (5001)	157		
	Reading/Language Arts(5002)	157		
	Mathematics (5003)	155		
Social Studies (5004)	159			
Science (5005)	159			
Mild to Moderate Disabilities	ALL Candidates must pass a content area exam appropriate to certification level 1-5, 4-8, 6-12 such as elementary, or core subject-specific exams for middle or secondary grades.		Special Education: Core Knowledge and Mild to Moderate Applications (0543 or 5543) AND PLT specific to grade level (K-6, 5-9, or 7-12)	153
Significant Disabilities	Elementary Content Knowledge prior to 9/1/15 (0014 or 5014)	150	Special Education: Core Knowledge and Severe to Profound Applications (0545 or 5545)	153
	Effective 9/1/15 to 8/31/17 Elementary Education: Content Knowledge (5018)	163		
	OR Elementary Education: Multiple Subjects (5001)			
	Reading/Language Arts(5002)	157		
	Mathematics (5003)	157		
	Social Studies (5004)	155		
	Science (5005)	159		
	Mandatory 9/1/17 Elementary Education: Multiple Subjects (5001)	157		
	Reading/Language Arts(5002)	157		
	Mathematics (5003)	155		
Social Studies (5004)	159			
Science (5005)	159			

Area	Content Exam	Score	Pedagogy Requirement	Score
Visual Impairments/ Blind	Elementary Content Knowledge prior to 9/1/15 (0014 or 5014)	150	Special Education: Core Content Knowledge and Applications (0354 or 5354) Effective 11/1/11	145
	Effective 9/1/15 to 8/31/17	163	Special Education: Core Content Knowledge and Applications (0354 or 5354)	145
	Elementary Education: Content Knowledge (5018)		and	163
	Elementary Education: Multiple Subjects (5001)	157 157 155 159	Special Education: Teaching Students with Visual Impairments (0282) Effective 1/1/14	
	Reading/Language Arts(5002)			
	Mathematics (5003)			
	Social Studies (5004)			
	Science (5005)	157 157 155 159		
	Mandatory 9/1/17 Elementary Education: Multiple Subjects (5001)			
	Reading/Language Arts(5002)			
Mathematics (5003)				
Social Studies (5004)				
Science (5005)				

E. Administrative and Instructional Support Areas

Certification Area	Name of Test	Area Test Score
Educational Leader—Level 1	School Leaders Licensure Assessment (1011 or 6011)	166 (Effective until 7/31/20)
	School Leaders Licensure Assessment (6990)	151 (Effective 9/1/19)
	Louisiana Leadership Assessment Series	“Demonstrated” (for at least 9 assessments within the series) Effective April 1, 2020
Educational Leader—Level 3	School Superintendent Assessment (6021)	160 (Effective until 7/31/20)
	School Superintendent Assessment (6991)	162 Current-
School Counselor K-12	Professional School Counselor (0421 or 5421)	156
School Librarian	Library Media Specialist (0311 or 5311)	136

F. Reading Exams

Name of Test	Area Test Score
Teaching Reading Exam (0204 or 5204) Effective 9/1/2011 – 7/31/2020	157
Teaching Reading Exam (0206 or 5206) Effective 9/1/2019	156

1. Praxis scores, for certification purposes, must be received by the LDE via one of the following ways:

- the electronic ETS Praxis score report forwarded directly from ETS; or
- the original Praxis score report issued by ETS submitted with the certification application.

G. Mentor Teacher and Content Leader. The mentor teacher certificate and the content leader certificate may be earned by passing the applicable Louisiana assessment series.

Certification Area	Name of Test	Area Test Score
Mentor Teacher	Louisiana Mentor Teacher Assessment Series—Elementary	2 coaching- related components
	Louisiana Mentor Teacher	2

Certification Area	Name of Test	Area Test Score
	Assessment Series—Secondary ELA	coaching- related components
	Louisiana Mentor Teacher Assessment Series—Secondary Math	2 coaching- related components
	Louisiana Mentor Teacher Assessment Series—Universal	2 coaching- related components
Content Leader	Louisiana Content Leader Assessment Series	4
	Intervention Content Leader Assessment Series	3

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1833 (October 2006), amended LR 36:485 and 488 (March 2010), LR 36:2265 (October 2010), LR 37:551 (February 2011), repromulgated LR 37:556 (February 2011), amended LR 37:3210 (November 2011), LR 39:1461 (June 2013), LR 40:277 (February 2014), LR 40:1680 (September 2014), LR 41:645 (April 2015), LR 41:916 (May 2015), LR 42:233 (February 2016), LR 43:1292 (July 2017), LR 44:264 (February 2018), LR 44:1999 (November 2018), LR 45:228, 230 (February 2019), repromulgated LR 45:403 (March 2019), amended LR 45:1458 (October 2019), LR 46:325 (March 2020), LR 46:557 (April 2020), LR 46:1374 (October 2020), LR 48:453 (April 2021), repromulgated LR 48:574 (May 2021), LR 48:

**Chapter 5. Teaching Credentials, Licenses and Certifications**

**Subchapter A. Standard Teaching Certificates**

**§503. Introduction**

A. There are seven types of standard teaching certificates issued by the state of Louisiana:

- professional Level 1, 2, and 3 certificates;
- type C, B, and A certificates;
- out-of-state certificate;
- world language certificates (WLC);
- practitioner 1, 2, and 3 licenses;
- extended endorsement license (EEL); and
- standard certificates for teachers in non-public schools.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1797 (October 2006), amended LR 37:558 (February 2011), LR 38:1951 (August 2012), LR 46:01375 (October 2020), LR 48:

## §505. General Provisions

### A. Non-Practicing Status or Operational Role Status for Standard Teaching Certificates

1. The LDE may grant:
  - a. non-practicing status to any teacher who applies after ceasing employment as a teacher or leader in a local education agency;
  - b. operational role status to any teacher who is serving in a role that cannot be evaluated per student growth measures.
2. Non-practicing status will take effect on the last day of employment in the local education agency evaluated role, as verified by the employing LEA.
  - a. If an educator was never employed in a Louisiana school system, the program provider may make the request.
3. Operational role status will take effect on the first day of employment in a role that cannot be evaluated per student growth measures, as verified by the employing LEA.
4. Operational role teachers returning to a role that can be evaluated per student growth measures must be evaluated with student growth measures upon return to that role.
5. Non-practicing teachers returning to practice and operational role teachers returning to a role that can be evaluated per student growth measures may apply through a local education agency for an extension of the certificate for the number of years remaining in the renewal period of the certificate.
6. Final effectiveness ratings earned while in active status will be retained during non-practicing status and operational role status and applied to any subsequent renewal or extension.
7. The first date an educator can enter into non-practicing or operational role is August 1, 2012.

B. Medical Excuse and Exceptions. Exceptions to policy will be considered in the case of serious medical condition or unavailability of required coursework or exams. When serious medical problems of the teacher or immediate family exist, a doctor statement is required with a letter of assurance from the teacher that the unmet policy requirements will be completed within one year of granting the exception. The final authority for approval and policy flexibility is at the discretion of the LDE.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 46:325 (March 2020), amended LR 48:

## §507. Professional Level Certificates

A. Level 1 is the entry-level professional certificate, valid for three years. The level 2 and level 3 certificates are valid for five years.

1. Eligibility Requirements for Level 1 Professional Certificate
  - a. Louisiana graduate:
    - i. successfully complete a state-approved traditional or alternate teacher preparation program:
      - (a). for alternate preparation completers, the applicant must receive mentoring by a school-based mentor teacher in accordance with §553 of this Chapter;
      - ii. have a minimum 2.50 undergraduate grade point average (GPA) on a 4.00 scale;

(a). an applicant who does not meet the GPA requirement may be certified if by meeting the following requirements in an alternate teacher preparation program:

- (i). satisfactorily complete a personal interview by the program admissions officer;
- (ii). if the program awards credit hours, the applicant shall achieve a minimum grade point average (GPA) of 3.00 in alternate teacher preparation program courses by the end of the first 12 credit hours and successfully complete the program;
- (iii). if the program does not award credit hours, the applicant shall demonstrate mastery of competencies as required by the program administrator and by the school system in which the applicant completes required clinical practice; and
- (iv). satisfactorily complete all program requirements as set forth by BESE, including any requirements for clinical practice, at graduation;
  - iii. present appropriate scores on the core exams; the principles of learning and teaching (PLT) or other pedagogy exam(s) required for the area(s) of certification as specified in §303 of this Part; and the specialty area (content) exam in the certification area in which the teacher preparation program was completed or in which the initial certificate was;

(a). See §303 of this Part for exam substitutions; and

iv. be recommended by a state-approved university or private program provider for certification.

b. Out-of-State graduate:

i. possess a minimum of a baccalaureate degree from a college or university accredited in accordance with 34 CFR 602;

(a). credentials may be submitted to a credentialing agency that follows the standards of the American Association of Collegiate Registrars and Admissions Officers (AACRAO) for evaluation with the original course-by-course evaluation including a statement verifying the comparability of the baccalaureate degree in the field of education;

ii. hold a standard out-of-state teaching certificate, or if no certificate was issued, a letter from the state education agency (SEA) or teacher preparation program provider in the state of origin verifying eligibility in that state for a certificate in the certification area(s);

iii. pass all parts of Praxis exam(s) required for Louisiana certification:

(a). present appropriate scores on the core exams, the principles of learning and teaching (PLT) or other pedagogy exam required for the area(s) of certification, and the specialty area (content) exam in the certification area in which the teacher preparation program was completed or in which the initial certificate was issued;

(b). if applicant has obtained National Board Certification (NBC) in corresponding areas for which certification is being sought as well as certification/licensure in the state of origin, the examination required for NBC will be accepted to fulfill the testing requirements for certification;

(a). See §303 of this Part for exam substitutions.

iv. has completed student teaching, an internship, or year(s) of teaching experience as required by the teacher preparation program provider; and

v. has not been out of teaching in the five years immediately preceding first employment or application for a Louisiana certificate. A candidate who has not taught in five years may be issued a one-year non-renewable (OS1) certificate during completion of six semester hours required for the issuance of a three-year non-renewable (OS) certificate.

vi. A candidate who is certified in another state can qualify for exclusion from the BESE adopted exam(s) required for Louisiana certification under the following criteria:

(a). meet all requirements for Louisiana certification except the Praxis exam requirements; have at least three years of successful teaching experience in another state, as verified by the out-of-state employing authority or SEA; and teach on an out-of-state certificate for one year in a Louisiana-approved public or an approved nonpublic school system;

(b). the employing authority must verify that the teacher has completed one year of successful teaching experience in a Louisiana approved public or an approved nonpublic school and is recommended for further employment;

(c). the employing authority must request that the teacher be granted a valid Louisiana teaching certificate.

c. Foreign Applicant (OS) Certificate eligibility requirements:

i. possess a minimum of a baccalaureate degree verified by an institution in the United States accredited in accordance with 34 CFR 602, or if the institution is located in Louisiana, the dean of the College of Education must recommend the applicant for certification based upon Louisiana requirements and submit the original course-by-course evaluation including a statement verifying the comparability of the baccalaureate degree in the field of education, or if the institution is located in another state/country, the guidelines prescribed for out-of-state applicants must be followed; or

ii. credentials may be submitted to a credentialing agency that follows the standards of the American Association of Collegiate Registrars and Admissions Officers (AACRAO) for evaluation, and the original course-by-course evaluation must include a statement verifying the comparability of the baccalaureate degree in the field of education.

d. Foreign Applicant—Level 1 Certificate eligibility requirements:

i. possess a minimum of a baccalaureate degree verified by an institution in the United States accredited in accordance with 34 CFR 602, or if the institution is located in Louisiana, the dean of the College of Education must recommend the applicant for certification based upon Louisiana requirements with the original course-by-course evaluation including a statement verifying the comparability of the baccalaureate degree in the field of education, or if the institution is located in another state/country, the guidelines prescribed for out-of-state applicants must be followed; or

ii. credentials may be submitted by an agency that follows the standard of the American Association of Collegiate Registrars and Admissions Officers (AACRAO) for evaluation, and the original course-by-course evaluation for certification must include a statement verifying the comparability of the baccalaureate degree in the field of education; and

iii. present appropriate scores on the core exams for the principles of learning and teaching (PLT) or other pedagogy exam required for the area(s) of certification and the specialty area (content) exam(s) in the certification area(s) in which the teacher preparation program was completed or in which the initial certificate was issued.

(a). See §303 of this Part for exam substitutions.

B. Level 2 Professional Certificate eligibility requirements:

1. hold or meet eligibility requirements for a level 1 certificate;

2. successfully meet the standards of effectiveness for three years pursuant to state law and LAC 28:CXLVII (Bulletin 130):

a. all out-of-state experience must be verified as successful by the out-of-state employing authority or SEA; and

3. accrue three years of experience in an approved educational setting.

4. If the level 2 certificate is the initial certificate, a state-approved teacher preparation program provider must submit the request.

5. If the level 1 certificated teacher qualifies for advancement to a level 2 certificate, the request for the higher certificate must be submitted directly to the LDE by the employing authority.

C. Level 3 Professional Certificate eligibility requirements:

1. hold or meet eligibility requirements for a level 2 certificate;

2. earn a graduate degree from a college or university accredited in accordance with 34 CFR 602; and

3. have five years of experience in an approved educational setting.

a. All out-of-state experience must be verified as successful by the out-of-state employing authority or SEA.

4. If the level 3 certificate is initial certificate, a state-approved teacher preparation program provider must submit the request.

5. If the level 2 certificated teacher qualifies for advancement to a level 3 certificate, the request for the higher certificate must be submitted directly to the LDE by the employing authority.

D. Renewal/Extension Guidelines for Level 1, Level 2, and Level 3 Certificates

1. Level 1 certificate:

a. valid for three years initially and may be extended thereafter for a period of one year at the request of a Louisiana employing authority with extensions of Level 1 certificates being limited to two such extensions.

2. Level 2 and level 3 certificates:

a. valid for five years initially and may be renewed thereafter for a period of five years at the request of a

Louisiana employing authority, with renewal of level 2 and level 3 certificates, contingent upon candidates successfully meeting the standards of effectiveness for at least three years during the five-year initial or renewal period pursuant to state law and Bulletin 130.

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

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 48:

### **§509. Type C Certificates**

A. Effective July 1, 2002, type C certificates are no longer issued for initial certification. The type C certificate is valid for three years. Teachers who hold type B and type A lifetime certificates will continue to hold these certificates. Effective July 1, 2012, type B and type A lifetime certificates will no longer be issued to teachers holding type C certificates applying for advanced certificates. Teachers holding a type C certificate who wish to apply for more advanced certification credentials will be granted a level 2 certificate, upon meeting the standards of effectiveness for at least three years, pursuant to Bulletin 130 and R.S. 17:3902.

B. Type C Certificate Renewal Guidelines. The type C certificate may be renewed for an additional one-year period upon the request of the Louisiana employing authority, subject to the approval of the LDE. Type C certificates are limited to two such extensions.

C. Type B Certificate—a lifetime certificate for continuous service, provided the holder does not allow any period of five or more consecutive years of disuse to accrue where not a regularly employed teacher for at least one semester, or 90 consecutive days, and/or the certificate is not revoked by the Board of Elementary and Secondary Education (BESE).

D. Type A Certificate—a lifetime certificate for continuous service, provided the holder does not allow any period of five or more consecutive years of disuse to accrue where not a regularly employed teacher for at least one semester, or 90 consecutive days, and/or the certificate is not revoked by the BESE.

#### 1. Eligibility requirements:

- a. hold a type B or B\* certificate;
- b. successfully complete the local evaluation plan mandated by state law and Bulletin 130;
- c. earn a graduate degree from an institution of higher education accredited in accordance with 34 CFR 602; and
- d. have five years of experience in an approved educational setting.
  - i. All out-of-state experience must be verified as successful by the out-of-state employing authority or SEA.

2. The request for the higher certificate must be submitted directly to the LDE by the employing authority.

E. Process for Reinstating Lapsed Types B and A Certificates:

1. A certificate will lapse for disuse if the holder allows a period of five consecutive calendar years to pass where not a regularly employed teacher for at least one semester, or 90 consecutive days.

2. To reinstate a lapsed certificate, the holder must present evidence of earning six semester hours of credit in state-approved courses during the five-year period immediately preceding the request for reinstatement.

3. If the holder did not earn six semester hours or equivalent, the lapsed certificate may be reactivated upon request of the Louisiana employing authority at the level that was attained prior to disuse for a period of one year, during which time the holder must complete reinstatement requirements.

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

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 32:1798 (October 2006), amended LR 37:559 (February 2011), LR 38:3136 (December 2012), LR 43:1306 (July 2017), LR 45:1459 (October 2019), LR 46:1376 (October 2020).

### **§511. Out-of-State (OS) Certificate**

A. An out-of-state (OS) certificate, valid for a three-year period, is not renewable, and is issued to a teacher who has completed an out-of-state teacher preparation program and either holds or is eligible for a certificate in the state in which the program was completed. The teacher is not initially eligible for a level 1, 2, or 3 Louisiana certificate but meets Louisiana certification requirements with the exception of the Praxis/National Teacher Exam requirements. OS certification provides a transition period that permits the holder to be employed in Louisiana K-12 schools while completing Louisiana Praxis/NTE requirements or meeting Praxis exclusion eligibility requirements. For continued employment as a teacher in a Louisiana school system after the three-year period has elapsed, the OS certificate holder must fulfill guidelines for a level 1 or higher-level certificate.

#### B. OS Eligibility requirements:

1. earn a minimum of a baccalaureate degree from a college or university accredited in accordance with 34 CFR 602;
2. complete a teacher preparation program in another state;
3. hold a standard out-of-state teaching certificate, or if no certificate was issued, a letter from the state department of education or college of education dean verifying eligibility in that state for a certificate in the certification area(s);
4. complete student teaching or internship in a certification area, or in lieu of student teaching or internship have three years of successful teaching experience in a certification area;
5. if applicant earned a degree five or more years prior to the date of application, the educator must have been a regularly employed teacher for at least one semester, or 90 consecutive days, within the five year period immediately preceding first employment in Louisiana or application for a Louisiana certificate, or if lacking this experience, must earn six semester hours of credit in state-approved courses during the five year period immediately preceding application, and a candidate who has not taught in five years may be issued a

one-year non-renewable (OS1) certificate while completing six semester hours required for the issuance of a three-year non-renewable (OS) certificate; and

6. beginning January 1, 2017, the LDE will issue a letter of eligibility for an OS certificate to requesting teachers at the request of the Louisiana employing authority.

C. Advancing from OS to Professional Level 1, 2, or 3 Certificate

1. Pass all parts of exam(s) required for Louisiana certification identified in §303:

a. present appropriate scores on the core exams; the principles of learning and teaching (PLT) or other pedagogy exam required for the area(s) of certification, and the specialty area (content) exam in the certification area in which the teacher preparation program was completed or in which the initial certificate was issued:

i. (iii). See §303 of this Part for exam substitutions; and

b. if applicant has obtained national board certification (NBC) in corresponding areas for which certification is being sought as well as certification/licensure in the state of origin, the examination required for NBC will be accepted to fulfill the testing requirements for certification;

c. a candidate who is certified in another state can qualify for exclusion from the exam(s) required for Louisiana certification under the following criteria:

i. meet all requirements for Louisiana certification except the Praxis exam requirements with at least three years of successful teaching experience in another state, prior to issuance of the OS, as verified by the out-of-state employing authority or SEA, and teach on an OS certificate for one year in a Louisiana approved public or an approved nonpublic school system;

ii. the Louisiana employing authority verifies that completion of one year of successful teaching experience in a Louisiana approved public or an approved nonpublic school and has been recommended for further employment; and

iii. the employing authority requests issuance of a valid Louisiana teaching certificate.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1799 (October 2006), amended LR 33:433 (March 2007), LR 34:1611 (August 2008), LR 35:222 (February 2009), LR 35:894 (May 2009), LR 37:559 (February 2011), LR 37:882 (March 2011), LR 40:280 (February 2014), LR 43:1306 (July 2017), LR 45:1459 (October 2019), LR 46:1376 (October 2020), LR 48:

## **§515. Practitioner Licenses**

### **A. Issuance and Renewals**

1. Practitioner licenses (PL) 1 and 2 may be issued for one school year, renewed annually, and held a maximum of three years while the holder completes an alternate program. Upon completion of the three years of employment on a PL certificate, the holder must fulfill guidelines for a level 1 or higher-level certificate for continued employment in a Louisiana school system.

2. The practitioner license 3 may be issued for one school year, renewed annually, and held a maximum of four years while the holder completes an alternate program. Upon completion of the four years of employment on a PL certificate, the holder must fulfill guidelines for a level 1 or higher-level certificate for continued employment in a Louisiana school system.

3. Practitioner Licenses 1-3. Beginning with the 2020-2021 academic year, in order to obtain the first renewal only of a practitioner license 1, 2, or 3 certificate, practitioner candidates participating in a residency as a teacher of record, must receive mentorship by a school-based mentor teacher who may collaborate with other personnel providing mentoring support, in accordance with LAC 28:XLV (Bulletin 996).

a. The school-based mentor teacher must be credentialed in accordance with §553 or §1369 of this Chapter.

b. The mentorship must be at least 15 percent, or 5 hours per week, of the instructional time of the school.

c. The mentorship must include intensive support, including:

- i. co-teaching;
- ii. collaborative planning; and
- iii. observation and feedback sessions.

4. Eligibility requirements:

a. minimum of a non-education baccalaureate degree from a college or university accredited in accordance with 34 CFR 602;

b. 2.50 or higher undergraduate grade point average (GPA) on a 4.00 scale to enter a non-university provider program; or a 2.20 or higher undergraduate GPA on a 4.00 scale to enter a college or university program; or be granted conditional admittance into an alternate teacher preparation program following a satisfactory personal interview by the program admission officer; and

c. passing scores on core academic skills for educators and current Praxis content area exam(s), or if no examination has been adopted for Louisiana in the certification area, candidates must present a minimum of 30 semester hours of coursework specific to the content area for admission to the program. See §303 of this part for exam substitutions.

d. Special education mild/moderate certification candidates must qualify for admission to alternate programs by passing a Praxis specialty area exam, and secondary education candidates (grades 6-12) must pass a Praxis core subject area exam, or if there is no content Praxis exam adopted by the State in the specific secondary core subject area, candidates must demonstrate content mastery by presenting 30 semester credit hours in the core subject area.

5. The approved teacher preparation program provider shall submit the request for the initial practitioner license as well as renewals directly to the LDE.

6. Renewal Requirements. The candidate must remain enrolled in the practitioner teacher, certification-only, or master's degree alternate certification program and fulfill a minimum of six semester hours of coursework or equivalent contact hours per year for PL1, or nine semester hours or

equivalent contact hours per year for PI2/3 to the extent that required semester hours remain in the program to be completed, teaching assignments, and prescribed activities identified by the program provider.

a. Beginning with the 2020-2021 academic year, the first renewal only of a PL 1, 2, or 3 will be conducted in accordance with §515.A of this Chapter.

7. For certification purposes, non-university providers and colleges or universities will submit signed statements to the LDE indicating that the student completing the practitioner teacher, certification-only, or master's degree program alternative certification path meets the following requirements:

a. passed all licensure exams required for certification pursuant to §503; and

b. completed all program requirements including the residency with a 2.50 or higher GPA for candidates in a university program;

c. if an applicant who does not meet the requirement of Subparagraph b of this Paragraph, certification may be issued if the following requirements in an alternate teacher preparation program are met:

i. satisfactory completion a personal interview by the program admissions officer;

ii. if the program awards credit hours, the applicant shall achieve a minimum GPA of 3.00 in alternate teacher preparation program courses by the end of the first 12 credit hours and successfully complete the program;

iii. if the program does not award credit hours, the applicant shall demonstrate mastery of competencies as required by the program administrator and by the school system in which the applicant completes required clinical practice; and

iv. satisfactory completion of all program requirements as set forth by BESE, including any requirements for clinical practice, at graduation;

d. demonstrate proficiency in reading and literacy competencies through successfully completing the required number of credit or contact hours in reading and literacy as specified in LAC 28:XLV (Bulletin 996) or passing a reading competency assessment noting that the reading competency assessment for early childhood PK-3, elementary 1-5, and special education candidates is the Praxis teaching reading exam, and middle grades 4-8 and secondary grades 6-12 will be required to take the required reading course credit hours or equivalent contact hours until an appropriate reading competency assessment is developed and adopted; and

e. complete prescriptive plans as determined by the preparation provider.

8. The teacher is restricted to the specific grade level and content area as designated on the practitioner license as outlined in Bulletin 996.

B. Practitioner License 1 is issued to a candidate who is admitted to and enrolled in a state-approved practitioner teacher program. Program requirements must be completed within the three-year maximum that the license can be held.

C. Practitioner License 2 is issued to a candidate who is admitted to and enrolled in a state-approved certification-only alternate certification program. Program requirements must be completed within the three-year maximum that the license can be held.

D. Practitioner License 3 is issued to a candidate who is admitted to and enrolled in a state-approved master's degree alternate certification program. Program requirements must be completed within the four-year maximum that the license can be held.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1800 (October 2006), amended LR 35:221 (February 2009), LR 38:1952 (August 2012), LR 40:280 (February 2014), LR 43:1307 (July 2017), LR 45:1748 (December 2019), LR 46:326 (March 2020), LR 46:1376 (October 2020), LR 48:

### **§519. Standard Certificates for Teachers in Nonpublic Schools**

A. A standard certificate with an asterisk (\*) following the certificate type is issued to a teacher in a nonpublic school. If the teacher enters a public school system in Louisiana, the educator will be required to meet the standards of effectiveness pursuant to state law and in accordance with LAC 28:CXLVII (Bulletin 130) for issuance of a level 2 or level 3 teaching certificate.

B. Level 2\* (2-asterisk) Certificate—valid for five years.

1. Eligibility requirements:

a. a Louisiana level 1 certificate;

b. successfully taught for three years;

c. complete a teacher evaluation program for three years at a nonpublic school, with the principal as evaluator and the teacher performance rated as satisfactory in the areas of planning, management, instruction, and professional development.

2. The request for the level 2\* certificate must be submitted directly to the LDE by the Louisiana employing authority.

C. Level 3\* (3-asterisk) Certificate—valid for five years.

1. Eligibility requirements:

a. hold or be eligible to hold a Louisiana level 1, 2 or 2\* certificate;

b. successfully taught for five years;

c. graduate degree from college or university accredited in accordance with 34 CFR 602; and

d. complete a teacher evaluation program for three years at a nonpublic school, with the principal as evaluator and the teacher performance rated as satisfactory in the areas of planning, management, instruction, and professional development.

2. The request for the level 3\* certificate must be submitted directly to the LDE by the Louisiana employing authority.

3. Renewal Guidelines for Level 2\* and Level 3\* Certificates

a. A teacher must earn effective ratings per local personnel evaluations for at least three years during the five-year initial or renewal period.

b. The Louisiana employing authority must request renewal of a level 2\* or level 3\* certificate.

D. Type B\* (B-asterisk) Certificate—a lifetime nonpublic school certificate for continuous service, provided the holder does not allow any period of 5 or more consecutive years of disuse to accrue where not a regularly employed teacher for at least 1 semester, or 90 consecutive days, and/or certificate is not BESE.



1. Eligibility requirements:

- a Louisiana type B certificate;
- successfully taught for three years; and
- complete a teacher evaluation program for three years at a nonpublic school, with the principal as evaluator and the teacher performance rated as satisfactory in the areas of planning, management, instruction, and professional development.

2. The request for the type B\* certificate must be submitted directly to the LDE by the Louisiana employing authority.

3. The type B\* certificate is valid for life of continuous service in a nonpublic school setting, and if the teacher enters a Louisiana public/charter school the requirement shall be to complete the local evaluation plan mandated by state law and Bulletin 130 regulations.

E. Type A\* (A-asterisk) Certificate is valid for life for continuous service in a nonpublic school setting, provided the holder does not allow any period of 5 or more consecutive years of disuse to accrue where not a regularly employed teacher for at least 1 semester, or 90 consecutive days, and/or the certificate is not revoked by the BESE.

1. Eligibility requirements:

- a Louisiana type B, or type B\* certificate;
- successfully taught for five years;
- graduate degree from a college or university accredited in accordance with 34 CFR 602; and
- complete a teacher evaluation program for three years at a nonpublic school, with the principal as evaluator and the teacher performance rated as satisfactory in the areas of planning, management, instruction, and professional development.

2. The request for the type A\* certificate must be submitted directly to the LDE by the Louisiana employing authority.

3. The type A\* certificate is valid for life of continuous service in a nonpublic school setting, and if the teacher enters a Louisiana public school the requirement shall be to successfully complete the local evaluation plan mandated by state law and Bulletin 130.

F. Reinstating Lapsed Types B\* or A\* Certificate

1. If the holder of a type B\*, or type A\* certificate allows a period of five consecutive calendar years to pass in which the educator is not a regularly employed teacher for at least one semester, or 90 consecutive days, the certificate will lapse for disuse.

2. To reinstate a lapsed certificate, the holder must present evidence that the educator earned six semester hours of credit in state-approved courses during the five-year period immediately preceding the request for reinstatement.

3. If the holder did not earn six semester hours or equivalent, the lapsed certificate may be reactivated upon request of the Louisiana employing authority at the level that was attained prior to disuse for a period of one year, during which time the holder must complete reinstatement requirements.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1801 (October 2006),

amended LR 36:752 (April 2010), LR 37:559 (February 2011), LR 38:1952 (August 2012), LR 43:1309 (July 2017), LR 46:1377 (October 2020), LR 48:

## Subchapter B. Nonstandard Teaching Credentials

### §525. Introduction

A. There are five types of nonstandard teaching credentials issued in Louisiana: temporary authority to teach (TAT); out-of-field authorization to teach (OFAT); temporary employment permit (TEP); nonpublic temporary certificate (T); and resident teacher certificate (R). Nonstandard credentials are of a temporary nature but may be renewed under specified guidelines.

B. Medical Excuse and Exceptions. Exceptions to policy will be considered in the case of serious medical condition or unavailability of required coursework or exams. When serious medical problems of the teacher or immediate family exist, a doctor statement is required with a letter of assurance from the teacher that the unmet policy requirements will be completed within one year of the exception being granted. The final authority for approval and policy flexibility is at the discretion of the LDE in accordance with BESE policy.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1803 (October 2006), LR 43:1311 (July 2017), LR 48:

### §527. Temporary Authority to Teach (TAT)

A. Temporary authority to teach (TAT) is issued for one calendar year, while the holder pursues alternate certification program admission requirements or certification requirements. A TAT cannot be issued to teachers who previously held a temporary employment permit (TEP) or a standard teaching certificate.

B. Eligibility Requirements:

1. The applicant must teach in a demonstrated area of need as evidenced by LEA-level workforce needs.

2. The applicant must have a baccalaureate or higher degree from an institution accredited in accordance with 34 CFR 602.

3. The applicant must possess passing scores on the core academic skills for educators in reading and writing examinations or appropriate scores on the ACT or SAT.

a. See §303 for exam substitutions.

4. The applicant must have at least a 2.20 undergraduate GPA. An applicant who does not meet the GPA requirement may be certified upon satisfactory completion of a personal interview by the employing school system.

C. The employing school system must submit the application and provide an affidavit signed by the local superintendent, or the designee, verifying that good faith efforts for recruiting certified personnel have been made, including posting all positions for which TATs are issued and that there is no regularly certified, competent, and suitable person available for the position.

D. Renewal Requirements

1. TATs are valid for one year initially and may be renewed twice thereafter provided:

a. the applicant provides evidence that the required exam(s) for admission into a teacher preparation program has been taken at least twice since the issuance of the TAT;

b. the applicant provides evidence of meeting the standards of effectiveness pursuant to Bulletin 130;

c. the employing school system submits the application on behalf of the applicant and provides an affidavit signed by the local superintendent, or the designee, verifying that good faith efforts for recruiting certified personnel have been made, including posting all positions for which TATs are issued; and

d. there is no regularly certified, competent, and suitable person available for the position.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1803 (October 2006), amended LR 36:2547 (November 2010), LR 40:280 (February 2014), LR 44:2000 (November 2018), LR 45:1750 (December 2019), LR 48:

### **§529. Out-of-Field Authorization to Teach (OFAT)**

A. Out-of-Field Authorization to Teach (OFAT) is issued for one three-year period while the holder pursues endorsement or add-on certification requirements. The OFAT is limited to two certification areas and is transferable to other employing school systems for the remaining validity period. If the teacher is actively pursuing certification in the field and the LDE has designated the area as an area that requires extensive hours for completion, up to two additional years of renewal may be granted. Issuance of subsequent OFAT requests may be considered once the previous OFAT certification area(s) have been added to the holder's standard teaching certificate.

B. Eligibility requirements:

1. issued to an applicant who holds a valid Louisiana out-of-state certificate;

2. temporary employment permit; or

3. a type C, type B or B\* type A or A\*, level 1, level 2 or 2\*, or level 3 or 3\* or OS teaching certificate but is teaching outside of the certified area(s).

C. OFAT Stipulations:

1. LEAs must submit the application and provide an affidavit signed by the local superintendent, or the designee, verifying that good faith efforts for recruiting certified personnel have been made, including consulting the Teach Louisiana website, and that there is no regularly certified, competent, and suitable person available for the position, and that the applicant is the best-qualified person for the position.

2. If the teacher is actively pursuing certification in the field and the LDE designates the area as an area that requires extensive hours for completion, up to two additional years of renewal may be granted. Designated areas are as follows:

a. applicants pursuing certification in academically gifted, significant disabilities, early interventionist, deaf or hard of hearing, and visual impairments/blind may be granted two additional years of renewal; and

b. applicants pursuing certification in mild/moderate may be granted one additional year of renewal.

D. COVID-19 OFAT Extensions. Educators for whom the 2019-2020 school year was the final year of OFAT validity period and who were unable to successfully meet endorsement or add-on certification requirements due to the COVID-19 pandemic, shall be granted a one-year OFAT extension for the 2020-2021 school year. This OFAT extension is only available to educators employed in 2019-2020 as reported by school systems in the Profile for Educational Personnel (PEP).

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1804 (October 2006), amended LR 33:2355 (November 2007), LR 35:1487 (August 2009), LR 43:1311 (July 2017), LR 46:1377 (October 2020), LR 48:

### **§535. Resident Teacher Certificate (R)**

A. Beginning July 1, 2018, the resident teacher certificate (R) shall be required for individuals completing a one-year residency required for certification in Louisiana pursuant to Bulletin 996.

B. Resident teacher certificates are valid for one school year, are renewable, and may be held a maximum of three years while the holder pursues certification through a BESE-approved teacher preparation program.

C. Eligibility guidelines:

1. enrollment in a BESE-approved traditional, master's degree, or certification-only teacher preparation program;

2. placement in a classroom in a public or approved nonpublic school with a teacher of record who holds a valid level 1, 2, 3, type A, or type B teaching certificate in the area for which the candidate is pursuing certification pursuant to Bulletin 746;

a. resident teachers placed in charter schools must be placed with a teacher of record who has demonstrated effectiveness pursuant to state law and Bulletin 130; and

3. passing scores on required core academic skills exams for initial issuance, including exam substitutions outlined §303 of this Part.

D. Renewal Guidelines: Passing scores on required content knowledge exams for renewal.

E. The request for the Resident Teacher license as well as renewal requests must be submitted directly to the LDE by the preparation provider.

F. The LDE will begin issuing resident teacher certificates to candidates completing residencies in BESE-approved programs with one-year residencies beginning July 1, 2017.

G. There shall be no fee charged for the resident teacher certificate issuance.

H. Holders of the resident teacher certificate may serve as a substitute teacher in the residency school system for up to ten days each semester. Such service shall not impede residency performance or ability to successfully complete the preparation program.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:1312 (July 2017), amended LR 1377 (October 2020), LR 48:

### **Subchapter C. Ancillary Teaching Certificates**

#### **§537. Introduction**

##### **A. Types of Ancillary Certificates**

1. Ancillary certificates are issued by the LDE for individuals who provide teaching, support, administrative, or supervisory services to children in pre-kindergarten through twelfth grade schools and early learning centers serving children from birth to five years old.

a. See Chapter 7 of this Part regarding ancillary certificates issued for individuals who provide support services in pre-kindergarten through twelfth grade schools and early learning centers serving children from birth to five years old.

b. See Chapter 15 of this Part regarding ancillary certificates issued for individuals who provide administrative and supervisory services in pre-kindergarten through twelfth grade schools.

2. Types of ancillary teaching certificates are as follows:

- a. ancillary artist or talented;
- b. early childhood ancillary;
- c. nonpublic Montessori teacher;
- d. family and consumer sciences (occupational programs);
- e. Junior Reserve Officers Training Corps (JROTC) instructor;
- f. math for professionals;
- g. mentor teacher ancillary; and
- h. content leader ancillary.

3. Non-Practicing status or operational role status for ancillary teaching certificates may be granted in accordance with §505 of this Part.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1805 (October 2006), amended LR 41:917 (May 2015), LR 45:230 (February 2019), LR 46:1378 (October 2020), LR 48:

#### **§541. Early Childhood Ancillary Certificate**

A. The early childhood ancillary certificate authorizes an individual to teach in a publicly-funded early learning center serving children ages birth to five as defined in R.S. 17:407.33, unless program requirements mandate a professional-level certificate. After June 30, 2019, an individual shall have, at a minimum, an early childhood ancillary certificate to serve as a lead teacher in a publicly-funded early learning center.

##### **B. Early Childhood Ancillary Certificates**

1. Eligibility Requirements. An early childhood ancillary certificate shall be issued to an applicant who submits evidence of one of the following to the LDE:

- a. a baccalaureate degree or higher from a college or university accredited in accordance with 34 CFR 602;
- b. a current child development associate (CDA) credential, either infant/toddler, preschool or family childcare, awarded by the Council for Professional Recognition and a high school diploma or equivalent:
  - i. after July 1, 2018, all 120 clock hours of coursework for the CDA must be earned from a BESE-

approved early childhood ancillary certificate program provider for initial issuance:

(a). an individual who has completed 36 or more clock hours of coursework for the CDA by July 1, 2018, may complete the remaining coursework for the CDA from any CDA provider;

(b). an individual who has not completed 36 or more clock hours of coursework for the CDA by July 1, 2018, must earn all 120 hours of coursework for the CDA from a BESE-approved early childhood ancillary certificate program provider;

(c). after July 1, 2018, individuals may submit a request to the LDE to waive the requirement that all 120 hours of coursework for the CDA be obtained from a BESE-approved early childhood ancillary certificate program if the individual is able to demonstrate unavailability of enrollment options within a reasonable geographic proximity;

ii. after July 1, 2018, applicants who obtained a CDA or completed coursework from a provider that is not BESE-approved while residing in another state shall submit additional documentation of program components for approval;

iii. coursework counting toward the early childhood ancillary certificate shall include at least 10 training hours in each of the following subject areas:

- (a). planning and implementing a safe and healthy learning environment;
- (b). advancing physical and intellectual development;
- (c). supporting social and emotional development;
- (d). building productive relationships with families;
- (e). managing an effective program operation;
- (f). maintaining a commitment to professionalism;
- (g). observing and recording child behavior; and
- (h). understanding principles of child development and learning;

c. an associate degree in an early childhood related field from a college or university accredited in accordance with 34 CFR 602;

d. a technical diploma or certificate of technical studies in an early childhood related field from an accredited technical or community college:

i. after July 1, 2018, all coursework for technical diplomas and certificates of technical studies must be earned from a BESE-approved provider;

ii. after July 1, 2018, individuals may submit a request to the LDE to waive the requirement that coursework be obtained from a BESE-approved early childhood ancillary certificate program if the individual is able to demonstrate unavailability of enrollment options within a reasonable geographic proximity; and

e. a career diploma that has been approved by the Louisiana Pathways Career Development System, and in which coursework began prior to July 1, 2018.

##### **2. Renewal Requirements:**

a. For individuals meeting eligibility requirements with a CDA, the early childhood ancillary certificate shall be valid for a three-year period. The ancillary certificate may be renewed by the LDE at the request of the applicant employer

with submission of either documentation of a renewed CDA credential, awarded by the Council for Professional Recognition, or documentation of:

i. either a 3 credit-hour course or 45 clock hours of approved training or professional development in early childhood care and education; and

ii. a minimum of 80 hours of work experience with young children or families with young children within the last three years.

b. For individuals meeting eligibility requirements with a baccalaureate degree or higher, associate degree, technical diploma, certificate of technical studies, or career diploma, the early childhood ancillary certificate shall be valid for a three-year period. The certificate may be renewed by the LDE at the request of the applicant's employer with submission of documentation of:

i. either a 3 credit-hour course, 45 clock hours of training in early childhood care and education or a CDA credential earned from a BESE-approved early childhood ancillary certificate program and awarded by the council for Professional Recognition; and

ii. a minimum of 80 hours of work experience with young children or families with young children within the last three years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:17:6(A)(10), (11), and (15), R.S. 17:7(6), and R.S. 17:407.81.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:917 (May 2015), amended LR 43:2135 (November 2017), LR 46:1378 (October 2020), LR 48:

#### **§549. Math for Professionals Certificate**

A. An ancillary math for professionals certificate is issued to an applicant who has an undergraduate degree from a university accredited in accordance with 34 CFR 602 and/or evidence of a math and/or science work-related background.

B. Math for professionals certificate allows an individual to teach one or more mathematics courses.

C. Eligibility requirements:

1. meets at least one of the following:

a. earned 30 credit hours of mathematics;

b. earned a graduate degree in mathematics, engineering, or science content area; or

c. successful passing of the Praxis Secondary Mathematics: Content Knowledge test.

2. recommendation and support of current employing school system. Written request is required from the Louisiana employing authority indicating that the person will be employed in the area upon issuance of certification;

3. complete a district developed classroom readiness/training program, based on state guidelines.

D. Renewal requirements. Valid for three years initially and may be renewed thereafter for a period of five years at the request of an LEA. For renewal of the certificate, a candidate must successfully meet the standards of effectiveness for at least three years during the initial or renewal period in accordance with LAC 28:CXLVII (Bulletin 130) and R.S. 17:3902.

E. The holder of such certification is not eligible for tenure.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 35:220 (February 2009), amended LR 39:1463 (June 2013), LR 40:281 (February 2014), LR 44:2000 (November 2018), LR 45:228 (February 2019), LR 46:1378 (October 2020), LR 48:

#### **§553. Mentor Teacher (MT) Ancillary Certificate**

A. Beginning September 1, 2020, the mentor teacher ancillary certificate will be required for individuals who serve as a mentor of undergraduate or post-baccalaureate teacher residents.

B. Provisional MT Certification. Individuals serving as mentors who have not successfully completed a BESE-approved mentor training program or mentor assessments will be issued a nonrenewable provisional mentor teacher ancillary certificate, valid for one calendar year from the date of issuance while the holder completes a BESE-approved mentor training program or mentor assessments.

C. Provisional certification eligibility requirements:

1. hold, or be eligible to hold, a valid type C, level 1 or higher Louisiana teaching certificate; or

2. if teaching in a charter school without a valid type C, level 1 or higher certificate, have at least two years of successful teaching in accordance with LAC 28:CXLVII (Bulletin 130) and R.S. 17:3902; or

3. if teaching in a nonpublic school without a valid type C, level 1, or higher certificate earn at least two years of effective ratings per local personnel evaluations; and

4. all out-of-state experience must be verified as successful by the out-of-state employing authority or SEA; and

5. enroll in a BESE-approved mentor training program.

D. MT Ancillary Certification. Individuals who have completed a BESE-approved mentor teacher training program and earn a passing score on the Louisiana mentor teacher assessment series will be issued a mentor teacher ancillary certificate. For teachers holding a valid type C, Level 1 or higher Louisiana teaching certificate, see §1369 of this Part. The LDE will begin issuing mentor teacher ancillary certificates no later than July 1, 2019.

E. MT Ancillary certification eligibility requirements:

1. if teaching in a charter school without a valid type C, level 1 or higher certificate, have at least two years of successful teaching in accordance with LAC 28:CXLVII (Bulletin 130) and R.S. 17:3902; or

2. if teaching in a nonpublic school without a valid type C, level 1, or higher certificate earn at least two years of effective ratings per local personnel evaluations; and

3. all out-of-state experience must be verified as successful by the out-of-state employing authority or SEA;

4. successfully complete a BESE-approved mentor teacher training program; and

5. earn a passing score on the Louisiana mentor teacher assessment series.

6. Individuals who successfully complete LDE mentor teacher training from November 1, 2017 through July 31, 2020, are eligible for the mentor teacher ancillary certificate after passing the Louisiana mentor teacher assessment series.

7. Individuals who hold National Board certification are eligible for mentor teacher ancillary certification after passing the coaching-related components of the Louisiana mentor teacher assessment series.

8. Individuals who currently hold or are eligible to hold National Institute for Excellence in Training (NIET) Teacher Evaluator Training Certification may apply for the ancillary certificate, which makes the individual eligible to serve as a mentor of undergraduate or post-baccalaureate teacher residents.

9. Certified CLASS® observers may apply for the ancillary certificate and upon issuance are eligible to serve as mentors of undergraduate or post-baccalaureate residents.

F. MT Ancillary Certificate Renewal Guidelines. Mentor teacher ancillary certificates are valid for five years and may be renewed at the request of the employing authority.

1. Teachers in charter schools who do not hold a level 1, 2, or 3 certificate must successfully meet the standards of effectiveness for at least three years during the five-year renewal period in accordance with LAC 28:CXLVII (Bulletin 130) and R.S. 17:3902.

2. Teachers in nonpublic schools who do not hold a level 1, 2, or 3 certificate must earn effective ratings per local personnel evaluations for at least three years during the five-year renewal period in order to renew the mentor teacher ancillary certificate.

G. For the 2020-2021 and 2021-2022 school years, the requirement that all undergraduate residents and post-baccalaureate candidates be placed with mentor teachers holding the ancillary mentor teacher certificate, the ancillary provisional mentor teacher certificate, or the Supervisor of Student Teaching certificate, is waived with the following contingencies:

1. Mentor teacher waivers will be granted on a case-by-case basis through the application process established by the LDE and at no fee to the applicant, school system, or teacher preparation provider;

2. The waiver will be issued by the LDE for educators highly recommended by the mentor's principal and who possess one or more of the following qualifications:

- a. Two years of Highly Effective Compass ratings;
- b. National Board Certification;
- c. Statewide or national distinction for excellence in teaching;
- d. Experience as a TAP mentor, master teacher, executive master teacher or certified TP evaluator;
- e. Content leader experiences, as evidenced by participation in Content Leader training or redelivery of professional development; or
- f. Master's or doctorate in education and exemplary experience hosting student teachers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:3902.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 45:230 (February 2019), amended LR 45:1460 (October 2019), LR 46:1379 (October 2020), LR 48:

#### **§555. Content Leader (CL) Ancillary Certificate (Optional)**

A. The content leader ancillary certificate is an optional certificate that districts may require. The LDE will begin issuing content leader ancillary certificates to candidates no later than July 1, 2019.

B. CL Ancillary Certificate eligibility requirements:

1. if teaching in a charter school without a valid type C, level 1 or higher certificate, have at least two years of

successful teaching in accordance with LAC 28:CXLVII (Bulletin 130) and R.S. 17:3902; or

2. if teaching in a nonpublic school without a valid type C, level 1, or higher certificate, earn at least two years of effective ratings per local personnel evaluations; and

3. all out-of-state experience must be verified as successful by the out-of-state employing authority or SEA;

4. successfully complete a BESE-approved content leader training program; and

5. have a passing score on the Louisiana content leader assessment series (see §303 of this Part).

C. Individuals who have successfully completed LDE content leader training from November 1, 2017 through July 31, 2020, in accordance with Paragraph 1 of this Subsection, are eligible for content leader ancillary certification.

D. Renewal Guidelines. The content leader ancillary certificate is valid for a period of five years and may be renewed at the request of the employing authority.

1. Teachers in charter schools who do not hold a level 1, 2, or 3 certificate must successfully meet the standards of effectiveness for at least three years during the five-year renewal period in accordance with LAC 28:CXLVII (Bulletin 130) and R.S. 17:3902.

2. Teachers in nonpublic schools who do not hold a level 1, 2, or 3 certificate must earn effective ratings per local personnel evaluations for at least three years during the five-year renewal period in order to renew the mentor teacher ancillary certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:3902.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 45:231 (February 2019), amended LR 45:1460 (October 2019), LR 48:

#### **Subchapter D. Special Considerations for Teachers Called to Active Military Duty**

##### **§557. Introduction**

A. A teacher employed on a Louisiana certificate of any type who is called to active military duty will not be penalized for the time spent in active service. The educator must present copies of official documents indicating beginning and ending dates of active military duty when applying for renewal or extension of the certificate.

B. For the period of military service:

1. non-practicing status may be requested by the educator for the time in active service; and

2. additional time commensurate with the amount of time spent in active duty will be added to the validity period on the temporary or regular certificate, for the school year(s) or portion thereof spent in active military service.

C. Upon completion of the validity period, the renewal guidelines for temporary and/or regular certificates are effective.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1806 (October 2006), amended LR 48:

#### **Chapter 7. Ancillary School Service Certificates**

##### **§701. Introduction**

A. An individual must have an official license or certificate from the state to provide services to children in a Louisiana school setting. An ancillary certificate allows a

qualified person who is not a certified teacher to provide such services. The holder of an ancillary certificate is authorized to perform only those services that are specifically stated on the certificate in Louisiana school systems.

B. Non-Practicing Status for all Ancillary Teaching Certificates or Operational Role Status for Ancillary Teaching Certificates may be issued by the LDE in accordance with §505.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1807 (October 2006), amended LR 34:432 (March 2008), LR 48:

### **Subchapter A. General Ancillary School Certificates**

#### **§703. Child Nutrition Program Supervisor**

A. For certificates issued July 1, 2020 and beyond, minimum eligibility requirements:

1. LEAs with a student enrollment of 2,499 or less:

a. at least 8 hours of food safety training is required either not more than five years prior to the date of employment or completed within 30 calendar days of the date of employment; and

i. a bachelor's degree, or equivalent educational experience, with an academic major or concentration in food and nutrition, food service management, dietetics, family and consumer sciences, nutrition education, culinary arts, business, or a related field; or

ii. a bachelor's degree, or equivalent educational experience, with any academic major or area of concentration, and either a state-recognized certificate for school nutrition directors or at least one year of relevant food service experience; or

iii. an associate's degree, or equivalent educational experience, with an academic major or concentration in food and nutrition, food service management, dietetics, family and consumer sciences, nutrition education, culinary arts, business, or a related field, and at least one year of relevant school nutrition program experience; or

iv. a high school diploma or state-issued high school equivalency credential and three years of relevant food service experience;

2. LEAs with a student enrollment of 2,500 - 9,999:

a. at least 8 hours of food safety training is required either not more than five years prior to the date of employment or completed within 30 calendar days of the date of employment; and

i. a bachelor's degree, or equivalent educational experience, with an academic major or concentration in food and nutrition, food service management, dietetics, family and consumer sciences, nutrition education, culinary arts, business, or a related field; or

ii. a bachelor's degree, or equivalent educational experience, with any academic major or area of concentration, and a state-recognized certificate for school nutrition directors; or

iii. a bachelor's degree in any academic major and at least two years of relevant school nutrition program experience; or

iv. an associate's degree, or equivalent educational experience, with an academic major or concentration in food and nutrition, food service management, dietetics, family

and consumer sciences, nutrition education, culinary arts, business, or a related field, and at least two years of relevant school nutrition program experience;

3. for Child Nutrition Program supervisors in LEAs with a student enrollment of 10,000 or more:

a. at least 8 hours of food safety training is required either not more than five years prior to the date of employment or completed within 30 calendar days of the date of employment and:

i. a bachelor's degree, or equivalent educational experience, with academic major or concentration in food and nutrition, food service management, dietetics, family and consumer sciences, nutrition education, culinary arts, business, or a related field; or

ii. a bachelor's degree, or equivalent educational experience, with any academic major or area of concentration, and a state-recognized certificate for school nutrition directors; or

iii. a bachelor's degree in any major and at least five years of experience in management of school nutrition programs.

B. Renewal Guidelines. Valid for one year and renewable each year thereafter upon presentation of completion of twelve hours of annual continuing education/training. The annual training must include, but is not limited to, administrative practices including training in school meal application, certification and verification, and meal counting and claiming procedures, as applicable, and any other specific topics, as needed, to address program integrity or other critical issues. Continuing education/training required under this paragraph is in addition to the food safety training required in the first year of employment under §703 of this Part.

C. Reinstatement of a Lapsed Certificate. If a certificate holder allows a period of one calendar year to elapse where not employed as a child nutrition program supervisor, the applicant must verify evidence of having met the hiring standards under §703 of this Part.

D. Provisional Certificate. A provisional certificate may be issued to an individual employed as an acting child nutrition program supervisor.

1. Eligibility Requirements. For provisional certificates issued September 1, 2021 and beyond, the minimum requirements include:

a. High school diploma (or equivalent);

b. 2 years of relevant school nutrition programs experience; and

c. at least 8 hours of food safety training either not more than five years prior to the date of employment or completed within 30 calendar days of the date of employment.

2. Renewal Guidelines. Valid for one year initially and renewable each year thereafter upon presentation of 12 hours of annual food service continuing education/training. A provisional certificate may be issued for a maximum of five years.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1807 (October 2006), amended LR 33:280 (February 2007), LR 34:432 (March 2008), LR 46:1379 (October 2020), LR 48:

## **§705. Counselor K-12 (Counselor in a School Setting)**

A. Eligibility Requirements Prior to June, 30, 2017. For candidates who completed all courses and degree requirements by June 30, 2017, the endorsement add-on requirements include:

1. graduate degree in school counseling from an institution accredited in accordance with 34 CFR 602 or a graduate degree with the equivalent hours and courses required for a graduate degree in school counseling; and

2. graduate training that includes 24 semester hours of professional courses distributed so that at least one course will be taken in each of the following basic areas:

a. principles and administration of school counseling programs;

b. career and lifestyle development;

c. individual appraisal;

d. counseling theory and practice;

e. group processes;

f. human growth and development;

g. social and cultural foundations in counseling; and

h. supervised practicum in a school setting.

B. Eligibility requirements after June 30, 2017:

1. completion of a standards-based graduate degree program in counseling from a college or university accredited in accordance with 34 CFR 602 and approved by the Council for Accreditation of Counseling and Related Educational Program (CACREP), and candidates completing counseling programs not in the specialty area of school counseling must complete six credit hours of school counseling courses from a CACREP-accredited program;

2. practicum/internship requirements:

a. complete a practicum in counseling from a CACREP-accredited program to include 100 contact hours; and

b. complete an internship in counseling from a CACREP-accredited program to include 600 contact hours in a school setting; and

3. pass the PRAXIS examination in school guidance and counseling (0421 or 5421).

C. Renewal Requirements. Certification is issued for a period of five years. For purposes of maintaining a valid counseling certificate, any school counselor receiving initial or renewal certification after July 1, 2013, must successfully meet the standards of effectiveness for at least three years during the five-year validity period in accordance with Bulletin 130 and R.S. 17:3902.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1807 (October 2006), amended LR 38:1400 (June, 2012), LR 39:1463 (June 2013), LR 45:1055 (August 2019), LR 48:

## **§711. School Librarian**

A. School Librarian eligibility requirements:

1. master's degree in library science from an institution accredited in accordance with 34 CFR 602; and

2. passing score on Praxis Library Media Specialist examination.

B. Renewal requirements:

1. candidates must successfully meet the standards of effectiveness for at least three years during the five-year period of validity pursuant to Bulletin 130 and R.S. 17:3902;

2. the Louisiana employing authority must request renewal of an ancillary school librarian certificate; and

3. valid for five years.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1808 (October 2006), repromulgated LR 33:1617 (August 2007), amended LR 36:489 (March 2010), LR 39:1463 (June 2013), LR 46:1380 (October 2020), LR 48:

## **§715. School Nurse**

A. Type C School Nurse—valid for three years.

1. Eligibility requirements:

a. current Louisiana licensure as a registered professional nurse; and

b. minimum of two years of experience as a registered nurse.

2. Renewal Guidelines. May be renewed once for a three year period, upon presentation of a copy of current Louisiana licensure as a registered professional nurse and upon request of Louisiana employing authority.

B. Type B School Nurse—valid for five years.

1. Eligibility requirements:

a. current Louisiana licensure as a registered professional nurse; and

b. three years of experience as a type C school nurse.

2. Renewal Guidelines. May be renewed for a five year period, upon presentation of a copy of current Louisiana licensure as a registered professional nurse and upon request of Louisiana employing authority.

C. Type A School Nurse—valid for five years.

1. Eligibility requirements:

a. current Louisiana licensure as a registered professional nurse;

b. baccalaureate degree in nursing or a health-related field from a college or university accredited in accordance with 34 CFR 602; and

c. five years of experience as a certified type B school nurse.

2. Renewal Guidelines. May be renewed for a five year period, except for those with a current certificate that is valid for life of continuous service. upon presentation of a copy of current Louisiana licensure as a registered professional nurse and upon request of Louisiana employing authority.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1808 (October 2006), amended LR 36:1998 (September 2010), LR 37:883 (March 2011), LR 38:44 (January 2012), LR 38:2366 (September 2012), LR 46:1380 (October 2020), LR 48:

## **Subchapter B. School Therapists**

### **§725. Overview**

A. School Art Therapist—Valid as long as holder remains in the same school system.

1. Eligibility requirements:

a. verify successful completion of accredited art therapy degree program, and current registration or membership in the American Art Therapy Association; and

b. meet requirements of the educational program:

- i. three semester hours, Introduction to Education of Exceptional Children; and
- ii. three semester hours, Psychology of Exceptional Children; and
- c. 50 percent of preclinical experience must have been directed toward a population aged zero through 21 years, in both institutional and school settings.

2. Renewal Guidelines. The LEA must request renewal with any change of employment to another school system.

B. Dance Therapist—valid as long as holder remains in same school system.

1. Graduate Level

a. Eligibility requirements:

- i. graduate degree in dance therapy;
- ii. requirements of the educational program:
  - (a) three semester hours, Introduction to Education of Exceptional Children; and
  - (b) three semester hours, Psychology of Exceptional Children;
- iii. current registration or membership in the American Dance Therapy Association.

b. Renewal Guidelines: The Louisiana employing authority must request a renewal with any change of employment to another school system.

2. Bachelor's Level

a. Eligibility requirements:

- i. bachelor's degree in dance therapy;
- ii. requirements of the educational program:
  - (a) three semester hours, Introduction to Education of Exceptional Children; and
  - (b) three semester hours, Psychology of Exceptional Children;
- iii. practicum for two semesters in both a clinical and a school setting with fifty percent of the practicum involving work with a population aged zero through 21 years; and
- iv. current registration or membership the American Dance Therapy Association.

b. Renewal Guidelines. The LEA must request renewal with any change of employment to another school system.

C. Music Therapist—valid as long as holder remains in same school system.

1. Eligibility requirements:

- a. evidence of successful completion of an accredited music therapy degree program, and registration by the National Association of Music Therapy, Inc.;
- b. meet the course requirements of the music therapy component of the degree program to include:
  - i. three semester hours, Introduction to Education of Exceptional Children;
  - ii. three semester hours, Psychology of Exceptional Children; and
  - iii. recreational music; and
  - iv. school music; and
- c. 50 percent of pre-clinical and clinical experiences should be directed toward a population aged zero through 21 years, in both institutional and school settings.

2. Renewal Guidelines. The LEA must request renewal with any change of employment to another school system.

D. Occupational Therapy

1. Certified Licensed Occupational Therapist Assistant (COTA)—valid for five years; renewable.

a. Eligibility Requirements. A valid COTA license to practice occupational therapy in Louisiana in compliance with R.S. 37:3001-3014, as administered by the Board of Medical Examiners; and

b. must work under the supervision of a Licensed Occupational Therapist.

c. Renewal Guidelines. Applicant must present copy of current licensure, and renewal request submitted by the LEA.

2. Occupational Therapist Provisional Certification—valid for two years.

a. Eligibility Requirements. A temporary license to practice occupational therapy in Louisiana in compliance with R.S. 37:3001-3014, as administered by the Louisiana State Board of Medical Examiners.

b. Renewal Guidelines—nonrenewable.

3. Occupational Therapist Full Certificate—valid for five years; renewable.

a. Eligibility Requirements. A valid license to practice occupational therapy in Louisiana in compliance with R.S. 37:3001-3014, as administered by the Board of Medical Examiners.

b. Renewal Guidelines. Applicant must present copy of current licensure, and renewal request submitted by the LEA.

E. Physical Therapy

1. Physical Therapist Assistant (PTA)—valid for five years.

a. Eligibility Requirements. A valid PTA license to assist in the practice of physical therapy in compliance with R.S. 37:2401-2424, as administered by the Louisiana State Board of Physical Therapy Examiners.

b. A PTA must work under the supervision of a licensed physical therapist.

c. Renewal Guidelines. Applicant must present a copy of current licensure, and renewal request submitted by the LEA.

2. Physical Therapist Provisional Certification—valid for two years.

a. Eligibility Requirements. A temporary license to practice physical therapy in compliance with R.S. 37:2401-2424, as administered by the Louisiana State Board of Physical Therapy Examiners.

b. Renewal Guidelines—nonrenewable.

3. Physical Therapist Full Certificate—valid for five years.

a. Eligibility Requirements: a valid Louisiana license to practice physical therapy in compliance with R.S. 37:2401-2424, as administered by the Louisiana State Board of Physical Therapy Examiners.

b. Renewal Guidelines: Applicant must present a copy of current licensure, and renewal request submitted by the LEA.

F. Certified Behavior Analyst

1. Assistant Behavior Analyst (BCaBA)

a. Eligibility requirements:

i. bachelor's degree from a college or university accredited in accordance with 34 CFR 602;



- ii. current assistant level certification issued by the Behavior Analyst Certification Board (BACB) or other nationally credentialing bodies as approved by the BACB;
- iii. the word assistant designates that direct supervision by a BCBA is required; and
- iv. a written request from the Louisiana employing authority indicating that the person will be employed upon certification issuance.

b. **Renewal Guidelines.** This certificate is valid provided the holder maintains current level certification issued by the Behavior Analyst Certification Board (BACB) or other nationally credentialing bodies as approved by the BACB. A worker who changes employing school systems must provide a copy of current certification issued by BACB to serve as a behavior analyst.

2. Behavior Analyst (BCBA)

a. Eligibility requirements:

- i. graduate degree from a college or university accredited in accordance with 34 CFR 602;
- ii. current behavior analyst certification issued by the Behavior Analyst Certification Board (BACB) or other nationally credentialing bodies as approved by the BACB; and
- iii. a written request from the LEA indicating that the person will be employed upon certification issuance.

b. **Renewal Guidelines.** This certificate is valid provided the holder maintains current level certification issued by the Behavior Analyst Certification Board (BACB) or other nationally credentialing bodies as approved by the BACB. A worker who changes employing school systems must provide a copy of current certification issued by BACB to serve as a behavior analyst.

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

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 32:1811 (October 2006), amended LR 34:433 (March 2008), LR 37:884 (March 2011), LR 37:2135 (July 2011), LR 46:1380 (October 2020), LR 48:

**Chapter 11. Standards for Secondary Career and Technical Trade and Industrial Education Personnel**

**§1101. Introduction**

A. Career and technical trade and industrial education (CTTIE) certificates authorize full-time or part-time employment for instructors of courses aligned to an area of expertise. The applicant being certified under the requirements found in this Part may teach CTTIE courses as listed on the LDE Teach Louisiana website (<http://www.teachlouisiana.net>).

B. Non-Practicing Status or Operational Role Status for CTTIE Certificates shall be in accordance with §505 of this Part.

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

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 32:1812 (October 2006), amended LR 35:2752 (December 2009), LR 40:1329 (July 2014), LR 46:1380 (October 2020), LR 48:

**§1103. Career and Technical Certificate Types Issued Prior to July 1, 2006**

A. Vocational Technical Industrial Education (VTIE) Certificates—Issued prior to July 1, 2004

- 1. Vocational Temporary (VT)—valid for one year; renewable annually while holder completes required coursework.
- 2. Vocational Permanent (VP)—lifetime certificate for continuous service.

B. Career and Technical Trade and Industrial Education (CTTIE) Certificates—issued between July 1, 2004, and June 30, 2006.

- 1. CTTIE Temporary Certificate (CT)—valid for one year; renewable annually while holder completes required coursework.
- 2. CTTIE Permanent Certificate (CP)—lifetime certificate for continuous-service.

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

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 32:1812 (October 2006), amended LR 35:2752 (December 2009), LR 48:

**§1105. Career and Technical Certificate Types**

A. CTTIE-Provisional—a one-year, non-renewable certificate issued while instructor completes requirements for CTTIE-1.

B. CTTIE-1 Certificate—an entry-level industry-based teaching certificate, valid for three years initially and may be extended for a period of one year at the request of the LEA. CTTIE-1 certificates are limited to two such extensions. CTTIE teachers must successfully meet the standards of effectiveness pursuant to Bulletin 130 and R.S.17:3902 to advance to CTTIE-2.

C. CTTIE-2 Certificate—valid for five years initially and may be renewed thereafter for a period of five years at the request of the employing LEA.

- 1. For renewal of the CTTIE-2 certificate, candidates must successfully meet the standards of effectiveness for at least three years during the five-year initial or renewal period pursuant to Bulletin 130 and R.S. 17:3902.

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

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 35:2752 (December 2009), amended LR 38:3137 (December 2012), LR 40:1330 (July 2014), LR 48:

**§1107. CTTIE Certificate-Eligibility Requirements**

A. CTTIE certificates are issued to instructors who teach courses listed on the Teach Louisiana website aligned to the area of expertise.

B. CTTIE Provisional Eligibility Requirements

- 1. Applicants shall hold a high school diploma, or have passed an equivalency test approved by the LDE.
- 2. Applicants shall have a minimum of four years of full time work experience or 7,680 hours of experience aligned to the CIP (Classification of Instructional Programs) area in the selected career and technical field, of which at

least one year of full time work experience or 1,920 hours of experience must have been acquired within the five calendar years immediately prior to certification:

a. Technical Diploma or Associate degree, or out-of-state equivalent, registered apprenticeship, or LWC approved training provider aligned to work experience and CIP area will be given credit for two years or 3,840 hours of occupational experience if the training is in the field for which the applicant is applying;

b. Graduates with a bachelor's degree aligned to work experience and CIP area from a college or university accredited in accordance with 34 CFR 602 will be given credit for two years or 3,840 hours of experience;

c. Graduates with an advanced degree aligned to work experience and CIP area from a college or university accredited in accordance with 34 CFR 602 will be given credit for three years or 5,760 hours of occupational experience;

d. Graduates with a technical degree in the selected field and a bachelor's degree aligned to work experience and CIP area from a college or university accredited in accordance with 34 CFR 602 will be given credit for three years or 5,760 hours of occupational experience;

e. Graduates with a bachelor's degree aligned to work experience and CIP area from a college or university accredited in accordance with 34 CFR 602 and an industry based certification (IBC) in the selected field will be given credit for three years or 5,760 hours of occupational experience;

f. Applicants holding current approved industry-based certification, aligned to work experience and CIP area will be given credit for two years or 3,840 hours of work experience. An industry-based certification may not be combined with educational attainment to qualify for a waiver from all required work experience.

g. Applicants with an earned baccalaureate degree, and who hold an industry-based certification (IBC) in the selected instructional field aligned to work experience and CIP area may also apply years of teaching experience in that field toward the required work experience.

h. Applicants with prior teaching experience at a postsecondary institution, registered apprenticeship, or LWC approved training provider in the selected instructional field may apply those years of teaching at a postsecondary institution toward the required work experience. All out-of-state experience must be verified as successful by the out-of-state employing authority or SEA.

3. In addition to CTTIE certification, a current license must be held when a state or national license is required in the workplace. A state or national license will be recognized as an industry-based certification.

a. Instructors providing content aligned to an industry-based certification must carry the IBC in which instruction will occur.

b. If a certifying agency requires specialized certification to instruct content, the instructor must carry the required certification.

#### C. CTTIE-1 Eligibility Requirements

1. Applicants shall hold a high school diploma, or have passed an equivalency test approved by the LDE.

2. Applicants shall have a minimum of four years of full time work experience or 7,680 hours of experience

aligned to the CIP area in the selected career and technical field, of which at least one year of full time work experience or 1,920 hours must have been acquired within the five calendar years immediately prior to certification:

a. Technical Diploma or Associate degree, or out-of-state equivalent, registered apprenticeship, or LWC approved training provider aligned to work experience and CIP area will be given credit for two years or 3,840 hours of occupational experience if the training is in the field for which the applicant is applying;

b. graduates with a baccalaureate degree aligned to work experience and CIP area from a college or university accredited in accordance with 34 CFR 602 will be given credit for two years or 3,840 hours of experience;

c. graduates with an advanced degree aligned to work experience and CIP area from a college or university accredited in accordance with 34 CFR 602 will be given credit for three years or 5,760 hours of occupational experience;

d. graduates with a technical degree in the selected field and a baccalaureate degree aligned to work experience and CIP area from a college or university accredited in accordance with 34 CFR 602 will be given credit for three years or 5,760 hours of occupational experience;

e. graduates with a baccalaureate degree aligned to work experience and CIP area from a college or university accredited in accordance with 34 CFR 602 and an industry based certification (IBC) in the selected field, will be given credit for three years or 5,760 hours of occupational experience;

f. applicants holding current approved industry-based certification aligned to work experience and CIP area will be given credit for two years or 3,840 hours of work experience, but an industry-based certification may not be combined with educational attainment to qualify for a waiver from all required work experience;

g. applicants with a baccalaureate degree and who hold an industry-based certification (IBC) in the selected instructional field aligned to work experience and CIP area may also apply years of teaching experience in that field toward the required work experience;

h. applicants with prior teaching experience at a postsecondary institution, registered apprenticeship, or LWC approved training provider in the selected instructional field may apply the years of teaching at a postsecondary institution toward the required work experience with all out-of-state experience verified as successful by the out-of-state employing authority or SEA.

3. In addition to CTTIE certification, a current license must be held when a state or national license is required in the workplace. A state or national license will be recognized as an industry-based certification.

a. Instructors who will be providing content aligned to an industry-based certification must carry the IBC in which instruction will occur.

b. If a certifying agency requires specialized certification to instruct content, the instructor must carry that certification.

4. Applicants shall complete a new instructor workshop prior to issuance of CTTIE-1. The LDE shall make available a list of new instructor course providers. Applicants with at least three years of effective K-12

teaching experience as defined by Bulletin 130 or three years of post-secondary teaching experience are not subject to the New Instructor Workshop completion requirement.

**D. CTTIE-2 Eligibility Requirements**

**1. Eligibility Requirements:**

a. hold or meet eligibility requirements for a CTTIE-1;

b. successfully meet the standards of effectiveness for at least three years during the five-year renewal period pursuant to Bulletin 130 and R.S. 17:3902 with all out-of-state experience verified as successful by the out-of-state employing authority or SEA; and

c. accrue three years of teaching experience in an approved educational setting.

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

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 32:1813 (October 2006), amended LR 35:2752 (December 2009), LR 36:2843 (December 2010), LR 38:2366 (September 2012), LR 40:1330 (July 2014), LR 45:1460 (October 2019), LR 46:1381 (October 2020), LR 48:

**§1109. CTTIE Areas of Specialization**

**A. Nurse Aide Training and Competency Evaluation Program (NATP/NATCEP)/ Certified Nursing Assistant (CNA) Eligibility Requirements:**

1. Applicant shall be a professional nursing program graduate with current Louisiana licensure as a registered nurse (RN) or licensed practical nurse (LPN).

2. All instructors shall have one of the following: CTTIE, VTIE, master's degree or above, or a CNA train the trainer certificate and meet nurse aide training and competency evaluation program (NATP/NATCEP) regulations, as mandated by the Louisiana Department of Health (LDH), Health Standards Section.

3. LPNs may serve as a certified nursing assistant/NATP instructor under the direct supervision of an RN. LPNs, under the general supervision of the primary instructor, may provide classroom and skills training instruction and supervision with two years of experience in provision of long term care services.

**B. Certified Nursing Assistant, Program Coordinator Eligibility Requirements.** The program coordinator shall have the following experience and qualifications:

1. current Louisiana licensure as a registered nurse (RN);

2. a minimum of two years of nursing experience, of which at least one year must be in the provision of long term care facility services such as a nursing home or skilled nursing facility;

3. completion of VTIE, CTTIE, CNA train-the-trainer program or a graduate degree; and

4. meet requirements mandated by the Louisiana Department of Health (LDH), Health Standards Section;

**C. Emergency Medical Technician**

1. An emergency medical technician (EMT) instructor must be approved by the Bureau of EMS.

**D. Sports Medicine Eligibility Requirements**

1. Sports medicine instructors shall have at least a Bachelor of Science degree and have a valid current state and/or national certification as an athletic trainer and meet all CTTIE requirements.

2. Applicants pursuing a graduate degree in athletic training who are working as an athletic trainer graduate assistant at a university accredited in accordance with 34 CFR 602 may count the work experience hours toward meeting the required work hours for the CTTIE application. CTTIE application must include a letter from the director of athletics at the university with the actual number of hours worked and assigned duties.

**E. Jobs for America's Graduates (JAG) Louisiana Job Specialist eligibility requirements:**

1. a bachelor's degree from a state-approved college or university accredited in accordance with 34 CFR 602, plus two years of full-time work experience, or 3,840 hours of work experience within four years of date of application; or

2. a valid standard Louisiana teaching or school counselor certification.

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

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 32:1813 (October 2006), amended LR 35:2752 (December 2009), LR 36:2843 (December 2010), LR 38:2366 (September 2012), LR 40:1331 (July 2014), LR 46:1381 (October 2020), LR 48:

**Chapter 13. Endorsements to Existing Certificates  
Subchapter B. Special Education Level and Area  
Endorsements**

**§1325. Requirements to add Deaf or Hard of Hearing  
K-12**

**A.** Individuals holding a valid early childhood certificate for PK-K or PK-3, elementary certificate for grade levels 1-4, 1-5, 1-6, or 1-8, upper elementary or middle school certificate for grade levels 4-8, 5-8, or 6-8, secondary certificate for grade levels 6-12, 7-12, or 9-12, special education certificate, or an All-Level K-12 certificate in art, dance, foreign language, health, physical education, health and physical education, or music must earn the following:

1. 21 semester credit hours that pertain to children who are deaf or hard of hearing;

2. introduction to special education;

3. physiological, psychosocial, historical, sociological, and cultural aspects of deafness;

4. language development that includes linguistic principles and assessment strategies in language acquisitions for deaf and hard of hearing;

5. speech and speech reading;

6. educational audiology, auditory assistive devices and technology;

7. instructional strategies and curriculum development for deaf and hard of hearing students; and

8. communication methodology; and

9. three semester hours of internship of students who are deaf or hard of hearing or three years of successful teaching experience of students who are deaf or hard of hearing with all out-of-state experience verified as successful by the out-of-state employing authority or SEA;

10. Proficiency in signed, cued, or oral communication evidenced by one or more of the following means:

a. signed:

i. Intermediate on the Educational Sign Skills Evaluation: Teacher (ESSE:T);

ii. Advanced on the Signed Communication Proficiency Interview (SCPI); or

iii. Level III of the Educational Interpreter Performance Assessment;

b. cued—mini-proficiency, as measured on the Basic Cued Speech Proficiency Rating Test (BCSPR c1983, Beaupre); or

c. oral—successfully passing an additional course in Methods in Oral/Auditory Education; and

11. Passing score for Praxis exams—Special Education: Core Content Knowledge and Applications and Special Education: Education of Deaf and Hard of Hearing.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1817 (October 2006), amended LR 37:552 (February 2011), LR 40:281 (February 2014), LR 45:1460 (October 2019), LR 46:1382 (October 2020), LR 48:

**§1327. Requirements to add Mild/Moderate (1-5), (4-8), and (6-12)—Mandatory 7/1/2010**

A. Mild/Moderate: 1-5—Individuals holding a valid early childhood certificate in PK-K or PK-3, elementary certificate in grade levels 1-4, 1-5, 1-6, or 1-8, or Early Interventionist certificate must earn the following:

1. 18 semester hours to include the following coursework:

a. Assessment and Evaluation of Students with Disabilities. Three semester hours in a course designed for teachers to learn to select, adapt, and use instructional interventions and behavioral strategies with students in a variety of settings to apply knowledge and skills in a 45-hour field-based experience using theoretical approaches, screening/ identification, educational placement considerations, and assessment and evaluation;

b. Fundamentals of Instructional Technology. Three semester hours of instructional, utility, and management software applications for school use for development of instructional materials, incorporation of commercially available software into lesson and unit structure, addressing the use of technology as it relates to UDL (Universal Design for Learning) and how UDL can be used to meet the needs of all students with language development issues;

c. Behavior Support and Intervention. Three semester hours to address the knowledge, skills and dispositions necessary for teachers to proactively and systematically address student needs that underlie the presence of problem behaviors in schools and class rooms;

d. Collaborative Teaming. Three semester hours that focuses on developing effective partnerships with parents, family members, general educators, and related service providers;

e. Instructional Practices in Special Education. Three semester hours that provides teachers with the ability to select and utilize appropriate instructional strategies, assistive technologies, and instructional materials to address the strengths and needs of diverse learners in grades 1-5; and

f. Reading and Literacy. Three semester hours regarding all aspects of state reading competencies at the elementary level, to include literacy intervention for students with disabilities;

2. Passing score for Praxis exams—Special Education: Core Knowledge and Mild to Moderate Applications.

B. Mild/Moderate: 1-5. Individuals holding a valid upper elementary or middle school certificate grade levels 4-8, 5-8, or 6-8, secondary certificate grade levels 6-12, 7-12, or 9-12, all-level special education certificate in significant disabilities, visually impaired, or deaf or hard of hearing, or an all-level K-12 certificate in art, dance, foreign language, health, physical education, health and physical education, or music must earn the following:

1. 18 semester hours to include the following coursework:

a. Assessment and Evaluation of Students with Disabilities. Three semester hours in a course is designed for teachers to learn to select, adapt, and use instructional interventions and behavioral strategies with students in a variety of settings and to apply knowledge and skills in a 45-hour field-based experience using theoretical approaches, screening and identification, educational placement considerations, and assessment and evaluation;

b. Fundamentals of Instructional Technology. Three semester hours of instructional, utility, and management software applications for school use, development of instructional materials, incorporation of commercially available software into lesson and unit structure, the use of technology for UDL (Universal Design for Learning), and how UDL can be used to meet the needs of all students with language development issues;

c. Behavior Support and Intervention. Three semester hours regarding the knowledge, skills, and dispositions necessary to proactively and systematically address student needs that underlie the presence of problem behaviors in schools and class rooms;

d. Collaborative Teaming. Three semester hours that focuses on developing effective partnerships with parents, family members, general educators, and related service providers;

e. Instructional Practices in Special Education. Three semester hours that provide teachers with the ability to select and utilize appropriate instructional strategies, assistive technologies, and instructional materials to address the strengths and needs of diverse learners in grade levels 1-5; and

f. Reading and Literacy. Three semester hours regarding all aspects of state reading competencies at the elementary level, to include literacy intervention for students with disabilities; and

2. passing score for Praxis exams—Special Education: Core Knowledge and Mild to Moderate Applications (0543 or 5543), Principles of Learning and Teaching (PLT): K-6, and Elementary Education: Content Knowledge Exam (0014 or 5014) prior to 9/1/15; effective 9/1/15 to 8/31/17 pass Elementary Education: Content Knowledge (5018) or Elementary Education: Multiple Subjects (5001); mandatory 9/1/17 pass Elementary Education: Multiple Subjects (5001).

C. Mild/Moderate: Middle Grades 4-8 and Secondary 6-12. Individuals holding a valid early childhood certificate in PK-K or PK-3, elementary certificate in grade levels 1-4, 1-5, 1-6, or 1-8, or early interventionist certificate must earn the following:

1. 18 semester hours to include the following coursework:

a. Assessment and Evaluation of Students with Disabilities. Three semester hours in a course designed for teachers to learn to select, adapt, and use instructional interventions and behavioral strategies with students in a variety of settings, and to apply knowledge and skills in a 45-hour field-based experience using theoretical approaches, screening and identification, educational placement considerations, and assessment and evaluation;

b. Fundamentals of Instructional Technology. Three semester hours in instructional, utility, and management software applications for school use, development of instructional materials, incorporation of commercially available software into lesson and unit structure, and the use of technology regarding UDL (Universal Design for Learning) and how UDL can be used to meet the needs of all students with language development issues;

c. Self-Determination and Transition. Three semester hours in self-determination and development, implementation and evaluation of self-management instructional programs for students with an emphasis on using self-management and learning strategies to facilitate self-determination and provides an understanding of the special education transition process as specified by federal and state guidelines with the focus on the design and implementation of transition planning that meets student physical, affective, cognitive, and communicative needs across the contexts of school, community, family life, career and vocation, and recreation/leisure;

d. Behavior Support and Intervention. Three semester hours of the knowledge, skills, and dispositions necessary for teachers to proactively and systematically address student needs that underlie the presence of problem behaviors in schools and class rooms;

e. Collaborative Teaming. Three semester hours that focus on developing effective partnerships with parents, family members, general educators, and related service providers; and

f. Instructional Practices in Special Education. Three semester hours to provide teachers with the ability to select and utilize appropriate instructional strategies, assistive technologies, and instructional materials to address strengths and needs of diverse learners in grades 6-12 with concentration in areas of literacy and numeracy; and

2. Passing score for Praxis exams:

a. Mild/Moderate (4-8)

i. Special Education: Core Knowledge and Mild to Moderate Applications (0543 or 5543);

ii. Principles of Learning and Teaching (PLT): 5-9; and

iii. Middle School Content Exam(s)

b. Mild/Moderate (6-12)

i. Special Education: Core Knowledge and Mild to Moderate Applications (0543 or 5543);

ii. Principles of Learning and Teaching (PLT): 7-12; and

iii. Secondary Core Content Exam(s).

D. Mild/Moderate: Middle Grades 4-8 and Secondary 6-12. Individuals holding a valid upper elementary or middle school certificate in grade levels 4-8, 5-8, or 6-8 must earn the following:

1. 18 semester hours to include the following coursework:

a. Assessment and Evaluation of Students with Disabilities. Three semester hours in a course is designed to learn to select, adapt, and use instructional interventions and behavioral strategies with students in a variety of settings and to apply knowledge and skills in a 45-hour field-based experience using theoretical approaches, screening and identification, educational placement considerations, and assessment and evaluation;

b. Fundamentals of Instructional Technology. Three semester hours of instructional, utility, and management software applications for school use regarding development of instructional materials and incorporation of commercially available software into lesson and unit structure to address the use of technology for UDL (Universal Design for Learning) and how UDL can be used to meet the needs of all students with language development issues;

c. Self-Determination and Transition. Three semester hours regarding self-determination and development, implementation, and evaluation of self-management instructional programs for students with an emphasis on using self-management and learning strategies to facilitate self-determination that provides the teacher with an understanding of the Special Education transition process as specified by federal and state guidelines and the focus on the design and implementation of transition planning that meets student physical, affective, cognitive, and communicative needs across the contexts of school, community, family life, career and vocation, and recreation and leisure;

d. Behavior Support and Intervention. Three semester hours to address the knowledge, skills, and dispositions necessary for teachers to proactively and systematically address student needs that underlie the presence of problem behaviors in schools and class rooms;

e. Collaborative Teaming. Three semester hours to focus on developing effective partnerships with parents, family members, general educators, and related service providers; and

f. Instructional Practices in Special Education. Three semester hours to provide teachers with the ability to select and utilize appropriate instructional strategies, assistive technologies, and instructional materials to address strengths and needs of diverse learners in grades 6-12 with concentration in areas of literacy and numeracy; and

2. Passing score for Praxis exams:

a. Mild/Moderate (4-8)—Special Education: Core Knowledge and Mild to Moderate Applications (0543 or 5543); and/or

b. Mild/Moderate (6-12):

i. Special Education: Core Knowledge and Mild to Moderate Applications (0543 or 5543);

ii. Principles of Learning and Teaching (PLT): 7-12; and

iii. Secondary Core Content Exam(s).

E. Mild/Moderate: Middle Grades 4-8 and Secondary 6-12. Individuals holding a valid secondary certificate in grade levels 6-12, 7-12, or 9-12, all-level special education certificate for significant disabilities, visually impaired, or deaf or hard of hearing), or an all-level K-12 certificate in art, dance, foreign language, health, physical education, health and physical education, or music must earn the following:

1. 18 semester hours to include the following coursework:

a. Assessment and Evaluation of Students with Disabilities. Three semester hours in a course is designed to learn to select, adapt, and use instructional interventions and behavioral strategies with students in a variety of settings and to apply knowledge and skills in a 45-hour field-based experience using theoretical approaches, screening and identification, educational placement considerations, and assessment and evaluation;

b. Fundamentals of Instructional Technology. Three semester hours of instructional, utility, and management software applications for school use regarding development of instructional materials and incorporation of commercially available software into lesson and unit structure to address the use of technology for UDL (Universal Design for Learning) and how UDL can be used to meet the needs of all students with language development issues;

c. Self-Determination and Transition. Three semester hours regarding self-determination and development, implementation, and evaluation of self-management instructional programs for students with an emphasis on using self-management and learning strategies to facilitate self-determination that provides the teacher with an understanding of the Special Education transition process as specified by federal and state guidelines and the focus on the design and implementation of transition planning that meets student physical, affective, cognitive, and communicative needs across the contexts of school, community, family life, career and vocation, and recreation and leisure;

d. Behavior Support and Intervention. Three semester hours to address the knowledge, skills, and dispositions necessary for teachers to proactively and systematically address student needs that underlie the presence of problem behaviors in schools and class rooms;

e. Collaborative Teaming. Three semester hours to focus on developing effective partnerships with parents, family members, general educators, and related service providers; and

f. Instructional Practices in Special Education. Three semester hours to provide teachers with the ability to select and utilize appropriate instructional strategies, assistive technologies, and instructional materials to address strengths and needs of diverse learners in grades 6-12 with concentration in areas of literacy and numeracy; and

2. Passing score for Praxis exams:

a. Mild/Moderate (4-8):

i. Special Education: Core Knowledge and Mild to Moderate Applications (0543 or 5543); and

ii. Principles of Learning and Teaching (PLT): 5-9; and

iii. Middle School Content Exam(s); or

b. Mild/Moderate (6-12)--Special Education: Core Knowledge and Mild to Moderate Applications (0543 or 5543) and Secondary Content Exam(s).

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 35:1485 (August 2009), amended LR 37:553 (February 2011), LR 39:1464 (June 2013), LR

41:648 (April 2015), LR 41:1271 (July 2015), amended LR 46:1382 (October 2020), LR 48:

### **Subchapter C. All Other Teaching Endorsement Areas**

#### **§1333. Introduction**

A. Information on endorsements for administrative and supervisory areas can be found in Chapter 15 of this Part.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1818 (October 2006), amended LR 48:

#### **§1347. Computer Literacy**

A. Eligibility requirements:

1. valid OS, Level 1 or higher teaching certificate; and
2. nine semester hours of coursework in educational technology or computer science.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1819 (October 2006), amended LR 48:

#### **§1349. Counselor K-12 (Counselor in a School Setting)**

A. Individuals who completed all courses and degree requirements by June 30, 2017, will have the endorsement added to certificates based upon graduate training that included 24 semester hours of professional courses distributed so that at least one course will be taken in each of the basic areas listed below:

1. Principles and Administration of School Counseling Programs;
2. Career and Lifestyle Development;
3. Individual Appraisal;
4. Counseling Theory and Practice;
5. Group Processes;
6. Human Growth and Development;
7. Social and Cultural Foundations in Counseling; and
8. Supervised Practicum in a School Setting, or three years of successful experience as a school counselor.

B. Eligibility requirements after June 30, 2017:

1. valid Louisiana teaching certificate;
2. completion of a standards-based graduate degree program in counseling from a college or university accredited in accordance with 34 CFR 602 approved by the Council for Accreditation of Counseling and Related Educational Program (CACREP) or candidates who completed counseling programs other than the specialty area of school counseling must complete six credit hours of school counseling courses from a CACREP-accredited program;

3. practicum/internship requirements:

a. complete a practicum in counseling from a CACREP-accredited program to include 100 contact hours; or

b. complete an internship in counseling from a CACREP-accredited program to include 600 contact hours in a school setting; and

4. completion of the Praxis examination in school guidance and counseling (0421 or 5421).

C. Renewal Requirements. For purposes of maintaining a valid counselor endorsement, any school counselor receiving certification after July 1, 2013, is required to

successfully meet the standards of effectiveness for at least three years during the five-year renewal period in accordance with Bulletin 130 and R.S. 17:3902.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1819 (October 2006), amended LR 33:1618 (August 2007), LR 38:1401 (June, 2012), LR 39:1465 (June 2013), LR 45:1056 (August 2019), LR 48:

### **§1369. Mentor Teacher**

A. A certification to serve as a mentor of undergraduate or post-baccalaureate teacher residents may be added to a standard teaching certificate for teachers meeting the eligibility requirements.

B. Eligibility requirements:

1. hold, or be eligible to hold, a valid type C, level 1, or higher Louisiana teaching certificate;

2. successfully complete a BESE-approved mentor teacher training program; and

3. earn a passing score on the Louisiana mentor teacher assessment series.

C. Individuals who successfully complete LDE mentor teacher training from November 1, 2017 through July 31, 2020, are eligible for the mentor teacher add-on endorsement after passing the Louisiana mentor teacher assessment series.

D. Individuals who hold National Board certification are eligible for mentor teacher add-on endorsement after passing the coaching-related components of the Louisiana mentor teacher assessment series.

E. Individuals who hold or are eligible to hold a Louisiana Administrative or Supervisory Credential as listed in Chapter 15 of this Part may apply for the Mentor Teacher add-on endorsement, and allows the eligible individual to serve as a mentor of undergraduate or post-baccalaureate teacher residents without meeting the eligibility requirements for a mentor teacher endorsement outlined in §1369 of this Part.

F. Individuals who currently hold or are eligible to hold National Institute for Excellence in Training (NIET) Teacher Evaluator Training Certification may apply for the Mentor Teacher add-on endorsement, and allows the individual eligible to serve as a mentor of undergraduate or post-baccalaureate teacher residents without meeting the eligibility requirements for a mentor teacher endorsement outlined in §1369 of this Part.

G. Certified CLASS® observers may apply for the Mentor Teacher add-on endorsement, which allow the individual eligible to serve as a mentor of undergraduate or post-baccalaureate teacher residents without meeting the eligibility requirements for a mentor teacher endorsement outlined in §1369 of this Part.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 48:

### **§1371. Content Leader**

A. The content leader endorsement is an optional endorsement that districts may require.

B. Eligibility requirements for the content leader endorsement:

1. hold, or be eligible to hold, a valid type C, level 1, or higher Louisiana teaching certificate with all out-of-state experience verified as successful by the out-of-state employing authority or SEA.

2. successfully complete a BESE-approved content leader training program; and

3. earn a passing score on the Louisiana content leader assessment series in §303 of this Part).

C. Individuals who have successfully completed LDE content leader training from November 1, 2017 through July 31, 2020, in accordance with Paragraph 1 of this Subsection, are eligible for content leader ancillary certification.

## **Chapter 15. Administrative and Supervisory Credentials**

### **Subchapter A. The Educational Leadership Certificate**

#### **§1503. Introduction**

A. The educational leadership certification structure provides for four levels of leader certification: teacher leader; educational leader level 1; educational leader level 2; and educational leader level 3. The teacher leader certificate is an option for a teacher to be identified as a teacher leader and is not a state required credential for a specific administrative position. The educational leader level 1 certificate is an entry-level certificate for individuals seeking to qualify for school and/or district leadership positions such as assistant principals, principals, parish or city supervisors of instruction, supervisors of child welfare and attendance, special education supervisors, or comparable school/district leader positions. An individual advances from a level 1 to a level 2 certificate after successfully meeting standards of effectiveness for three years pursuant to Bulletin 130 and R.S. 17:3902, and completing the required years of experience. The level 3 certificate qualifies an individual for employment as a district superintendent. The LDE will issue a letter of eligibility for an EDL certificate to requesting educators not currently serving in an educational leadership role.

B. Educational leadership preparation programs and induction programs must be aligned with state and national standards in accordance with LAC 28:CXXXVII.301 in Bulletin 125.

C. Medical Excuse and Exceptions. Exceptions to policy will be considered in the case of serious medical condition or unavailability of required coursework or exams, when not in violation of law. When serious medical problems of the teacher or immediate family exist, a doctor statement is required with a letter of assurance from the teacher that the unmet policy requirements will be completed within one year of the exception being granted. The final authority for approval and policy flexibility is at the discretion of the LDE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, 17:411, and 17:3902.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1822 (October 2006), amended LR 33:819 (May 2007), LR 38:42 (January 2012), LR 38:3138 (December 2012), LR 39:1465 (June 2013), LR 45:231 (February 2019), LR 48:

#### **§1505. Educational Leader Certificate Level 1 (EDL 1)**

A. The EDL 1 certificate is needed for school and district educational leadership positions such as assistant principal,

principal, parish or city supervisor of instruction, supervisor of child welfare and attendance, special education supervisor, or comparable school/district leader positions. The EDL certificate is issued upon the request of the LEA upon employment to serve as an educational leader. An EDL 1 certificate may be obtained through either a master's degree pathway or through one of three alternate pathways.

1. Graduate Degree Pathway. To receive an entry-level EDL 1, the candidate must:

a. hold or be eligible to hold a Louisiana type B or level 2 teaching certificate or have a comparable level out-of-state teaching certificate and three years of teaching experience in the area of certification;

b. complete a competency-based graduate degree preparation program in the area of educational leadership from an institution of higher education accredited in accordance with 34 CFR 602, which may be inclusive of BESE-approved mentor teacher or content leader training;

i. If the graduate degree program was not in Educational Leadership then a letter from the dean of education or the dean of the graduate school will be considered and must be submitted verifying that the master's degree program is aligned with the National Policy Board for Educational Administration's Professional Standards for Educational Leaders (PSEL). The final authority for approval is at the discretion of the LDE; and

c. have a passing score on the BESE approved school leaders licensure assessment, in accordance with state requirements.

2. Alternate Pathway 1. The alternate pathway 1 is for individuals who already hold a graduate degree and seek issuance of an EDL 1. The candidate must:

a. hold or be eligible to hold a Louisiana type B or level 2 teaching certificate or have a comparable level out-of-state teaching certificate and three years of teaching experience with all out-of-state experience verified as successful by the out-of-state employing authority or SEA;

b. have previously completed a graduate degree program from an institution of higher education accredited in accordance with 34 CFR 602;

c. meet competency-based requirements, as demonstrated by completion of an individualized program of educational leadership from an institution of higher education accredited in accordance with 34 CFR 602 developed based on a screening of candidate competencies upon entering into a graduate alternative certification program and service as a mentor teacher, content leader, or BESE-approved mentor teacher or content leader training may fulfill a maximum of 40 percent of an individualized program; and

d. earn a passing score on the BESE approved school leaders licensure assessment in accordance with state requirements.

3. Alternate Pathway 2. The alternate pathway 2 is for individuals who already hold a graduate degree in education and seek issuance of an EDL 1. The candidate must:

a. hold or be eligible to hold, a Louisiana type B or level 2 teaching certificate or have a comparable level out-of-state teaching certificate and three years of teaching experience with all out-of-state experience verified as successful by the out-of-state employing authority or SEA;

b. have previously completed a graduate degree program in education from an institution of higher education accredited in accordance with 34 CFR 602;

c. provide documented evidence of leadership experiences of 240 clock hours or more at the school and/or district level, including service as a mentor teacher or content leader of up to 100 clock hours; and

d. have a passing score on the BESE approved school leaders licensure assessment in accordance with state requirements.

4. Alternate Pathway 3. The alternate pathway 3 is for persons who already hold a baccalaureate degree from an institution of higher education accredited in accordance with 34 CFR 602 and are seeking to receive an EDL 1 through a competency-based educational leader practitioner (residency) program found in LAC 28:XLV (Bulletin 996, Chapter 7). The candidate must:

a. hold, or be eligible to hold, a Louisiana type B or level 2 teaching certificate or have a comparable level out-of-state teaching certificate and three years of teaching experience with all out-of-state experience verified as successful by the out-of-state employing authority or SEA;

b. demonstrate strong knowledge of instruction through a rigorous screening process by an approved program provider;

c. complete a competency-based educational leader practitioner/residency preparation program in the area of educational leadership from a non-university provider or an institution of higher education accredited in accordance with 34 CFR 602 with service as a mentor teacher, content leader, or BESE-approved mentor teacher or content leader training allowed fulfill a maximum of 40 percent of the competency-based program; and

d. have a passing score on the BESE approved school leaders licensure assessment in accordance with state requirements.

5. EDL 1 Extensions

a. An EDL 1 is valid for three years initially and may be extended thereafter for a period of one year at the request of an LEA. EDL 1 certificates are limited to two such extensions.

b. Individuals who hold an educational leader certification and are employed in a leadership capacity at the school level must successfully meet the standards of effectiveness as a leader for at least three years during the five-year initial or renewal period in order to renew.

c. Individuals who hold an educational leader certification and are employed in a leadership capacity at the district level must earn effective ratings as a leader per local personnel evaluations for at least three years during the five-year initial or renewal period in order to renew.

6. Districts may require participation in an education leader induction administered by the LEA.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1823 (October 2006), amended LR 33:819 (May 2007), LR 38:43 (January 2012), LR 38:3138 (December 2012), LR 39:1465 (June 2013), LR 43:1313 (July 2017), LR 45:231 (February 2019), LR 45:526 (April 2019), LR 45:1461 (October 2019), LR 46:1383 (October 2020), LR 48:



### **§1507. Educational Leader Certificate Level 2 (EDL 2)**

A. To receive an EDL 2, the individual must:

1. hold or be eligible to hold a EDL 1 certificate, Louisiana provisional principal certification, or comparable level out-of-state educational leader certificate;
2. have three years of teaching experience;
3. if applicable, have all out-of-state experience verified as successful by the out-of-state employing authority or SEA;
4. participate in an education leader induction administered, if required by the LEA;
5. for individuals who are employed in a leadership capacity at the school level, meet the standards of effectiveness as an educational leader for three years pursuant to LAC 28:CXLVII (Bulletin 130) and R.S. 17:3902; and

6. for individuals who are employed in a leadership capacity at the district level, earn effective ratings per local personnel evaluations for three years.

B. Renewal Requirements. An EDL 2 is valid for five years initially and may be renewed thereafter for a period of five years at the request of an LEA. For renewal of EDL 2 certificate:

1. Individuals who hold an educational leader certification and are employed in a leadership capacity at the school level must successfully meet the standards of effectiveness as a leader for at least three years during the five-year initial or renewal period.

2. Individuals who hold an educational leader certification and are employed in a leadership capacity at the district level must earn effective ratings as a leader per local personnel evaluations for at least three years during the five-year initial or renewal period.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1823 (October 2006), amended LR 33:820 (May 2007), LR 38:43 (January 2012), LR 38:3138 (December 2012), LR 39:1465 (June 2013), LR 41:2129 (October 2015), LR 45:526 (April 2019), LR 45:1461 (October 2019), LR 48:

### **§1509. Educational Leader Certificate Level 3 (EDL 3)**

A. This certificate is required in order to serve as a school system superintendent or assistant superintendent.

1. Eligibility requirements:

- a. hold or be eligible to hold an EDL 2 or one of the Louisiana administrative/supervisory certifications that preceded the educational leadership certification structure;
- b. three years of teaching experience;
- c. five years of successful administrative or management experience in education at the level of assistant principal or above with assistant principal experience limited to a maximum of two years of the five years of experience with all out-of-state experience verified as successful by the out-of-state employing authority or SEA; and
- d. earn passing score on the BESE approved school superintendent assessment, in accordance with state requirements.

B. Renewal Requirements. An EDL 3 is valid for five years initially and may be renewed thereafter for a period of five years at the request of an LEA:

1. Individuals who hold an educational leader certification and are employed in a leadership capacity at the school level must successfully meet the standards of effectiveness as a leader for at least three years during the five-year initial or renewal period.

2. Individuals who hold an educational leader certification and are employed in a leadership capacity at the district level must earn effective ratings as a leader per local personnel evaluations for at least three years during the five-year initial or renewal period.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1824 (October 2006), amended LR 38:3139 (December 2012), LR 41:2129 (October 2015), LR 45:526 (April 2019), LR 45:1462 (October 2019), LR 48:

### **Subchapter B. Out-of-State Administrative Certification Structure**

#### **§1523. Out-of-State Superintendent (OSS)**

A. The out-of-state superintendent (OSS) certificate is valid only for the employing Louisiana public school district requesting issuance, is valid for five years from date of first appointment as a superintendent, and is renewable every five years.

1. Eligibility requirements:

- a. employment by a Louisiana public school system to serve as a superintendent or an assistant superintendent;
- b. a valid teaching certificate from another state with authorization to serve as a school superintendent;
- c. a graduate degree from an institution of higher education accredited in accordance with 34 CFR 602;
- d. five years of successful administrative or management experience in education at the level of assistant principal or above with assistant principal experience limited to a maximum of two years of experience in that position; and

e. three years of successful teaching experience with all out-of-state experience verified as successful by the out-of-state employing authority or SEA.

2. Renewal Requirements. For renewal of an OSS certificate, candidates who are employed in a leadership capacity at the school level must successfully meet the standards of effectiveness as a leader for at least three years during the five-year initial or renewal period pursuant to Bulletin 130 and R.S. 17:3902. Individuals who are employed in a leadership capacity at the district level must earn effective ratings per local personnel evaluations as a leader for at three years during the five-year initial or renewal period.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1825 (October 2006), amended LR 38:3140 (December 2012), LR 45:527 (April 2019), LR 45:1462 (October 2019), LR 46:1383 (October 2020), LR 48:

### **Subchapter D. All Other Supervisory Endorsements**

#### **§1547. Supervisor of Student Teaching**

A. This is no longer a required endorsement that must appear on a certificate.

B. To qualify to perform this supervisory service, a teacher must meet one of the following eligibility criteria:

1. valid Type A or Level 3 Louisiana certificate in the field of the supervisory assignment;
2. valid Type B or Level 2 Louisiana certificate in the field of the supervisory assignment and successfully complete the three semester-hour course in the supervision of student teaching;
3. valid Type B or Level 2 Louisiana certificate in the field of the supervisory assignment and successfully complete assessor training through the Louisiana Teacher Assistance and Assessment Program; or
4. valid Type B or Level 2 Louisiana certificate and National Board Certification in the field of the supervisory assignment.

C. On September 1, 2023, the mentor teacher endorsement or ancillary certificate will replace the supervisor of student teaching certificate. The supervisor of student teaching certificate will no longer be issued effective December 31, 2020.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1829 (October 2006), amended LR 37:2136 (July 2011), LR 45:232 (February 2019), LR 46:1384 (October 2020), LR 48:

### **Chapter 23. Approved Courses to Reinstate Lapsed Certificates**

#### **§2301. Period of Validity**

A. The period of validity for a Louisiana teaching certificate is subject to the provision that the certificate holder does not allow a period of five or more consecutive calendar years of disuse to accrue, and/or the certificate is not revoked by the State Board of Elementary and Secondary Education acting in accordance with law. As applicable to certificate validity, the term disuse is defined as a period of five consecutive calendar years in which a certificated individual is not a teacher of record for at least one semester, or 90 consecutive days. If such a period of disuse occurs, the certificate has lapsed. *Lapse* does not apply to certificates renewable via the standards of effectiveness pursuant to Bulletin 130 and R.S. 17:3902.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:2058 (October 2007), amended LR 48:

#### **§2303. Reinstatement of a Lapsed Certificate**

A. Reinstatement of a lapsed certificate is made only on evidence that the holder has earned six semester hours of credit in approved courses from an institution of higher education accredited in accordance with 34 CFR 602. The credit must be earned within the five-year period immediately preceding request for reinstatement of the certificate. Reinstatement does not apply to certificates renewable via the standards of effectiveness pursuant to Bulletin 130 and R.S. 17:3902.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:2058 (October 2007), amended LR 46:1385 (October 2020), LR 48:

Sandy Holloway  
President

2202#030

## **DECLARATION OF EMERGENCY**

### **Office of the Governor Division of Administration Racing Commission**

#### **Wagering on Historical Horse Racing (LAC 35:XVII.Chapter 131)**

In accordance with the emergency provisions of the Administrative Procedures Act, R.S. 49:953.1, the Racing Commission has adopted LAC 35:XVII.Chapter 131. This action has been deemed necessary by the Racing Commission to prevent imminent peril to the public health, safety, and welfare by providing the initial administrative rules regulating historical horse racing in fulfillment of the Legislature's mandate to the Racing Commission "to encourage forceful and honest statewide control of horse racing for the public health, safety, and welfare by safeguarding the people of this state against corrupt, incompetent, dishonest and unprincipled horse racing practices" and "[t]o institute and maintain a program to encourage and permit development of the business of horse racing with pari-mutual wagering thereon on a higher plane." R.S. 4:141(A)&(A)(1).

All in fulfillment of the Legislature's mandate for the Racing Commission to "institute and maintain a regulatory program for the business of racing horses, which program assures the protection of public health, safety and welfare, vesting with the commission forceful statewide control of horse racing with full powers to prescribe rules and regulations and conditions under which all horse racing is conducted with wagering upon the result thereof with the state." R.S. 4:141(A)(3).

This emergency adoption implements the initial administrative Rules for conducting, application, licensing, enforcement, and regulation for wagering on historical horse racing in accordance with the provisions established in Act 437 of the 2021 Regular Session of the Louisiana Legislature, which established historical horse racing in the state of Louisiana. This Emergency Rule replaces the previous emergency adoption of LAC 35:XVII.Chapter 131. This Emergency Rule shall become effective January 28, 2022 and shall remain in effect for a period of 180 days from adoption, or until finally adopted as Rule.

#### **Title 35**

#### **HORSE RACING**

#### **Part XVII. Historical Horse Racing**

#### **Chapter 131. Wagering on Historical Horse Racing §13101. Pari-Mutuel System of Wagering Required for Historical Horse Racing**

A. The only wagering permitted for historical horse racing shall be under the pari-mutuel system of wagering.

All systems of wagering other than pari-mutuel shall be prohibited for historical horse racing. Any person participating or attempting to participate in prohibited wagering shall be ejected and excluded from association grounds.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:141, R.S. 4:142 and R.S. 4:148.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 48:

### §13103. Definitions

A. The following words and terms shall have the following meanings when used in this chapter, unless the context clearly indicates otherwise.

*Applicant*—a duly licensed association who has submitted an application to obtain a license to offer pari-mutuel wagering on historical horse racing from the commission.

*Commission*—the Louisiana State Racing Commission.

*Historical Horse Race*—a form of horse racing that creates pari-mutuel pools from wagers placed on previously conducted horse races and is hosted at an authorized facility, including:

- a. any horse race whether running or harness, that was previously conducted at a licensed pari-mutuel facility;
- b. concluded with official results; and
- c. concluded without scratches, disqualifications, or dead-heat finishes.

*Historical Horse Racing*—an electronic wagering system used to create and sell pari-mutuel pools from wagers placed on historic horse races, or the otherwise offer pari-mutuel wagers on such races.

*Independent Testing Laboratory*—a laboratory with a national reputation for honesty, independence, and timeliness that is demonstrably competent and qualified to scientifically test and evaluate devices for compliance with this chapter and to otherwise perform the functions assigned to it by this chapter. An independent testing laboratory shall not be owned or controlled by a licensee, the state, or any manufacturer, supplier, or operator of historical horse racing terminals.

*Integrity Auditor*—a company that conducts periodic and regular tests on the validity of pari-mutuel wagering, deductions, and payouts for the applicable historical horse racing event, including the legitimacy of the event itself, and tests that the order of finish of the race selected in the wager is valid, match to the order of finish that occurred empirically, and that all runners that were listed as entered into the race for the purposes of the wager, legitimately ran in the race.

*Key Person License*—a license issued to a key person of an operator licensed by the commission.

*Key Person*—any of the following entities:

- a. an officer, director, trustee, partner, or proprietor of a duly licensed association and/or person that has applied for or holds an operator, management company, or wagering vendor license or an affiliate or holding company that has control of a person that has applied for or holds any such license;
- b. a person that holds a combined direct, indirect, or attributed debt or equity interest of more than 5 percent in a person that has applied for or holds an operator, management company, or wagering vendor license;

c. a person that holds a combined direct, indirect, or attributed equity interest of more than 5 percent in a person that has a controlling interest in a person that has applied for or holds an operator, management company, or wagering vendor license.

d. a managerial employee of a person that has applied for or holds an operator, management company, or wagering vendor license in this state, or a managerial employee of an affiliate or holding company that has control of a person that has applied for or holds an operator, management company, or wagering vendor license in this state, who performs the function of principal executive officer, principal operating officer, principal accounting officer, or an equivalent officer;

e. a managerial employee of a person that has applied for or holds an operator, management company, or wagering vendor license, or a managerial employee of an affiliate or holding company that has control of a person that has applied for or holds an operator, management company, or wagering vendor license, who will perform or performs the function of historical horse racing operations manager, or will exercise or exercises management, supervisory, or policy-making authority over the proposed or existing historical horse racing wagering operation, or supplier business operations in this state and who is not otherwise subject to occupational licensing in this state;

f. any individual or business entity so designated by the commission or executive director; and

g. an institutional investor is not a key person unless the institution has a controlling interest or fails to meet the standards for waiver of eligibility and suitability requirements for qualification and licensure under the *Rules of Racing*.

*Licensee*—any entity holding an owner's or operator's license under R.S. 4:149, and/or offtrack wagering facility, pursuant to R.S. 4:213 who is granted a license by the commission under this chapter to conduct pari-mutuel wagering on historical horse racing.

*Logic Area*—a separately locked cabinet area with its own monitored, locked door or other monitored, locked covering that houses electronic components that have the potential to significantly influence the operation of the terminal.

*Management Company*—an organization retained by an association to manage the conducting of historical horse racing and provide services such as accounting, general administration, maintenance, recruitment, and other operational services.

*Operator*—a person or entity licensed pursuant to R.S. 4:141 et seq. to operate historical horse racing terminals in a location approved by the commission.

*Takeout*—the amount a historical horse racing licensee is authorized to withhold from a pari-mutuel wager. Takeout is also known as a commission.

*Terminal*—any self-service totalizator machine or other mechanical or electronic equipment used by a patron to place a pari-mutuel wager on a historical horse race, including hardware, software, communications equipment, and electronic devices that accepts and processes the cashing of wagers, calculates the odds or payouts of the wagers, and records, displays, and stores pari-mutuel wagering information.

*Wagering Facility*—the area approved by the commission where historical horseracing is allowed to be operated.

*Wagering Vendor*—a person who is licensed by the commission to manufacture, fabricate, assemble, produce, program, refurbish, or make modifications to any critical component of a historical horse racing system, or associated program storage device for sale, lease, distribution, use or play by an operator in the State of Louisiana, or any supplier of goods or services the commission deems critical to the operation or integrity of a historical horse racing system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142 and R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 48:

### **§13105. General Provisions**

A. The commission may waive or grant a variance from the provisions of these regulations, if the commission determines that the waiver or variance is in the best interests of the public, is impractical, or overly burdensome. Any waiver or variance granted pursuant to this section constitutes an order of the commission pertaining to historical horse racing, violation of which subjects a licensee to discipline.

B. In granting any variance authorized by this section, the commission may impose certain conditions and restrictions with which the licensee must comply to accept and use the variance. Failure to meet the conditions or restrictions contained in the variance will immediately render the variance void, and the licensee may be subject to discipline in the same manner as if the variance had never been issued.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142 and R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 48:

### **§13107. Records Retention**

A. All operator, management company, or wagering vendor licensees shall maintain, in a place secure from theft, loss, or destruction, adequate records of its business and accounting operations. The licensees shall make the records available to the commission or its agents, upon request, within a reasonable time prescribed by a subpoena duces tecum or by written request of the commission or its agents. The licensees shall hold the records for not less than two years. The records shall include, but not be limited to, all of the following:

1. all correspondence with, or reports to, the commission or any local, state, or federal governmental agency regarding the operation of an historical horse racing facility;

2. all correspondence concerning the acquisition, construction, maintenance, or business of a proposed or existing historical horse racing or support facility;

3. a personnel file on each employee;

4. notwithstanding Subsection A of this Section, a licensed operator shall hold copies of all promotional and advertising material, records, or complimentary distributions for at least one year, unless otherwise requested by the commission;

5. an operator licensee shall keep and maintain accurate, complete, legible, and permanent records of any books, records, or documents pertaining to, prepared in, or

generated by, the historical horse racing wagering operation, as described in its internal controls, as approved by the commission; and

6. an operator shall organize, and index all required records in a manner that enables the commission to locate, inspect, review, and analyze the records with reasonable ease and efficiency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142 and R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 48:

### **§13109. Duties of the Commission**

A. The commission shall enact such policies and procedures to implement the following responsibilities:

1. license and regulate operators for the operation of historical horse racing wagering systems authorized pursuant to R.S. 4:141 et seq., including adopting, promulgating, and enforcing rules and regulations governing historical horse racing wagering consistent with R.S. 4:141 et seq.;

2. regulate the operation of historical horse racing wagering in order to prevent and eliminate corrupt practices and fraudulent behavior, and thereby promote integrity, security, and honest administration in, and accurate accounting of, the operation of historical horse racing wagering operations which are subject to R.S. 4:141 et seq.;

3. establish criteria to license applicants for operator licenses and all other types of licenses for other positions and functions incident to the operation of historical horse racing wagering, including adopting, promulgating, and enforcing rules, regulations, and eligibility standards, or waiving such criteria in limited circumstances as provided for in the *Rules of Racing*, for such operator licenses, management company licenses, vendor licenses, key person licenses and other occupational licenses, positions, and functions incident to the operation of historical horse racing wagering;

4. charge fees for applications for licenses, to include the cost of conducting background investigations, and for the issuance of operator licenses, management company licenses, vendor licenses, key person licenses and other occupational licenses and all other types of licenses to successful applicants which will be payable to the commission;

5. charge fees to operators in an amount necessary to compensate the commission for the cost of oversight and regulatory services to be provided, which will be payable to the commission;

6. grant, deny, revoke, and suspend operator licenses and all other types of licenses based upon reasonable criteria and procedures established by the commission to facilitate the integrity, productivity, and lawful conduct of historical horse racing within the State of Louisiana;

7. to investigate the suitability of applicants for operator licenses and all other types of licenses;

8. to determine the priority and eligibility of any applicant for a license and to select among competing applicants for a license, the applicant who or which best serves the interests of the residents of Louisiana;

9. to administer oaths and affirmations to the witnesses, when, in the opinion of the commission, it is necessary to enforce the provisions of R.S. 4:141 et seq. or the *Rules of Racing*;

10. to adopt technical standards governing the design, operation and control of historical horse racing equipment;

11. inspect the operation of any operator conducting historical horse racing wagering for the purpose of certifying the revenue thereof and receiving complaints from the public;

12. to approve the hours of operation for each historical horse racing facility. Change to such hours of operation may be made by the operator for extenuating circumstances with notice to the commission stating the reasons for the change;

13. to audit or cause audit of historical horse racing wagering operations, including those that have ceased operation;

14. issue subpoenas for the attendance of witnesses or the production of any records, books, memoranda, documents, papers, videos, pictures, electronic media, or other things at or prior to any hearing as is necessary to enable the commission to effectively discharge its duties;

15. executive director oaths or affirmations as necessary to carry out R.S. 4:141 et seq.;

16. have the authority to impose, subject to judicial review, administrative fines not to exceed \$25,000 for each violation of R.S. 4:141 et seq. or any *Rules of Racing* adopted and promulgated pursuant to R.S. 4:141 et seq.;

17. to receive and investigate complaints from patrons concerning the conduct of historical horse racing;

18. to inspect, test and approve historical horse racing systems and related equipment proposed for use or placed in use in historical horse racing facilities;

19. to approve locations for the storage and servicing of historical horse racing systems and related equipment;

20. to require that a historical horse racing facility make devices and equipment available for examination and inspection;

21. establish procedures for the governance of the commission;

22. acquire necessary offices, and to employ the services of persons the commission considers necessary for the purposes of consultation or investigation, and fix the salaries of, or contract for the services of, legal, accounting, technical, operational, and other personnel and consultants;

23. to secure, by agreement, information and services as the commission considers necessary from any other unit of government;

24. maintain the excluded persons database in accordance with the provisions of the *Rules of Racing*;

25. establish and enforce minimum internal controls for the operation of historical horse racing wagering and by which each operator will develop their own internal controls;

26. establish procedures for an applicant for a staff position to disclose conflicts of interest as part of the application for employment;

27. to determine any facts or any conditions, practices, or other matters as the commission considers necessary or proper to aid in the enforcement of R.S. 4:141 et seq.; and

28. do all things necessary and proper to carry out its powers and duties under R.S. 4:141 et seq., including the adoption and promulgation of rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142 and R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 48:

### **§13111. Wagering on Historical Horse Races Authorized**

A. Wagering on historical horse races is hereby authorized and may be conducted in accordance with R.S. 4:149 and 4:213.

B. Wagering on historical horse races shall only be conducted by associations licensed to operate a pari-mutuel facility, pursuant to R.S. 4:149, and/or by offtrack wagering facilities, pursuant to R.S. 4:213.

C. The commission may create classifications of licenses and establish a fee structure for license categories. Applicants for each category of license must apply on forms approved by the commission to be accompanied by the corresponding license application fee. All application fees are non-refundable.

1. The following license fees have been approved by the commission:

- a. applicant association (initial)—\$125,000;
- b. license fee per establishment/OTB (initial)—\$7,000;
- c. wagering vendor license (initial)—\$2,000;
- d. wagering vendor license (annual renewal)—\$500;
- e. background investigation—up to \$4,000;
- f. non-key person license (initial)—\$200; and
- g. key person license (initial)—\$1,000.

D. An application for a license under R.S. 4:141 et seq. and this Chapter is a request by the applicant seeking a revocable privilege. A license may be granted by the commission if the applicant meets the licensing requirements of the act and these rules. The commission may require holders of a current pari-mutuel wagering facility license to complete an updated application form and undergo additional background screening prior to being authorized to conduct historical horse racing. The commission may issue new licenses to such existing license holders to include the conditions and licensing requirements contained in this Chapter.

E. An applicant for a license under R.S. 4:141 et seq. and this Chapter shall, at all times, have the burden of demonstrating to the commission, by clear and convincing evidence, that the applicant is eligible, qualified, and suitable to be granted and retain the license for which application is made under the applicable licensing standards and requirements of R.S. 4:141 et seq. and the *Rules of Racing*.

F. A license issued by the commission under R.S. 4:141 et seq. or this Chapter is a revocable privilege granted by the commission. A person who holds a license does not acquire, and shall not be deemed to acquire, a vested property right or other right, in the license.

G. Applicants for any license issued by the commission under the provisions of this Chapter must pay all fees and assessments prescribed either by law or the *Rules of Racing* in the manner and at the time prescribed by law and/or the *Rules of Racing*. Application fees and applicable assessments for all historical horse racing wagering licenses and must be paid by the applicant at the time that an application is filed with the commission. None of the licenses listed in this Chapter may be transferred or assigned.

H. The commission may refuse to take final action on any application if all license regulation, investigation, and fingerprint fees have not been paid in full. The commission

may deny the application if the applicant refuses or fails to pay all such fees. Additionally, an applicant who has refused or failed to pay the required costs will not be eligible to file any other application with the commission until all such fees are paid in full. Neither the license fee or regulation fees nor any other fee is refundable.

I. Materials, or portions of materials, submitted under R.S. 4:141 et seq. or these rules may be identified as confidential by a licensee, an applicant for a license, or any other person. If the materials are exempt from disclosure by statute, the materials shall not be disclosed by the commission, except to other jurisdictions or law enforcement agencies as provided in R.S. 4:141 et seq..

J. An applicant or licensee shall accept any risk of adverse publicity, public notice, notoriety, embarrassment, criticism, financial loss, or other unfavorable or harmful consequences that may occur in connection with, or as a result of, the application and licensing process or the public disclosure of information submitted to the commission with a license application or at the commission's request under R.S. 4:141 et seq. and the *Rules of Racing*.

K. Licensees have a continuing obligation to demonstrate suitability to hold a license by complying with R.S. 4:141 et seq., the *Rules of Racing*, and all federal, state, and local laws relating to the suitability of the licensee. The commission may reopen the investigation of a licensee at any time. The licensee shall be assessed fees, if any, to cover the additional costs of the investigation.

L. An applicant or licensee may claim any privilege afforded by the Constitution or laws of the United States or of the State of Louisiana in refusing to answer questions or provide information requested by the commission. However, a claim of privilege with respect to any testimony or evidence pertaining to the eligibility, qualifications, or suitability of an applicant or licensee to be granted or hold a license under R.S. 4:141 et seq. and the *Rules of Racing* may constitute cause for denial, suspension, revocation or restriction of the license.

M. An applicant and licensee shall have a continuing duty to do all of the following:

1. promptly notify the commission in writing within 10 business days of a material change in the information submitted in the license application submitted by the applicant or licensee or a change in circumstance, that may render the applicant or licensee ineligible, unqualified, or unsuitable to hold the license under the licensing standards and requirements of the act and these rules; and

2. provide any information requested by the commission relating to licensing or regulation, cooperate with the commission in investigations, hearings, and enforcement and disciplinary actions within the period of time requested by the commission, and comply with all conditions, restrictions, requirements, orders, and rulings of the commission in accordance with R.S. 4:141 et seq. and the *Rules of Racing*.

N. The following persons are required to hold an occupational license:

1. a person employed by an association or management company and whose duties are directly related to the conduct of historical horse racing;

2. all security personnel;

3. employees whose duties are performed off the wagering facility and whose duties include the handling of money or performing accounting and auditing functions that involve money obtained as a result of historical horse racing;

- a. an occupational license level one is the highest level of occupational license. An occupational licensee may perform any activity included within the occupational licensee's level of occupational license or any lower level of occupational license;

- b. an employee of an association or management company who does not hold an occupational license shall not perform any duties relating to the conduct of historical horse racing at any time;

- c. a person under 18 years of age shall not hold an occupational license of any level. Applicants for occupational license level one must be at least 21 years of age;

- d. an application for an occupational license shall not be processed by the commission unless the applicant has an agreement or a statement of intent hire with an association or management company licensee or applicant, documenting that the applicant will be employed upon receiving the appropriate occupational license;

- e. employees of an authorized gaming operator who perform the following functions, regardless of title, shall obtain an occupational license level one:

- i. audit director;
- ii. chief regulatory compliance officer;
- iii. information technology director and managers;
- iv. security director;
- v. surveillance director;
- vi. chief financial officer or controller, or both;
- vii. historical racing operations director;
- viii. general manager;
- ix. assistant general manager; or

- x. any other employee of an authorized gaming operator whom the commission deems necessary, to ensure compliance with R.S. 4:141 et seq. and the *Rules of Racing*, to hold an occupational license level one;

- f. a person holding a level one license employed by an association or management company may not be employed concurrently by a wagering vendor, except that a person holding a level one license may be employed by a licensed management company that is also licensed as a wagering vendor;

4. employees of an association who perform the following functions, regardless of title, shall obtain an occupational license level two:

- a. security personnel and surveillance personnel;

- b. any employee of an association whose duties are performed are directly related to the conducting of historical horse racing;

- c. any employee of an association whose duties include accounting and auditing functions and whose duties relate to money obtained as a result of historical horse racing; and

- d. any other employee of an association whom the commission deems necessary, to ensure compliance with R.S. 4:141 et seq. and the *Rules of Racing*, to hold an occupational license level two;

5. the term of all occupational license levels is three years and requires an initial license application fee to be determined by the commission and an annual license fee.

O. Applicants for a historical horse racing wagering license, an occupational license, and applicants for renewals of such licenses shall comply with the following procedures.

1. Every application for a license category authorized by the commission must be submitted on forms supplied or approved by the commission and must contain such information and documents as required for such license category.

2. The applicant must file with the application all required supplemental forms.

3. Upon request of the commission, the applicant must further supplement any information provided in the application. The applicant must provide all requested documents, records, supporting data, and other information within the time period specified in the request. If the applicant fails to provide the requested information within the required time period as set forth in the request or the *Rules of Racing*, the commission may deny the application unless good cause is shown.

4. All information required to be included in an application must be true and complete as of the date of commission action sought by the applicant. If there is any change in the information contained in the application, the applicant must file a written amendment within 30 days of the change of information in accordance with the *Rules of Racing*.

5. The application and any amendments must be sworn to or affirmed by the applicant. If any document is signed by an attorney for the applicant, the signature must certify that the attorney has read the document and that, to the best of the attorney's knowledge, information and belief, based on diligent inquiry, the contents of the documents supplied are true.

6. The applicant must cooperate fully with the commission with respect to the background investigation of the applicant, including, upon request, making available any and all of its books and records for inspection. The commission will examine the background, personal history, financial associations, character, record, and reputation of the applicant to the extent the commission determines.

7. The commission will automatically deny the application of any applicant that refuses to submit to a background investigation as required pursuant to R.S. 4:141 et seq. and the *Rules of Racing*.

8. Neither the state, the commission, any agency with which the commission contracts to conduct background investigations, nor the employees of any of the foregoing, may be held liable for any inaccurate information obtained through such an investigation.

P. In addition to specific conditions imposed in any license issued by the commission under these rules, any license issued by the commission for the operation of historical horse racing wagering is subject to the following conditions.

1. With respect to a historical horse racing wagering operator's license, the licensed operator will at all times make its wagering facility available for inspection by the commission or their authorized representatives with or without prior announcement. Additionally, the licensed

operator understands that a commission agent is authorized to be present anywhere within the wagering facility each day any time during operation of historical horse racing wagering, and whenever else deemed appropriate by the director of enforcement.

2. The operator licensee consents to the examination of all accounts, bank accounts, and records of, or under the control of the operator licensee, or any entity in which the operator licensee has a direct or indirect controlling interest. Upon request of the commission or its authorized representative, the operator licensee must authorize all third parties in possession or control of the requested documents to allow the commission or commission agents to examine such documents.

3. The operator licensee will observe and enforce all rules, regulations, decisions, and orders issued by the commission. The operator's license is granted on the condition that the operator licensee, management, and its employees will obey all decisions and orders of the commission. Each operator licensee will have a continuing duty to report to the commission enforcement division any violation of the *Rules of Racing* or applicable laws of the State of Louisiana by the operator licensee, management, and its employees. Failure to report violations will result in disciplinary action against the operator licensee. The licensee is required to notify the commission in writing within 30 days of the violation.

Q. The commission may refuse to issue an operator licensee or deny any operator licensee application on any grounds deemed reasonable by the commission. Without limiting the foregoing, the commission may deny the application on any of the following grounds:

1. evidence of an applicant submitting an untrue or misleading statement of material fact, or willful omission of any material fact, in any application, statement, or notice filed with the commission, made in connection with any investigation, including the background investigation, or otherwise made to the commission or its staff;

2. conviction of any felony in any jurisdiction by key persons of the applicant or by the applicant which may affect the applicant's ability to properly perform his or her duties or reflect unfavorably on the integrity of a historical horse racing wagering facility;

3. conviction of any gambling offense in any jurisdiction by key persons or by the applicant;

4. entry of any civil or administrative judgment against the applicant or its key persons that is based, in whole or in part, on conduct that allegedly constituted a felony crime in the state or other jurisdiction in which the conduct occurred that may affect the applicant's ability to properly perform his or her duties or reflect unfavorably on the integrity of a historical horse racing wagering facility, or involved a gambling violation(s);

5. association by the applicant, applicant's spouse or members of applicant's immediate household with persons or businesses of known criminal background or persons of disreputable character that may adversely affect the general credibility, security, integrity, honesty, fairness or reputation of the historical horse racing wagering industry;

6. any aspect of the applicant's or any key person's past conduct, character, or behavior that the commission determines would adversely affect the credibility, security,

integrity, honesty, fairness or reputation of the proposed historical horse racing wagering activity;

7. failure of the applicant or its key persons to demonstrate adequate business ability and experience to establish, operate, and maintain the business for the type of activity for which application is made;

8. failure to demonstrate adequate financing for the operation proposed in the application;

9. failure to satisfy any requirement for application or to timely respond to any request by the commission for additional information;

10. permanent suspension, revocation, denial or other limiting action on any license related to historical horse racing wagering issued by any jurisdiction; and

11. approval of the application would otherwise be contrary to Louisiana law or public policy.

R. The commission, in the same manner and in accordance with the Louisiana Administrative Procedures Act, will provide the applicant with written notice of the denial, and the applicant shall have the opportunity to appeal the commission decision in conformity with R.S. 4:214(J).

S. The commission may issue a provisional license to any applicant who provides the required fingerprint cards, photographs, completed application, and intent to employ statement. Provisional licenses may be valid for a period established by the commission but shall not be more than 90 days and is subject to the license conditions enumerated in the commission's authorization of the provisional license.

1. The commission may extend the duration of provisional licenses in 30-day increments if the licensing process has not been completed.

T. Wagering on historical horse races shall only be permitted in the designated area on the licensed premises of the pari-mutuel facility and/or offtrack wagering facility. Wagering on historical horse races shall not be offered in any other location.

U. An applicant for a license to offer pari-mutuel wagering on historical horse racing shall apply for a license to conduct the same with the commission at its offices. An application fee, set by the commission-approved license fee schedule, shall be paid for each location where the applicant seeks to offer pari-mutuel wagering on historical horse racing to reimburse the commission for the cost of regulation. The initial application fee shall be paid upon filing of the application.

1. Licensees authorized to offer pari-mutuel wagering on historical horse racing shall pay an annual license fee set by the commission-approved license fee schedule, to be paid monthly, to reimburse the commission for the cost of regulation.

2. The annual total for initial application fees or annual licenses fees shall not exceed the commission's budgeted costs for the regulation of historical horse racing in any calendar year.

V. An applicant for a license to offer pari-mutuel wagering on historical horse racing shall submit a plan of operation that includes:

1. the number of terminals to be operated at the facility, broken down by terminal provider, make, and model;

2. a detailed description of the proposed area designated for the sale of pari-mutuel pool, and the

placement of terminals within the area, including a drawn-to-scale architectural rendering that describes:

- a. the size, construction, and capacity of the area;
- b. the number and location of each terminal; and
- c. the location of surveillance and other security equipment.

3. a description of the type of data processing, communication, totalizator and transmission equipment to be utilized;

4. a networking diagram detailing the manner in which the machines will be networked with the wagering servers and back office systems;

5. an IT security plan detailing the logical security measures for the wagering system;

6. the type, number and denominations of pari-mutuel wagers to be offered;

7. the terminal provider, make, and model of each terminal, including a copy of all literature supplied by the manufacturer of the terminal;

8. the maintenance and repair procedures that will ensure the integrity of the terminals;

9. detailed information on the wager types, including breakage, to be offered by the applicant, including information demonstrating compliance with the requirements of this chapter;

10. wager specification documentation, which shall include the rules for the mathematical models, methodology of calculating payouts of the pools, configuration of pools, how money is allocated to or from the pools (including seed pool(s) as applicable), and pool payout methodology. As used herein, a seed pool refers to a pool of money that is used to ensure that all patrons are paid the minimum payout on winning wagers.

W. Before offering wagering on historical horse races, an association shall first obtain the commission's written approval of all wagers offered as set forth in LAC 35:XIII.10703, LAC 35:XIII.10901, LAC 35:XIII.11105, LAC 35:XIII.11201, LAC 35:XIII.11507, LAC 35:XIII.11607, LAC 35:XIII.11701, and LAC 35:XIII.11801 or other accepted pari-mutuel wager type as approved by the commission.

X. A license for conducting pari-mutuel wagering on historical horse racing shall run concurrent with the association's license to conduct horse racing and/or operate offtrack wagering facilities. A licensee may not transfer its license, or assign responsibility for compliance with the conditions of its license, to any party, including, without limitation, a transfer of effective control of the licensee, without commission approval.

Y. Failure to comply with requirements in R.S. 4:149, and/or offtrack wagering facility requirements pursuant to R.S. 4:213 and the *Rules of Racing* may result in suspension or revocation of the license for conducting pari-mutuel wagering at the discretion of the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142 and R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 48:

### **§13113. Operational Requirements for the Conduct of Historical Horse Racing**

A. An association may conduct wagering on historical horse races of any horse breed regardless of the type of



breed that primarily races in live meets conducted by the association. An association may conduct wagering on historical horse races on any days and hours approved by the commission, and shall not be limited to times during which the association is conducting a live horse race meeting.

B. A mutuel wager on historical horse races may be placed only from a physical facility of a licensee.

C. A mutuel wager on historical horse racing may not be placed using a mobile device unless the system communicating with the mobile device to place the wager is fully controlled and operated by the licensed facility at which the wager is placed. For the purposes of this Section, "fully controlled and operated" means the licensed facility develops, owns, leases, acquires a license for, or otherwise contracts for services to operate and control a mobile historical horse racing wagering system.

D. No licensee may accept a mutuel wager on historical horse racing if the wager is placed via a mobile phone or other personal electronic device, unless the network infrastructure and all pari-mutuel wagering software complies with the relevant technical requirements within these rules.

E. Nothing in this Section independently authorizes wagering or facilitation of wagering on historical horse racing outside of the licensed pari-mutuel wagering operation.

F. Any historical horse racing solution that relies on wireless networked communications, including all mobile historical horse racing systems, shall annually conduct a system integrity and security risk assessment performed by an independent information technology security professional approved by the commission. The system integrity and security risk assessment shall be conducted no later than 90 days after commencing operations and annually thereafter. The scope of the pari-mutuel wagering system integrity and security assessment is subject to the approval of the commission and must include:

1. A vulnerability assessment of digital platforms, mobile applications, internal, external, and wireless networks with the intent of identifying vulnerabilities of all devices, the historical horse racing system, and applications transferring, storing, and/or processing personal identifying information or other sensitive information connected to or present on the networks;

2. A penetration test of all digital platforms, mobile applications, and internal, external, and wireless networks to confirm devices, the historical horse racing wagering systems, and applications are not susceptible to compromise;

3. A review of the firewall rules to verify the operating condition of the firewall and the effectiveness of its security configuration and rule sets that must be performed on all perimeter and internal firewalls;

4. A technical security control assessment against the commission's technical requirements for security and with generally accepted professional standards;

5. An evaluation of information security services, cloud services, payment services, financial institutions, payment processors, location services, and any other services that may be offered directly by the licensee or involve the use of third parties; and

6. At the discretion of the executive director, any additional assessments or specific testing criteria which may be required by internal control procedures.

G. All wagers offered on historical horse races shall incorporate the following elements:

1. A patron may only wager on historical horse races on a terminal approved by the commission;

2. For each different type of exotic wager on historical horse races offered by an association, the association shall at all times maintain at least two terminals offering each such exotic wager;

3. Once a patron deposits an amount in the terminal offering wagering on historical horse races, one or more historical horse races shall be made available for wagering as set forth in the wagering specification rules;

4. Prior to the patron making his or her wager selections, the terminal shall not display any information that would allow the patron to identify the historical horse race or races on which he or she is wagering, including the location of the race or races, the date on which the race or races was run, the names of the horses in the race or races, or the names of the jockeys that rode the horses in the race or races;

5. The terminal shall make available true and accurate past performance information on the historical horse race to the patron prior to making his or her wager selections. The information shall be current as of the day the historical horse race was actually run. The information provided to the patron shall be displayed on the terminal in data or graphical form; and

6. After a patron finalizes his or her wager selections, the terminal shall display the patron's successful selections, the official results of each race, and a replay of the race or races, or a portion thereof, whether by digital or animated depiction or by way of a video recording. The identity of each race shall be revealed or made available to the patron after the patron has placed his or her wager.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142 and R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 48:

### **§13115. Historical Horse Race Specification and Selection Requirements**

A. The outcome of any historical horse race wager shall be derived from the result of one or more historical horse races.

B. All historical horse races must be chosen at random from a database of actual historical horse races. All races in the database shall have a valid historical horse race result with details recorded at the same level as other races in the database, and shall include:

1. race location;
2. race date; and
3. finishing order.

C. If available and provided for in the recorded race data, other information such as horse name and jockey name or associated identifiers may be included in the race database.

D. In the case where a random process is used to select the historical horse races for a wager, all possible races in the database shall be available for selection.

E. Each terminal shall:

1. be tested by an independent testing laboratory, selected by the commission, and found to be in compliance with all applicable technical standards. Any modifications made to the terminal or software shall require re-testing;

2. provide race information that is current as of the day the horse race was actually run;

3. allow any patron that is handicapping to exit the manual handicapping interface;

4. display the information provided to the patron in graphic form which is discernable to the bettor;

5. not be in the nature of a slot machine. A terminal shall not be considered to be in the nature of a slot machine when it precludes the use of random elements to determine the outcome of a wager other than the selection of a race or races from a database of races, when all wagers and prizes are pari-mutuel in nature, and when it does not include any interest of the licensee.

F. Prior to the patron making his or her wager selections, the terminal shall:

1. make true and accurate past performance information available on each historical horse race; and

2. not display any information that would allow the patron to identify the historical horse race on which the patron is wagering, including:

- a. the location of the race;
- b. the date on which the race was run;
- c. the names of the horses in the race; or
- d. the names of the jockeys who rode the horses in the race.

G. In addition to the requirement of Paragraph 2 of Subsection F of this Section, the terminal may also display the wager and its outcome as part of an entertaining display, provided the underlying wager and outcome functions according to the pari-mutuel wagering pool specifications provided by the historical horse racing licensee to the commission.

H. Approximate odds or payouts for each wagering pool shall be posted, or made available, on each terminal for viewing by patrons.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142 and R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 48:

#### **§13117. Payouts through Pari-Mutuel Pools Authorized**

A. A wager on a historical horse race or races, less deductions permitted by R.S. 4:216(E), shall be placed in pari-mutuel pools approved by the commission.

B. A payout to a winning patron shall be paid from money wagered by patrons and shall not constitute a wager against the association.

C. An association conducting wagering on historical horse races shall not conduct wagering in such a manner that patrons are wagering against the association, or in such a manner that the amount retained by the association as a commission is dependent upon the outcome of any particular race or the success of any particular wager.

D. An association offering wagering on historical horse races shall operate a pari-mutuel pool or pools in a manner and method approved by the commission. An association

offering wagering on historical horse races may operate a player-funded pool or pools in a manner and method approved by the commission for the purpose of ensuring that sufficient funds are at all times available to pay any winning wagers in situations where a pari-mutuel pool becomes a minus pool. For each wager made, an association may assign a percentage of the wager to a player-funded pool or pools.

E. If an association chooses to make a deposit into a trust account or seed pool for the purpose of ensuring that sufficient funds are at all times available to pay any winning wagers in situations where a pari-mutuel pool becomes a minus pool, then such trust account must be approved by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142 and R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 48:

#### **§13119. Minors Prohibited from Wagering on Historical Horse Races**

A. A minor shall not be permitted by any licensed association to purchase or cash a pari-mutuel ticket on historical horse races.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142 and R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 48:

#### **§13121. Responsible Play**

A. A licensee shall implement a program to promote responsible play of historical horse racing by its patrons and provide details of the same to the commission. At a minimum, such program shall require:

1. posting in a conspicuous place in every facility where pari-mutuel wagering on historical horse racing is conducted a sign that bears a toll-free number for an approved organization that provides assistance to problem gamblers;

2. providing informational leaflets or other similar materials at the licensee's facilities on the dangers associated with problem gambling;

3. including in the licensee's promotional and marketing materials information on problem gambling and organizations that provide assistance to problem gamblers;

4. providing patrons expressing concern with a gambling problem with information on organizations that provide assistance to problem gamblers; and

5. ensuring that any request by a patron who wishes to self-exclude from the licensee's facilities is honored by the licensee.

B. A licensee shall report annually to the commission and make a copy available to the public on its efforts to meet Subsection A of this Section, its efforts to identify problem gamblers, and steps taken to:

1. prevent such individuals from continuing to engage in pari-mutuel wagering on historical horse racing; and

2. provide assistance to these individuals to address problem gambling activity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142 and R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 48:

### §13123. Totalizator or Other Approved Equipment Required

A. Pari-mutuel wagering on historical horse races shall only be conducted through the use of a totalizator or other similar mechanical or electrical equipment.

B. The totalizator or other mechanical or electrical equipment shall be available for testing under the supervision of the commission upon request by the commission to ensure its proper working order.

C. Wagering on historical horse races shall be offered on terminals that include a cabinet in which the electronics and other operating components are located. All terminals and other equipment shall be subject to inspection by the commission.

D. The terminal cabinet and electronics shall:

1. protect against electrostatic interference by being grounded so that static discharge energy shall not permanently damage or inhibit the normal operation of the electronics or other components within the wagering terminal. In the event that a temporary disruption of the normal operation of a wagering terminal occurs as a result of an electrostatic discharge, the wagering terminal shall have the capacity to recover and complete any interrupted wager without loss or corruption of any control or critical data information. Each terminal shall be tested to a maximum discharge severity level of 27 kilovolt air discharge;

2. not be adversely affected, other than during resets, by surges or dips of up to 20 percent of the supply voltage. If a wagering terminal is designed such that a surge or dip of up to 20 percent of the supply voltage causes a reset, the terminal shall also be designed so that a surge or dip shall not result in damage to the equipment or loss or corruption of data. Upon reset, the wager play shall return to its previous state or return to a wager completion state, provided the wagering history and all credit and accounting meters comprehend a completed wager play;

3. have an on/off switch that controls the electrical current installed in a readily accessible location within the interior of the terminal so that power cannot be disconnected from outside of the terminal using the on/off switch. The on/off positions of the switch shall be labeled;

4. be designed so that power and data cables into and out of the terminal can be routed so that they are not accessible to the general public. Security-related wires and cables that are routed into a logic area shall be securely fastened within the interior of the terminal;

5. have an identification badge affixed to the exterior of the terminal by the terminal provider that is not removable without leaving evidence of tampering. This badge shall include the following information:

- a. the name of the terminal provider;
- b. a unique serial number;
- c. the terminal model number; and
- d. the date of manufacture;

6. have an external tower light located conspicuously on the top of the terminal that automatically illuminates when a patron has won an amount that the terminal cannot automatically pay or when an error condition has occurred;

7. be constructed of materials that are designed to allow only authorized access to the inside of the terminal. The terminal and its locks, doors, and associated hinges shall

be capable of withstanding determined and unauthorized efforts to gain access to the inside of the terminal and shall be designed to leave evidence of tampering if such an entry is made;

8. be equipped with doors of a locked area that are designed to resist the use of tools or other objects used to breach the locked area by physical force;

9. have external doors that shall be locked and monitored by door access sensors. When the external doors are opened, the door access sensors shall:

- a. cause wagering activity to cease;
- b. disable all currency acceptance;
- c. enter an error condition;
- d. illuminate the tower light at a minimum; and
- e. record the error condition. The requirements of this Subsection do not apply to the drop box door;

10. have external doors designed so that it shall not be possible to insert a device into the terminal that will disable a sensor that indicates "door open" without leaving evidence of tampering when the door of the terminal is shut;

11. have a sensor system that shall provide notification that an external door is open when the door is moved from its fully closed and locked position, provided power is supplied to the device;

12. have a logic area, which is a separately locked cabinet area with its own monitored, locked door or other monitored, locked covering that houses electronic components that have the potential to significantly influence the operation of the terminal. There may be more than one such logic area in a terminal. The electronic components housed in the logic area shall include:

a. a central processing unit and any program storage device that contains software that may affect the integrity of wagering, including the individual play accounting, system communication, and peripheral firmware devices involved in or that significantly influence the operation and calculation of wager plays, wager outcome display, wager result determination, or wager play accounting, revenue, or security;

b. communication controller electronics and components housing the communication program storage device; and

c. the nonvolatile memory backup device, which if located in the logic area, shall be kept within a locked logic area; and

13. have a currency storage area that is separately keyed and fitted with sensors that indicate "door open/close" or "stacker receptacle removed," provided power is supplied to the device. Access to the currency storage area shall be secured by two locks before the currency can be removed. The locks shall be located on the relevant outer door and on at least one other door.

E. Critical memory requirements shall include the following.

1. Critical memory storage shall be maintained by a methodology that enables errors to be identified, including signatures, checksums, partial checksums, multiple copies, timestamps, effective use of validity codes, or any combination of these methods.

2. Comprehensive checks of critical memory shall be made following wager play initiation but prior to display of wager outcome to the patron.

3. An unrecoverable corruption of critical memory shall result in an error state. The memory error shall not be cleared automatically and shall cause the terminal to cease further functioning. The critical memory error shall also cause any communication external to the terminal to immediately cease. An unrecoverable critical memory error shall require restoration or clearing of software state by an authorized person.

4. If critical memory is maintained in nonvolatile memory on the terminal and not by the server-based system, then:

a. the terminal shall have the ability to retain data for all critical memory as defined in this Section and be capable of maintaining the accuracy of the data for 30 days after power is discontinued from the terminal;

b. for rechargeable battery types only, if the battery backup is used as an off-chip battery source, it shall recharge itself to its full potential in a maximum of 24 hours, and the shelf life of the battery shall be at least five years;

c. nonvolatile memory that uses an off-chip backup power source to retain its contents when the main power is switched off shall have a detection system that will provide a method for software to interpret and act upon a low battery condition before the battery reaches a level where it is no longer capable of maintaining the memory in question. Clearing nonvolatile memory shall require access to the locked logic area or other secure method, provided that the method is approved by the commission; and

d. following the initiation of a nonvolatile memory reset procedure, the wagering program shall execute a routine that initializes all bits in critical nonvolatile memory to the default state. All memory locations intended to be cleared as per the nonvolatile memory clear process shall be fully reset in all cases.

5. Critical memory of a server-based wager configuration may be maintained by the server, terminal, or some combination thereof. The critical memory related to each terminal shall:

a. be kept independent to all other wagering terminals. If corruption occurs in any single terminal's critical memory no other terminal shall be effected by the terminal's corrupt memory state; and

b. be clearly identified as to which physical terminal the critical memory represents, through unique identification, such as serial number or other unique terminal hardware identifier.

6. All terminals shall be equipped with a device, mechanism, or method for retaining the value of the meter information specified in §13135 in the event of a loss of power to the terminal. Storage and retrieval of the accounting meters from a server is an acceptable method of retrieval.

7. Configuration setting changes shall not cause an obstruction to the meters.

8. If the terminal is in a test, diagnostic, or demonstration mode, any test that incorporates credits entering or leaving the terminal shall be completed prior to resumption of normal operation. In addition, there shall not be any mode other than normal wagering operation that debits or credits any of the electronic meters. Any wagering credits on the terminal that were accrued during the test, diagnostic, or demonstration mode shall be cleared before

the mode is exited. Specific meters are permissible for these types of modes, provided the meters are clearly identified.

9. Terminals shall not allow any information contained in a communication to or from the online monitoring system that is intended to be protected, including validation information, secure personal identification numbers, credentials, or secure seeds and keys, to be viewable through any display mechanism supported by the terminal.

F. Program storage devices shall be required to comply with the following.

1. All program storage devices shall:

a. be housed within a fully enclosed and locked logic compartment;

b. validate themselves during each processor reset; and

c. validate themselves the first time they are used.

2. Program storage devices that do not have the ability to be modified while installed in the terminal during normal operation shall be clearly marked with information to identify the software and revision level of the information stored in the devices.

3. Server-stored information shall be backed up no less often than once per day to an offsite storage facility. Offsite storage may include storage through a cloud service provider if approved by the commission. The server and offsite backup storage shall be accessible to the commission and subject to third-party checks and validation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142 and R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 48:

### **§13125. Terminal Operational/Software Requirements**

A. Terminals shall have the ability to allow for an independent integrity check of all software that may affect the integrity of the wagering configurations available to the terminal. The integrity check shall be by an independent testing laboratory approved by the commission.

B. If a winning amount is in excess of the thresholds established in the Internal Revenue Service reporting requirements, the terminal shall cease operation and require attendant interaction to proceed.

C. Terminals shall be capable of detecting and displaying the following errors:

1. open door conditions;

2. nonvolatile memory errors;

3. low nonvolatile memory battery for batteries external to the nonvolatile memory itself for low power source;

4. program error or authentication mismatch;

5. display device errors;

6. the identification of an invalid bill or voucher; and

7. loss of communication to the tote system.

D. To protect the integrity of the wagering configuration, when a terminal error condition is detected, the terminal shall secure itself by:

1. ceasing play and requiring operator intervention prior to returning to normal play;

2. displaying an appropriate error message;

3. disabling bill and voucher acceptance;

4. sounding an alarm, illuminating the tower light, displaying the error on screen, or any combination of the three;

5. communicating the error condition to an online monitoring and control system; and

6. if the terminal is powered down with an unresolved error condition, remaining in error mode unless power down is used as a part of the error reset procedure.

E. Upon resolution of an error condition, a terminal may return to a wager completion state, provided the wagering history, wagering credits, and other meters display the completed wager properly.

F. Terminals shall not be adversely affected by the simultaneous or sequential activation of various terminal inputs and outputs.

G. Test, diagnostic, or demonstration modes on a terminal shall:

1. be entered only from an attendant following appropriate instructions;

2. not be accessible to a patron;

3. be indicated on the terminal via an appropriate message; and

4. upon exiting from test, diagnostic, or demonstration mode, a terminal shall return to its previous state.

H. Available wagering credit may be collected from the terminal by the patron at any time other than during:

1. a bet being wagered;

2. audit mode;

3. test mode;

4. a credit meter or win meter increment; or

5. an error condition

I. Terminals shall be capable of displaying wager recall, which shall:

1. include the last 10 wagers on the terminal, including at least 50 intermediary steps within those wagers, including free spins and bonuses;

2. be retrievable on the terminal via an external key-switch or other secure method not available to the patron; and

3. provide all information required to fully reconstruct the wagers, including:

a. initial credits or ending credits associated with the wager;

b. credits wagered;

c. credits won;

d. entertaining display symbol combinations and credits paid whether the outcome resulted in a win or a loss;

e. representation in a graphical or text format;

f. final wager outcome, including all patron choices and all bonus features; and

g. as an optional feature, display of values as currency in place of wagering credits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142 and R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 48:

### **§13127. Requirements for Tickets or Vouchers used in Historical Horse Racing**

A. Terminals shall not dispense currency. Payment to patrons shall only be accomplished by means of a printed voucher.

B. All vouchers shall contain the following printed information at a minimum:

1. licensee name and site identifier, which may be contained on the ticket stock itself;

2. terminal number or cashier booth location;

3. date and time stated according to the local time zone;

4. alpha and numeric dollar amount;

5. ticket or voucher sequence number;

6. validation number;

7. bar code or any machine-readable code representing the validation number;

8. type of transaction or other method of differentiating voucher types. If the voucher is a noncashable item, the ticket shall explicitly express that it has "no cash value"; and

9. the expiration period from date of issue, or date and time the ticket or voucher will expire according to the local time zone. This information may be contained on the ticket stock itself. Payment on valid pari-mutuel tickets, including tickets where refunds are ordered, shall be made only upon presentation and surrender of valid pari-mutuel tickets to the licensee within 180 days after the purchase of the ticket. Failure to present any valid pari-mutuel ticket to the licensee within 180 days after the purchase of the ticket shall constitute a waiver of the right to payment.

C. A system approved by the commission shall be used to validate the payout ticket or voucher. The ticket or voucher information on the central system shall be retained for two calendar years after a voucher is valid at that location.

D. Payment by voucher as a method of credit redemption shall only be permissible when the terminal is linked to a computerized voucher validation system that is approved by the commission.

E. The validation system must be able to identify a duplicate ticket or voucher to prevent fraud.

F. Terminals must meet the following minimum requirements to incorporate the ability to issue offline vouchers after a loss of communication has been identified by a wagering terminal.

1. The wagering terminal shall not issue more offline vouchers than it has the ability to retain and display in the wagering terminal maintained voucher-out log.

2. The wagering terminal shall not request validation numbers used in the issuance of vouchers until all outstanding offline voucher information has been fully communicated to the voucher validation system.

3. The wagering terminal shall request a new set of validation numbers used in the issuance of online or offline vouchers if the current list of validation numbers has the possibility of being compromised, which shall include:

a. after power has been recycled; or

b. upon exit of a main door condition.

4. Validation numbers must always be masked when viewable through any display supported by the wagering terminal such that only the last four digits of the validation number are visible.

G. Vouchers may be inserted in any terminal participating in the validation system providing that no credits are issued to the terminal prior to confirmation of voucher validity.

H. The offline voucher redemption may be validated as an internal control process. A manual handpay may be conducted for the offline voucher value.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142 and R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 48:

### **§13129. Terminal Peripheral Device Requirements**

A. Video monitor touch screens on terminals shall:

1. be accurate to manufacturer specifications for touch point sensitivity;

2. be able to be calibrated without access to the terminal cabinet other than opening the main door, and once calibrated shall maintain accuracy for at least the video touch screen manufacturer's recommended maintenance period; and

3. have no hidden or undocumented buttons or touch points anywhere on the screen that affect wagering or that impact the outcome of the bet, except as provided by the wagering configuration rules.

B. Paper currency acceptors used in a terminal shall:

1. be electronically based;

2. detect the entry of bills or vouchers inserted into the paper currency acceptor and provide a method to enable the terminal software to interpret and act appropriately upon a valid or invalid input;

3. be configured to ensure the acceptance of only valid bills or vouchers and reject all other items;

4. return to the patron all rejected bills or vouchers, and any other item inserted into the acceptor;

5. be constructed in a manner that protects against vandalism, abuse, or fraudulent activity;

6. register the actual monetary value or appropriate number of wagering credits received for the denomination used on the patron's credit meter for each valid bill or voucher;

7. register wagering credits only when the bill or other note has passed the point where it is accepted or stacked and the acceptor has sent an "irrevocably stacked" message to the terminal;

8. be designed to prevent the use of fraudulent crediting, the insertion of foreign objects, and any other fraudulent technique;

9. implement a method of detecting counterfeit bills;

10. only accept bills or vouchers when the terminal is enabled for play;

11. have the capability of detecting and displaying any supported error conditions;

12. shall communicate with the terminal using a bi-directional protocol;

13. be located in a locked area of the terminal that requires the opening of the main door for access. The paper currency acceptor shall not be located in the logic area. Only the bill or voucher insertion area shall be accessible by the patron;

14. have a secure stacker that shall:

a. deposit into the stacker all accepted items;

b. be attached to the terminal in such a manner that it cannot be easily removed by physical force; and

c. have a separate keyed lock to access the stacker area. The keyed lock shall be separate from the main door, and a separate keyed lock shall be required to remove the bills from the stacker; and

15. have a bill validator that shall:

a. retain in its memory and have the ability to display the information required of the last 25 items accepted by the bill validator;

b. have a recall log that may be combined or maintained separately by item type. If combined, the type of item accepted shall be recorded with the respective timestamp; and

c. give proper credit or return the bill or note if power failure occurs during acceptance of a bill or note.

C. Each terminal shall be equipped with a printer that:

1. is used to make payments to the patron by issuing a printed voucher. The terminal shall transmit the following data to an online system that records the following information regarding each payout ticket or voucher printed:

a. the value of credits in local monetary units in numerical form;

b. the time of day the ticket or voucher was printed, showing hours and minutes;

c. the date, in format approved by the commission, indicating the day, month, and year that the ticket or voucher was issued;

d. the terminal number; and

e. a unique ticket or voucher validation number.

2. prints only one copy to the patron and retains information on the last 25 printed vouchers;

3. is housed in a locked area of the terminal but shall not be located within the logic area or the drop box; and

4. allows control program software to interpret and act upon all error conditions.

D. With appropriate security in place, historical horse racing wagering accounts may be funded directly from mobile devices and through various advance-deposit account funding mechanisms, whether it be through credit card, bank, or attendant or kiosk at association locations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142 and R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 48:

### **§13131. Location of Terminals Used for Wagering on Historical Horse Races**

A. Terminals offering wagering on historical horse races shall be located within designated areas which have the prior written approval of the commission. Designated areas shall be established in such a way as to control access by the general public and prevent entry by any patron who is under 18 years of age or is otherwise not permitted to place wagers.

B. Each association shall monitor persons entering and leaving the designated areas and shall prevent access to any patron who is under 18 years of age or is otherwise not permitted to place wagers on historical horse races.

C. Each association shall provide terminals that are accessible to handicapped patrons.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142 and R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 48:

### **§13133. Records to be Maintained**

A. Each association shall maintain complete records of all pari-mutuel wagering transactions on historical horse races, including the amounts wagered at each historical horse racing terminal.

B. A copy of the wagering records shall be retained and safeguarded for a period of not less than 18 months and shall not be destroyed without the prior written permission of the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142 and R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 48:

### **§13135. Accounting and Occurrence Meter Requirements**

A. The required accounting meters and related reporting as follows using the same or similar terminology:

1. coin in, which accumulates the total value of all wagers, whether the wagered amount results from the insertion of bills or vouchers or deduction from a credit meter;

2. coin out, which accumulates the total value of all amounts directly paid by the terminal as a result of winning wagers, whether the payback is made to a credit meter or any other means;

3. attendant paid jackpot, which accumulates the total value of credits paid by an attendant resulting from a single wager, in excess of thresholds established by the Internal Revenue Service reporting requirements, the amount of which results in Internal Revenue Service or applicable agency reporting;

4. attendant paid canceled credit, which accumulates the total value paid by an attendant resulting from a patron-initiated cashout or non-taxable winning wager that exceeds the physical or configured capability of the terminal to make the proper payout amount;

5. bill in, which accumulates the total value of currency accepted. Each wagering terminal shall have a specific occurrence meter for each denomination of currency accepted that records the number of bills accepted of each denomination;

6. voucher in, which accumulates the total value of all wagering terminal vouchers accepted by the device;

7. voucher out, which accumulates the total value of all wagering terminal vouchers issued by the device;

8. noncashable electronic promotion in, which accumulates the total value of noncashable credits from vouchers accepted by the terminal;

9. cashable electronic promotion in, which accumulates the total value of cashable credits from vouchers accepted by the terminal;

10. noncashable electronic promotion out, which accumulates the total value of noncashable credits issued to vouchers by the device; and

11. cashable electronic promotion out, which accumulates the total value of cashable credits issued to vouchers by the device.

B. Additional required occurrence meters are as follows:

1. cashable promotional credit wagered, which accumulates the total value of promotional cashable credits that are wagered;

2. plays wagered, which accumulates the number of wagers placed; and

3. plays won, which accumulates the number of wagers resulting in a win to the patron.

C. Electronic accounting meters shall maintain and calculate data to at least 10 digits in length.

D. Electronic accounting meters shall be maintained in credit units equal to the denomination or in dollars and cents.

E. If the electronic accounting meter is maintained in dollars and cents, eight digits must be used for the dollar amount and two digits must be used for the cents amount.

F. Devices configured for multi-denomination wagering shall display the units in dollars and cents at all times.

G. Any time the meter exceeds a value it is not capable of exceeding, the meter must roll over to zero.

H. Occurrence meters shall be at least eight digits in length but are not required to automatically roll over.

I. Meters shall be identified so that they can be clearly understood in accordance with their function.

J. Meters can be on the server instead of the terminal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142 and R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 48:

### **§13137. Required Reports for Wagering on Historical Horse Races; Audit and Inspection by the Commission**

A. All systems used for pari-mutuel wagering on historical horse races shall provide financial reports for individual approved wager model configurations and total pool amounts for each pool. Reports shall be available at the end of the wagering day or upon request by the commission with information current since the end of the last wagering day. The reports shall include:

1. current values of each pari-mutuel wagering pool;

2. total amounts wagered for all pools;

3. total amounts won by patrons for all pools;

4. total commission withheld for all pools;

5. total breakage for all pools, where applicable;

6. total amount wagered at each terminal;

7. total amount won by patrons at a terminal;

8. the amount wagered on each mathematical model configuration and the amount won from each mathematical model configuration offered at a terminal;

9. total amount of each type of financial instrument inserted into a terminal;

10. total amount cashed out in voucher or handpays at a terminal; and

11. taxable win events including:

a. time and date of win;

b. wagering terminal identification number;

c. amount wagered resulting in taxable win; and

d. taxable amount won.

B. As provided in §13118, the commission or its authorized representatives may, at any time, conduct an audit or inspection of the financial reports, software, terminals, or other equipment used by a licensee in conducting operations under this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142 and R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 48:

### **§13139. Equipment and Laboratory Testing**

A. Each association shall provide for a nationally recognized, independent testing laboratory approved by the commission to submit to the commission a general functional evaluation laboratory report regarding the hardware and software installed on each historical horse

racing terminal and the software on each historical horse racing app indicating whether same is in compliance with applicable law and regulations.

B. Any alterations, modifications, or updates to the software or hardware on any historical horse racing terminal or the software on any historical horse racing app shall require the vendor to submit to the commission a new laboratory report as required under Subsection A of this Section before the wagering configuration may be used for play at an establishment.

C. If there is a complete breakdown of a terminal offering wagering on historical horse racing, the association offering the wager shall make a full refund of the patron's balance on the terminal at the time of the breakdown.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142 and R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 48:

#### **§13141. Minimum Wagers and Payouts**

A. The minimum wager to be accepted by an association on a wager based on the outcome of a historical horse race or races shall be \$0.10. The minimum payout on any wager shall not be less than the amount wagered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142 and R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 48:

#### **§13143. Odds and Payouts Posted**

A. For wagering on historical horse races, approximate odds or payouts for each pari-mutuel pool shall be posted or made available on each terminal for viewing by patrons.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142 and R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 48:

#### **§13145. Betting Explanation**

A. Each association shall post, in conspicuous places in the designated area, a general explanation of pari-mutuel wagering offered on historical horse races and an explanation of each pari-mutuel pool offered. The explanation shall be submitted to the commission for approval prior to its posting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142 and R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 48:

#### **§13147. Wagering Terminal Historical Horse Race**

##### **Display**

A. All wagering terminals shall have video displays that clearly identify the entertaining theme, if any, being used to offer pari-mutuel wagering on historical horse racing. The video display shall make available the rules of the historical horse racing wager and the award that will be paid to the patron when the patron obtains a specific win.

B. All payable information, rules of play, and help screen information shall be available to a patron prior to placing a wager.

C. All wagering terminals shall have video displays that make available to the patron the rules of any features or interactive functions that may occur on the patron interface as part of the entertaining display of the wager and its outcome. The video displays shall:

1. clearly identify the entertaining theme, if any, being used to offer pari-mutuel wagering on historical horse racing;
2. make the following information available to the patron:
  - a. all payable information, rules of play, and help screen information;
  - b. the award that will be paid to the patron when the patron obtains a specific win; and
  - c. the rules of any features or interactive functions that may occur as part of the entertaining display of the wager and its outcome;
3. provide the race data in a reasonable manner as to not discourage patrons who wish to handicap from doing so; and
4. allows the patron to compare their picks against the true order of finish.

D. The video display shall clearly indicate whether awards are designated in credits or currency.

E. All wagering terminals shall display the following information to the patron at all times the wagering terminal is available for patron wager input:

1. the patron's current credit balance in currency or credits;
2. the current bet amount;
3. the amount won for the last completed wager until the next wager starts or betting options are modified;
4. the patron's options selected for the last completed wager until the next wager starts or a new selection is made; and
5. a disclaimer stating "Malfunction Voids All Pays" or some equivalent wording approved by the commission. This may be presented as a permanent sign on the terminal.

F. Entertaining features that simulate bonus or free plays shall meet the following requirements:

1. the initiation of a bonus or free play shall only be based on the result of the wager placed by the patron on the result of the historical horse race selected for the wager;
2. the bonus or free play shall not require additional money to be wagered by the patron;
3. the entertaining display shall make it clear to the patron that the patron is in bonus mode to avoid the possibility of the patron unknowingly leaving the wagering terminal while in a bonus mode; and
4. if the bonus or free play requires an input from the patron, the terminal shall provide a means to complete the bonus or free play from a touch screen or hard button.

G. Electronic metering displays shall:

1. at all times include all credits or cash available for the patron to wager or cash out unless the terminal is in an error or malfunction state. This information is not required when the patron is viewing a menu or help screen item;
2. reflect the value of every prize at the end of a wager and add it to the patron's credit meter, except for handpays; and
3. show the cash value collected by the patron upon a cashout unless the terminal is in an error or malfunction state. The production of a voucher containing this information shall be sufficient.



H. A wager is complete when the final transfer to the patron's credit meter takes place or when all credits wagered are lost.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142 and R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 48:

**§13149. Access by Commission and Agents of the Commission**

A. Each association shall allow the commission and the agents of the commission unrestricted access to inspect the entire premises wherein historical horse racing is being conducted at any time to ensure that the *Rules of Racing* are being followed, this shall include the unrestricted access to inspect and test any mechanical, electrical, or electronic devices thereon being utilized or capable of being utilized by the association for historical horse racing.

B. Subject to the authority of the executive director, the commission may at any time enter into memoranda of understanding with other racing jurisdictions to share historical horse racing investigatory findings, documents, and materials.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142 and R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 48:

**§13151. Required Audits and Inspections**

A. Terminals shall have the ability to allow for an independent integrity check of all software that may affect the integrity of the wagering system. The integrity check shall be performed by an independent testing laboratory approved by the commission.

B. The independent testing laboratory's software may be embedded within the wagering software, utilize an interface port to communicate with the terminal, or require the removal of terminal media for external verification.

C. Each terminal used for wagering on historical horse races shall be tested by the independent testing laboratory to ensure its integrity and proper working order. This evaluation shall include a review of installed software prior to implementation and periodically within a timeframe established by the commission.

D. The licensee shall pay the cost of the independent testing laboratory's review and testing, and the reports of the same shall be delivered to the licensee and the commission.

E. To ensure the integrity of pari-mutuel wagering and validity of the race results, the licensee shall permit an integrity auditor, selected and paid for by the commission, complete access to review and monitor the integrity, security, and operation, including all race and handicapping data used in order to detect any compromise of or anomalies that would allow a player to have an unfair advantage.

F. The integrity auditor shall be in a position to extract actual data and use a statistically significant portion of this data applied to quality assurance testing and assess the validity of the vendor's management reporting by cross-referencing to a body of raw source information to determine correctness. The integrity auditor shall have experience and expertise involving all components of pari-mutuel wagering and totalizator systems.

G. The integrity auditor will collect and provide wagering data and reports from the licensee's vendor. This shall include pari-mutuel commission and liability reports for analysis and verification of the amounts wagered, payouts, takeout, and taxes in addition to all transactional data logs and reports daily as specified by the integrity auditor.

H. The licensee shall provide access to the integrity auditor to conduct periodic onsite inspections and terminal audits at licensed racetracks and satellite wagering facilities with assistance from the vendor. The licensee shall notify of and any adverse or unusual occurrences relating to the operation of play or payouts to the integrity auditor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142 and R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 48:

Charles A. Gardiner III  
Executive Director

2202#012

**DECLARATION OF EMERGENCY**

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

Outpatient Hospital Services  
Payment for Outpatient Surgery Services  
COVID-19 Laboratory Testing  
(LAC 50:V.5301)

The Department of Health, Bureau of Health Services Financing adopts LAC 50:V.5301 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953.1 et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health, Bureau of Health Services Financing proposes to amend the provisions governing outpatient hospital services in order to provide reimbursement for laboratory testing for Coronavirus Disease 2019 (COVID-19) separately from outpatient hospital surgery fee schedule payments.

It is anticipated that this Emergency Rule will result in programmatic costs in the Medicaid Program of approximately \$37,073 for State Fiscal Year 2021-2022. This action is being taken to promote the health and welfare of Medicaid recipients by providing additional funding for COVID-19 testing.

Effective February 10, 2022, the Department of Health, Bureau of Health Services Financing amends the provisions governing outpatient hospital services in order to provide reimbursement for laboratory testing for COVID-19 separately from outpatient hospital surgery fee schedule payments.

**Title 50**  
**PUBLIC HEALTH—MEDICAL ASSISTANCE**  
**Part V. Hospital Services**

**Subpart 5. Outpatient Hospital Services**

**Chapter 53. Outpatient Surgery**

**Subchapter A. General Provisions**

**§5301. Payment for Outpatient Surgery Services**

A. Payment for outpatient surgery services is a flat rate in accordance with the published fee schedule. The flat rate payment covers all services provided during the outpatient surgical admission. There shall be no cost settlement for outpatient surgery services except for the specific hospital types identified in Subchapter B of this Chapter.

1. Effective for dates of service on or after February 10, 2022, the Medicaid Program shall provide reimbursement for Coronavirus Disease 2019 laboratory testing in addition to the outpatient surgery fee schedule flat fee reimbursement amount.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 48:

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

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

Dr. Courtney N. Phillips  
Secretary

2202#055

**DECLARATION OF EMERGENCY**

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

Pharmacy Benefits Management Program  
Over-the-Counter At-Home COVID-19 Tests  
(LAC 50:XXIX.107)

The Department of Health, Bureau of Health Services Financing amends LAC 50:XXIX.107 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953.1 et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) requires

states to provide reimbursement in the Medical Assistance Program for over-the-counter (OTC) at-home tests for Coronavirus Disease 2019 (COVID-19) that have been authorized by the Food and Drug Administration (FDA). In compliance with CMS requirements, the Department of Health, Bureau of Health Services Financing hereby amends the provisions governing the Pharmacy Benefits Management Program in order to include coverage for FDA-authorized OTC at-home tests for COVID-19.

It is anticipated that this Emergency Rule will result in programmatic costs in the Medicaid Program of approximately \$34,123 for State Fiscal Year 2021-2022. This action is being taken to promote the health and welfare of Medicaid recipients by ensuring access to COVID-19 tests.

Effective February 4, 2022, the Department of Health, Bureau of Health Services Financing amends the provisions governing the Pharmacy Benefits Management Program in order to provide coverage for OTC at-home COVID-19 tests.

**Title 50**  
**PUBLIC HEALTH—MEDICAL ASSISTANCE**  
**Part XXIX. Pharmacy**

**Chapter 1. General Provisions**

**§107. Prior Authorization**

A. - C.3. ...

D. Drugs Excluded from Coverage. As provided by §1927(d)(2) of the Social Security Act, the following drugs are excluded from program coverage:

1. - 4.o. ...

5. select nonprescription drugs except OTC antihistamines and antihistamine/decongestant combinations and polyethylene glycol 3350 (Miralax®) and OTC at-home COVID-19 FDA-authorized tests;

E. - E.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, Title XIX of the Social Security Act, and the 1995-96 General Appropriations Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1053 (June 2006), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1180 (June 2017), LR 43:1553 (August 2017), LR 45:665 (May 2019), LR 46:33 (January 2020), LR 48:

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

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

Dr. Courtney N. Phillips  
Secretary

2202#018

## DECLARATION OF EMERGENCY

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

Programs and Services Amendments Due to the Coronavirus  
Disease 2019 (COVID-19) Public Health Emergency—  
Home and Community-Based Services Waivers and Long-  
Term Personal Care Services

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

In response to these public health emergency declarations and the rapid advancement of COVID-19 throughout Louisiana, the Department of Health, Bureau of Health Services Financing, the Office of Aging and Adult Services (OAAS), the Office of Behavioral Health (OBH), and the Office for Citizens with Developmental Disabilities (OCDD) promulgated Emergency Rules which amended the provisions of Title 50 of the *Louisiana Administrative Code* in order to adopt temporary measures to provide for the continuation of essential programs and services to ensure the health and welfare of the citizens of Louisiana in accordance with the provisions of the Administrative Procedure Act (*Louisiana Register*, Volume 46, Number 4 and *Louisiana Register*, Volume 46, Number 7).

The department promulgated an Emergency Rule, adopted on August 25, 2020, to further amend the Adult Day Health Care (ADHC) Waiver and the Community Choices Waiver (CCW), and to amend the provisions governing long term-personal care services (LT-PCS) in order to ensure that these services continue uninterrupted throughout the COVID-19 public health emergency declaration. This Emergency Rule also clarified that the home and community-based services (HCBS) waiver provisions of the Emergency Rules published in the April 20, 2020 edition of the *Louisiana Register* which correspond to Louisiana's section 1915(c) Appendix K waiver will remain in effect for the duration of the Emergency Rules published in April 2020 or until the Appendix K waiver termination date of January 26, 2021, whichever is later (*Louisiana Register*, Volume 46, Number 9). This Emergency Rule is being promulgated in order to continue the provisions of the Emergency Rule adopted on August 25, 2020.

This Emergency Rule shall be in effect for the maximum period allowed under the Administrative Procedure Act or the duration of the COVID-19 public health emergency declaration, whichever is shorter.

Effective February 20, 2022, the Department of Health, Bureau of Health Services Financing, OAAS and OCDD hereby amend the provisions governing the ADHC Waiver, the CCW, and LT-PCS throughout the COVID-19 public health emergency declaration, and clarify that the HCBS waiver provisions which correspond to Louisiana's section 1915(c) Appendix K waiver will remain in effect for the duration of the Emergency Rules published in the April 20, 2020 *Louisiana Register* or until the Appendix K waiver termination date of January 26, 2021, whichever is later, in order to continue the provisions of the Emergency Rule adopted on August 25, 2020.

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

Due to the COVID-19 public health emergency declaration, the Office of Aging and Adult Services (OAAS) may also utilize the level of care eligibility tool (LOCET) to determine if an individual meets eligibility qualifications for long term-personal care services (LT-PCS) and to determine resource allocation while identifying his/her need for support in performance of activities of daily living (ADLs) and instrumental activities of daily living (IADLs).

The LOCET may also be used to generate a score that measures the recipient's degree of self-performance of late-loss activities of daily living during the period just before the assessment. Criteria used to generate the score will be consistent with criteria on the interRAI home care assessment tool currently used. This score will correspond with the same level of support category and allocation of weekly service hours associated with that level.

OAAS may use the LOCET until such time as the applicant/recipient is able to be assessed using the uniform interRAI home care assessment tool.

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

During the COVID-19 public health emergency declaration, and with approval from the Centers for Medicare and Medicaid Services (CMS), the following options may be available through the Adult Day Health Care (ADHC) Waiver:

The State may allow ADHC providers to provide services telephonically to waiver participants that cannot attend the ADHC center to ensure continuity of services.

The State is adding the following services in the ADHC Waiver:

**Home Delivered Meals.** The purpose of home delivered meals is to assist in meeting the nutritional needs of an individual in support of the maintenance of self-sufficiency and enhancing the quality of life. Up to two nutritionally balanced meals per day may be delivered to the home of the participant. This service may be provided by the ADHC provider.

**Assistive Devices and Medical Supplies.** Assistive devices and medical supplies are specialized medical equipment and supplies that include:

Devices, controls, appliances or nutritional supplements specified in the Plan of Care that enable participants to increase their ability to perform activities of daily living (ADLs);

Devices, controls, appliances or nutritional supplements that enable participants to perceive, control or communicate

with the environment in which they live or provide emergency response;

Items, supplies and services necessary for life support, ancillary supplies, and equipment necessary to the proper functioning of such items;

Supplies and services to assure participants' health and welfare;

Other durable and non-durable medical equipment and necessary medical supplies that are necessary but not available under the Medicaid State Plan;

Personal Emergency Response Systems (PERS);

Other in-home monitoring and medication management devices and technology;

Routine maintenance or repair of specialized equipment; and

Batteries, extended warranties and service contracts that are cost effective and assure health and welfare.

This includes medical equipment not available under the Medicaid State Plan that is necessary to address participant functional limitations and necessary medical supplies not available under the Medicaid State Plan.

#### **Home and Community-Based Services Waiver**

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

During the COVID-19 public health emergency declaration, and with approval from the Centers for Medicare and Medicaid Services (CMS), the state may allow ADHC providers to provide services telephonically to waiver participants that cannot attend the ADHC center to ensure continuity of services.

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

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

Dr. Courtney N. Phillips  
Secretary

2202#047

### **DECLARATION OF EMERGENCY**

#### **Department of Public Safety and Corrections Gaming Control Board**

Louisiana Sports Wagering  
(LAC 42:III.301, 303, 304 and  
VI.103, 501, 503, 505, 509, 517)

The Gaming Control Board is exercising the emergency provision of the Administrative Procedure Act, specifically R.S. 49:953.1, and also R.S.27:15 and 24, to promulgate an Emergency Rule to implement the initial administrative rules for the conducting, application, licensing, enforcement, and regulation of sports wagering.

During their 2021 Regular Session, the Louisiana Legislature adopted Act 440, which directs the Gaming Control Board to adopt emergency rules for the

promulgation of the initial administrative rules pertaining to sports wagering that shall be considered to constitute a matter of imminent peril to public health, safety, and welfare.

The Gaming Control Board has determined that this Emergency Rule is necessary to comply with the legislative mandate in Act 440 of the 2021 Regular Session of the Louisiana Legislature. This Emergency Rule shall become effective January 23, 2022 and shall remain in effect for the maximum period allowed by the APA unless extended or rescinded.

#### **Title 42**

#### **LOUISIANA GAMING**

#### **Part III. Gaming Control Board**

#### **Chapter 3. Compulsive and Problem Gambling**

##### **§301. Problem Gambling Programs**

A. As used in this Chapter, *licensee* shall mean all persons licensed or otherwise authorized to conduct gaming operations pursuant to the provisions of Chapters 4, 5, 7, and 10 of the Louisiana Gaming Control Law, R.S. 27:1 et seq., including the casino operator and casino manager and sports wagering platform providers, but not including persons licensed pursuant to Chapter 8 of the Louisiana Gaming Control Law. As used in this Chapter, *sports wagering platform* includes all websites and mobile applications used to place sports wagers.

B. The casino operator or casino manager and each licensee shall post or provide written materials concerning the nature and symptoms of problem gambling in conspicuous places within the gaming establishment in or near gaming areas and areas where cash or credit is made available to patrons, including cash dispensing machines. Licensees shall include access to such written materials on its sports wagering platform.

C. The casino operator or casino manager and each licensee shall post one or more signs, as approved by the division, at points of entry to casino gaming establishments to inform customers of the toll free telephone number available to provide information and referral services regarding compulsive or problem gambling. The toll free number shall be provided by the division. Licensees shall include such information and toll free number on its sports wagering platform.

D. ...

E.1. The casino operator or casino manager and all licensees shall develop a comprehensive program for its property or properties and sports wagering platform(s), that address, at a minimum, the areas of concern described in R.S. 27:27.1.C which are designed to:

a. provide procedures designed to prevent employees from willfully permitting a person identified on a Self-Exclusion List from engaging in gaming activities at the licensed establishment or facility or on the sports wagering platform;

b. ...

c. provide procedures for the development of programs to address issues of underage gambling and unattended minors at gaming facilities and on sports wagering platforms;

d. - e. ...

f. provide procedures for removing or excluding self-excluded persons from the licensed establishment or

facility or sports wagering platform. These procedures may include, if necessary, procedures that include obtaining the assistance of the division or local law enforcement;

g. ...

h. provide procedures for the distribution or posting within the gaming establishment, facility, or sports wagering platform of information that promotes public awareness about problem gambling and provides information on available services and resources to those who have a gambling problem;

1.i. - 2. ...

3. In addition to the areas of concern described in R.S. 27:27.1.C, the comprehensive program shall also include a program that allows patrons to self-limit their access to functions and amenities of the gaming establishment, facility, or sports wagering platform, including but not limited to, the issuance of credit, check cashing or direct mail marketing.

F. The casino operator or casino manager and each licensee shall submit the comprehensive program to the board for approval within 120 days from the date this rule becomes effective as required by R.S. 27:27.1.C. Amendments to the program shall be submitted to the board for approval prior to implementation.

G. Upon approval, the casino operator, casino manager and all licensees shall comply with their respective comprehensive compulsive and problem gambling programs submitted to the board.

H. - H.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 28:1987 (September 2002), LR 48:

**§303. Persons Required to be Excluded**

A. Pursuant to R.S. 27:27.2, the Louisiana Gaming Control Board hereby provides for the establishment of a list of persons who are to be excluded or ejected from any room, premises, or designated gaming area of an establishment, or from a sports wagering platform, where gaming is conducted pursuant to Chapters 4, 5, 7, and 10 of the Louisiana Gaming Control Law, R.S. 27:1 et seq.

B. Definitions. The following words and terms, when used in this Section, shall have the following meanings unless the context clearly indicates otherwise.

\* \* \*

*Board Exclusion List*—a list of names of persons who, pursuant to R.S. 27:27.2, are required to be excluded or ejected from casino gaming establishments and sports wagering platforms.

\* \* \*

*Casino Gaming Establishment*—any room, premises, or designated gaming area of any establishment where gaming is conducted pursuant to Chapters 4, 5, 7, and 10 of the Louisiana Gaming Control Law and all sports wagering platforms pursuant to Chapter 10 of the Louisiana Gaming Control Law.

\* \* \*

C. Criteria for Exclusion

1. The board exclusion list may include any person who meets any of the following criteria:

a. a Career or Professional Offender whose presence on or in a casino gaming establishment would be adverse to the interests of the state of Louisiana or to authorized gaming therein;

b. an associate of a career or professional offender whose association is such that his or her presence on or in a casino gaming establishment would be adverse to the interests of the state of Louisiana or to authorized gaming therein;

c. - e. ...

f. is a person whose presence on or in a casino gaming establishment would be adverse to the state of Louisiana or authorized gaming therein, including, but not limited to:

i. - ii. ...

iii. persons who pose a threat to the safety of the patrons or employees of the casino operator or casino manager or any licensee;

C.1.f.iv. - F.1.f. ...

g. the person's occupation and his current home, business, and electronic mail address; and

F.1.h. - G.1. ...

2. The list shall be open to public inspection except information pertaining to the date of birth, driver's license number, state identification number, Social Security number and current home, business, and electronic mailing address of the board excluded person.

3. ...

4. No licensee, the casino operator or casino manager or any employee, or agent thereof shall disclose the date of birth or current home, business, or electronic mailing address of a board excluded person to anyone other than employees or agents of licensees, or approved contracted entities, whose duties and functions require access to such information.

H. Duties of the Casino Operator or Casino Manager and Licensees

1. The casino operator or casino manager, licensees and their agents or employees shall exclude or eject the following persons from the casino gaming establishment:

a. - b. ...

2. a. If a board excluded person enters, attempts to enter, or is in the casino gaming establishment and is discovered by the casino operator or casino manager or any licensee, the casino operator or casino manager or licensee shall immediately notify the division of such fact and, unless otherwise directed by the division, immediately eject such excluded person from the casino gaming establishment.

b. If a board excluded person gains access to a sports wagering platform, the licensee shall immediately notify the division and immediately exclude the person from the platform.

3. Upon discovery of a board excluded person in or on the casino gaming establishment, both the security and surveillance departments, or the departments responsible for

sports wagering platform security, of the casino operator, casino manager and licensees shall initiate a joint investigation, unless otherwise directed by the division, to determine:

a. - b. ...

4. The casino operator, casino manager, and each licensee shall take reasonable steps to ensure that no winnings or losses arising as a result of prohibited casino gaming activity are paid or recovered by a board excluded person.

5. It shall be the continuing duty of the casino operator, casino manager, and each licensee to inform the board and division in writing of the names of persons it knows or has reason to know are appropriate for placement on the board exclusion list.

#### I. Sanctions

1. Any licensee, casino operator or casino manager who willfully fails to exclude a board excluded person from the casino gaming establishment shall be in violation of these rules and may be subject to administrative action pursuant to R.S. 27:27.2.F and this Section.

I.2. - J.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 28:1988 (September 2002), LR 48:

### §304. Self-Exclusion

A. Pursuant to R.S. 27:27.1, the Louisiana Gaming Control Board hereby provides for the establishment of a list of persons who, at his or her request, are to be excluded or ejected from all casino gaming establishments licensed or operating pursuant to Chapters 4, 5, 7, and 10 of the Louisiana Gaming Control Law, R.S. 27:1 et seq.

#### B. Definitions

1. The following words and terms, when used in this Section, shall have the following meanings unless the context clearly indicates otherwise.

*Casino Gaming Establishment*—any room, premises, or designated gaming area of any establishment where gaming is conducted pursuant to Chapters 4, 5, 7, and 10 of the Louisiana Gaming Control Law and all sports wagering platforms pursuant to Chapter 10 of the Louisiana Gaming Control Law.

\* \* \*

*Self-Exclusion List*—a list of names of persons who have voluntarily agreed to be excluded from all gaming activities and to be prohibited from collecting any winnings or recovering any losses at or from all casino gaming establishments.

C. - C.4.a.ii. ...

iii. current home, business, and electronic mailing address;

iv. - vii. ...

b. a waiver and release which shall release, forever discharge, indemnify and hold harmless the state of Louisiana, the Louisiana Gaming Control Board ("Board"), the Louisiana Department of Public Safety and Corrections, Office of State Police ("State Police"), the Department of Justice, Office of the Attorney General ("Attorney General's Office"), all licensees, the casino operator and casino manager and their members, agents, and employees, from any liability to the person requesting self-exclusion and his

or her heirs, administrators, executors and assigns for any harm, monetary or otherwise, which may arise out of or by reason of any act or omission relating to the request for self-exclusion, request for removal from the self-exclusion list, or removal from the self-exclusion list, including:

i. ...

ii. the failure of the casino operator or casino manager or a licensee to withhold gaming privileges from, or restore gaming privileges to, a self-excluded person;

iii. permitting a self-excluded person to engage in gaming activity in or on a casino gaming establishment while on the list of self-excluded persons; and

iv. ...

c. the following statement signed by the person submitting the request for self-exclusion:

"I understand and read the English language or have had an interpreter read and explain this form. I am voluntarily requesting exclusion from all gaming activities at or on all Louisiana casino gaming establishments (which includes sports wagering platforms) because I am a compulsive and/or problem gambler. I certify that the information that I have provided above is true and accurate, and that I have read, understand, and agree to the waiver and release included with this request for self-exclusion. I am aware that my signature below authorizes the Board or the State Police to direct all Louisiana licensees, including the casino operator and casino manager and sports wagering platform providers, to restrict my gaming activities and access to casino gaming establishments for a minimum period of five years from the date of exclusion. During such period of time, I will not attempt to enter any casino gaming establishment or attempt to participate in gaming activity on a sports wagering platform. I further understand that my name will remain on the Self-Exclusion List until 1) I submit a written request to the Board to terminate my self-exclusion; 2) a hearing is held; and 3) there is a written decision of the Board determining that there is no longer a basis for me to be maintained on the list. I am aware that I cannot request removal from the list before five years have elapsed from the date of exclusion. I am aware and agree that during any period of self-exclusion, I shall not collect in any manner or proceeding any winnings or recover any losses resulting from any gaming activity at any casino gaming establishment or on a sports wagering platform and that any money or thing of value obtained by me from, or owed to me by, the sports wagering platform provider, casino operator, casino manager, or a licensee as a result of wagers made by me while on the Self-Exclusion List shall be withheld and remitted to the state of Louisiana."

C.4.d. - D.2. ...

3. The list shall be distributed by the division to the casino operator or casino manager and each licensee who shall acknowledge receipt of the list in writing. The division shall notify the casino operator, casino manager and all licensees of the addition of new names and removal of names from the Self-Exclusion List within two business days of the effective date of such action.

4. The casino operator or casino manager and each licensee shall maintain a copy of the self-exclusion list and shall establish procedures to ensure that the self-exclusion list is updated and that all appropriate members, employees and agents of the casino operator or casino manager and each licensee are notified of any addition to or deletion from the list within five business days after receipt of the notice from the division. Appropriate members, employees, and agents of the casino operator or casino manager and each licensee are those whose duties and functions require access to such information. The notice provided by the division shall include the name and date of birth of any person whose name shall be removed from the self-exclusion list and the

following information concerning any person whose name shall be added to the self-exclusion list:

- a. - b. ...
- c. address of current residence and electronic mail;
- 4.d. - 5. ...

6.a. Except as otherwise provided herein, neither the casino operator, casino manager, nor any licensee, employee, or agent thereof shall disclose the self-exclusion list or the name of, or any information about, any person who has requested self-exclusion to anyone other than employees and agents of the casino operator, casino manager, or licensee whose duties and functions require access to such information. Notwithstanding the foregoing, the casino operator, casino manager, and each casino licensee may disclose the name of and information about a self-excluded person to appropriate employees of other casino licensees in Louisiana for the purpose of alerting other casinos that a self-excluded person has tried to gamble or otherwise obtain gaming related privileges or benefits in a casino gaming establishment. The casino operator or casino manager and each licensee may contract with an entity who provides identification services or who assists in identifying self-excluded persons in order to exclude the person from gaming, and may distribute the self-exclusion list to the contracted entity in accordance with internal controls. Nothing herein shall be construed to prohibit the licensee from disclosing the identity of self-excluded persons to affiliated entities in Louisiana and other gaming jurisdictions for the limited purpose of assisting in the proper administration of compulsive and problem gaming programs operated by such affiliated entities.

b. The casino operator, casino manager, or a licensee may release the names and identifying information of those persons on the self-excluded list to contracted service providers that provide patron identification services, or check cashing, marketing, credit evaluations, automated teller machines, cash advances, or other financial services provided:

- i. ...
- ii. only the name and identifying information may be disclosed to the contracted service provider. The casino operator, casino manager, or a licensee shall neither disclose the reasons for providing the name and identifying information nor shall it be disclosed that the person is on the self-excluded list;
- iii. the casino operator, casino manager, or a licensee shall require by written contract that the contracted service provider implement measures designed to ensure the confidentiality of the names and identifying information and to prohibit the release of the names and identifying information to any other person or entity;
- iv. the casino operator, casino manager, or a licensee shall immediately report to the Division all instances of a self-excluded person accessing or attempting to access the services provided by the contracted service providers and investigate the incident as required by LAC 42:III.304(E).

c. ...

E. Duties of the Casino Operator, Casino Manager, and each Licensee

1. The casino operator or casino manager and each licensee shall establish procedures that are designed, to the greatest extent practicable, to:

a. permit appropriate employees of the casino operator or casino manager and the licensee to identify a self-excluded person when present on or in the casino gaming establishment and, upon such identification, immediately notify:

i. those employees of the casino operator or casino manager and the licensee designated to monitor the presence of self-excluded persons; and

a.ii. - d. ...

2. The casino operator or casino manager and each licensee shall distribute a packet of written materials approved by the division to any person inquiring or requesting information concerning the board's self-exclusion program.

3. ...

4.a. If a self-excluded person enters, attempts to enter, or is in or on the casino gaming establishment and is discovered by the casino operator or casino manager or any licensee, the casino operator or casino manager or licensee shall immediately notify the division of such fact and, unless otherwise directed by the division, immediately eject such excluded person from the casino gaming establishment.

b. If a self excluded person gains access to a sports wagering platform, the licensee shall immediately notify the division and immediately exclude the person from the platform.

5. Upon discovery of a self-excluded person on or in the casino gaming establishment, both the security and surveillance departments, or the departments responsible for sports wagering platform security, of the casino operator, casino manager and licensees shall initiate a joint investigation, unless otherwise directed by the division to determine:

a. responsibility of employees of the gaming establishment or licensee for allowing an excluded person to gain access to the casino gaming establishment; and

b. the net amount of winnings or losses attributable to the excluded person.

6. The casino operator or casino manager and each licensee shall provide a written report of the results of the joint investigation to the division.

7. The casino operator or casino manager and each licensee shall ensure that no winnings or losses arising as a result of prohibited gaming activity are paid or recovered by a self-excluded person.

F. Sanctions

1. Any licensee, casino operator, or casino manager who willfully fails to exclude a self-excluded person from the casino gaming establishment shall be in violation of these rules and may be subject to administrative action pursuant to R.S. 27:27.1.J and this Section.

F.2. - G.2. ...

3. If the hearing officer determines that there is no longer a basis for the person seeking removal to be

maintained on the self-exclusion list, the person's name shall be removed from the self-exclusion list and his or her exclusion shall be terminated. The division shall notify the casino operator or casino manager and all licensees of the determination. The casino operator, casino Manger or any licensee may continue to deny gaming privileges to persons who have been removed from the list.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 28:1990 (September 2002), amended LR 30:2493 (November 2004), LR 35:2199 (October 2009), LR 48:

## **Part VI. Sports Wagering**

### **Chapter 1. General Provisions**

#### **§103. Definitions**

A. ...

B. As used in this Chapter, the following words and terms shall have the following meanings:

\* \* \*

*Prohibited Player*—a person who is prohibited from placing a sports wager for reasons including, but not limited to: prohibited by R.S. 27:608; is under the age of 21; has self-restricted or self-excluded from the platform or operator or licensee; or is excluded or prohibited for any other reason.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 48:

### **Chapter 5. Rules; Operations**

#### **§501. Sports Wagering Operator Requirements and Restrictions; Internal Controls; Comprehensive Rules**

A. - C. ...

D. Licensees and operators shall not accept a sports wager from a prohibited player or from anyone employed by itself or its sports wagering licensee or sports wagering platform provider partner.

E. - F. ...

1. prohibit a player from placing a sports wagering while the player is located in a prohibited parish;

2. - 11. ...

12. withholding all winnings from players determined to be under the age of 21 or for any wagers determined to have been placed from within a prohibited parish;

F.13. - K. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 48:

#### **§503. Sports Wagering Platforms; Identification of Licensee; Duties of Licensee and Operators**

A. - F. ...

G. If the session is terminated due to a player inactivity timeout, no further participation is permitted unless and until a new session is established by the player. This process shall include, at a minimum, the manual entry of the player's secure password or an alternate form of authentication approved by the board.

H. The board may, at its sole discretion, determine whether a licensee or operator shall cooperate with investigations conducted by sports governing bodies or law

enforcement agencies. The board, in its sole discretion or through the division, may limit or prohibit the sharing of certain information or documents requested pursuant to an investigation. A licensee or operator shall not share any information that would interfere or impede a criminal investigation or an investigation of the board or division. Information shared under this Subsection by a licensee or operator to a sports governing body is confidential, unless disclosure is required by the board or division or court order for enforcement or legal purposes and ordered to be made public in the course thereof. No such information shall be used for any commercial or marketing purposes by the recipient of any confidential information without the express written approval by the providing party.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 48:

#### **§505. Prohibited Parish; Geolocation, Geofencing; Proxy Servers**

A. ...

B. Operators shall implement and abide by protocols and procedures to ensure a player is not utilizing remote desktop software, rootkits, virtualization, proxy servers, virtual private network, spoofing, or other means to disguise their physical location or their computer or device's physical location when placing a sports wager. Operators shall use, at a minimum:

B.1. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR.

#### **§509. Limitation on Active Accounts; Obligations to Players**

A. An operator shall:

1. implement rules and procedures to limit each authorized player to one active and continuously used account and username;

2. implement rules procedures to suspend all accounts of any player that establishes or seeks to establish more than one username or more than one account, whether directly or by use of another person as a proxy, for nefarious purposes;

3. - 9.a. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR.

#### **§517. Advertising, Mandatory Signage**

A. - I. ...

J. Advertisements, public relations activities, and marketing campaigns of sports wagering platform providers shall identify the sports wagering licensee on behalf of whom it operates the sports book, for purposes of that advertisement or campaign. The identifier may be the logo of the sports wagering licensee and/or a statement that indicates who the sports book is operated on behalf of.

K. Advertisements by applicants for a sports wagering license or sports wagering platform provider must include a statement indicating its license or permit is pending.

L. Licensees or operators shall delete or modify any advertisement which does not confirm to the requirements of this Section or is necessary for the immediate preservation of



public peace, health, safety, and welfare of Louisiana residents.

M. Licensees or operators shall retain a copy of all advertising and marketing materials intended to promote any sports wagering operation in the state of Louisiana, which shall be made available to the division upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 48:

Ronnie S. Johns  
Chairman

2202#009

## DECLARATION OF EMERGENCY

### Department of Transportation and Development Office of the Secretary

#### Wireless Telecommunications Permit (LAC 70:II.1509)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953.1, and pursuant to the authority set forth in R.S. 48:381.2, the Secretary of the Department of Transportation and Development declares an emergency to exist; and hereby adopts by emergency process the attached Rule relative to the adjustment of fees for cell tower permits.

The effects of COVID-19 continue to increase the need for Louisiana residents to work and attend school virtually; thus, necessitating expansion and maximization of broadband capacity and wireless communication in communities that are markedly lacking in these services. In addition to the continued need created by COVID-19, the passage of the Infrastructure Investment and Jobs Act (“IIJA”) availed funds for future broadband infrastructure. As this infrastructure expands, small cell towers are the necessary last step to bring high speed internet to all Louisiana citizens, especially those located in rural areas.

The department will charge wireless communication companies permit fees, ranging from \$1500 to \$3500, as outlined in Subsection B of §1509 as amended, to erect a tower or a pole, or to use an existing pole. The wireless communication companies will be allowed to renew each of their annual permits based on the total number of installation facilities.

The department will charge installation fees and annual renewal fees for small wireless facilities, as outlined in Subsection C of §1509 as amended. The department will charge \$270.00 for annual renewals for each of the small wireless facilities, regardless of location. The small wireless facility annual renewal rate will be subject to a cost reevaluation every three years.

The expediency of implementation will stimulate expansion of facilities across the state, especially in rural areas, at a lower cost to the communication carrier, while also increasing access to communication services to the entire state.

This Rule shall have the force and effect of law upon signature, and will remain in effect until the expiration of the maximum period allowed under the Administrative Procedure Act or the adoption of the final rule, whichever comes first.

## Title 70

### TRANSPORTATION AND DEVELOPMENT

#### Part II. Utilities

#### Chapter 15. DOTD Wireless Telecommunications Permit

##### §1509. Fees

A. Definitions for use in this Section.

*Installation Facility*—any tower or pole installed or utilized by a wireless telecommunications carrier for wireless audio and visual communications.

*Self-Supporting Tower*—a three or four sided lattice structure with self-supporting frame made from solid rod, pipe, or angle.

*Monopole/Guyed Tower*—tower that consists of one stem or one pole anchored to the ground and supported by a structurally designed foundation or guyed anchor system. The wires may be anchored to the top of the structure or to the ground.

*Pole*—column or post, constructed of wood or metal, supported by a simple concrete foundation up to 2 feet in diameter and/or with partial embedment.

*Small Wireless Facility (SWF)*—wireless communications facilities that meet each of the following conditions:

- a. the facilities:
  - i. are mounted on poles or other structures 50 feet or less in height including their antennas;
  - ii. are mounted on poles or other structures no more than 10 percent taller than other adjacent poles or structures; or
  - iii. do not extend existing poles or other structures on which they are located to a height of more than 50 feet or by more than 10 percent, whichever is greater;
- b. each antenna associated with the deployment, excluding associated antenna equipment, is no more than 3 ft<sup>3</sup> in volume;
- c. all other wireless equipment associated with the pole or other structure, including the wireless equipment associated with the antenna and any pre-existing associated equipment on the pole or other structure, is no more than 28 ft<sup>3</sup> in volume;
- d. the facilities do not require antenna structure registration under C.F.R. Title 47, Chapter 1 Federal Communications Commission, Part 17;
- e. the facilities are not located on Tribal lands, as defined under 36 C.F.R. 800.16(x); and
- f. the facilities do not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified in 47 C.F.R. Section 1.1307(b).

*Utility Pole*—column or post used to support overhead power lines and various other public utilities, such as electrical cable, fiber optic cable, and related equipment such as transformers and streetlights.

B. The following fees shall apply to wireless telecommunications installations, except for small wireless facilities, placed within state highway rights-of-way.

Type of Tower	Annual Fee
Self-Supporting Tower/Antenna	\$3,500
Monopole/Antenna	\$2,000
Attachments to Existing Utility/Light Poles	\$1,500
Co-Location on DOTD Tower	\$3,500
Video Cameras	Supply feed to DOTD

C. Annual renewal fees for each Small Wireless Facility shall be \$270.00, regardless of location of the SWF. Permits are subject to a reevaluation cost every three years of an additional \$82.59 per permit. The following fees shall be assessed for each initial permit, based on the classifications of the roadway in accordance with the most current edition of the Federal Highway Administration's Highway Functional Classification Concepts, Criteria, and Procedures.

Highway Classification	Installation of SWF on a New Pole	Installation of New SWF on Existing Pole
Interstate Urban	\$2100.00	\$1850.00
Interstate Rural	\$1575.00	\$1387.50
Freeway/Expressway Urban	\$2100.00	\$1850.00
Freeway/Expressway Rural	\$1575.00	\$1387.50
Principal Arterial Urban	\$1575.00	\$1387.50
Principal Arterial Rural	\$1050.00	\$925.00
Minor Arterial Urban	\$1050.00	\$925.00
Minor Arterial Rural	\$525.00	\$462.50
Major Collector Urban	\$525.00	\$462.50
Major Collector Rural	\$210.00	\$185.00
Minor Collector Urban	\$525.00	\$462.50
Minor Collector Rural	\$210.00	\$185.00

D. All permit fees must be paid to the department by check or money order. The department will not accept cash.

E. All permits will be in force and effect for a period of one year from the date the permit was issued.

F. The department may waive fees in exchange for shared resources.

G. The department may waive fees for those permit applicants who erect facilities, attachments or cameras for the use of the department or other state agencies or political subdivisions to conduct departmental or state work.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 25:98 (January, 1999), amended LR 30:272 (February 2004), amended by the Department of Transportation and Development, Office of Secretary, LR 48:

Shawn D. Wilson, Ph.D.  
Secretary

2202#006

## DECLARATION OF EMERGENCY

### Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Deer Carcass Export and Feeding Ban, Franklin,  
Madison and Tensas Parishes

In accordance with the emergency provisions of R.S. 49:953.1 and under the authority of R.S. 56:115 and 116, the Wildlife and Fisheries Commission and the secretary of the Department of Wildlife and Fisheries hereby adopt the following Emergency Rule.

On February 2, 2022, the Louisiana Animal Disease Diagnostic Laboratory at LSU detected Chronic Wasting Disease (CWD) in a sample submitted by the Louisiana Department of Wildlife and Fisheries (LDWF) from a hunter-harvested adult buck in Tensas Parish. A sample has been submitted to the National Veterinary Services Laboratory to confirm the result.

In response to receiving a preliminary positive CWD test result on a deer harvested in Louisiana, the Wildlife and Fisheries Commission took action on February 3, 2022 to direct LDWF to implement its CWD Management Plan to monitor and curb the spread of CWD in Louisiana.

Therefore, the export of any cervid carcass or part of a cervid carcass originating within Franklin, Madison, and Tensas Parishes is prohibited, except for: meat that is cut and wrapped; meat that has been boned out; quarters or other portions of meat with no part of the spinal column or head attached, antlers, clean skull plates with antlers, cleaned skulls without tissue attached, capes, tanned hides, finished taxidermy mounts and cleaned cervid teeth.

Beginning Monday, February 7, 2022, all supplemental feeding, including mineral or salt licks, is prohibited in Franklin, Madison and Tensas Parishes. The purpose of this feeding ban is to reduce the potential for the spread of CWD in Louisiana by reducing the risk of exposure when deer are concentrated around feeding sites. The use of approved bait not normally ingested by deer for feral hog trapping will still be allowed. All bait must be placed and contained within the trap itself. Backyard bird feeders are also exempt from this supplemental feeding prohibition.

This Declaration of Emergency shall become effective February 4, 2022, and will remain in effect for the maximum period allowed under the Administrative Procedure Act or until rescinded or modified by the Secretary. The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the Commission to promulgate and effectuate this Declaration of Emergency, and to modify, rescind, or extend it upon notification of the Chairman of the Wildlife and Fisheries Commission.

Jack Montoucet  
Secretary

2202#019

## DECLARATION OF EMERGENCY

### Department of Wildlife and Fisheries Wildlife and Fisheries Commission

#### Rescinding the Supplemental Feeding Ban in Morehouse and Union Parishes

In accordance with the emergency provisions of R.S. 49:953.1 and under the authority of R.S. 56:6.1, 115 and 116, the Wildlife and Fisheries Commission hereby adopts the following Emergency Rule.

On December 2, 2021, the Arkansas Game and Fish Commission announced that a Chronic Wasting Disease (CWD) positive doe was discovered in Union County, Arkansas. The CWD positive doe was located just a few miles north of the Louisiana Border on Felsenthal National Wildlife Refuge.

In response to the discovery of CWD in Arkansas near the Louisiana Border, the Department of Wildlife and Fisheries (LDWF) implemented its CWD Response Plan to monitor the presence of CWD in Louisiana. The Wildlife and Fisheries Commission took emergency action resulting in an immediate cessation of all supplemental feeding, including mineral or salt licks in Union and Morehouse parishes effective December 6, 2021. The purpose of the feeding ban was to reduce the potential for the spread of CWD into Louisiana by reducing the risk of exposure for deer concentrated around feeding sites.

LDWF monitoring efforts resulted in 340 samples collected from hunter harvested deer in Morehouse and Union parishes, which were subsequently submitted to the LSU Animal Disease Diagnostic Laboratory. CWD was not detected.

As a result of the negative tests and in accordance with LDWF's CWD Response Plan, the Secretary utilized his authority to suspend the emergency supplemental feeding ban on January 7, 2022.

The Wildlife and Fisheries Commission hereby ratifies the Secretary's suspension of the Commission's prior emergency action and rescinds the supplemental feeding ban for deer in Morehouse and Union parishes.

This Declaration of Emergency, rescinding the original supplemental feeding ban shall become effective February 3, 2022.

Joe McPherson  
Chairman

2202#015

## DECLARATION OF EMERGENCY

### Department of Wildlife and Fisheries Wildlife and Fisheries Commission

#### Shrimp Season Closure in Portions of State Inshore and Outside Waters

The secretary of the Department of Wildlife and Fisheries has been notified that recent biological sampling conducted by the department has indicated that average white shrimp

size within these waters to be closed is smaller than the minimum possession count and this action is being taken to protect these small white shrimp and provide opportunity for growth to larger and more valuable sizes. R.S. 56:498 provides that the possession count on saltwater white shrimp for each cargo lot shall average no more than 100 (whole specimens) per pound except during the time period from October fifteenth through the third Monday in December.

In accordance with the emergency provisions of R.S. 49:953.1 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons; R.S. 56:497 which allows the Wildlife and Fisheries Commission to delegate to the secretary of the Department of Wildlife and Fisheries the powers, duties and authority to set shrimp seasons; and in accordance with a Declaration of Emergency adopted by the commission on August 5, 2021, which authorizes the secretary of the department to close shrimp season in all or parts of state outside waters when biological and technical data indicate the need to do so or if enforcement problems develop, the secretary does hereby declare:

The 2021 fall shrimp season shall close on Monday, January 24, 2022, at official sunset in the following portions of state inside waters: Lake Pontchartrain, Chef Menteur and Rigolets Passes, Lake Borgne, Mississippi Sound, Mississippi River Gulf Outlet (MRGO), and a section of the Gulf Intracoastal Waterway (GIWW) in Orleans Parish from the GIWW East Closure Sector Gate westward to the GIWW intersection with the Inner Harbor Navigation Canal. With this declaration, all inside waters will be closed to shrimping with the exception of the open waters of Breton and Chandeleur Sounds as bounded by the double-rig line described in R.S. 56:495.1(A)2.

The 2021 shrimp season shall close on Monday, January 24, 2022, at official sunset, in portions of state outside waters between Caillou Boca and Freshwater Bayou Canal. The eastern boundary line originates on the northwest shore of Caillou Boca at 29 degrees 02 minutes 46 seconds north latitude, -90 degrees 50 minutes 27 seconds west longitude and ends at a point on the three mile line as described in R.S. 56:495(A) at 28 degrees 59 minutes 30 seconds north latitude, -90 degrees 51 minutes 57 seconds west longitude. The western boundary line originates on the western shore of Freshwater Bayou Canal at 29 degrees 32 minutes 03 seconds north latitude, -92 degrees 18 minutes 33 seconds west longitude and ends at a point on the three mile line as described in R.S. 56:495(A) at 29 degrees 29 minutes 02 seconds north latitude, -92 degrees 19 minutes 34 seconds west longitude.

Existing data do not currently support shrimping closures in additional state inside and outside waters. However, historic data suggest additional closures may be necessary and the department will continue monitoring shrimp populations in these waters. Notice of any opening, delaying or closing of a season by the secretary will be made by public notice at least 72 hours prior to such action.

Jack Montoucet  
Secretary

2202#001

## DECLARATION OF EMERGENCY

### Workforce Commission Rehabilitation Services

#### Financial Needs and Budgetary Analysis Tests (LAC 67:VII.115)

On January 31, 2020, the United States Department of Health and Human Services Secretary Alex A. Azar declared a public health emergency (PHE) for the United States to aid the nation's healthcare community in responding to the coronavirus disease (COVID-19). The United States Centers for Disease Control and Prevention (CDC) has declared COVID-19 a worldwide pandemic due to its global effect. COVID-19 has resulted in widespread unemployment, economic hardship, and financial uncertainty, which has adversely affected the public health, safety, and welfare of Louisiana citizens, including Louisiana citizens with disabilities. Louisiana citizens with disabilities are even more vulnerable to the financial uncertainties, widespread unemployment, and economic hardships resulting from COVID-19. The LWC/LRS expressly finds that imminent peril to the public health, safety, or welfare requires adoption of this rule on an emergency basis. This Emergency Rule is adopted on January 20, 2022, to continue in effect those provisions of the Emergency Rule adopted by Rehabilitation Services on July 10, 2020.

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953 (B)(1) et seq., the Louisiana Workforce Commission, Louisiana Rehabilitation Services (LWC/LRS), amends LAC 67:VII.115 in the Vocational Rehabilitation Program, as authorized by R.S. 23:3022. The LWC/LRS finds it necessary to amend the provisions of the Louisiana Administrative Code related to the income scale that will be used for financial needs and budgetary analysis tests. This proposed rule amendment will add greater flexibility to the budgetary analysis and financial needs test by revising language, which requires a financial need analysis to determine the ability of an individual to financially contribute to the cost of "vocational and other training services, such as college/university, vocational and proprietary school training". The current rule limits the number of Louisiana citizens with disabilities who are eligible to receive vocational and other training services, such as college/university, vocational and proprietary school training. The proposed rule alleviates this burden and will allow more of Louisiana's citizens with disabilities to take advantage of training and educational opportunities that are designed to help succeed in the labor market by equipping them with the additional skill(s) to compete in the post-COVID economy for in-demand jobs. Failure to adopt the proposed rule amendment on an emergency basis will result in continued financial restrictions thereby limiting the number of Louisiana disabled citizens who can take advantage of financial assistance for vocational and other available training services offered through the LRS programs. This Emergency Rule shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

## Title 67

### SOCIAL SERVICES

#### Part VII. Rehabilitation Services

##### Chapter 1. General Provisions

##### §115. Financial

###### A. Comparable Services and Similar Benefits

###### 1. Determination of Availability

a. Prior to providing any vocational rehabilitation service to an eligible individual, except those services specified below in Subclauses c.i.(a)-(f), LRS will determine whether comparable services and benefits are available under any other program (other than a program carried out under Title IV, Rehabilitation Act Amendments of 2014) unless such a determination would interrupt or delay:

i. the progress of the individual toward achieving the employment outcome identified in the IPE of the individual;

ii. an immediate job placement; or

iii. the provision of such service to any individual at extreme medical risk.

b. Awards and Scholarships. For purposes of the determination of availability in Paragraph A.1 above, comparable benefits do not include awards and scholarships based on merit.

c. Exceptions to Use of Comparable Services and Benefits

i. The following vocational rehabilitation services can be provided without making a determination of the availability of comparable services and benefits:

(a). services provided through LRS's information and referral system;

(b). assessment for determining eligibility and vocational rehabilitation needs, including if appropriate, assessment by personnel skilled in rehabilitation technology;

(c). counseling and guidance, including information and support services to assist an individual in exercising informed choice;

(d). referral and other services needed to secure necessary services from other agencies through cooperative agreements, if such services are not available from LRS;

(e). job-related services, including job search and placement assistance, job retention services, follow-up services, and follow-along services;

(f). rehabilitation technology, including telecommunications, sensory, and other technological aids and devices.

B. Individual's Participation in the Cost of Vocational Rehabilitation Services

1. Neither a financial needs test nor a budgetary analysis of assets, income, and disability-related expenses shall be applied as a condition for furnishing any vocational rehabilitation service if the individual in need of the service has been determined eligible for Social Security benefits under Title II or Title XVI of the Social Security Act.

2. LRS will consider, through budgetary analysis of assets, income, disability-related expenses and comparable services and benefits, the financial need of eligible individuals; and individuals who are participating in trial work periods—for purposes of determining the extent of the

individual's participation in the costs of certain vocational rehabilitation services.

a. Neither a financial needs test, nor a budgetary analysis, is applied and no financial participation is required as a condition for furnishing the following vocational rehabilitation services:

i. assessment for determining eligibility and priority for services, except those non-assessment services that are provided during an evaluation to explore the individual's abilities, capabilities, and capacity to perform in work situations (trial work periods);

ii. assessment for determining vocational rehabilitation needs;

iii. counseling, guidance, including information and support services to assist an individual in exercising informed choice;

iv. referral and other services to secure needed services from other agencies through cooperative agreements, if such services are not available from LRS;

v. job-related services, including job search and placement assistance, job retention services, follow-up services, and follow-along services;

vi. rehabilitation technology assessments;

vii. supported employment;

viii. on-the-job training;

ix. assistive technology devices and services (except hearing aids);

x. personal assistance services provided simultaneously with any of the above-listed vocational rehabilitation services; (Examples include attendant, reader, scribe, interpreter, ASL, braille, notetaker, and adjustment/orientation and mobility training services.)

b. A financial need analysis will be applied to determine the ability of the individual to financially contribute to the cost of the following vocational rehabilitation services:

i. physical restoration and/or mental restoration;

ii. hearing aids;

iii. maintenance;

iv. transportation;

v. books and supplies;

vi. occupational tools and equipment;

vii. cost services to other family members;

viii. occupational licenses;

ix. discretionary training fees such as car registration fees, student health service fees, etc. not included in tuition;

x. vocational and other training services, such as college/university, vocational and proprietary school training;

xi. other goods and services, not specifically identified in Subparagraph d below;

xii. post employment services consisting of the services listed above.

c. The only exception to Clause x above is as follows.

i. To preserve LRS' Continuity of Services provision in the Order of Selection, LRS exempted those eligible individuals who had an IWRP/IPE in effect prior to July 20, 1999, which is the date of the adoption of this rule change; therefore, Clause x in Subparagraph b above will

only apply to those individuals who had an IWRP/IPE developed after July 20, 1999.

d. The following services are exempt from the application of a budget surplus, if the counselor determines that a surplus exists:

i. adjustment/orientation and mobility services;

ii. attendant services;

iii. reader services;

iv. scribe, notetaker/Braille services;

v. interpreter services;

vi. assistive technology services.

e. When it is determined by a counselor and an eligible client that self-employment, through establishment of a small business enterprise, is the best option for the client, the client must provide a minimum cash capital contribution of 20 percent of the total transaction. (Refer to LRS Policy on Small Business Enterprise.)

f. Individuals who do not provide LRS with necessary financial information to perform the budget analysis will be eligible only for those vocational rehabilitation services that are not conditioned upon an analysis to determine the extent of the individual's participation in the costs of such services.

g. Individuals who have defaulted on a student loan must make good faith efforts with the lender to clear the default or to defer payment before LRS will participate in the cost of the client's vocational rehabilitation program.

h. Simultaneously with the comprehensive assessment, at the annual review of the IPE, and at any time there is a change in the financial situation of either the client or the family, the counselor will perform a budget analysis for each client requiring vocational rehabilitation services as listed above in § 115.B.2.b.i-xii. The amount of client participation in the cost of their vocational rehabilitation program will be based upon the most recent budget analysis at the time the relevant IPE or amendment is developed.

3. State and Departmental Purchasing Procedures. All applicable state, departmental and agency purchasing policies and procedures must be followed.

a. LRS does not purchase vehicles or real estate.

b. Fee Schedule. Services and rates of payment must be authorized in accordance with LRS's Medical Fee Schedule and LRS's Technical Assistance and Guidance Manual, Section 500 which lists approved service providers.

c. Approval of Service Providers

i. Any service provider approved by the agency must agree not to make any additional charge to or accept any additional payment from the client or client's family for services authorized by the agency.

ii. Relatives of vocational rehabilitation clients will not be approved as a paid service provider unless such individuals are professionally and occupationally engaged in the delivery of such services by offering their services to the general public on a regular and consistent basis.

d. Prior Written Authorization and Encumbrance

i. Either before or at the same time as the initiation or delivery of goods or services, the agency must be in possession of the proper authorizing document. The only exception is in an emergency situation.

ii. If oral authorization of approved services is made in an emergency situation, there must be prompt

documentation, and the authorization must be confirmed in writing and forwarded to the provider of the services.

C. LRS shall determine an individual's financial need for certain vocational rehabilitation services, as listed in B.2.b above, is based on the individual's disability related expenses, available assets, and a multiple of 250-500 percent of the current U.S. Department of Health and Human Services' poverty guidelines.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:3022.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 17:891 (September 1991), amended LR 20:317 (March 1994), LR 21:837 (August 1995), LR 24:959 (May 1998), LR 25:1273 (July 1999), LR 27:212 (February 2001), LR 27:1561 (September 2001), LR 29:47 (January 2003), LR 30:1488 (July 2004), LR 34:1038 (June 2008), amended by the Workforce Commission, Rehabilitation Services, LR 41:1775 (September 2015), repromulgated LR 41:2180 (October 2015), LR 48:

Renita Williams  
Deputy Secretary

2202#008

# Rules

## RULE

### Department of Agriculture and Forestry Agriculture and Finance Authority

#### Healthy Foods Retail Program (LAC 7:III.Chapter 9)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority set forth in R.S. 3:296, the Department of Agriculture and Forestry (“Department”) has adopted the rules set forth below by promulgating LAC 7:III.901-915. The Healthy Foods Retail Program will directly benefit low and moderate income residents in areas of Louisiana by providing healthy food access, creating jobs, and revitalizing neighborhoods. The Healthy Foods Retail Program will provide a dedicated source of financing for healthy food retailers operating in underserved communities in Louisiana, in both urban and rural areas; to increase access to affordable healthy food so as to improve diets and health; to promote the sale and consumption of fresh fruits and vegetables, particularly those that are Louisiana grown; and to support expanded economic opportunities in low-income and rural communities. This program will offer flexible financing to healthy food retailers, which may include forgivable, interest-bearing, senior, and/or subordinate loans for predevelopment, site assembly and improvement, construction and rehabilitation, equipment installation and upgrades, and inventory and working capital for start-up costs. The goal of this program is to meet the financing needs of food market operators in communities where infrastructure costs and credit needs cannot be filled solely by conventional financial institutions. This Rule is hereby adopted on the day of promulgation.

#### Title 7

### AGRICULTURE AND ANIMALS

#### Part III. Agricultural Finance

### Chapter 9. Healthy Foods Retail Program

#### §901. Definitions

A. The words and terms defined in R.S. 3:296 are applicable to this Chapter.

B. As used in this Chapter, the following terms and phrases shall have the meanings hereinafter ascribed to them.

*Commissioner*—the commissioner of agriculture and forestry.

*D-CDBG*—Disaster Community Development Block Grant.

*Department*—the Louisiana Department of Agriculture and Forestry.

*Funding*—grants, loans, or a combination of grants and loans.

*Healthy Food Retailers*—for-profit or not-for-profit retailers that sell high quality fresh fruits and vegetables at

competitive prices including but not limited to supermarkets, grocery stores, and farmers’ markets.

*HFRP*—Healthy Food Retail Program.

*LAFa*—Louisiana Agricultural Finance Authority.

*LMI*—low- or moderate- income.

*OCD*—Office of Community Development.

*Program*—a public-private partnership established to provide a dedicated source of financing for food retailers that increase access to fresh fruits and vegetables and other affordable healthy food for Louisiana residents managed by the Louisiana Department of Agriculture and Forestry.

*Program Partner*—consists of LDAF, LAFa, and any other contracted nonprofit organization or community development financial institution that assists with administering the program.

*Underserved Community*—a geographic area that has limited access to healthy food retailers and is located in a lower-income or high-poverty area, or an area that is otherwise determined to have serious healthy food access limitations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:296.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Agriculture and Finance Authority, LR 48:296 (February 2022).

#### §903. Available Funding

A. The Healthy Food Retail Program may provide funding on a one-time basis for projects such as:

1. new construction of supermarkets and grocery stores;
2. store renovations, expansion, and infrastructure upgrades that improve the availability and quality of fresh produce;
3. farmers’ markets and public markets, food cooperatives, mobile markets and delivery projects, and distribution projects that enable food retailers in underserved communities to regularly obtain fresh produce; or
4. other projects that create or improve healthy food retail outlets as determined by LAFa.

B. Funding made available for projects included in Paragraph A of this Section may be used for the following purposes:

1. site acquisition and preparation;
2. construction costs;
3. equipment and furnishings;
4. workforce training;
5. security;
6. certain pre-development costs, such as market studies and appraisals; and
7. working capital for first-time inventory and start-up costs.

C. Applicants shall not use HFRP funding for the following:

1. the sole purpose of refinancing existing debt;
2. payment of any tax arrearages, government fines, or penalties;

3. political or religious activities;
4. buying out any stockholder or equity holder in the borrower's business;
5. buying out or reimbursing any family member;
6. purchasing instruments or investments for the sole purpose of a return on investment; or
7. any other activity that LAFA sees fit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:296.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Agriculture and Finance Authority, LR 48:295 (February 2022).

### **§905. Application Process**

A. Applying to the Healthy Foods Retail Program is a two-step process. The applicant must:

1. complete an initial HFRP Eligibility Application. All applications will be submitted to the program partner; and
2. if deemed eligible, the applicant will receive confirmation from the program partner, along with an invitation to complete a business loan application from the program partner. Financing eligibility will be determined based criteria set forth by the program partner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:296.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Agriculture and Finance Authority, LR 48:297 (February 2022).

### **§907. Eligibility of Applicant**

A. An applicant for a loan through the HFRP may have a for-profit or non-profit status, including but not limited to a sole proprietorship, partnership, limited liability company, corporation, cooperative, nonprofit organization or nonprofit community development entity. An applicant may also be a national chain, regional grocery chain, singular retail outlet or smaller neighborhood food store. All potential applicants must be in good standing with the Louisiana Secretary of State.

B. In order to be eligible to participate in the HFRP, the applicant must demonstrate all of the following:

1. the project for which the applicant seeks funding shall benefit an underserved community;
2. the applicant shall demonstrate a meaningful commitment to sell fresh fruits and vegetables; and
3. generally, the applicant shall accept Food Stamps (Supplemental Nutrition Assistance Program) and WIC (Special Supplemental Nutrition Program for Women, Infants, and Children) benefits.
  - a. If an applicant is unable to accept Food Stamps or WIC benefits, an alternative may be provided by LDAF to demonstrate a meaningful commitment to make healthy food affordable to low-income households.

C. Applicants for the HFRP shall be evaluated based on the following criteria to determine if funding will be awarded:

1. the applicant demonstrated the capacity to successfully implement the project, including the applicant's relevant experience, and the likelihood that the project will be economically self-sustaining;
2. the ability of the applicant to repay debt;
3. the degree to which the project requires an investment of public funding to move forward, create

impact, or be competitive, as well as the level of need in the area to be served;

- a. Additional factors that will improve or preserve retail access for low-income residents, such as proximity to public transit lines, also may be taken into account.

4. the degree to which the project will promote sales of fresh produce, particularly Louisiana-grown fruits and vegetables;

5. the degree to which the project will have a positive economic impact on the underserved community, including creating or retaining jobs for local residents; and

6. any other criteria LAFA determines to be consistent with the purposes of this Chapter/Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:296.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Agriculture and Finance Authority, LR 48:297 (February 2022).

### **§909. Ineligibility of Applicants**

A. An applicant will be found ineligible to receive funding from the HFRP if:

1. applicant fails to demonstrate a commitment to offer fresh, healthy foods in the judgment of LDAF, LAFA, and program partners;
2. projects that are primarily restaurants, cafes, or bakeries;
3. large department stores that specialize in many different types of goods, of which groceries are only one department;
4. pharmacies with grocery sections;
5. businesses with alcohol or tobacco retail sales as the primary source of revenue; or
6. public entities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:296.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Agriculture and Finance Authority, LR 48:297 (February 2022).

### **§911. Location of Applicant's Business**

A. The applicant's business site must be located in a community or location that meets Low- or Moderate-Income (LMI) criteria. A project will be deemed to meet the LMI criteria if it is within a census tract or service area where at least 51 percent of persons or households are considered low to moderate income, as determined by LDAF, LAFA, or program partners.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:296.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Agriculture and Finance Authority, LR 48:296 (February 2022).

### **§913. Borrower Reporting Requirements; Record Keeping; Nonperformance**

A. The program partners may enter into a loan agreement with all borrowers. Loan proceeds are subject to audit by the program partners, LAFA, LDAF, OCD, their auditors, the Louisiana Legislative Auditor, HUD, or federal auditors in the scope of any audits which any of them deem prudent to perform. Borrowers may be required for complying with all applicable D-CDBG regulations.

B. Borrowers may be required to submit CPA-audited fiscal year-end financial statements, annual federal tax returns for the borrower and all guarantors, quarterly CPA



prepared financial statements and annual personal financial statements for all guarantors. Additional financial and/or compliance documentation may be required.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:296.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Agriculture and Finance Authority, LR 48:297 (February 2022).

### **§915. Program Reporting**

A. The program partners will annually monitor all recipients for program compliance. Program partners may also require quarterly financial, program, and impact reports from borrowers.

B. LAFA may require annual reports on the funded projects and outcome data. The program partners shall be required to submit quarterly progress and financial reports to LAFA.

C. LAFA and the program partners may require additional reporting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:296.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Agriculture and Finance Authority, LR 48:297 (February 2022).

Mike Strain, DVM  
Commissioner

2202#043

### **RULE**

#### **Office of the Governor Commission on Law Enforcement and Administration of Criminal Justice**

#### **Peace Officer Training (LAC 22:III.4761)**

In accordance with the provision of R.S. 40:2401, et seq., the Peace Officer Standards and Training Act, and R.S. 40:905 et seq., which is the Administrative Procedure Act, the Peace Officer Standards and Training Council has promulgated rules and regulations relative to the training of peace officers. The rules set forth additional training requirements for all peace officers as defined in R.S. 40:2402(3)(a) pursuant to Act 495 of the 2018 Regular Session. This Rule is hereby adopted on the day of promulgation.

### **Title 22**

#### **CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT**

#### **Part III. Commission on Law Enforcement and Administration of Criminal Justice Subpart 4. Peace Officers**

#### **Chapter 47. Standards and Training**

#### **§4761. Advanced Training**

A. - B.3.a. ...

C. Domestic Violence Awareness Training

1. Each peace officer, as defined in R.S. 40:2402(3)(a) shall complete a domestic violence awareness training program as provided by the council pursuant to R.S. 40:2405.8(E). The training program shall be implemented

through a series of learning modules developed for this purpose.

D. Communication with the Deaf and Hard of Hearing Individuals

1. Each peace officer, as defined in R.S. 40:2402(3)(a) shall complete an interactive training module as provided by the council on communicating with deaf and hard of hearing individuals pursuant to R.S.40:2405.8(F)(2).

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 48:298 (February 2022).

Jim Craft  
Executive Director

2202#013

### **RULE**

#### **Department of Health Board of Dentistry**

#### **General Provisions; Dentists; Fees and Costs (LAC 46:XXXIII.120, 306, and 419)**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Dental Practice Act, R.S. 37:751, et seq., and particularly R.S. 37:760(8), the Department of Health, Board of Dentistry has amended LAC 46:XXXIII.120, .306, and .419. This Rule is hereby adopted on the day of promulgation.

### **Title 46**

#### **PROFESSIONAL AND OCCUPATIONAL STANDARDS**

#### **Part XXXIII. Dental Health Profession**

#### **Chapter 1. General Provisions**

#### **§120. Temporary Licenses and Permits Pending Normal Licenses**

A. - J.3. ...

K. Permits Pending Normal Licenses. For applicants who qualify under the provisions of R.S. 37:3651 or R.S. 37:1751, a permit pending normal licensure may be issued if an application for full, normal licensure has been completed and the board is unable to issue a full license within 30 calendar days of receiving the completed application. The permit pending normal licensure is valid for 30 days and may be extended by the board beyond 30 days, but in no event beyond the next meeting of the board. The permit pending normal licensure expires automatically upon the occurrence of any one of the following:

1. 30 days have passed from the issuance of the permit pending normal license without an extension from the board; in no event may the permit pending normal licensure be extended beyond the next meeting of the board.

2. a determination by the board that the applicant is not qualified for a normal, permanent license.

3. the issuance of a normal, permanent license by the board.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1114 (June 1998), amended LR 26:1612 (August 2000), repromulgated LR 27:1893 (November 2001), amended LR 33:2652 (December 2007), LR 33:2652 (December 2007), LR 38:2771 (November 2012), LR 39:2279 (August 2013), LR 41:1285 (July 2015), LR 48:297 (February 2022).

### **Chapter 3. Dentists**

#### **§306. Requirements of Applicants for Dental Licensure by Credentials**

- A. - B. ...
- C. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and R.S. 37:768.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18:739 (July 1992), amended LR 21:571 (June 1995), LR 22:23 (January 1996), LR 23:1528 (November 1997), LR 24:1114 (June 1998), LR 25:513 (March 1999), LR 26:692 (April 2000), LR 26:1612 (August 2000), repromulgated LR 27:1893 (November 2001), amended LR 28:1777 (August 2002), LR 30:2305 (October 2004), LR 31:927 (April 2005), LR 32:243 (February 2006), LR 33:846 (May 2007), LR 33:2652 (December 2007), LR 34:2564 (December 2008), repromulgated LR 35:67 (January 2009), amended LR 37:1405 (May 2011), LR 37:3515 (December 2011), repromulgated LR 38:355 (February 2012), amended LR 39:87 (January 2013), amended by the Department of Health, Board of Dentistry, LR 44:46 (January 2018), LR 48:299 (February 2022).

### **Chapter 4. Fees and Costs**

#### **Subchapter D. Fees for Dental Hygienists**

#### **§419. Licenses, Permits and Examinations (Dental Hygienists)**

- A. - A.13. ...
- 14. annual fee to support well-being program—\$15;
- 15. retired volunteer hygiene license—\$35.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760 (8), R.S. 37:768, and R.S. 37:795.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 14:792 (November 1988), amended LR 16:566 (June 1990), LR 18:741 (July 1992), LR 23:1527 (November 1997), LR 24:1115 (June 1998), LR 25:1478 (August 1999), LR 26:691 (April 2000), LR 28:1778 (August 2002), LR 32:243 (February 2006), LR 33:846 (May 2007), LR 34:2564 (December 2008), repromulgated LR 35:68 (January 2009), amended LR 37:590 (February 2011), LR:37:2151 (July 2011), LR 39:2278 (August 2013), LR 48:299 (February 2022).

Arthur Hickham, Jr.  
Executive Director

2202#029

### **RULE**

#### **Department of Health Board of Optometry Examiners**

#### **Optometric Telemedicine (LAC 46:LI.509)**

In accordance with the Administrative Procedures Act, R.S. 49:950 et seq. that the Louisiana State Board of Optometry Examiners, pursuant to authority vested in the Louisiana State Board of Optometry Examiners by the Optometry Practice Act, R.S. 37:1041-1068, has amended Title 46, Part LI by adopting the following amendments to the Section set forth below.

A description of the subjects and issues involved is as follows. Section 509 is adopted, which establishes specific criteria for licensed optometrists to practice telemedicine within the bounds of the scope of the practice of optometry in accordance with the Louisiana Optometry Act.

The Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

### **Title 46**

### **PROFESSIONAL AND OCCUPATIONAL STANDARDS**

#### **Part LI. Optometrists**

#### **Chapter 5. Practicing Optometry**

#### **§509. Optometric Telemedicine**

##### **A. General Provisions**

1. Telemedicine is a tool and not separate field of optometry, nor does telemedicine alter the scope of practice of Louisiana-licensed optometrists. There is no separate or different scope of practice or standard of care applicable to those who practice optometry via telemedicine within this state or to those optometrists located outside Louisiana who diagnose and treat via telemedicine patients located within this state. Accordingly, telemedicine in the field of optometry, if employed in the appropriate manner and circumstances, can provide significant benefits, among them increased patient access to health care.

2. The practice of optometry is deemed to occur both where the patient is located and where the optometrist providing professional services is located and is hereby declared to affect the public health, safety and welfare, and is subject to regulation and control in the public interest. It is further declared to be a matter of public interest and concern that the practice of optometry, as defined in this chapter, rendered to a person located in Louisiana or by an optometrist located in Louisiana be limited to qualified persons licensed to practice optometry in the state of Louisiana and registered as a telemedicine provider with the board.

B. Definitions. For the purpose of this Chapter, the following terms shall have the respective meaning ascribed by this Section.

*Distant Site Provider*—the provider providing the optometric telemedicine service from a site other than the patient's current location. A distant site provider shall hold an active Louisiana license and must hold an active optometric license in good standing in Louisiana and be a registered Telemedicine provider with the board.

*Established Treatment Site*—a location where a patient shall present to seek optometric care where there is an optometrist present and sufficient technology and equipment to allow for an adequate physical evaluation as appropriate for the patient's presenting complaint. The term requires an optometrist-patient relationship. A patient's private home is not considered an established treatment site.

*Face to Face Visit*—an evaluation and/or treatment performed on a patient where both the provider and patient are at the same physical location or where the patient is at an established treatment site.

*Human Eye and Its Adjacent Structures*—the eye and all structures situated within the orbit, including the conjunctiva, lids, lashes, and lachrymal system.

*In-Person Evaluation*—a patient evaluation and/or treatment conducted by a provider who is at the same physical location as the location of the patient.

*Optometric Telemedicine*—a health service interaction that is delivered by a licensed optometrist acting within the scope of his or her license between an optometrist in one physical location and a patient located in any different physical location, accomplished via audio-visual link, imaging, telephone, or other appropriate forms of electronic communication and/or technology used to allow or assist the optometrist in providing care to the patient and may require the use of advanced telecommunications technology, other than facsimile technology, including all of the following:

- a. compressed digital interactive video, audio, or data transmission;
- b. clinical data transmission using computer imaging by way of still image capture and store and forward;
- c. other technology that facilitates access to health care services or optometric specialty expertise.

*Pharmaceutical Agents*—any diagnostic and therapeutic drug or combination of drugs that has the property of assisting in the diagnosis, prevention, treatment, or mitigation of abnormal conditions or symptoms of the human eye and its adjacent structures.

*Provider*—optometrist holding an active Louisiana license in good standing and is a registered telemedicine provider with the board.

C. License, Registration. An optometric telemedicine provider must hold an active Louisiana optometric license in good standing. Any optometric telemedicine license shall be renewed on an annual basis provided the licensee is in good standing and shall have the same renewal due dates as the basic optometric license.

D. Prerequisite Conditions

1. A provider must hold an active Louisiana optometric license in good standing and be telemedicine registered.

2. Prior to utilizing optometric telemedicine at an established treatment site the provider shall ensure that:

- a. he or she has access to those portions of the patient's medical record pertinent to the visit;
- b. there exists appropriate support staff who:
  - i. are trained to conduct the visit by optometric telemedicine;
  - ii. are available to implement optometrist orders, identify where medical records generated by the visit are to be transmitted for future access, and provide or arrange back up, follow up, and emergency care to the patient; and
  - iii. provide or arrange periodic testing and maintenance of all optometric telemedicine equipment.

3. A trained and supervised health care professional who can adequately and accurately assist with the requirements of LAC 46:XLV.7509-7511 shall be in the examination room with the patient at all times that the patient is receiving optometric telemedicine services.

E. Services; Provider-Patient Relationship; Standards of Practice; Confidentiality

1. Optometric telemedicine services provided at an established treatment site may be used for all patient visits, including initial evaluations to establish a proper doctor-patient relationship between a provider and a patient.

a. a provider shall be reasonably available onsite at the established medical site to assist with the provision of care.

b. a provider may delegate tasks and activities at an established treatment site to an assistant who is properly trained and supervised or directed.

2. A distant site provider who provides optometric telemedicine services to a patient that is not present at an established treatment site shall ensure that a proper provider-patient relationship is established, which at a minimum includes all of the following:

a. having had at least one face-to-face meeting at an established treatment site before engaging in optometric telemedicine services. A face-to-face meeting is not required for new conditions relating to an existing patient, unless the provider deems that such a meeting is necessary to provide adequate care;

b. if an in-person initial encounter is not possible, the optometrist must take the time and effort, and to use means and methods appropriate under the circumstances, to gain the necessary understanding of the patient and the patient's history, condition, and needs in order to render a diagnosis and treatment plan that is consistent with the standard of care.

c. establishing that the person requesting the treatment is in fact whom he or she claims to be.

3. Evaluation, treatment, and consultation recommendations made in an optometric telemedicine setting, including issuing a prescription via electronic means, shall be held to the same standards of appropriate practice as those in traditional in-person clinical settings.

4. Adequate security measures shall be implemented to ensure that all patient communications, recordings, and records remain confidential.

a. Written policies and procedures shall be maintained when using electronic mail for provider-patient communications. Policies shall be evaluated periodically to make sure they are up to date. Policies and procedures shall address all of the following:

- i. privacy to assure confidentiality and integrity of patient-identifiable information;
- ii. health care personnel, in addition to the provider, who will process messages;
- iii. hours of operation and availability;
- iv. types of transactions that shall be permitted electronically;
- v. required patient information to be included in the communication, such as the patient name, identification number, and type of transaction;
- vi. archival and retrieval;
- vii. quality oversight mechanisms.

b. All relevant provider-patient email, and other patient-related electronic communications, shall be stored and filed in the patient record.

c. Patients shall be informed of alternative forms of communication for urgent matters.

F. Protocols; Privacy Practices

1. A provider who uses optometric telemedicine in his or her practice shall adopt protocols to prevent fraud and abuse through the use of optometric telemedicine.

2. Privacy Practices

a. A provider that communicates with patients by electronic communications other than facsimile shall provide patients with written notification of the provider's privacy practices before evaluation or treatment.

b. The notice of privacy practices shall include language that is consistent with federal standards under 45 CFR Parts 160 and 164 relating to privacy of individually identifiable health information.

c. A provider shall make a good faith effort to obtain the patient's written acknowledgment of the notice.

3. Limitations of Optometric Telemedicine. A provider who uses optometric telemedicine services, before providing services, shall give each patient notice regarding optometric telemedicine services, including the risks and benefits of being treated via optometric telemedicine, and how to receive follow-up care or assistance in the event of an adverse reaction to the treatment or in the event of an inability to communicate as a result of a technological or equipment failure. A signed and dated notice, including an electronic acknowledgement by the patient, establishes a presumption of notice.

4. Necessity of In-Person Evaluation. When, for whatever reason, the optometric telemedicine modality in use for a particular patient encounter is unable to provide all pertinent clinical information that a healthcare provider exercising ordinary skill and care would deem reasonably necessary for the practice of optometry at an acceptable level of safety and quality in the context of that particular encounter, then the distant site provider shall make this known to the patient and advise and counsel the patient regarding the need for the patient to obtain an additional in-person evaluation reasonably able to meet the patient's needs.

#### G. Maintenance of Records

1. Patient records shall be maintained for all optometric telemedicine services. The provider or distance site provider shall maintain the records created at any site where treatment or evaluation is provided.

2. Distance site providers shall obtain an adequate and complete medical history for the patient before providing treatment and shall document the medical history in the patient record.

3. Patient records shall include copies of all relevant patient-related electronic communications, including relevant provider-patient emails, prescriptions, laboratory and test results, evaluations and consultations, records of past care, and instructions. If possible, optometric telemedicine encounters that are recorded electronically shall also be included in the patient record.

#### H. Exceptions

1. A licensed optometrist, who is not licensed in Louisiana, who utilizes optometric telemedicine across state lines in an emergency, as defined by the board, is not subject to the requirements of this article.

2. A provider that is contacted in an emergency is not subject to the notice and security provisions of this rule, but is subject to those provisions should any nonemergency care continue with the patient.

I. Limitation on Application of Chapter. This Section shall not be construed as authorizing any optician or other person selling eyeglasses or contact lenses on prescription as authorized above to use any instrumentation or determine

any data by performing any type of examination or corneal evaluation necessary for the fitting of contact lenses or to use any drugs in relation thereto.

J. Penalties. Any person who violates this chapter is subject to criminal prosecution for the unlicensed practice of optometry, or other action authorized in this state to prohibit or penalize continued practice without a license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1041-1068.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Optometry, LR 48:299 (February 2022).

Dr. James D. Sandefur, O.D.  
Executive Director

2202#041

## RULE

### Department of Health Bureau of Health Services Financing

Crisis Receiving Centers  
Licensing Standards  
(LAC 48:I.Chapter 53 and 5415)

The Department of Health, Bureau of Health Services Financing has amended LAC 48:I.Chapter 53 and adopted §5415 as authorized by R.S. 36:254 and R.S. 40:2180.11 et seq. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

#### Title 48

#### PUBLIC HEALTH—GENERAL

#### Part I. General Administration

#### Subpart 3. Licensing and Certification

#### Chapter 53. Level III Crisis Receiving Centers

#### Subchapter A. General Provisions

#### §5303. Definitions

\* \* \*

*Community Mental Health Center*—a Medicare certified program as defined in 42 CFR §410.2. An entity that:

1. provides outpatient services, including specialized outpatient services for children, the elderly, individuals who are chronically mentally ill, and clients of its mental health service area who have been discharged from inpatient treatment at a mental health facility;

2. provides 24-hour-a-day emergency care services;

3. provides day treatment or other partial hospitalization services, or psychosocial rehabilitation services;

4. provides screening for patients being considered for admission to state mental health facilities to determine the appropriateness of this admission;

5. meets applicable licensing or certification requirements for CMHCs in the state in which it is located; and

6. provides at least 40 percent of its services to individuals who are not eligible for benefits under title XVIII of the Social Security Act.

\* \* \*

*Department*—the Louisiana Department of Health (LDH).

\* \* \*

*Level III Crisis Receiving Center (or Center or CRC)*—an agency, business, institution, society, corporation, person or persons, or any other group, licensed by the LDH to provide crisis identification, intervention and stabilization services for people in behavioral crisis. CRCs receive, examine, triage, refer, or treat people in behavioral health crisis. A CRC shall have no more than:

1. 36 chairs for crisis stabilization/observation; and
2. 24 beds for short term stay (three to seven days).

a. - b. Repealed.

NOTE: Refer to physical environment Section of this Chapter for physical space requirements.

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*Mental Health Emergency Room Extension (MHERE)*—a mental health emergency room extension operating as a unit of a currently licensed hospital.

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AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2180.14.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:102 (January 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 47:472 (April 2021), LR 48:301 (February 2022).

### **Subchapter B. Licensing**

#### **§5309. General Licensing Provisions**

A. All entities providing crisis receiving services shall be licensed by LDH. It shall be unlawful to operate as a CRC without a license issued by the department. LDH is the only licensing authority for CRCs in Louisiana.

B. ...

C. The following entities are exempt from CRC licensure under this Chapter, so long as they are providing CRC services to existing clients:

1. community mental health centers (CMHCs);
2. - 3. ...
4. psychiatric residential treatment facilities;
5. - 6. ...
7. home and community based services (HCBS) waiver agencies limited to center-based respite;
8. substance use/addictive disorder facilities;
9. mental health clinics as defined in §5603;
10. ...
11. MHEREs; and
12. federally qualified health care centers (FQHCs).
13. Repealed.

D. - L. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2180.14.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:103 (January 2015), amended LR 48:301 (February 2022).

### **Subchapter I. Physical Environment**

#### **§5397. Interior Space**

A. The CRC shall:

1. - 5. ...
6. maintain heating, ventilation and cooling systems in good order and safe condition to ensure a comfortable environment;
7. ensure that electric receptacles in client care areas are tamper-resistant or equipped with ground fault circuit interrupters; and
8. maintain separate wings or units for voluntary and involuntary individuals to include areas for admissions,

sleeping, shower and toilet areas, and sally ports or other entry areas. Further, the CRC shall provide separate areas (which may be accomplished by providing areas to voluntary individuals at different times than to involuntary individuals) for dining, recreational, educational, vocational, health care, and passageways, for voluntary and involuntary individuals.

B. - P.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2180.14.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:121 (January 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 47:475 (April 2021), LR 48:302 (February 2022).

### **Chapter 54. Crisis Receiving Centers**

#### **Subchapter B. Voluntary-Only Crisis Receiving Center**

##### **§5415 Voluntary-Only Crisis Receiving Center**

A. Any entity, organization, or person applying to be licensed as a CRC has the option to be licensed as a voluntary-only crisis receiving center (VO-CRC), wherein the licensed entity shall only admit or receive individuals who present voluntarily to the facility.

B. Individuals presenting to a VO-CRC shall have the ability to come and go to the facility for services as the individual deems appropriate; individuals shall not be required to sign a formal voluntary admission form under R.S. 28:52 or successor statute.

C. A VO-CRC shall adhere to all the licensing requirements for CRCs, including Chapter 53 and Chapter 54 of this licensing Rule, with the following substitutions:

1. for §5367.C, a VO-CRC shall only receive individuals who present voluntarily to the unit/facility;
2. for §5367.F.1.b, a VO-CRC does not need to establish legal authority for the individual;
3. for §5397.A.8, the VO-CRC does not need to maintain separate spaces for involuntary and voluntary admissions or individuals, since the VO-CRC will only serve voluntary admissions or individuals; and
4. for §5397.G, a VO-CRC shall not have a seclusion room.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2180.14.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 48:302 (February 2022).

Dr. Courtney N. Phillips  
Secretary

2202#050

### **RULE**

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

Facility Need Review  
Relocation of Nursing Facility Beds  
(LAC 48:I.12529)

The Department of Health, Bureau of Health Services Financing has amend LAC 48:I.12529 as authorized by R.S. 36:254 and 40:2116. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act,

R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

**Title 48**  
**PUBLIC HEALTH—GENERAL**  
**Part I. General Administration**  
**Subpart 5. Health Planning**  
**Chapter 125. Facility Need Review**  
**Subchapter D. Relocation of Nursing Facility Beds**  
**§12529. General Provisions**

A. - D. ...

1. The department may approve a one-time temporary relocation of a nursing facility’s Medicaid FNR approvals to another licensed building that may be outside the existing FNR approved service area or parish, provided that all of the following provisions are met:

a. - e. ...

f. The temporary license shall expire 18 months from the date of issuance and the facility shall relocate to its new replacement nursing facility building during that period. One extension of the temporary license, not to exceed 6 months, may be granted by the department for good cause shown.

g. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2116.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:806 (August 1995), amended LR 25:1250 (July 1999), LR 28:2190 (October 2002), LR 30:1023 (May 2004), LR 32:845 (May 2006), LR 34:2619 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1009 (May 2010), amended by the Department of Health, Bureau of Health Services Financing LR 46:953 (July 2020), LR 47:1306 (September 2021), LR 48:303 (February 2022).

Dr. Courtney N. Phillips  
Secretary

2202#051

**RULE**

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

Nursing Facilities

The Department of Health, Bureau of Health Services Financing has repealed the following uncodified Rules in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act.

Register Date	Title	Register Volume, Number	Page Number
December 20, 1984	Physician Recertification for Recipients in SNFs and ICFs	Vol 10 No 12	1034
April 20, 1987	MAP - LTC Reimbursement Methodology - Wage Clarification	Vol 13 No 04	243

Register Date	Title	Register Volume, Number	Page Number
August 20, 1989	MAP - Pharmacist and Medical Records Practitioner Consultation for LTC Facilities	Vol 15 No 08	628
April 20, 1990	MAP - Temporary Management	Vol 16 No 04	318
March 20, 1994	Nursing Facility - Infectious Disease - Tuberculosis	Vol 20 No 03	306

This Rule is promulgated in accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

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

Dr. Courtney N. Phillips  
Secretary

2202#052

**RULE**

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

Nursing Facilities—Reimbursement Methodology  
 Cost Reports (LAC 50:II.20003)

The Department of Health, Bureau of Health Services Financing has amended LAC 50:II.20003 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part II. Nursing Facilities**

**Subpart 5. Reimbursement**

**Chapter 200. Reimbursement Methodology**

**§20003. Cost Reports [Formerly LAC 50:VII.1303]**

A. - A.3. ...

B. Cost reports must be prepared in accordance with the cost reporting instructions adopted by the Medicare Program using the definition of allowable and non-allowable cost contained in the CMS Publication 15-1, Provider Reimbursement Manuals, with the following exceptions.

1. - 2. ...

3. Amended Cost Reports. The department will accept amended cost reports in electronic format for a period of 12 months following the end of the cost reporting period. Cost reports may not be amended after an audit or desk review has been initiated; however, the department maintains the right, at their discretion, to supersede this requirement and

allow a cost report to be amended after the desk review or audit has been initiated. When an amended cost report is received by the department, it will notify the submitting facility if a desk review or audit covering the submitted cost report period has been initiated and that the amended cost report cannot be accepted. Amended cost reports should include a letter explaining the reason for the amendment, an amended certification statement with original signature, and the electronic format completed amended cost reports. Each amended cost report submitted should be clearly marked with "Amended" in the file name.

4. **Rate Warning.** While the Medicare regulations may allow more than one option for classifying costs, Medicaid will only recognize costs in a rate and floor component based on the case mix cross-walk shown on the case mix cross-walk tab of the Medicaid Excel cost report template. If a facility chooses to classify cost on their Medicare cost report in a manner that excludes that cost from their direct care or care-related rate component and floor, then the cost will forever be excluded from the direct care and care-related rate and floor, unless adjusted at audit or desk review.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254, R.S. 46:2742, and Title XIX of the Social Security Act.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1473 (June 2002), repromulgated LR 28:1790 (August 2002), amended LR 28:2537 (December 2002), LR 32:2263 (December 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:541 (March 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 43:526 (March 2017), LR 48:303 (February 2022).

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

Dr. Courtney N. Phillips  
Secretary

2202#053

## **RULE**

### **Workforce Commission Rehabilitation Services**

Rehabilitation Services  
(LAC 67:VII.101, 103, 107, 109, 110, 115, 117,  
207, 213, 219, 223, 505, 507, 1501, 1503, 1505,  
1713, 1717, 1723, 1735, 2105, 2115)

The Louisiana Workforce Commission, Louisiana Rehabilitation Services (LRS) has amended Chapters 1, 2, 5, 15, 17, and 21 of LAC 67, Social Services, as authorized by R.S. 23:3022. The amendments are promulgated in accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The amendments to Chapter 1 of LAC 67 clarify the overall mission of the Louisiana Rehabilitation Services and update regulations related to those programs that are the responsibility of the Rehabilitation Services and no longer the responsibility of the Department of Social Services. The amendments update "enabling legislation" language

contained in the Chapter. The amendments edit language related to "undocumented immigrants". The amendments also modify the Order of Selection utilized by LRS in determining the placement category of individuals eligible for vocational rehabilitation services and the income scale used for financial needs and budgetary analysis tests. The amendments also add the vocational rehabilitation service of customized employment.

The amendments to Chapter 2 of LAC 67 update language related to Community Rehabilitation Program (CRP) insurance coverage, CRP safeguards for protecting consumer privacy information, and requires that CRP's maintain performance-reporting systems.

The amendments to Chapter 5 of LAC 67 updates language related to the legal authority for the Rehabilitation program.

The amendments to Chapter 15 of LAC 67 update regulations related to programs that are no longer the responsibility of the Department of Social Services. The amendments also update the "enabling legislation" section of the chapter.

The amendments to Chapter 17 of LAC 67 updates regulations related to federal cost principles that are applicable to activities that are assisted by LRS grants to institutions of higher education, hospitals, nonprofit organizations, and state and local government.

The amendments to Chapter 21 of LAC 67 updates definitions related to the administration of the Louisiana Rehabilitative Services. This Rule is hereby adopted on the day of promulgation.

## **Title 67**

### **SOCIAL SERVICES**

#### **Part VII. Rehabilitation Services**

##### **Chapter 1. General Provisions**

##### **§101. Agency Profile**

A. **Mission.** To assist persons with disabilities in their desire to obtain, maintain or advance in competitive integrated employment and achieve independence in their communities by providing rehabilitation services and by working cooperatively with business and other community resources.

B. **Program Administration.** Louisiana Rehabilitation Services, hereafter referred to as LRS, will secure appropriate resources and support in administering the various programs under the responsibility of the agency. These programs include, but are not limited to:

1. Vocational Rehabilitation Program;
2. Title VII Chapter 1, Part B Independent Living Program;
3. Title VII Chapter 2, Independent Living Services for Older Individuals Who Are Blind;
4. Title VI Supported Employment Program;
5. Randolph-Sheppard Blind Vending Facility Program;

C. - M. ...

N. **Comprehensive System of Personnel Development.** LRS will provide a comprehensive system of personnel development in accordance with the Rehabilitation Act Amendments of 1998, as amended.

O. - Q. ...

R. **Misrepresentation, Fraud, Collusion, or Criminal Conduct**

1. Individuals who obtain access to the services provided by LRS through means of misrepresentation, fraud, collusion, or criminal conduct shall be held responsible for the return of funds expended by LRS on the individual's behalf. Further, such actions shall result in the closure of the individual's vocational rehabilitation case record. Failure on the individual's part to make reparation of funds to the agency may result in legal action being taken by, the Louisiana Workforce Commission.

2. In cases in which LRS is in possession of clear evidence of misrepresentation, fraud, collusion, or criminal conduct on the part of the individual for the purpose of obtaining services for which the individual would not otherwise be eligible, the individual's case will be referred to the Louisiana Workforce Commission's, General Counsel for consultation and/ or investigation. If, the Louisiana Workforce Commission's General Counsel concurs or determines that the individual has obtained services through misrepresentation, fraud, collusion, or criminal conduct, a certified letter will be directed to the individual by the LRS Counselor demanding payment in full of funds which have been expended by the agency on the individual's behalf. The failure of the individual to comply with the demand for reparation may result in legal action being taken on behalf of LRS.

S. - T. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 17:891 (September 1991), amended LR 20:317 (March 1994), repromulgated LR 21:189 (February 1995), amended LR 21:473 (May 1995), LR 21:837 (August 1995), LR 25:1263 (July 1999), LR 29:46 (January 2003), by the Workforce Commission, Rehabilitation Services, LR 48:8304 (February 2022).

### **§103. Enabling Legislation**

A. The Rehabilitation Act Amendments of 2014, as amended through P.L. 114-95, enacted December 10, 2015, Workforce Innovation and Opportunity Act.

B. Code of Federal Regulations. Volume 34, Sections 361, 363, 367, 370, and 397. Volume 45, Section 1329.

C. - C.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 23-3001.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 17:891 (September 1991), amended LR 20:317 (March 1994), LR 25:1265 (July 1999), LR 29:46 (January 2003), amended by Workforce Commission, Rehabilitation Services, LR 41:1775 (September 2015), LR 48:305 (February 2022).

### **§107. Applicant/Client Appeal Rights**

A. - C.4.f. ...

\* \* \*

D. Review of Fair Hearing Decisions

1. The impartial review for decisions rendered by impartial hearing officers is the final level of appeal within the Office of Workforce Development regarding disputes arising within Louisiana Rehabilitation Services. Subsequent to a decision being reached as a result of the impartial review by the Office of Workforce Development, any further pursuit of the issue by the applicant/client (or, as appropriate, the applicant/client's representative) or the agency must be by civil action through the public court system.

2. The decision of the impartial hearing officer will be final unless the applicant/client or the agency requests a review of the impartial hearing officer's decision by making a written request to the Assistant Secretary of the Office of Workforce Development within 20 days of mailing the decision. The Office of Workforce Development Assistant Secretary cannot delegate the responsibility for making this final decision to any other officer or employee of Louisiana Rehabilitation Services. The applicant/client and the agency shall be provided an opportunity to submit additional evidence and information relevant to the final decision.

3. The Office of Workforce Development Assistant Secretary may not overturn or modify a decision of an impartial hearing officer, or part of such a decision, that supports the position of the applicant/client unless the assistant secretary determines, based on clear and convincing evidence, that the decision of the impartial hearing officer is clearly erroneous on the basis of being contrary to the state plan, the Rehabilitation Act (including regulations implementing the Act) or any state regulation or policy that is consistent with the federal requirements specified in the Act.

4. The Office of Workforce Development Assistant Secretary shall provide the decision reached in writing to the applicant/client and to Louisiana Rehabilitation Services. This decision shall include a full report of the findings and grounds for the decision.

E. Civil Action. Any party aggrieved by a final decision from an impartial review by the Office of Workforce Development may bring civil action for review of such decision. The action may be brought in any state court of competent jurisdiction or in district court of the United States of competent jurisdiction without regard to the amount in controversy. If a party brings a civil action, the final decision of the Office of Workforce Development shall be implemented pending review by the court. In any action brought under this Subsection, the court shall:

1. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 17:891 (September 1991), amended LR 20:317 (March 1994), repromulgated LR 21:189 (February 1995), amended LR 24:958 (May 1998), LR 25:1266 (July 1999), LR 26:1634 (August 2000), LR 29:46 (January 2003), by the Workforce Commission, Rehabilitation Services, LR 48:305 (February 2022).

### **§109. Eligibility and Ineligibility**

A. - A.1.a. ...

b. requires vocational rehabilitation services to prepare for, secure, retain, regain, or advance in employment; and

A.1.c. - E.1.c. ...

d. Louisiana Rehabilitation Services does not impose a residence requirement. Undocumented immigrants, however, cannot be served. Immigrants who are disabled who have a legal, unexpired work visa, and who otherwise meet the eligibility criteria, can be served.

F. - F.2.b.ii. ...

iii. a referral to any other agencies or programs from whom the individual may be eligible to receive services, including other components of the statewide workforce development system.



F.3. - I.1.c.i. ...

ii. whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time (extended period of time means three months or longer); and

I.1.c.iii. - K.4.a.i. ...

ii. the individual's significant physical or mental impairment seriously limits three or more functional capacity areas; and

iii. the individual's vocational rehabilitation is expected to require multiple vocational rehabilitation services over an extended period of time;

b. Selection Group II—Significantly Disabled. An eligible individual is considered significantly disabled when the following apply:

i. ...

ii. the individual's severe physical or mental impairment seriously limits one or two functional capacity areas; and

iii. the individual's vocational rehabilitation is expected to require multiple vocational rehabilitation services over an extended period of time.

c. Selection Group III—Non-Significantly Disabled. An individual is considered non-significantly disabled when:

i. - ii. ...

iii. the individual does not meet the above stated criteria for an individual who is either "most significantly disabled" or "significantly disabled."

4.d. - 5. ...

6. Information and Referral. LRS will, as appropriate, refer those individuals in selection groups not being served to other components of the statewide workforce development system that are best suited to address the specific employment needs of the individual with a disability.

7. - 8.a. ...

b. When it is impossible to serve all eligible individuals within a priority category, the individuals (in addition to referral to other components of the statewide workforce development system) will be placed on a deferred services waiting list. Individuals on the deferred services waiting list will be served in chronological order based on the date of application.

8.c. - 9. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 17:891 (September 1991), amended LR 20:317 (March 1994), LR 21:191 (February 1995), LR 22:993 (October 1996), LR 23:995 (August 1997), LR 25:1267 (July 1999), LR 27:211 (February 2001), by the Workforce Commission, Rehabilitation Services, LR 48:3045 (February 2022).

**§110. Information and Referral Services**

A. - A.1. ...

2. to ensure that such individuals, as appropriate, are referred to other federal and state programs, including other components of the statewide workforce development system.

B. - B.1.a.ii. ...

iii. supervised job placement referrals to Workforce Development;

1.a.iv.-2.b.iii. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 25:1270 (July 1999), amended by the Workforce Commission, Rehabilitation Services, LR 48:306 (February 2022).

**§115. Financial**

A. Comparable Services and Similar Benefits

1. Determination of Availability

a. Prior to providing any vocational rehabilitation service to an eligible individual, except those services specified below in Subclauses c.i.(a)-(f), LRS will determine whether comparable services and benefits are available under any other program (other than a program carried out under Title IV, Rehabilitation Act Amendments of 2014) unless such a determination would interrupt or delay:

A.1.a.i. - B.1. ...

2. LRS will consider, through budgetary analysis of assets, income, disability-related expenses and comparable services and benefits, the financial need of eligible individuals; and individuals who are in trial work periods for purposes of determining the extent of the individual's participation in the costs of certain vocational rehabilitation services.

a. ...

i. assessment for determining eligibility and priority for services, except those non-assessment services that are provided during an evaluation to explore the individual's abilities, capabilities, and capacity to perform in work situations (trial work periods);

2.a.ii. - 3.d.ii....

C. LRS shall determine an individual's financial need for certain vocational rehabilitation services, as listed in Subparagraph B.2.b above, based on the individual's disability related expenses, available assets, and a multiple of 250-500 percent of the current U.S. Department of Health and Human Services' poverty guidelines.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23-3022.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 17:891 (September 1991), amended LR 20:317 (March 1994), LR 21:837 (August 1995), LR 24:959 (May 1998), LR 25:1273 (July 1999), LR 27:212 (February 2001), LR 27:1561 (September 2001), LR 29:47 (January 2003), LR 30:1488 (July 2004), LR 34:1038 (June 2008), amended by the Workforce Commission, Rehabilitation Services, LR 41:1775 (September 2015), repromulgated LR 41:2180 (October 2015), amended LR 48:306 (February 2022).

**§117. Vocational Rehabilitation Services**

A. Vocational Rehabilitation Services are any services described in an IPE necessary to assist an individual with a disability in preparing for, securing, advancing in, retaining, or regaining an employment goal that is consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individual, including:

1.-15. ...

16. supported employment and customized employment services;

A.17. - D.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 23-3001.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 17:891

(September 1991), amended LR 20:317 (March 1994), LR 25:1274 (July 1999), amended by the Workforce Commission, Rehabilitation Services, LR 41:1775 (September 2015), LR 48:306 (February 2022).

## **Chapter 2. Community Rehabilitation Program**

### **§207. Fiscal Accounting Systems and Record Keeping**

A. The CRP must maintain adequate fiscal records and accountability so as to demonstrate, upon request, receipt and utilization of funds from LRS. Each CRP must have an annual external audit and management letter and include a single audit where indicated or required by law.

B. The CRP must have adequate insurance, as appropriate to services provided, to protect against reasonable claims due to adverse events to protect persons served. This includes but is not limited to:

1. workers' compensation;
2. liability;
3. property;
4. vehicle;
5. directors' and officers' liability;
6. errors and omissions;
7. casualty;

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 24:1955 (October 1998), amended by the Workforce Commission, Rehabilitation Services, LR 48:307 (February 2022).

### **§213. Confidentiality and Case Records**

A. - A.2. ...

B. The CRP shall have safeguards in place for electronic records to protect the privacy of the consumer's information including:

1. safeguards for names, Social Security numbers, birthdates, medical information;
2. process for reporting breach of security;
3. notification of appropriate authorities;
4. notification of LRS;
5. timelines for reporting breaches of security.

C. Notification to Clients. Individuals asked to supply the CRP with information concerning themselves shall be informed of the CRP's need to collect confidential information and the policies governing its use, release, and access including:

1. a Consent to Release Case Record Information Form contained in case files which must document that individuals have been advised of the confidentiality of information pertinent to their case;
2. the principal purpose for which the CRP intends to use or release the requested data;
3. whether the individuals may refuse, or are legally required to supply the requested data;
4. any known consequence arising from not providing the requested information;
5. the identity of other agencies to which information is routinely released.

D. Release of Confidential Information. The case file must contain documentation concerning any information released with the individual's written consent.

E. No use shall be made of the name or picture of an individual served without the prior written consent of the individual, or his or her legal guardian.

F. Client Access to Data. When requested in writing by the involved individual or an authorized representative, clients or applicants have the right to see and obtain in a timely manner copies of any information that the CRP maintains on them, including information in their case files, except:

1. medical and/or psychological information, when the service provider states in writing that disclosure to the individual would be detrimental to the individual's physical or mental health;

2. medical, psychological, or other information which the CRP determines harmful to the individual;

NOTE: Such information may not be released directly to the individual, but must be released, with the individual's informed consent, to the individual's representative, or a physician or a licensed or certified psychologist.

3. personal information that has been obtained from another agency or organization. Such information may be released only by or under the conditions established by the other agency or organization.

G. Informed Consent. Informed consent means that the individual has signed an authorization to release information and such authorization is as follows:

1. in a language that the individual understands;
2. dated;
3. specific as to the nature of the information which may be released;
4. specifically designates the parties to whom the information may be released;
5. specific as to the purpose(s) for which the released information may be used;
6. specific as to the expiration date of the informed consent which must not exceed one year.

H. Release of Client Information without Informed Consent

1. The CRP must have written authorization to release confidential client information except in the following instance:

- a. the CRP can release personal information without informed written authorization to protect the client or others when the client poses a threat to his/her safety or to the safety of others;
- b. the CRP can only release that information necessary to protect the client or others;
- c. the CRP or employee providing the information must carefully record all the facts and circumstances in the client's case record.

2. Examples of Emergency Situations. Emergency situations that might require release of personal information without informed written authorization could possibly include the following:

- a. threats of murder and/or suicide;
- b. threats to the safety of the workplace;
- c. national security violations.

I. Confidentiality—HIV Diagnosis. Each time confidential information is released on applicants or clients who have been diagnosed as HIV positive, a specific informed written consent form must be obtained.

J. Location of Records

1. The CRP shall keep on site the following records:
  - a. all IPE's and Agency Service Plans;
  - b. all client plan updates and progress notes;
  - c. all client evaluations;

d. a copy of the CRP's policy and procedure manual(s);

e. a copy of the employee's criminal history check.

2. All other records shall be kept in the main office of the CRP, if applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 24:1955 (October 1998), amended by the Workforce Commission, Rehabilitation Services, LR 48:307 (February 2022).

### **§219. Vocational Modules**

A. - C.2. ...

3. The employment preparation should result in skills required for successful placement of the individual into competitive integrated employment based on the designated employment goal.

D. - D.4. ...

5. The CRP shall maintain a reporting system that reports on the performance of services provided to include:

a. number of persons served;

b. characteristics of person served;

c. number/percentage of persons completing service;

d. number/percentage of consumers achieving competitive integrated employment;

e. number/percentage of consumers who retain 90 days of competitive integrated employment for six and twelve months after exit;

f. number/percentage of job placements meeting high quality indicators;

g. average rate of hourly pay of those achieving employment outcomes.

D.6. - E.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 24:1957 (October 1998), amended by Louisiana Workforce Commission, Office of Rehabilitation Services, LR 38:148 (January 2012), LR 48:308 (February 2022).

### **§223. Denial or Revocation of Vendorship**

A. - A.1. ...

2. failure to provide required documents for the bi-annual renewal process or formal request for documents by LRS;

A.3. - B.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by Louisiana Workforce Commission, Office of Rehabilitation Services, LR 38:148 (January 2012), amended LR 48:307 (February 2022).

## **Chapter 5. Business Enterprises Program Manual**

### **§505. Federal Legal Authority**

A. The Rehabilitation Act of 1973 as amended by the Rehabilitation Act Amendments of 1986 and 1992, 1998 and 2014. In accordance with federal law under title I of the Rehabilitation Act of 1973 (Public Law 93-112) as amended, including the Rehabilitation Act amendments of 1986 (Public Law 99-506), and the Rehabilitation Act amendments of 1992 (Public Law 102-569), vocational and the Rehabilitation Act amendments of 1998 (Public Law 105-220) and the Rehabilitation Act amendments of 2014 (Public Law 114-95 enacted in 2015) other rehabilitation

services are offered to individuals with disabilities through Louisiana Rehabilitation Services.

B. Code of Federal Regulations – Volume 34, Sections 361, 363, 370 and 395.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:3022.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 25:527 (March 1999), amended by the Workforce Commission, Rehabilitation Services, LR 41:2177 (October 2015), LR 48:308 (February 2022).

### **§507. State Legal Authority**

A. Louisiana Revised Statutes—R.S. 49:664. Section 6B (1)(b) (Legislative Act that created the Department of Health and Hospitals), R.S. 36:477(c) (Legislative Act that created the Department of Social Services), R.S. 36:301 (Legislative Act that created the Louisiana Workforce Commission).

B. Louisiana Act 19 of 1988, effected the merger of the Division of Rehabilitation Services with the Division of Blind Services to form Louisiana Rehabilitation Services. Louisiana Act 939 of 2010 transferred the agency from the Department of Social Services to the Louisiana Workforce Commission.

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:3022.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 25:528 (March 1999), amended by the Workforce Commission, Rehabilitation Services, LR 41:2178 (October 2015), LR 48:308 (February 2022).

## **Chapter 15. Independent Living Policy Manual**

### **§1501. Agency Profile**

A. - J. ...

K. Client Assistance Program. All programs, including centers for independent living, community rehabilitation programs, and projects that provide services to individuals with disabilities under the Rehabilitation Act Amendments of 2014 shall advise such individuals, or the parents, family members, guardians, advocates, or authorized representatives of the individuals, of the availability and purposes of the Client Assistance Program, including information on means of seeking assistance under such program.

L. - R. ...

1. Individuals who obtain access to the services provided by LRS through means of misrepresentation, fraud, collusion, or criminal conduct shall be held responsible for the return of funds expended by LRS on the individual's behalf. Further, such actions shall result in the closure of the individual's independent living case record. Failure on the individual's part to make reparation of funds to the agency may result in legal action being taken by the Louisiana Workforce Commission.

2. In cases in which LRS is in possession of clear evidence of misrepresentation, fraud, collusion, or criminal conduct on the part of the individual for the purpose of obtaining services for which the individual would not otherwise be eligible, the individual's case will be referred to the Louisiana Workforce Commission's General Counsel for consultation and/or recommendation regarding judicial action. If Louisiana Workforce Commission's, General Counsel determines, through reviewing case data, that the

individual has obtained services through misrepresentation, fraud, collusion, or criminal conduct, a certified letter will be directed to the individual by the LRS counselor demanding payment in full of funds which have been expended by the agency on the individual's behalf. The failure of the individual to comply with the demand for reparation may result in legal action being taken on behalf of LRS.

S. -T. ...

**AUTHORITY NOTE:** Promulgated in accordance with the Rehabilitation Act of 1973, as amended, R.S. 49:664 Section 6B, R.S. 36:477 (c), R.S. 46:331-335, R.S. 39:1595.3 and R.S. 39:1594 (I).

**HISTORICAL NOTE:** Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 17:891 (September 1991), amended LR 20:673 (June 1994), LR 26:2322 (October 2000), amended by the Workforce Commission, Rehabilitation Services, LR 48:308 (February 2022).

### **§1503. Enabling Legislation**

A. The Rehabilitation Act Amendments of 2014, as amended through P.L. 114-95, enacted December 10, 2015, Workforce Innovation and Opportunity Act, 29 USC Chapter 16: Vocational Rehabilitation and Other Rehabilitation Services.

B. Code of Federal Regulations, Volume 34, Section 365 and 45 Code of Federal Regulations Part 1329.

**AUTHORITY NOTE:** Promulgated in accordance with the Rehabilitation Act of 1973, as amended, R.S. 49:664 Section 6B, R.S. 36:477(c), R.S. 46:331-335, R.S. 1595.3 and R.S. 39:1594(I).

**HISTORICAL NOTE:** Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 26:2323 (October 2000), amended LR 27:428 (March 2001), amended by the Workforce Commission, Rehabilitation Services, LR 48:309 (February 2022).

### **§1505. Confidentiality**

A. - C.1.a. ...

b. the Louisiana Workforce Commission and military services of the United States government;

C.1.c. - G.2.b. ...

c. inform the regional manager or designee if the above steps do not resolve the situation. In this case, the regional manager or designee will then turn the matter over to the Louisiana Workforce Commission's legal counsel;

3. - 3.d.iii. ...

**AUTHORITY NOTE:** Promulgated in accordance with the Rehabilitation Act of 1973, as amended, R.S. 49:664 Section 6B, R.S. 36:477(c), R.S. 46:331-335, R.S. 1595.3 and R.S. 39:1594(I).

**HISTORICAL NOTE:** Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 26:2323 (October 2000), amended by the Workforce Commission, Rehabilitation Services, LR 48:309 (February 2022).

## **Chapter 17. Grant Policy**

### **§1713. Financial Administration**

A. - A.3.d. ...

e. Allowable Cost. Applicable cost principles, applicable state laws and regulations, agency program regulations, and the terms of grant agreement will be followed in determining the reasonableness, allowability and allocability of costs;

3.f. - 4. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 49:664.6 and R.S. 36.477.

**HISTORICAL NOTE:** Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 21:585 (June

1995), amended by the Workforce Commission, Rehabilitation Services, LR 48:309 (February 2022).

### **§1717. Cost Principles**

A. Recipients shall adhere to applicable cost principles found in 2 CFR Part 200, Subpart E. All project costs charged to this grant will be reasonable, necessary, allowable, and allocable according to the applicable cost principles.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 49:664.6 and R.S. 36.477.

**HISTORICAL NOTE:** Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 21:585 (June 1995), amended by the Workforce Commission, Rehabilitation Services, LR 48:309 (February 2022).

### **§1723. Property**

A. - A.2. ...

a. Tangible personal property having an acquisition cost of \$5,000 or more per unit.

b. - c. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 49:664.6 and R.S. 36.477.

**HISTORICAL NOTE:** Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 21:586 (June 1995), amended by the Workforce Commission, Rehabilitation Services, LR 48:309 (February 2022).

### **§1735. Contract Provisions**

A. - B. ...

C. Audit Requirements. 2 CFR Part 200, Subpart F.

D. - E. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 49:664.6 and R.S. 36.477.

**HISTORICAL NOTE:** Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 21:588 (June 1995), amended by the Workforce Commission, Rehabilitation Services, LR 48:309 (February 2022).

## **Chapter 21. Randolph-Sheppard Trust Fund Policy**

### **§2105. Definitions**

*Agency*—Louisiana Rehabilitation Services of the Office of Workforce Development within the Louisiana Workforce Commission, which licenses blind vendors.

*Blind Enterprise Program*—the services available to establish business enterprises and other similar programs for persons who are blind as provided in the Randolph-Sheppard Act.

*Blind Vendors*—those individuals who are classified under state and federal regulations as legally blind and who are licensed to and have a permit to operate vending facilities on state, federal, or other property.

*Board*—the Blind Vendors Trust Fund Advisory Board.

*Department*—the Louisiana Workforce Commission.

*Director*—the director of Louisiana Rehabilitation Services.

*Fund*—the Blind Vendors Trust Fund.

*Randolph-Sheppard Act*—the federal law which enables the Blind Enterprise Program under the authority of 20 U.S.C. 107 et seq.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 23:3041-23:3045.

**HISTORICAL NOTE:** Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 22:119 (February 1996), amended by the Workforce Commission, Rehabilitation Services, LR 41:2180 (October 2015), amended by the Workforce Commission, Rehabilitation Services, LR 48:309 (February 2022).

**§2115. General Requirements**

A. ...

B. Civil Rights and Equal Employment Opportunities with Regard to Employees or Agencies Delivering Services. Title VI of the Civil Rights Act of 1964, as amended, prohibits discrimination because of race, color, or national origin; Title V of the Rehabilitation Act of 1973, as amended, and Title I of the Americans with Disabilities Act PL 101-336 prohibit discrimination because of disabling condition. The provisions of these acts apply to services and programs administered by Louisiana Rehabilitation Services.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:3041-23:3045.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 22:120 (February 1996), amended by the Workforce Commission, Rehabilitation Services, LR 41:2180 (October 2015), amended by the Workforce Commission, Rehabilitation Services, LR 48:310 (February 2022).

Ava Cates  
Secretary

2202#042

# Notices of Intent

## NOTICE OF INTENT

### Department of Economic Development Office of Entertainment Industry Development

#### Motion Picture Production Tax Credit Program (LAC 61:I.Chapter 61)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Economic Development proposes to amend the Rules for the Motion Picture Production Tax Credit Program (R.S. 47: 6007, et seq.) to better align the rules with current statutory provisions and administrative practices, as required by portions of Act 309 of the 2017 Regular Session of the Louisiana Legislature.

#### Title 61

#### REVENUE AND TAXATION

#### Part I. Taxes Collected and Administered by the Secretary of Revenue Chapter 61. Motion Picture Production Tax Credit Program

#### §6101. Purpose

A. ...

B. This Chapter shall be administered to achieve the following:

1. to encourage development of a strong capital base within the state for the motion picture and related industries;

2. to achieve a self-supporting, independent, indigenous industry; and

3. to encourage development of state of the art motion picture production and post-production facilities:

a. in the short-term, to attract private investors in state-certified productions;

b. in the long-term, to encourage the development of a skilled state workforce trained in the film and video industry.

C. - C.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1125.1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development and the Office of the Governor, Division of Administration, LR 36:52 (January 2010), repromulgated by the Department of Economic Development, Office of Business Development, LR 45:868 (July 2019), LR 48:

#### §6103. General Description

A. For application received on or after July 1, 2017, state-certified productions may be eligible for up to a 40 percent tax credit on total qualified in-state expenditures, including resident and non-labor as follows:

1. Base Investment Credit

a. Base Rate. State-certified productions with a total base investment greater than \$300,000, or for Louisiana screenplay state-certified productions with a total base investment equal to or greater than \$50,000, a tax credit of 25 percent of the base investment may be allowed;

b. Louisiana Screenplay. State-certified productions with expenditures equal to or greater than \$50,000, but not

greater than \$5,000,000, based upon a screenplay created by a Louisiana resident, may be eligible for an increased 10 percent credit of the base investment, for a total of 35 percent.

c. Out of Zone Filming. State-certified productions that have their production office and at least 60 percent of principal photography based and occurring outside of the New Orleans Metropolitan Statistical Area ( NOLA-MSA) may be eligible for an increased 5 percent credit of base investment, for a total of 30 percent or 40 percent total for a Louisiana screenplay shot out of the zone.

i. In NOLA-MSA zone: Orleans, Jefferson, Plaquemines, St. Bernard, St. Charles, St. James and St. Tammany Parishes, Out-of-zone: All other parishes including St. John the Baptist Parish.

2. Additional Payroll and Visual Effects (VFX) Credits

a. Louisiana resident payroll. Compensation for services paid directly to a Louisiana resident may be eligible for an additional 15 percent credit for qualified Louisiana resident payroll only.

i. Payments made to a loan-out company are not eligible for this additional credit.

b. VFX. If at least 50 percent of the VFX budget is expended for services performed in Louisiana by an approved Qualified Entertainment Company (QEC), or a minimum of \$1,000,000 in qualified expenditures are made in Louisiana, an additional 5 percent credit may be allowed on the qualified VFX spend only.

3. Tax credits shall be earned at the time expenditures are certified by LED. The maximum credit rate, including base investment increases and additional payroll credits is 40 percent of the base investment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1125.1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development and the Office of the Governor, Division of Administration, LR 36:52 (January 2010), repromulgated by the Department of Economic Development, Office of Business Development, LR 45:868 (July 2019), LR 48:

#### §6105. Definitions

A. - B. ...

\*\*\*

*Base Investment*—cash or cash equivalent investment made and used for production expenditures in the state for a state-certified production.

*Begin Construction*—Repealed.

\*\*\*

*Commissioner*—Repealed.

\*\*\*

*Division*—Repealed.

\*\*\*

*Expenditure*—actual payment of cash or cash equivalent, paid by or on behalf of a state certified production exchanged for goods or services, as evidenced by an invoice, receipt or other such document.

\*\*\*

*Investor*—any individual or entity that makes an investment in a state-certified production including but not limited to any individual or entity that is identified as a source of funds for a state certified production on its expenditure verification report, individual or entity identified as an irrevocable designee for receipt of tax credits.

*LDR*—Louisiana Department of Revenue

*Louisiana Publisher*—Repealed.

*Louisiana Resident*—a natural person who is required to file a Louisiana resident individual income tax return.

*Louisiana Screenplay*—a screenplay created by a Louisiana resident, as evidenced by documents such as certificate of authorship, a WGA registration certificate, the records of the United States Copyright Office, or other documentation approved by the office.

*Non-Applicable Production Expenditures*—the following expenses are not eligible to earn tax credits:

a. - h. ...

i. expenditure verification report deposit and fees;

j. For applications received on or after July 1, 2016, bond fees, insurance premiums, finance fees and loan interest fees shall not qualify for tax credits, except for fees paid to certain Louisiana companies, in which case the expenditures to be allocated only on a pro rata basis, allocating the fees based on the relative percentage of production activity occurring in Louisiana;

k. For applications received on or after July 1, 2017, catering and craft services shall not qualify for tax credits unless such expenditures are made to a source within the state.

\*\*\*

*Production Expenditures*—preproduction, production and postproduction expenditures directly incurred in this state that are directly used in a state-certified production, whether the production company directly contracts or subcontracts such work, including without limitation the following:

a. - l. ...

m. payments to a loan-out or personal services corporation for the services of an out-of-state hire are allowed as long as the services are performed in Louisiana on a state certified production and all withholding requirements are met.

\*\*\*

*Qualified Louisiana Production Company*—Repealed.

\*\*\*

*Source within the State*—a physical facility in Louisiana, operating with posted business hours and employing at least one full-time equivalent employee. Procurement companies that meet the requirements of La. R.S. 47:6007(B)(30) shall constitute a “source within the state”.

*State-Certified Infrastructure Project*—Repealed.

\*\*\*

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development and the Office of the Governor, Division of Administration, LR 36:53 (January 2010), amended by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development, LR 43:300 (February 2017), LR 48:

## §6107. Certification Procedures

A. - A.1.b.i.(m).(iii). ...

ii. - ii.(j). Repealed.

1.c. - 2.f. ...

3. An application is not deemed to be complete until all information requested and required fees are received by LED. Required fees include both an application fee and an expenditure verification deposit fee.

B. Qualification. The office and the secretary, and in the case of infrastructure projects, the division, shall determine whether a production qualifies for certification, by meeting all requirements of R.S. 47:6007 and these regulations, and taking the following factors into consideration:

1. the impact of the production on the immediate and long-term objectives of R.S. 47:6007;

2. the impact of the production on the employment of Louisiana residents;

3. the impact of the production on the overall economy of the state.

C. - C.1.b.ii. ...

iii. - vii. Repealed.

C.2. - D.1.d. ...

2. When requesting final certification of credits, the motion picture production company applicant shall submit to the office the following:

a. a cost report, certified by a state licensed, independent certified public accountant and complying with the minimum standards as required by R.S. 47:6007(D)(2)(d). The cost report may be subject to additional audit by the department—or the Department of Revenue, at the applicant’s expense.

i. - ii. ...

iii. Reimbursement of Audit Costs. The department may undertake additional audit at the applicant’s expense, to be performed by a state certified public accountant also certified in financial forensics or also certified as a fraud examiner. Audit fees will be assessed at the department’s contracted fee;

b. additional information as may be requested.

3. - 3.a.i. ...

b. Project-Based Production Tax Credit—for Applications Submitted on or after July 1, 2017

i. After review and determination of qualification, the office and the secretary shall issue a final certification letter, in accordance with the provisional allocations and amounts set forth in the initial certification letter, or a written denial.

ii. In the event that less than the reserved amount of tax credits has been verified, any unused credits will be released and may be available for issuance by the office.

iii. In the event that more than the reserved amount of tax credits has been verified, the office shall preliminarily issue tax credits in an amount not to exceed the total indicated in the initial certification letter, but may at its discretion, issue any excess credits in the same final certification letter or subsequently issue a supplemental tax credit for any excess expenditures, subject to availability of credits in any given fiscal year.

D.4 - E.2.c. ...

d. the written determination shall be the final agency decision of the department;

e. the applicant may appeal an adverse decision to the Nineteenth Judicial District Court, which shall be limited to a review of the administrative record.

3. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007 and R.S. 36:104.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development and the Office of the Governor, Division of Administration, LR 36:55 (January 2010), amended by the Department of Economic Development, Office of the Secretary, Office of Business Development and the Louisiana Economic Development Corporation, LR 37:514 (February 2011), amended by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development, LR 42:39 (January 2016), LR 48:

**§6109. Additional Program Provisions**

A. The following additional provisions shall apply to applications received on or after July 1, 2017:

1. LED total program issuance cap. The aggregate dollar amount of tax credits issued for all state-certified productions shall not exceed \$150,000,000 per fiscal year;

2. LDR taxpayer claims cap. Tax credit claims and transfers to the state (“buy-back”) shall be limited to an aggregate total of \$180,000,000 per fiscal year;

3. LED individual project issuance cap. The maximum amount of credits certified by LED for a single state-certified production shall be \$20,000,000, which may be structured over two or more years in the initial certification letter;

a. Except for state-certified productions for scripted episodic content that may be granted up to \$25,000,000 in credits per season.

4. LED individual salary cap. The maximum amount of qualifying payroll expenditures per individual shall be \$3,000,000. Payroll payments in excess of \$3,000,000 made directly or indirectly to an individual or loan-out shall be excluded.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1125.1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development and the Office of the Governor, Division of Administration, LR 36:56 (January 2010), repromulgated by the Department of Economic Development, Office of Business Development, LR 45:874 (July 2019), LR 48:

**§6111. Additional Program Provisions—Infrastructure**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1125.1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development and the Office of the Governor, Division of Administration, LR 36:56 (January 2010), repromulgated by the Department of Economic Development, Office of Business Development, LR 45:874 (July 2019), repealed LR 48:

**§6115. Louisiana Screenplay Credit**

Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development, LR 43:301 (February 2017), repromulgated by the Department of Economic

Development, Office of Business Development, LR 45:877 (July 2019), repealed LR 48:

**§6117. Louisiana Music**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development, LR 42:1656 (October 2016), repromulgated by the Department of Economic Development, Office of Business Development, LR 45:877 (July 2019), repealed LR 48:

**§6119. Louisiana Promotional Graphic**

A. For applications for state-certified productions initially certified received on or after July 1, 2017 at time of request for final certification, state certified productions shall be required to acknowledge the financial assistance of the state of Louisiana—either through the inclusion of a Louisiana promotional graphic meeting requirements set forth below, or that an alternative marketing opportunity has been approved in writing by LED.

1. - 2.ix. ...

3. A donation to a Louisiana nonprofit film grant program, as approved by LED.

B. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development, LR 42:1656 (October 2016), repromulgated by the Department of Economic Development, Office of Business Development, LR 45:878 (July 2019), amended LR 48:

**§6121. Louisiana Filmmaker Credit**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development, LR 43:301 (February 2017), repromulgated by the Department of Economic Development, Office of Business Development, LR 45:878 (July 2019), repealed LR 48:

**Family Impact Statement**

The proposed Rule is not anticipated to have an impact on family formation, stability, and autonomy as described in R.S. 49:972.

**Poverty Statement**

The proposed Rule is not anticipated to have an impact on poverty as described in R.S. 49:973.

**Provider Impact Statement**

The proposed Rule is not anticipated to have an impact on providers of services as described in HCR 170 of the 2014 Regular Legislative Session.

**Small Business Analysis**

The proposed Rule is not anticipated to have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act. The agency, consistent with health, safety, environmental and economic factors has considered and, where possible, utilized regulatory methods in drafting the proposed rule to accomplish the objectives of applicable statutes while minimizing any anticipated adverse impact on small businesses.



**Public Comments**

Interested persons should submit written comments on the proposed Rules to Stephen Hamner through the close of business on Tuesday, March 29, 2022 at 617 North Third Street, 11th Floor, Baton Rouge, LA 70802 or via email to stephen.hamner@la.gov.

**Public Hearing**

A meeting for the purpose of receiving the presentation of oral comments will be held at 10 a.m. on Wednesday, March 30, 2022 at the La Salle Building, Griffon Room, 617 North Third Street, Baton Rouge, LA 70802.

Anne G. Villa  
Undersecretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Motion Picture Production  
Tax Credit Program**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
 

The proposed rule changes are not anticipated to result in any direct material effect on governmental expenditures or savings for state or local governmental units. They better align the rules with current statutory provisions and administrative practices as required by portions of Act 309 of the 2017 Regular Session. Any administrative duties brought about by the proposed rule changes will be carried out utilizing existing staff and resources at the LA Dept. of Economic Development (LED).
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
 

The proposed rule changes update provisions for program applicants on or after July 1, 2017. However, all issuance activity operates under a cap of \$150 M each fiscal year. Furthermore, film tax credit claims are capped at \$180 M each fiscal year. Because the rule revisions occur under the auspices of these statutory credit issuance and claims caps, aggregate revenue for the state will not be affected. NOTE: The \$150 M cap applies to LED’s issuance of credits. The \$180 M cap applies to taxpayer claims with LDR. These are statutory, and have no bearing on this rule.

The proposed rule changes will not affect local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
 

Firms who are eligible for film tax credits may realize a reduction in tax liabilities to the extent they qualify for the credit and are able to receive additional credits to the extent other firms do not utilize the entirety of their initial film tax credit allocation
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
 

Companies receiving benefits under this program will continue to gain competitively over companies that do not receive the program’s benefits.

Anne G. Villa  
Undersecretary  
2202#030

Alan M. Boxberger  
Deputy Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

Bulletin 126—Charter Schools  
(LAC 28:CXXXIX.4003)

In accordance with the provisions of R.S. 17:6(A)(10) and the Administrative Procedure Act (APA), R.S. 49:953(B)(1) et seq., the Board of Elementary and Secondary Education proposes to amend LAC 28:CXXXIX. Bulletin 126—*Charter Schools* in response to Act 353 of the 2021 Regular Legislative Session regarding annual in-service training on recognizing adverse childhood experiences and the utilization of trauma-informed education.

**Title 28**

**EDUCATION**

**Part CXXXIX. Bulletin 126—Charter Schools**

**Chapter 40. Charter School Autonomy**

**§4003. Applicability of State Laws**

A. Notwithstanding any state law, rule, or regulation to the contrary and except as may be otherwise specifically provided for in an approved charter, a charter school established and operated in accordance with the provisions of this Chapter and its approved charter and the school's officers and employees shall be exempt from all statutory mandates or other statutory requirements that are applicable to public schools and to public school officers and employees except for the following laws otherwise applicable to public schools with the same grades:

A.1 - 44....

45. participation in one hour of annual in-service training on recognizing adverse childhood experiences and the utilization of trauma-informed education, R.S. 17:437.2.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) and R.S. 17:3996.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 44:246 (February 2018), amended LR 48:

**Family Impact Statement**

In accordance with section 953 and 974 of title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on rules proposed for adoption, repeal, or amendment. All Family Impact Statements will be kept on file in the state board office which has adopted, amended, or repealed rules in accordance with the applicable provisions of the law relating to public records.

- 1. Will the proposed Rule affect the stability of the family? No.
- 2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.
- 3. Will the proposed Rule affect the functioning of the family? No.
- 4. Will the proposed Rule affect family earnings and family budget? No.
- 5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
- 6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

### Poverty Impact Statement

In accordance with section 973 of title 49 of the Louisiana Revised Statutes, there is hereby submitted a Poverty Impact Statement on rules proposed for adoption, amendment, or repeal. All Poverty Impact Statements will be in writing and kept on file in the state agency which has adopted, amended, or repealed rules in accordance with the applicable provisions of the law relating to public records. For the purposes of this section, the word “poverty” means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial authority? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? No.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

### Small Business Analysis

The impact of the proposed Rule on small businesses as defined in R.S. 49:965.6, the Regulatory Flexibility Act, has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental, and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

### Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the staffing level requirements or qualifications required to provide the same level of service;

2. the cost to the providers to provide the same level of service; or

3. the ability of the provider to provide the same level of service.

### Public Comments

Interested persons may submit written comments via the U.S. Mail until noon, March 12, 2022, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis  
Executive Director

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: **Bulletin 126—Charter Schools**

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed revisions will not result in costs or savings to state or local governmental units.

The proposed revisions are in response to Act 353 of the 2021 Regular Legislative Session, which requires that, beginning with the 2021-2022 school year, all public and approved nonpublic school teachers, school counselors, principals, and other school administrators for whom the training is considered beneficial by the Board of Elementary and Secondary Education shall annually participate in at least one hour of in-service training on recognizing adverse childhood experiences (ACEs) and the utilization of trauma-informed education.

The Louisiana Department of Education (LDE) has partnered with the Louisiana Department of Health (LDH) Bureau of Family Health which operates the ACE Educator Program to develop a training video to meet the in-service requirement. LDH will not experience costs associated with the creation of the training video and LDE will make the training video available to schools. No costs are anticipated for charter schools, as completion of the training is to be accomplished on a day when other types of in-service training are conducted.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed revisions will not have an effect on revenue collections of state or local governmental units.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed revisions will not result in costs and/or economic benefits to directly affected persons, small businesses, or non-governmental groups.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed revisions will not have an effect on competition and employment.

Beth Scioneaux  
Deputy Superintendent  
2202#032

Alan M. Boxberger  
Deputy Fiscal Officer  
Legislative Fiscal Office

## NOTICE OF INTENT

### Board of Elementary and Secondary Education

Bulletin 127—LEAP Connect Assessment, Louisiana  
Connectors for Students with Significant Cognitive  
Disabilities  
(LAC28:XI.9901)

In accordance with the provisions of R.S. 17:6(A)(10) and the Administrative Procedure Act (APA), R.S. 49:953(B)(1) et seq., the Board of Elementary and Secondary Education proposes to amend LAC28:XI. Bulletin 127—*LEAP Connect Assessment, Louisiana Connectors for Students with Significant Cognitive Disabilities* in accordance with guidance issued by the United States Department of Education regarding Title III of the Elementary and

Secondary Education Act, as amended by the Every Student Succeeds Act of 2015 (ESSA).

## **Title 28**

### **EDUCATION**

#### **Part XI. Accountability/Testing**

##### **Subpart 5. Bulletin 127—LEAP Connect Assessment, Louisiana Connectors for Students with Significant**

##### **Cognitive Disabilities**

##### **Chapter 99. English Language Learners**

##### **§9901. Alternate Connectors for English Language**

##### **Learners with Significant Cognitive Disabilities**

A. Construct meaning from oral presentations and literary and informational text through grade-appropriate listening, reading, and viewing.

B. Participate in grade-appropriate oral and written exchanges of information, ideas, and analyses, responding to peer, audience, or reader comments and questions.

C. Speak and write about grade-appropriate complex literary and informational texts and topics.

D. Construct grade-appropriate oral and written claims.

E. Conduct research and evaluate and communicate findings to answer questions or solve problems.

F. Analyze and critique the arguments of others orally and in writing.

G. Adapt language choices to purpose, task, and audience when speaking and writing.

H. Determine the meaning of words and phrases in oral presentations and literary and informational text.

I. Create clear and coherent grade-appropriate speech and text.

J. Make accurate use of standard English to communicate in grade-appropriate speech and writing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 48:

##### **Family Impact Statement**

In accordance with section 953 and 974 of title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on rules proposed for adoption, repeal, or amendment. All Family Impact Statements will be kept on file in the state board office which has adopted, amended, or repealed rules in accordance with the applicable provisions of the law relating to public records.

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

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

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

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

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

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

##### **Poverty Impact Statement**

In accordance with section 973 of title 49 of the Louisiana Revised Statutes, there is hereby submitted a Poverty Impact Statement on rules proposed for adoption, amendment, or repeal. All Poverty Impact Statements will be in writing and kept on file in the state agency which has adopted, amended,

or repealed rules in accordance with the applicable provisions of the law relating to public records. For the purposes of this section, the word “poverty” means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial authority? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? No.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

##### **Small Business Analysis**

The impact of the proposed Rule on small businesses as defined in R.S. 49:965.6, the Regulatory Flexibility Act, has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental, and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

##### **Provider Impact Statement**

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the staffing level requirements or qualifications required to provide the same level of service;

2. the cost to the providers to provide the same level of service; or

3. the ability of the provider to provide the same level of service.

##### **Public Comments**

Interested persons may submit written comments via the U.S. Mail until noon, March 12, 2022, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis  
Executive Director

#### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

##### **RULE TITLE: Bulletin 127—LEAP Connect Assessment, Louisiana Connectors for Students with Significant Cognitive Disabilities**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed revisions will not have an effect on costs or savings of state agencies. There may be an increase in local expenditures by public school districts associated with training as a result of the implementation of the Connectors (standards); however, this cost is indeterminable.

The proposed revisions provide alternative measurements of English language proficiency for English Learners with significant cognitive disabilities. The Alternate English Learner Connectors will be measured by the forthcoming alternate English Learner assessment, English Language Proficiency Test Connect.

The Department of Education (LDE) plans to develop an assessment associated with the Alternate English Learner Connectors through an existing contract, English Language Proficiency Assessment for the 21st Century. This initial development will not result in additional costs and the proposed revisions do not require the purchase of such assessments at this time.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed revisions will not have an effect on revenue collections of state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed revisions will benefit English Learners with significant cognitive disabilities by providing Connectors (standards) to be used in an alternate assessment of English Language Proficiency. This assessment will benefit school- and district-level teams as they support these students in learning English language knowledge and skills.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed revisions will not have an effect on competition and employment.

Beth Scioneaux  
Deputy Superintendent  
2202#033

Alan M. Boxberger  
Deputy Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

Bulletin 139—Louisiana Early Childhood Care and Development Fund Programs (LAC28:CLXV.509 and 515)

In accordance with the provisions of R.S. 17:6(A)(10) and the Administrative Procedure Act (APA), R.S. 49:953(B)(1) et seq., the Board of Elementary and Secondary Education proposes to amend LAC28:CLXV. Bulletin 139—*Louisiana Early Childhood Care and Development Fund Programs*. The revisions increase the daily Child Care Assistance Program (CCAP) reimbursement rates and increase the income eligibility for CCAP to 85 percent of the State Median Income.

**Title 28  
EDUCATION**

**Part CLXV. Bulletin 139—Louisiana Child Care and Development Fund Programs**

**Chapter 5. CCAP Household Eligibility  
§509. Certification Requirements for Non-Categorically Eligible Households**

A. To be certified as a CCAP household, households that are not categorically eligible for participation in CCAP must meet the following requirements:

1. include at least one child who is eligible for CCAP as provided in §503.A;
2. meet all criteria provided in §507.A;
3. have household income that does not exceed 85 percent of the state median income for a household of the same size. *Household income* is defined as:

3.a. - 6. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6 and 17:407.28. and 45 CFR Parts 98 and 99.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 42:43 (January 2016), amended LR 42:2175 (December 2016), LR 44:261 (February 2018), effective March 1, 2018, LR 45:900 (July 2019), LR 46:1373 (October 2020), LR 47:573 (May 2021), LR 48:

**§515. Payments Made on Behalf of Households**

A. The state maximum daily rates for CCAP care are as follows.

Child Care Provider Type	Regular Care	Regular Care for Toddlers	Regular Care for Infants	Special Needs Care Incentive	Special Needs Care Incentive for Toddlers	Special Needs Care Incentive for Infants
Type III Early Learning Center	\$31.50	\$42.00	\$68.00	\$39.69	\$52.92	\$85.68
School Child Care Center	\$24.00	\$24.00	\$24.00	\$30.24	\$30.24	\$30.24
Family Child Care Provider	\$29.00	\$42.00	\$61.00	\$36.54	\$52.92	\$76.86
In-Home Provider	\$25.00	\$25.25	\$26.65	\$31.50	\$31.82	\$33.58
Military Child Care Centers	\$31.50	\$42.00	\$68.00	\$39.69	\$52.92	\$85.68

B. - G. ...

**AUTHORITY NOTE:** Promulgated in accordance with 45 CFR Parts 98 and 99, and R.S. 17:6 and 17:407.28.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 41:2116 (October 2015), amended LR 42:44 (January 2016), LR 42:1870 (November 2016), LR 44:801 (April 2018), LR 45:1745 (December 2019), LR 47:573 (May 2021). LR 48:

**Family Impact Statement**

In accordance with section 953 and 974 of title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on rules proposed for adoption, repeal, or amendment. All Family Impact Statements will be kept on file in the state board office which has adopted, amended, or repealed rules in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? Yes.
2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? Yes.
5. Will the proposed Rule affect the behavior and personal responsibility of children? Yes.

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

#### **Poverty Impact Statement**

In accordance with section 973 of title 49 of the Louisiana Revised Statutes, there is hereby submitted a Poverty Impact Statement on rules proposed for adoption, amendment, or repeal. All Poverty Impact Statements will be in writing and kept on file in the state agency which has adopted, amended, or repealed rules in accordance with the applicable provisions of the law relating to public records. For the purposes of this section, the word “poverty” means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial authority? Yes.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.

3. Will the proposed Rule affect employment and workforce development? Yes.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? Yes.

#### **Small Business Analysis**

The impact of the proposed Rule on small businesses as defined in R.S. 49:965.6, the Regulatory Flexibility Act, has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental, and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

#### **Provider Impact Statement**

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the staffing level requirements or qualifications required to provide the same level of service;

2. the cost to the providers to provide the same level of service; or

3. the ability of the provider to provide the same level of service.

#### **Public Comments**

Interested persons may submit written comments via the U.S. Mail until noon, March 12, 2022, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis  
Executive Director

## **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

### **RULE TITLE: Bulletin 139—Louisiana Early Childhood Care and Development Fund Programs**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There will be a significant increase in costs to the Louisiana Department of Education (LDE) associated with the proposed increases to the Child Care Assistance Program (CCAP) reimbursement rates and income eligibility. The amount of the increase will depend upon the number of children enrolled in the program and is indeterminable. CCAP is funded with a combination of state general fund (SGF) and federal funding through the Child Care and Development Fund (CCDF). Total expenditures are limited by the amount of state appropriations and federal grant allocations in any given year. To the extent the proposed revisions cause demand for program services to exceed available funding, the LDE will need to restrict services through wait listing or seek alternative means of financing to bridge any funding shortfalls.

The proposed revisions increase the yearly CCAP reimbursement rates per child from approximately \$8,500 to approximately \$12,500. In addition, the proposed revisions increase the income eligibility for households participating in CCAP from 65 percent to 85 percent of the State Median Income (SMI). This would increase the number of eligible applicants, and modeling suggests that approximately 3,800 additional children will participate in the program. Increased demand may lead to additional workload for LDE staff to assist in processing CCAP applications.

Although the projected cost of the proposed revisions is indeterminable, a narrow cost analysis presented to the Early Childhood Care and Education (ECCE) Advisory Council estimated the average cost per month for February through April 2022 would increase from \$16.4 M to \$19.9 M. On an annual basis, this would total approximately \$42 M per year, although the use of a waitlist will reduce this amount without a corresponding growth in appropriation. In addition, the narrow cost analysis estimated that under the proposed CCAP rates, wait listing will begin in April 2022.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed revisions will not have an effect on revenue collections of state or local governmental units.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed revisions will benefit child care providers who receive increased CCAP payments. In addition, families will benefit from expanded access to child care. However, to the extent that the proposed revisions reduce the number of children served by the program, some child care providers may experience reduced income if qualified families are unable to enroll their children in the program. Families may also face negative economic impacts in comparison to participating families if they are waitlisted due to limited CCAP funding.

The proposed revisions increase the yearly CCAP payment rates per child from approximately \$8,500 to approximately \$12,500. Child care providers would receive an additional \$4,000 per year on average for each CCAP-enrolled child currently in their care. Child care providers will receive an average \$12,500 per year for each new child that enrolls due to the expanded eligibility.

CCAP requires enrolled families to pay a copayment determined through a sliding fee scale based on household size and income. Currently, copayments can be waived and paid

instead with federal COVID-19 relief funding. When this funding is no longer available, the overall cost of copayments to households will depend on the size and income of those households and is indeterminable.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed revisions may impact the income of CCAP participant child care center employees; however, these amounts are indeterminable. The revisions may also incentivize child care providers to begin participating in CCAP, increasing competition amongst CCAP providers.

Beth Scioneaux  
Deputy Superintendent  
2202#034

Alan M. Boxberger  
Deputy Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

Bulletin 140—Louisiana Early Childhood Care and Education Network  
(LAC 28:CLXVII.303, 313, 314, and 511)

In accordance with the provisions of R.S. 17:6(A)(10) and the Administrative Procedure Act (APA), R.S. 49:953(B)(1) et seq., the Board of Elementary and Secondary Education proposes to amend LAC 28:CLXVII Bulletin 140 – *Louisiana Early Childhood Care and Education Network*. The proposed revisions allow CCAP-certified family child care providers to apply for academic approval and participate in the unified quality rating system and initiatives.

**Title 28**

**EDUCATION**

**Part CLXVII. Bulletin 140—Louisiana Early Childhood Care and Education Network**

**Chapter 3. Early Childhood Care and Education Network**

**§303. BESE Duties and Responsibilities**

A. - A.4. ...

B. To assist the Louisiana Legislature in evaluating the effectiveness of the early childhood care and education network and in determining the most efficient and effective allocation of funding and services to maximize opportunities for children aged birth through five to achieve kindergarten readiness, BESE shall:

1. coordinate and report data relative to the early childhood care and education network to assist legislators in evaluating the effectiveness of the network and in determining the most efficient allocation of funding and services to maximize opportunities for children aged birth through five to achieve kindergarten readiness; and

2. annually submit to the Louisiana Legislature a written report that shall include, at a minimum, the following information:

a. the number of publicly-funded children participating in the network and demographic information pertaining to age, race, and socioeconomic status; and

b. the areas of greatest need according to geographic location and student population for the purpose of prioritizing funding and services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2582 (December 2015), LR 48:

**§313. Academic Approval for Type III Early Learning Centers**

A. - L.1.e ...

f. failure to participate in the early childhood site improvement planning process, as required by §512 of this Part.

L.2. - M.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:407.36(C), and 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2584 (December 2015), amended LR 42:1871 (November 2016), LR 43:2129 (November 2017), LR 44:1439 (August 2018), LR 45:1451 (October 2019), LR 48:

**§314. Academic Approval for Family Child Care Homes**

A. Registered and CCAP-certified family child care homes may apply for academic approval from the LDE.

B. Family child care homes meeting the performance and academic standards of the early childhood care and education network regarding kindergarten readiness as provided in this bulletin shall receive academic approval from the LDE. Academic approval includes verification by the LDE that the family child care home meets the required performance and academic standards.

C. Initial Academic Approval for an Applicant for a Family Child Care Home

1. In order to obtain initial academic approval as a family child care home, a family child care home applying for a new academic approval must:

a. submit a signed copy of the current program partner assurances for family child care homes to the LDE, thereby agreeing to comply with the provisions of this bulletin, which include:

i. membership in the corresponding community network, as provided in Chapter 3;

ii. participation in the early childhood care and education accountability system, as provided in Chapter 5; and

iii. participation in the coordinated enrollment process, as provided in Chapter 7.

2. An applicant for a new family child care home academic approval who has held a family child care home academic approval and received a corrective action plan as provided in §313 at any time during the current or preceding fiscal year shall not be allowed to apply for academic approval for the fiscal year in which the family child care home received a corrective action plan and the following fiscal year.

D. Renewal of Academic Approval for Family Child Care Homes

1. Academic approval will be renewed annually for a family child care home that:

a. has current academic approval;

b. is in compliance with the provisions of this Part;

c. has not received two unsatisfactory performance ratings within any consecutive three school years; and

d. has submitted a signed copy of the current annual program partner assurances for family child care homes to the LDE, thereby certifying that:

i. the family child care home shall comply with the provisions of this Part, which include:

(a). membership in the corresponding community network, as provided in Chapter 3;

(b). participation in the early childhood care and education accountability system, as provided in Chapter 5; and

(c). participation in the coordinated enrollment process, as provided in Chapter 7; and

ii. the family child care provider must:

(a). have an early childhood ancillary certificate or other traditional teaching certificate issued by BESE; or

(b). be in the process of completing training that will lead to an early childhood ancillary certificate and will have obtained an early childhood ancillary certificate issued by BESE within 24 months of the date when academic approval is granted.

2. To renew academic approval, family child care homes must annually submit a signed copy of annual program partner assurances for family child care homes to the LDE prior to July 1, or as requested, whichever occurs earlier.

E. A family child care home that has academic approval terminated may not apply for academic approval for the fiscal year in which academic approval was terminated or for the following fiscal year.

F. Academic approval will be valid for the fiscal year, July 1-June 30, for which granted.

G. Academic approval is granted to a specific provider and a specific location and is not transferable. If a family child care home changes owners or location, provider is considered a new operation, and academic approval for the new owner or location must be obtained prior to beginning operations under new ownership or at the new location.

H. Upon a change of ownership or change of location, academic approval granted to the original owner or at the original location becomes null and void.

I. Renewal. Prior to July 1 of each year, the LDE shall send notice to each family child care home that has academic approval regarding:

1. renewal of academic approval for the family child care home;

2. notice of the family child care home failure to comply with specific requirements in Subsection B of this Section and specific corrective actions that must be taken by a specified date in order for academic approval to be renewed; or

3. if a family child care home receives the notice outlined in Subparagraph J.2.a of this Section within the academic year and has not provided the required certifications and completed the stated corrective actions, the LDE may terminate the family child care home academic approval as provided in Subparagraph J.2.c of this Section and send notice of termination of the family child care home academic approval.

J. Denial, Termination, or Refusal to Renew Academic Approval

1. The LDE may deny, terminate, or refuse to renew academic approval for one or more of the following:

a. violations of any provisions of this Part;

b. failure to comply in a timely manner with a corrective action plan provided by the LDE;

c. any act of fraud, such as the submission of false or altered documents or information;

d. failure to timely submit a signed copy of the annual program partner assurances;

e. two unsatisfactory performance ratings within any consecutive three school years; or

f. failure to participate in the early childhood site improvement planning process, as required by §512 of this Part.

2. Notice

a. If a family child care home is in violation of any provision of this Part, the LDE shall notify the family child care home in writing and may specify in a corrective action plan any corrective actions, required to retain academic approval.

b. Within 30 calendar days of receiving such notice, the family child care home must submit certification in writing to the LDE that:

i. corrective actions specified in the corrective action plan have been taken or are in the process of being taken in compliance with the schedule provided in the corrective action plan; and

ii. the family child care home will remain in compliance with the corrective action plan and all applicable regulations.

c. If the family child care home does not respond in a timely or satisfactory manner to the notice and corrective action plan or adhere to the implementation schedule required in the corrective action plan, the LDE may terminate or refuse to renew the family child care home academic approval.

d. The LDE shall provide written notice of a denial, termination, or refusal to renew academic approval to the family child care home.

e. The denial, termination, or refusal to renew a family child care home academic approval shall be effective upon the date if notice of the denial, termination, or refusal to renew.

K. Appeal Procedure

1. BESE shall have the authority to grant an appeal of the denial, termination, or refusal to renew academic approval for a family child care home.

2. The appeal procedure shall address unforeseen and aberrant factors impacting family child care homes or issues that arise when the literal application of the academic approval regulations does not consider certain unforeseen and unusual circumstances.

3. A family child care home may request an appeal of the denial, termination, or refusal to renew an academic approval by submitting a written request for an appeal to the LDE within 15 calendar days of the notice of the denial, termination, or refusal to renew an academic approval.

4. All appeal requests must clearly outline the specific reasons for requesting the appeal and the reasons why the appeal should be granted and must include any necessary supporting documentation.

5. The LDE shall review all timely-submitted appeal requests and make recommendations to BESE during the first regularly-scheduled BESE meeting following receipt of the appeal requests, or during the second regularly-scheduled BESE meeting if an appeal request is received within fourteen working days of the next regularly-

scheduled BESE meeting. Within this interval, the LDE shall notify the family child care home of the LDE recommendation and allow the family child care home to respond in writing. The department recommendation and the family child care home response must be submitted to BESE for final disposition.

6. A family child care home that appeals the termination or refusal to renew academic approval shall retain academic approval during the appeal process.

L. Voluntary Termination or Non-Renewal of Academic Approval

1. The family child care home may voluntarily terminate academic approval at any point during the fiscal year in which the academic approval is valid.

a. Voluntary termination of academic approval must be reported in writing according to the process developed by the LDE.

2. The family child care home may voluntarily decline to renew academic approval during the renewal period for the next fiscal year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 48:

## **Chapter 5. Early Childhood Care and Education Accountability System**

### **§512. Performance Rating Calculations for Community Networks**

A. - A.3. ...

B. Early Childhood Site Improvement Planning Process

1. Beginning with the 2018-2019 school year, publicly-funded sites rated below 3.75 for the previous year shall participate in an early childhood site improvement planning process. At a minimum, sites must:

a. develop and submit a plan for site improvement in consultation with the department;

b. implement the plan for site improvement and allow for regular monitoring of implementation by the department; and

c. provide any reports or information related to the plan for site improvement as requested by the department.

B.1.d - C.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2588 (December 2015), amended LR 42:1874 (November 2016), LR 44:1442 (August 2018), LR 45:1454 (October 2019), LR 47:1286 (September 2021), LR 48:

#### **Family Impact Statement**

In accordance with section 953 and 974 of title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on rules proposed for adoption, repeal, or amendment. All Family Impact Statements will be kept on file in the state board office which has adopted, amended, or repealed rules in accordance with the applicable provisions of the law relating to public records.

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

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

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

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

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

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

#### **Poverty Impact Statement**

In accordance with section 973 of title 49 of the Louisiana Revised Statutes, there is hereby submitted a Poverty Impact Statement on rules proposed for adoption, amendment, or repeal. All Poverty Impact Statements will be in writing and kept on file in the state agency which has adopted, amended, or repealed rules in accordance with the applicable provisions of the law relating to public records. For the purposes of this section, the word "poverty" means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial authority? Yes.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? Yes.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

#### **Small Business Analysis**

The impact of the proposed Rule on small businesses as defined in R.S. 49:965.6, the Regulatory Flexibility Act, has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental, and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

#### **Provider Impact Statement**

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the staffing level requirements or qualifications required to provide the same level of service;

2. the cost to the providers to provide the same level of service; or

3. the ability of the provider to provide the same level of service.

#### **Public Comments**

Interested persons may submit written comments via the U.S. Mail until noon, March 12, 2022, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street,



Baton Rouge, LA 70802 and must be date stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis  
Executive Director

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: **Bulletin 140—Louisiana Early Childhood Care and Education Network**

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed revisions will result in increased costs for the Department of Education (LDE) and local school districts serving as Early Childhood Community Network lead agencies to conduct Classroom Assessment Scoring System (CLASS) observations of family child care providers which participate in the quality rating system. There will also be increased costs to the LDE to provide additional funding to Early Childhood Community Network lead agencies due to the increased number of classrooms within the networks.

The proposed revisions will result in additional costs for the LDE to contract with a third-party provider to conduct annual CLASS observations at Child Care Assistance Program (CCAP) certified family child care providers which participate in the unified quality rating system. The LDE currently pays the Picard Center \$450 per CLASS observation. If all 259 CCAP-certified family child care providers participated in the program, the annual cost would be \$116,550; however, the actual cost will depend on the number of participating providers and is indeterminable.

The proposed revisions will also increase the number of classrooms for which the LDE will need to provide funding to Early Childhood Community Network lead agencies by an indeterminable amount based on the number of family child care providers participating in the program. The Board of Elementary and Secondary Education approves funding for Community Network lead agencies. The agencies are funded with a combination of State General Funds and federal Child Care Development Funds (CCDF) at a rate of \$525 per classroom and \$787.50 per classroom for classrooms located within a secondary community network under the purview of the lead agency. Additionally, the rate of \$787.50 applies to classrooms located in school systems in community networks where more than 10% of their total classroom count are located in secondary school systems required to complete the LDE Super App.

The proposed revisions will result in additional costs to local school districts which serve as Early Childhood Community Network lead agencies to conduct twice-annual CLASS observations, which are required in addition to the annual LDE observations. Community Networks typically pay between \$100 and \$300 per observation. The cost will depend on the number of participating providers and is indeterminable.

The proposed revisions allow CCAP-certified family child care providers to apply for academic approval and participate in the unified quality rating system and initiatives.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed revisions will lead to a decrease in state revenue collections to the extent that family child care providers opting in to the academic approval program may be

eligible for the school readiness tax credit (SRTC). The SRTC currently applies to Type III early learning centers and includes credits for provider staff, the provider itself, the parents or guardians of enrolled children, and qualifying business expenses in support of child care. Under the proposed revisions, family child care providers that participate in the quality rating system will qualify for the current SRTC. The LDE reports it is planning a separate SRTC track specific to family child care providers. The amount of revenue loss is indeterminable and will depend upon the SRTC structure as well as the number of participating providers.

For informational purposes, the average amount of SRTC claimed per early learning center staff member in 2020 was \$3,127. As of November 2021, 259 family child care providers self-identified to the Louisiana Department of Education, resulting in approximately \$809,893 in total SRTC potentially applied as a result of these revisions.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed revisions will result in additional costs to nonprofit organizations serving as Early Childhood Community Network lead agencies to conduct twice-annual CLASS observations for participating child care providers. Community Network lead agencies typically pay \$100-\$300 per observation. The cost will depend on the number of participating providers and is indeterminable.

The proposed revisions will benefit participating family child care providers by making them eligible for SRTC tax credits. The amount of these tax credits will depend upon the SRTC structure developed by the LDE for participating family child care providers.

The proposed revisions will require participating family child care providers to obtain an Early Childhood Ancillary Certificate issued by the Board of Elementary and Secondary Education (BESE).

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed revisions may result in additional employment for contractors who conduct CLASS observations on behalf of the LDE and Early Childhood Community Network.

Beth Scioneaux  
Deputy Superintendent  
2202#035

Alan M. Boxberger  
Deputy Fiscal Office  
Legislative Fiscal Office

## NOTICE OF INTENT

### Board of Elementary and Secondary Education

Bulletin 741 (Nonpublic)—Louisiana Handbook for  
Nonpublic School Administrators  
(LAC 28:LXXIX.119)

In accordance with the provisions of R.S. 17:6(A)(10) and the Administrative Procedure Act (APA), R.S. 49:953(B)(1) et seq., the Board of Elementary and Secondary Education proposes to amend LAC 28:LXXIX. Bulletin 741 (Nonpublic)—*Louisiana Handbook for Nonpublic School Administrators* in response to Act 353 of the 2021 Regular Legislative Session regarding annual in-service training on recognizing adverse childhood experiences and the utilization of trauma-informed education.

**Title 28  
EDUCATION**

**Part LXXIX. Bulletin 741 (Nonpublic)—Louisiana  
Handbook for Nonpublic School Administrators**

**Chapter 1. Operation and Administration**

**§119. Written Policies**

A. - B. ...

C. Each nonpublic school or system shall have written policies and/or procedures requiring at least one hour of annual in-service training on recognizing adverse childhood experiences and the utilization of trauma-informed education, provided on a day that other types of in-service training will be provided and including research-based information regarding the following:

1. the impact of adverse childhood experiences on student educational experiences and on the school and classroom culture;
2. how to identify the signs and symptoms of adverse childhood experiences;
3. best practices for schools and classrooms regarding trauma-informed approaches to education; and
4. recognition of the impact of secondary trauma on school employees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, R.S. 44:411, and R.S. 17:437.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2343 (November 2003), amended LR 31:3074 (December 2005), LR 38:1008 (April 2012), LR 39:1439 (June 2013), LR 48:

**Family Impact Statement**

In accordance with section 953 and 974 of title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on rules proposed for adoption, repeal, or amendment. All Family Impact Statements will be kept on file in the state board office which has adopted, amended, or repealed rules in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

**Poverty Impact Statement**

In accordance with section 973 of title 49 of the Louisiana Revised Statutes, there is hereby submitted a Poverty Impact Statement on rules proposed for adoption, amendment, or repeal. All Poverty Impact Statements will be in writing and kept on file in the state agency which has adopted, amended, or repealed rules in accordance with the applicable provisions of the law relating to public records. For the purposes of this section, the word "poverty" means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial authority? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? No.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

**Small Business Analysis**

The impact of the proposed Rule on small businesses as defined in R.S. 49:965.6, the Regulatory Flexibility Act, has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental, and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

**Provider Impact Statement**

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the staffing level requirements or qualifications required to provide the same level of service;
2. the cost to the providers to provide the same level of service; or
3. the ability of the provider to provide the same level of service.

**Public Comments**

Interested persons may submit written comments via the U.S. Mail until noon, March 12, 2022, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Bulletin 741 (Nonpublic)—Louisiana  
Handbook for Nonpublic School Administrators**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed revisions will not result in costs or savings to state or local governmental units.

The proposed revisions are in response to Act 353 of the 2021 Regular Legislative Session, which requires that, beginning with the 2021-2022 school year, all public and approved nonpublic school teachers, school counselors, principals, and other school administrators for whom the training is considered beneficial by the Board of Elementary

and Secondary Education shall annually participate in at least one hour of in-service training on recognizing adverse childhood experiences (ACEs) and the utilization of trauma-informed education.

The Louisiana Department of Education (LDE) has partnered with the Louisiana Department of Health (LDH) Bureau of Family Health which operates the ACE Educator Program to develop a training video to meet the in-service requirement. LDH will not experience costs associated with the creation of the training video and LDE will make the training video available to schools.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed revisions will not have an effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed revisions will not result in costs and/or economic benefits to directly affected persons, small businesses, or non-governmental groups. No costs are anticipated for nonpublic schools, as completion of the training is to be accomplished on a day when other types of in-service training are conducted.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed revisions will not have an effect on competition and employment.

Beth Scioneaux  
Deputy Superintendent  
2202#036

Alan M. Boxberger  
Deputy Fiscal Officer  
Legislative Fiscal Office

## NOTICE OF INTENT

### Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators  
(LAC28:CXV.337)

In accordance with the provisions of R.S. 17:6(A)(10) and the Administrative Procedure Act (APA), R.S. 49:953(B)(1) et seq., the Board of Elementary and Secondary Education proposes to amend LAC 28:CXV. Bulletin 741—*Louisiana Handbook for School Administrators* in response to Act 353 of the 2021 Regular Legislative Session regarding annual in-service training on recognizing adverse childhood experiences and the utilization of trauma-informed education.

### Title 28

### EDUCATION

#### Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

#### Chapter 3. Operation and Administration

#### §337. Written Policies and Procedures

A. ...

B. Each LEA shall have policies and procedures that address, but are not limited to, the following:

B.1. - 31. ...

32. at least one hour of annual in-service training on recognizing adverse childhood experiences and the utilization of trauma-informed education, provided on a day

that other types of in-service training will be provided and including research-based information regarding the following:

a. the impact of adverse childhood experiences on student educational experiences and on the school and classroom culture;

b. how to identify the signs and symptoms of adverse childhood experiences;

c. best practices for schools and classrooms regarding trauma-informed approaches to education; and

d. recognition of the impact of secondary trauma on school employees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:7(29), R.S. 17:81, R.S. 17:240, R.S. 17:100.8, and R.S.17:437.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1261 (June 2005), amended LR 33:429 (March 2007), LR 35:1101 (June 2009), LR 36:1224 (June 2010), LR 37:1141 (April 2011), LR 37:1380, 1380 (May 2011), LR 37:2134 (July 2011), LR 38:40, 41 (January 2012), LR 39:2197 (August 2013), LR 40:2530 (December 2014), LR 48:

#### Family Impact Statement

In accordance with section 953 and 974 of title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on rules proposed for adoption, repeal, or amendment. All Family Impact Statements will be kept on file in the state board office which has adopted, amended, or repealed rules in accordance with the applicable provisions of the law relating to public records.

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

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

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

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

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

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

#### Poverty Impact Statement

In accordance with section 973 of title 49 of the Louisiana Revised Statutes, there is hereby submitted a Poverty Impact Statement on rules proposed for adoption, amendment, or repeal. All Poverty Impact Statements will be in writing and kept on file in the state agency which has adopted, amended, or repealed rules in accordance with the applicable provisions of the law relating to public records. For the purposes of this section, the word “poverty” means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial authority? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? No.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

**Small Business Analysis**

The impact of the proposed Rule on small businesses as defined in R.S. 49:965.6, the Regulatory Flexibility Act, has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental, and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

**Provider Impact Statement**

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the staffing level requirements or qualifications required to provide the same level of service;
2. the cost to the providers to provide the same level of service; or
3. the ability of the provider to provide the same level of service.

**Public Comments**

Interested persons may submit written comments via the U.S. Mail until noon, March 12, 2022, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

**RULE TITLE: Bulletin 741—Louisiana Handbook for School Administrators**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed revisions will not result in costs or savings to state or local governmental units.

The proposed revisions are in response to Act 353 of the 2021 Regular Legislative Session, which requires that, beginning with the 2021-2022 school year, all public and approved nonpublic school teachers, school counselors, principals, and other school administrators for whom the training is considered beneficial by the Board of Elementary and Secondary Education shall annually participate in at least one hour of in-service training on recognizing adverse childhood experiences (ACEs) and the utilization of trauma-informed education.

The Louisiana Department of Education (LDE) has partnered with the Louisiana Department of Health (LDH) Bureau of Family Health which operates the ACE Educator Program to develop a training video to meet the in-service

requirement. LDH will not experience costs associated with the creation of the training video and LDE will make the training video available to schools. No costs are anticipated for local school districts as completion of the training is to be accomplished on a day when other types of in-service training are conducted.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed revisions will not have an effect on revenue collections of state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed revisions will not result in costs and/or economic benefits to directly affected persons, small businesses, or non-governmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed revisions will not have an effect on competition and employment.

Beth Scioneaux  
Deputy Superintendent  
2201#039

Alan M. Boxberger  
Deputy Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

Bulletin 746—Louisiana Standards for State Certification of School Personnel  
(LAC 28:CXXXI.507)

In accordance with the provisions of R.S. 17:6(A)(10) and the Administrative Procedure Act (APA), R.S. 49:953(B)(1) et seq., the Board of Elementary and Secondary Education (BESE) proposes to amend LAC 28:CXXXI. Bulletin 746—*Louisiana Standards for State Certification of School Personnel* to provide for alignment across BESE policy and facilitate issuance of initial certifications for educators completing both traditional and alternative teacher preparation programs.

**Title 28  
EDUCATION**

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

**Chapter 5. Teaching Credential, Licenses and Certifications**

**Subchapter A. Standard Teaching Certificates**

**§507. Professional Level Certificates**

A. Level 1 is the entry-level professional certificate, valid for three years. The level 2 and level 3 certificates are valid for five years.

1. Eligibility requirements for Level 1 Professional Certificate:

a. Louisiana graduate:

i. successfully complete a state-approved traditional or alternate teacher preparation program, in accordance with admission and completion dates, as outlined in LAC 28:XLV.Chapter 7:

(a) for alternate preparation completers completing a one-year in-state residency as teacher of record, the applicant must hold a Practitioner’s License (PL) in the certification area in which the teacher preparation program was completed and receive mentoring, as outlined

in LAC 28:XLV (Bulletin 996), during the first year on a PL by a school-based mentor teacher in accordance with §553 of this Chapter;

(b). for undergraduate program completers and alternate preparation completers completing a one-year in-state residency, the applicant must hold a Resident Teacher certificate in accordance with §535 of this Chapter and receive mentoring by a classroom-based mentor teacher in accordance with §553 of this Chapter;

(c). for alternate preparation candidates completing a one-year residency out-of-state, the applicant must hold a Resident Teacher certificate in accordance with LAC 28:XLV.745. If the candidate completed the residency as teacher of record, holding a practitioner's license above is not required;

(d). for undergraduate program completers completing a one-year out-of-state residency, the applicant must hold a Resident Teacher certificate in accordance with LAC 28:XLV.745 and §535 of this Chapter;

A.1.a.ii. - D.2.a ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 47:1692, LR 48:

#### **Family Impact Statement**

In accordance with section 953 and 974 of title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on rules proposed for adoption, repeal, or amendment. All Family Impact Statements will be kept on file in the state board office which has adopted, amended, or repealed rules in accordance with the applicable provisions of the law relating to public records.

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

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

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

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

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

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

#### **Poverty Impact Statement**

In accordance with section 973 of title 49 of the Louisiana Revised Statutes, there is hereby submitted a Poverty Impact Statement on rules proposed for adoption, amendment, or repeal. All Poverty Impact Statements will be in writing and kept on file in the state agency which has adopted, amended, or repealed rules in accordance with the applicable provisions of the law relating to public records. For the purposes of this section, the word "poverty" means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial authority? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? No.

3. Will the proposed Rule affect employment and workforce development? Yes.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

#### **Small Business Analysis**

The impact of the proposed Rule on small businesses as defined in R.S. 49:965.6, the Regulatory Flexibility Act, has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental, and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

#### **Provider Impact Statement**

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the staffing level requirements or qualifications required to provide the same level of service;

2. the cost to the providers to provide the same level of service; or

3. the ability of the provider to provide the same level of service.

#### **Public Comments**

Interested persons may submit written comments via the U.S. Mail until noon, March 12, 2022, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis  
Executive Director

#### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Bulletin 746—Louisiana Standards for State Certification of School Personnel**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed revisions will not have an effect on costs or savings of state or local governmental units.

The proposed revisions update existing policy that has recently prevented issuance of initial certifications for educators completing both traditional and alternative teacher preparation programs.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed revisions will not have an effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed revisions will facilitate issuance of certification for educators completing a traditional or alternative teacher preparation program. These certified educators will be able to contribute to the teacher workforce in Louisiana.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed revisions will facilitate initial certification for educators, further developing the Louisiana educator workforce.

Beth Scioneaux  
Deputy Superintendent  
2202#037

Alan M. Boxberger  
Deputy Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

Bulletin 996—Standards for Approval of Teacher and/or Educational Leader Preparation Programs (LAC 28:XLV.743 and 745)

In accordance with the provisions of R.S. 17:6(A)(10) and the Administrative Procedure Act (APA), R.S. 49:953(B)(1) et seq., the Board of Elementary and Secondary Education (BESE) proposes to amend LAC 28:XLV. Bulletin 996—*Standards for Approval of Teacher and/or Educational Leader Preparation Programs* to provide for alignment across BESE policy and facilitate issuance of initial certifications for educators completing both traditional and alternative teacher preparation programs.

**Title 28**

**EDUCATION**

**Part XLV. Bulletin 996—Standards for Approval of Teacher and/or Educational Leader Preparation Programs**

**Chapter 7. Louisiana State Standards for Educator Preparation Programs**

**Subchapter C. Teacher Preparation Programs**

**§743. Minimum Requirements for Traditional Teacher Preparation Programs**

A - C.1. ...

2. a one-year residency shall take place in a public or approved non-public school classroom in the certification area with a teacher of record who holds a valid level 1, 2, 3, type A, or type B teaching certificate in the area for which the candidate is pursuing certification in accordance with LAC 28:CXXXI (Bulletin 746). Beginning September 1, 2020, the teacher of record shall be required to hold a provisional mentor teacher ancillary certificate or a mentor teacher certificate in accordance with LAC 28:CXXXI (Bulletin 746). The mentorship must include intensive supports, including co-teaching, collaborative planning, and observation and feedback sessions. The residency may include practice with other teachers in a public or approved non-public school setting. Residents placed in charter schools must be placed with a teacher of record who has demonstrated effectiveness in accordance with LAC 28:CXLVII (Bulletin 130):

a. beginning July 1, 2018, candidates must hold a valid resident teacher certificate in order to be placed in a one-year residency;

C.2.b. - E.2. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:1330 (July 2017), amended LR 43:2492 (December 2017), LR 45:229 (February 2019). LR 48:

**§745. Minimum Requirements for Alternate Teacher Preparation Programs**

A. - D.4...

a. Beginning ~~in~~ with the 2020-2021 academic year, candidates enrolled in an alternate teacher preparation program who serve as a teacher of record must be mentored at least 15 percent, or 5 hours per week, of the school's instructional time, during the first year, by a school-based mentor teacher, who may collaborate with other personnel providing mentoring support.

i. ...

ii. The mentorship must include intensive supports, including:

(a). co-teaching;

(b). collaborative planning; and

(c). observation and feedback sessions.

D.4.b. - F.3. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:1331 (July 2017), amended LR 43:2492 (December 2017), LR 45:1751 (December 2019), LR 46:324 (March 2020), LR: 48:

**Family Impact Statement**

In accordance with section 953 and 974 of title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on rules proposed for adoption, repeal, or amendment. All Family Impact Statements will be kept on file in the state board office which has adopted, amended, or repealed rules in accordance with the applicable provisions of the law relating to public records.

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

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

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

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

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

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

**Poverty Impact Statement**

In accordance with section 973 of title 49 of the Louisiana Revised Statutes, there is hereby submitted a Poverty Impact Statement on rules proposed for adoption, amendment, or repeal. All Poverty Impact Statements will be in writing and kept on file in the state agency which has adopted, amended, or repealed rules in accordance with the applicable provisions of the law relating to public records. For the purposes of this section, the word "poverty" means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial authority? No.
2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? No.
3. Will the proposed Rule affect employment and workforce development? Yes.
4. Will the proposed Rule affect taxes and tax credits? No.
5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

**Small Business Analysis**

The impact of the proposed Rule on small businesses as defined in R.S. 49:965.6, the Regulatory Flexibility Act, has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental, and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

**Provider Impact Statement**

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the staffing level requirements or qualifications required to provide the same level of service;
2. the cost to the providers to provide the same level of service; or
3. the ability of the provider to provide the same level of service.

**Public Comments**

Interested persons may submit written comments via the U.S. Mail until noon, March 12, 2022, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Bulletin 996—Standards for Approval of  
Teacher and/or Educational Leader Preparation  
Programs**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
The proposed revisions will not have an effect on costs or savings of state or local governmental units.  
The proposed revisions update existing policy that has recently prevented issuance of initial certifications for

- educators completing both traditional and alternative teacher preparation programs.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
The proposed revisions will not have an effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
The proposed revisions will facilitate issuance of certification for educators completing a traditional or alternative teacher preparation program. These certified educators will be able to contribute to the teacher workforce in Louisiana.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
The proposed revisions will facilitate initial certification for educators, further developing the Louisiana educator workforce.

Beth Scioneaux  
Deputy Superintendent  
2202#038

Alan M. Boxberger  
Deputy Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT  
Board of Regents  
Office of Student Financial Assistance**

Scholarship/Grant Programs—COVID-19 Exceptions  
(LAC 28:IV.703)

The Louisiana Board of Regents announces its intention to amend its Scholarship/Grant rules (R.S. 17:3021-3025, R.S. 3041.10-3041.15, R.S. 17:3042.1, R.S. 17:3048.1, R.S. 17:3048.5 and R.S. 17:3048.6).

This rulemaking adds Dual Enrollment African American History as a course that may be used to complete the TOPS Core Curriculum requirement in social studies and that may be graded on a 5.00 grading scale for high school graduates of 2022 and later. (SG22202NI)

**Title 28  
EDUCATION**

**Chapter 21. Miscellaneous Provisions and Exceptions  
§703. Establishing Eligibility**

A. - A.5.a.i.(g)...

(h). For students graduating in academic year (high school) 2021-2022 and after, the courses listed in the tables below have been approved by the Board of Regents and the state Board of Elementary and Secondary Education to be converted to a 5.00 scale when used to complete the core curriculum, and shall be considered equivalent to the identified core courses and may be substituted to satisfy corresponding core courses for purposes of satisfying the requirements of §703.A.5.a.i above, or §803.A.6.a.

(i). Advanced Placement Courses

TOPS Core Course	Advanced Placement
Art	AP Art History AP Studio Art: 2-D Design AP Studio Art: 3-D Design AP Studio Art: Drawing
Biology II	AP Biology
Calculus	AP Calculus AB AP Calculus BC

TOPS Core Course	Advanced Placement
Chemistry II	AP Chemistry
Chinese	AP Chinese Language and Culture
Economics	AP Macroeconomics AP Microeconomics
English III	AP English Language and Composition
English IV	AP English Literature and Composition
Environmental Science	AP Environmental Science
European History	AP European History
Fine Arts Survey	AP Music Theory
French	AP French Language and Culture
German	AP German Language and Culture
Italian	AP Italian Language and Culture
Japanese	AP Japanese Language and Culture
Latin	AP Latin
Physics I	AP Physics I: Algebra Based AP Physics II: Algebra Based AP Physics C: Electricity and Magnetism AP Physics C: Mechanics
Probability and Statistics	AP Statistics
Spanish	AP Spanish Language and Culture
US Government or Civics	AP U.S. Government and Politics: Comparative AP U.S. Government and Politics: United States
US History	AP U.S. History
Western Civilization, European History or AP European History; World Geography, AP Human Geography, or IB Geography; World History, AP World History, or World History IB; History of Religion; IB Economics Economics, AP Macroeconomics AP Microeconomics	AP Psychology
World Geography	AP Human Geography
World History	AP World History

(ii). International Baccalaureate® Courses

TOPS Core Course	International Baccalaureate
Advanced Math–Pre Calculus	IB Math Studies (Math Methods)
Arabic	IB Language ab initio: Arabic IB Language B: Arabic
Art	IB Visual Arts
Biology II	IB Biology I IB Biology II
Calculus	IB Mathematics SL IB Mathematics HL
Chemistry II	IB Chemistry I IB Chemistry II
Chinese	IB Language ab initio: Chinese IB Language B: Chinese
Economics	IB Economics
English III	IB Literature IB Language and Literature IB Literature and Performance
English IV	IB Literature IB Language and Literature IB Literature and Performance
Environmental Science	IB Environmental Systems
French	IB Language ab initio: French IB Language B: French
German	IB Language ab initio: German IB Language B: German

TOPS Core Course	International Baccalaureate
Italian	IB Language ab initio: Italian IB Language B: Italian
Japanese	IB Language ab initio: Japanese IB Language B: Japanese
Latin	IB Classical Language
Music (Performance)	IB Music
Physics I	IB Physics I IB Physics II
Pre-Calculus	IB Math Studies (Math Methods)
Spanish	IB Language ab initio: Spanish IB Language B: Spanish
Theatre (Performance)	IB Film Study IB Theatre IB Dance
US History	IB History of the Americas I
World Geography	IB Geography
World History	IB History of the Americas II

(iii). Gifted and Talented Courses

TOPS Core Course	Gifted and Talented
Art	Art History Talented Visual Arts I Talented Visual Arts II Talented Visual Arts III Talented Visual Arts IV
Biology II	Biology II
Calculus	Calculus I Calculus II
Chemistry I	Chemistry I
Chemistry II	Chemistry II
Chinese	Chinese III Chinese IV
Economics	Economics
English III	English III
English IV	English IV
Environmental Science	Environmental Science
European History	European History
French	French III French IV
German	German III German IV
Italian	Italian III Italian IV
Japanese	Japanese III Japanese IV
Latin	Latin III Latin IV
Music (Performance)	Talented Music I, II, III, IV Small Voice Ensemble II Choir: Intermediate Choir: Advanced Orchestra: Intermediate Orchestra: Advanced
Physics I	Physics
Pre-Calculus	Pre-Calculus
Spanish	Spanish III Spanish IV
Theatre (Performance)	Introduction to Film Studies Talented Theater I, II, III, IV
US Government or Civics	Government
US History	U.S. History
World Geography	World/Human Geography



(iv). Dual Enrollment Courses

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

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

(v). Honors Courses

TOPS Core Course	Honors
Arabic	Arabic: Cambridge AICE-AS
Biology II	Biology II: Honors
IB Biology II	Biology II: Cambridge AICE-AS
Calculus I	Calculus: Honors Math 2 (Part 1): Cambridge AICE-A Level
Calculus II	Math 2 (Part 2): Cambridge AICE – A Level
Chemistry I	Chemistry I: Honors
Chemistry II	Chemistry II: Honors
IB Chemistry II	Chemistry II: Cambridge AICE-AS
Chinese	Chinese: Cambridge AICE-AS
Economics	Economics: Cambridge AICE - AS
English III	English III: Honors English Language Part 1: Cambridge AICE – AS Literature in English Part 1: Cambridge AICE - AS

TOPS Core Course	Honors
English IV	English IV: Honors English Language Part 2: Cambridge AICE – AS Literature in English Part 2: Cambridge AICE - AS
Environmental Science	Environmental Science: Honors
European History	History European: Cambridge AICE-AS
French	French: Cambridge AICE-AS
German	German: Cambridge AICE-AS
Government	Government: Honors
Japanese	Japanese: Cambridge AICE-AS
Physics I	Physics: Honors
IB Physics II	Physics II: Cambridge AICE-AS
Pre-Calculus	Pre-Calculus Honors Math 1 (Pure Math): Cambridge AICE-AS
Probability and Statistics	Probability and Statistics: Honors Math 1 (Probability and Statistics)- Cambridge AICE
Spanish	Spanish: Cambridge AICE-AS
Spanish IV	Spanish Literature: Cambridge ACE
US History	U.S. History: Honors
World Geography	Geography: Cambridge AICE-AS
World History	World History: Honors History International: Cambridge AICE-AS

A.5.a.ii.(a) - L.2.c.ii. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:636 (April 1998), amended LR 24:1902 (October 1998), LR 24:2237 (December 1998), LR 25:257 (February 1999), LR 25:655 (April 1999), LR 25:1794 (October 1999), LR 26:64, 67 (January 2000), LR 26:689 (April 2000), LR 26:1262 (June 2000), LR 26:1602 (August 2000), LR 26:1996, 1999, 2001 (September 2000), LR 26:2268 (October 2000), LR 26:2753 (December 2000), LR 27:36 (January 2001), LR 27:702 (May 2001), LR 27:1219, 1219 (August 2001), repromulgated LR 27:1850 (November 2001), amended LR 28:772 (April 2002), LR 28:2330, 2332 (November 2002), LR 29:125 (February 2003), LR 29:2372 (November 2003), LR 30:1162 (June 2004), LR 30:1471 (July 2004), LR 30:2019 (September 2004), LR 31:37 (January 2005), LR 31:2213 (September 2005), LR 31:3112 (December 2005), LR 32:2239 (December 2006), LR 33:435 (March 2007), LR 33:2357 (November 2007), LR 33:2612 (December 2007), LR 34:1389 (July 2008), LR 35:228 (February 2009), LR 36:312 (February 2010), LR 36:490 (March 2010), LR 36:2269 (October 2010), LR 36:2855 (December 2010), LR 37:2987 (October 2011), LR 38:354 (February 2012), LR 38:3158 (December 2012), LR 39:481 (March 2013), LR 39:2485 (September 2013), LR 40:54 (January 2014), LR 41:373 (February 2015), LR 41:651, 664 (April 2015), LR 41:1486 (August 2015), LR 41:2596, 2599 (December 2015), amended by the Board of Regents, Office of Student Financial Assistance, LR 42:1657 (October 2016), LR 42:1882 (November 2016), LR 43:518 (March 2017), LR 43:1346 (July 2017), amended by the Board of Regents, Office of Student Financial Assistance, LR 44:506 (March 2018), LR 44:1004 (June 2018), LR 44:1870 (October 2018), LR 46:326

(March 2020), LR 47:39 (January 2021), amended LR 47:861 (July 2021), LR 47:864 (July 2021), amended LR 47:868 (July 2021), LR 48:

### Family Impact Statement

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

### Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

### Small Business Analysis Statement

The proposed rule will have no adverse impact on small businesses as described in R.S. 49:965.2 *et seq.*

### Provider Impact Statement

The proposed rule will have no adverse impact on providers of services for individuals with developmental disabilities as described in HCR 170 of 2014.

### Public Comments

Interested persons may submit written comments on the proposed changes (SG22202NI) until 4:30 p.m., March 10, 2022, by email to [LOSFA.Comments@la.gov](mailto:LOSFA.Comments@la.gov) or to Sujuan Williams Boutté, Ed. D., Executive Director, Office of Student Financial Assistance, P. O. Box 91202, Baton Rouge, LA 70821-9202.

Robyn Rhea Lively  
Senior Attorney

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: Scholarship/Grant Programs COVID-19 Exceptions

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change may result in an increase in state and local expenditures; however, this is indeterminable and anticipated to be minimal. The revisions would add African American History as a dual enrollment course that can be taken to count towards the TOPS social sciences core curriculum requirements. As a dual enrollment course, the course may be graded on a 5.0 scale for high school graduates of 2022 and later for the purposes of determining students' high school grade point average on the TOPS core curriculum courses. This grading scale may cause a minimal increase in TOPS expenditures due to more students qualifying for a higher TOPS award level. In addition, local school districts and other public schools may experience increased costs as a result of additional students taking dual enrollment courses, however this is indeterminable. Course offerings are provided through cooperative agreements between individual districts and credit granting institutions which vary in terms of tuition and fee charges, where the instruction takes place, and who conducts the course.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenue collections of state and local governments will not be affected by the proposed changes.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

A small number of students may qualify for a higher TOPS award level.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no anticipated effects on competition and employment resulting from these measures.

Robyn Rhea Lively  
Senior Attorney  
2202#045

Alan M. Boxberger  
Interim Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

Fee Increase—Act No. 405 of the 2021 Regular Legislative Session (LAC 33:I.4707, LAC 33:III.223, LAC 33:VII:1501, 1503, 1505, 10535, and LAC 33:XV.2599)(MM021)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Office of the Secretary, Air, Solid Waste, and Radiation Protection regulations, LAC 33:I.4707, LAC 33:III.223, LAC 33:VII:1501, 1503, 1505, 10535, and LAC 33:XV.2599 (MM021).

This Rule provides for the fee changes authorized in Act 405 of the 2021 Regular Legislative Session. Act 405 of the 2021 Regular Legislative Session authorizes certain fee increases, new fees, and other changes to the regulations pertaining to fees. The basis and rationale for this Rule are to implement the fee changes authorized in Act 405 of the 2021 Regular Legislative Session. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

**Title 33**

**ENVIRONMENTAL QUALITY**

**Part I. Office of the Secretary**

**Subpart 3. Laboratory Accreditation**

**Chapter 47. Louisiana Environmental Laboratory Accreditation Program (LELAP) State Accreditation Requirements**

**§4707. Fees**

A. - C. ...

D. The following basic fee structure shall be used in determining all application and annual fees due to the department.

Accreditation application fee payable every scope amendment and every three-year renewal	\$726
Per major test category per matrix payable every year	\$363
Minor conventional category payable every year	\$290
Annual surveillance and evaluation applicable to minor conventional facilities and facilities applying for only one category of accreditation	\$363
Annual fee for dependent mobile laboratories, per mobile lab	\$363
Proficiency samples biannually	to be purchased by the laboratory
Bioassay/biomonitoring annually	to be purchased by the laboratory
Third-party audit	to be billed directly

	to the laboratory shall be one and one-half times the regular fee as stated above
The accreditation fees for in-state laboratories receiving national accreditation (NELAP)	shall be one and one-half times the regular fee as stated above
The accreditation fees for out-of-state laboratories receiving state accreditation	shall be two times the regular fee as stated above
The accreditation fees for out-of-state laboratories receiving national accreditation (NELAP)	shall be two times the regular fee as stated above
Interim accreditation application fees	shall be two times the regular fee as stated above

E. - H.3.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:920 (May 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1436 (July 2000), LR 29:672 (May 2003), LR 29:2041 (October 2003), amended by the Office of the Secretary, Legal Division, LR 43:934 (May 2017), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 48:

**Part III. Air**

**Chapter 2. Rules and Regulations for the Fee System of the Air Quality Control Programs**

**§223. Fee Schedule Listing**

A. ...

\*\*\*

B. Table 2—Additional Fees

Table 2		
Additional Fees		
Fee Number	Fee Description	Amount
***		
2020	The Issuance of an Asbestos Disposal Verification Form (ADVF)—(at least 10 working days notification given)—Fee is nontransferable and nonrefundable.	\$73.00
2025	The Issuance of Asbestos Disposal Verification Forms (ADVF) for a single agency interest site for the period of one fiscal year—(at least 10 working days notification given)—Fee is nontransferable and nonrefundable.	\$5,000.00
2030	The Issuance of an Asbestos Disposal Verification Form (ADVF)—(less than 10 working days notification given)—Fee is nontransferable and nonrefundable.	\$109.00
***		
2300 *Note 14*	Criteria Pollutant Annual Fee per Ton Emitted on an Annual Basis (Non-Title V Facility): Nitrogen oxides (NOx) Sulfur dioxide (SO2) Non-toxic organic (VOC) Particulate (PM10)	\$16.61/ton
2310 *Note 14*	Criteria Pollutant Annual Fee per Ton Emitted on an Annual Basis (Title V Facility): Nitrogen oxides (NOx) Sulfur dioxide (SO2) Non-toxic organic (VOC) Particulate (PM10)	\$16.61/ton

Table 2		
Additional Fees		
Fee Number	Fee Description	Amount
	An application approval fee for Stage II Vapor Recovery	\$146.00
2400	An annual facility inspection fee for Stage II Vapor Recovery	\$218.00
* * *		

NOTE: Explanatory Notes for Fee Schedule

Note 1. - Note 12. ...

Note 13. Fees will be determined by aggregating and rounding (e.g., parts of a ton less than 0.50 are invoiced as zero and parts of a ton equal to or greater than 0.50 are invoiced as one ton) actual annual emissions of each class of toxic air pollutants (as delineated in the tables in LAC 33:III.5112) for a facility and applying the appropriate fee schedule for that class. If a facility emits more than 4000 tons per year of any single toxic air pollutant, fees shall be assessed on only the first 4000 tons. In no case shall the fee for this category be less than \$250.

Note 14. Fees will not be assessed for emissions of a single criteria pollutant over and above 4,000 tons per year from a facility. Criteria fees will be assessed on actual annual emissions that occurred during the previous calendar year. The minimum fee for this category shall be \$250.

Note 14a. - Note 22. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054, 2341, and 2351 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:613 (September 1988), LR 15:735 (September 1989), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1205 (December 1991), repromulgated LR 18:31 (January 1992), amended LR 18:706 (July 1992), LR 18:1256 (November 1992), LR 19:1373 (October 1993), LR 19:1420 (November 1993), LR 19:1564 (December 1993), LR 20:421 (April 1994), LR 20:1263 (November 1994), LR 21:22 (January 1995), LR 21:782 (August 1995), LR 21:942 (September 1995), repromulgated LR 21:1080 (October 1995), amended LR 21:1236 (November 1995), LR 23:1496, 1499 (November 1997), LR 23:1662 (December 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:267 (February 2000), LR 26:485 (March 2000), LR 26:1606 (August 2000), repromulgated LR 27:192 (February 2001), amended LR 29:672 (May 2003), LR 29:2042 (October 2003), LR 30:1475 (July 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2620 (December 2007), LR 34:2560 (December 2008), LR 37:1145 (April 2011), amended by the Office of the Secretary, Legal Division, LR 43:936 (May 2017), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:1239 (July 2018), LR 48:

## Part VII. Solid Waste

### Subpart 1. Solid Waste Regulations

#### Chapter 15. Solid Waste Fees

##### §1501. Standard Permit Application Review Fee

A. Applicants for type I, I-A, II, and II-A standard permits shall pay a \$6,125 permit application review fee for each facility. The fee shall accompany each permit application submitted.

B. Applicants for type III standard permits or beneficial-use plans shall pay a permit application review fee of \$1,325 for each facility. The fee shall accompany each permit application submitted.

C. Permit holders providing permit modifications for type I, I-A, II, and II-A facilities shall pay a \$2,650 permit-modification review fee. The fee shall accompany each modification submitted. Permit holders providing mandatory modifications in response to these regulations shall pay a \$825 permit-modification fee. The fee shall accompany each mandatory modification submitted. Permit modifications required by LAC 33:VII.805.A will not be subject to a permit modification fee.

D. Permit holders providing permit modifications for type III facilities or beneficial use facilities shall pay a \$813 modification review fee. The fee shall accompany each modification submitted.

E. - E.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:688 (May 2003), LR 29:2051 (October 2003), repromulgated by the Office of the Secretary, Legal Affairs Division, LR 33:1108 (June 2007), amended LR 37:3258 (November 2011), amended by the Office of the Secretary, Legal Division, LR 43:946 (May 2017), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 48:

##### §1503. Closure Plan Review Fee

A. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:688 (May 2003), LR 29:2051 (October 2003), repromulgated by the Office of the Secretary, Legal Affairs Division, LR 33:1108 (June 2007), amended by the Office of the Secretary, Legal Division, LR 43:947 (May 2017), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 48:

##### §1505. Annual Fee

A. Transporters. All transporters of solid waste shall pay a fee of \$250 per year to the department. There will be only one fee regardless of the number of vehicles in the service of the transporter.

B. All holders of permits for solid waste processing and/or disposal facilities that have not completed closure, including post-closure activities, in accordance with an approved plan, shall be charged an annual monitoring and maintenance fee and an annual tonnage fee for each permit. Annual monitoring and maintenance fees shall be charged for each permitted waste type.

1. Annual monitoring and maintenance fees are as follows:

a. - c. ...

2. Annual tonnage fees will be based on the wet-weight tonnage, as reported in the previous year's disposer annual report, and are calculated as follows:

a. - f. ...

g. The maximum annual tonnage fee per facility for type I facilities (including facilities that handle both industrial and non-industrial solid wastes) is \$120,000. The maximum annual tonnage fee for type II facilities is

\$30,000. Surface impoundments, as noted above, are assessed only the base fee.

C. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154, and R.S. 49:316.1(A)(2)(a) and (c).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:18 (January 1996), LR 25:427 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:689 (May 2003), LR 29:2051 (October 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 32:2241 (December 2006), repromulgated LR 33:1108 (June 2007), amended LR 35:2180 (October 2009), amended by the Office of the Secretary, Legal Division, LR 43:947 (May 2017), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 48:

**Subpart 2. Recycling**

**Chapter 105. Waste Tires**

**\$10535. Fees and Fund Disbursement**

A. Permit and Application Fees. Each applicant for the following permits or other authorization from the administrative authority shall submit with the application or request a non-refundable fee for the following categories in the amount specified.

1. Transporter Fees. The transporter authorization application fee is \$250. There will be only one fee regardless of the number of vehicles in the service of the transporter.

A.2. - E.8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 20:1001 (September 1994), amended LR 22:1213 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2781 (December 2000), LR 27:832 (June 2001), LR 27:2228 (December 2001), amended by the Office of Environmental Assessment, LR 31:1324 (June 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2504 (October 2005), LR 33:2160 (October 2007), amended by the Office of the Secretary, Legal Division, LR 42:268 (February 2016), LR 43:948 (May 2017), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 45:661 (May 2019), LR 48:

**Part XV. Radiation Protection**

**Chapter 25. Fee Schedule**

**\$2599. Appendix A**

A. Appendix A—Radiation Protection Program Fee Schedule

Appendix A—Radiation Protection Program Fee Schedule	New/Renewal Application Fee	Annual Maintenance Fee
<b>I. Radioactive Material Licensing</b>		
A. - E.3. ...		
4. Commercial naturally occurring radioactive materials waste disposal	\$23,000	\$20,000
F. - H.4. ...		
<b>II. Electronic Product Registration</b>		
1. - 8. ...		

Appendix A—Radiation Protection Program Fee Schedule	New/Renewal Application Fee	Annual Maintenance Fee
<b>III. General Licenses</b>		
A. NORM (Operators reporting contamination by field will be invoiced for all wellheads in the field. Operators reporting contamination by wellhead will be invoiced only for contaminated units.)		
1. Contaminated wellheads per wellhead	\$125	\$125
2. Stripper wells-contaminated per wellhead	\$125	\$125
3. NORM locations (other than fields):		
a. gas plants, pipeyards, chemical plant, refinery	\$458	\$458
b. warehouses, pipeline, manufacturing plant, NORM equipment storage site, etc.	\$458	\$458
4. Interim container storage per NORM Waste Management Plan of an approved location		\$1,525
5. NORM location as otherwise defined in LAC 33:XV.1403 and not exempted by LAC 33:XV.1404, not included in III.A.1-4 of this Appendix	\$153	\$153
B. - C. ...		
<b>IV. Reciprocal Recognition</b>		
***		
<b>V. Shielding Evaluation (per room)</b>		
A. - F. ...		
<b>VI. Device, Product, or Sealed Source Evaluation</b>		
A. Device evaluation (each)	\$5,000	*
B. Sealed source design evaluation (each)	\$2,000	*
C. Update sheet	\$500	*
<b>VII. Testing</b>		
***		
<b>VIII. Nuclear Electric Generating Station</b>		
***		

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, LR 10:1014 (December 1984), amended by the Nuclear Energy Division, LR 11:530 (May 1985), LR 12:674 (October 1986), LR 13:569 (October 1987), LR 14:622 (September 1988), LR 15:737 (September 1989), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:719 (July 1992), repromulgated LR 18:955 (September 1992), amended LR 19:624 (May 1993), LR 21:792 (August 1995), repromulgated LR 21:944 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2607 (November 2000), LR 29:691 (May 2003), LR 29:2053 (October 2003), amended by the Office of the Secretary, Legal Division, LR 43:952 (May 2017), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 48:

**Family Impact Statement**

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

**Poverty Impact Statement**

This Rule has no known impact on poverty as described in R.S. 49:973.

### Small Business Analysis

This Rule has no known impact on small business as described in R.S. 49:978.1 - 978.8.

### Provider Impact Statement

This Rule has no known impact on providers as described in HCR 170 of 2014.

### Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by MM021. Such comments must be received no later than April 5, 2022, at 4:30 p.m., and should be sent to Deidra Johnson, Attorney Supervisor, Office of the Secretary, Legal Affairs and Criminal Investigations Division, P.O. Box 4302, Baton Rouge, LA 70821-4302 or by fax (225) 219-4068 or by e-mail to [DEQ.Reg.Dev.Comments@la.gov](mailto:DEQ.Reg.Dev.Comments@la.gov). Copies of these proposed regulations can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of MM021. These proposed regulations are available on the Internet at [www.deq.louisiana.gov/page/rules-regulations](http://www.deq.louisiana.gov/page/rules-regulations).

### Public Hearing

A public hearing will be held via Zoom on March 29, 2022, at 1:30 p.m. Interested persons are invited to attend and submit oral comments via PC, Mac, Linux, iOS or Android at <https://deqlouisiana.zoom.us/j/9373792954> or by telephone by dialing 636-651-3182 using the conference code 725573. Should individuals with a disability need an accommodation in order to participate, contact Deidra Johnson at the address given below or at (225) 219-3985.

These proposed regulations are available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

Courtney J. Burdette  
General Counsel

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: Fee Increase—Act No. 405 of the 2021 Regular Legislative Session

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change is not anticipated to have any impact on expenditures for state governmental units. The proposed rule provides the regulatory framework for implementing the Louisiana Department of Environmental Quality's (DEQ) fee increase package that was passed in the 2021 Regular Legislative Session. The proposed change outlines the new fee amounts and all related and necessary provisions.

The proposed rule change may impact local governmental units by increasing costs to the extent those local governments are overseen by and pay fees to DEQ. Approximately 25 public landfills are regulated by DEQ and will have fees increase for FY 2022 in varying amounts based on their permit structure.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Based on the department's calculations, DEQ anticipates that its annual revenue collections for the Environmental Trust Dedicated Fund Account will increase by approximately \$2 million annually. Current collections are approximately \$56 million annually; therefore, these regulations represent an increase of 3.5%.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Costs to industry businesses impacted by these regulations vary widely. Fees were increased to better align with DEQ's costs to regulate and oversee each program. Some fees were also added for services that DEQ previously was not assessing fees for.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There may be impacts in employment in public or private sectors to the extent changes in employment are necessary to absorb the costs associated with the increase in fees. However, these fees have been discussed with industry participants who are subject to the increases and DEQ does not anticipate any significant impact on public or private sector employment.

Courtney J. Burdette  
General Counsel  
2202#016

Alan M. Boxberger  
Interim Fiscal Officer  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Office of the Governor

#### Board of Examiners of Certified Shorthand Reporters

#### Continuing Education (LAC 46:XXI.609)

The Louisiana Board of Examiners of Certified Shorthand Reporters, propose to adopt LAC 46:XXI.609 and pursuant to R.S. 37:2554. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq. Notice is hereby given that the Louisiana Board of Examiners of Certified Shorthand Reporters proposes to adopt changes made to the Continuing Education Rule.

#### Title 46

#### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part XXI. Certified Shorthand Reporters

#### Chapter 6. Continuing Education

#### §609. Awarding CE Credit for Pro Bono Work

A. - B. ...

C. A certificate holder may receive one hour of continuing education credit for each 60 pages of pro bono transcript prepared by the reporter at no cost to an eligible organization or individual. An eligible organization must have 501(c)(3) or 501(c)(4) tax-exempt, tax-deductible designation from the Internal Revenue Service, and an eligible individual must have qualified for *in forma pauperis* status by a court. The reporter's request for continuing education credit must be received and approved by the Continuing Education Committee Chair on or before expiration of the then-current two-year continuing education cycle and must provide the following:

1. a notice of the deposition, meeting, or other proceeding for which the reporter provided pro bono services;

2. an affidavit by the reporter attesting to the number of pages of testimony in each transcript and stating that the work was done without charge to an eligible organization or individual;

3. proof of tax status from a tax-exempt, tax-deductible organization or proof of *in forma pauperis* status for an individual, accompanied by a letter of acknowledgement from the recipient of pro bono services that identifies the reporter by name and certificate number, lists all matters on which the reporter rendered pro bono services, and states that the reporter's services were provided at no cost to the organization or individual; and

4. a request by the reporter for a specific number of hours of continuing education credit based on the number of pages transcribed on a pro bono basis. The request may not be used to satisfy any portion of the two hours required for ethics education and may not exceed four hours of credit per two-year cycle.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2554.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Certified Shorthand Reporters, LR 17:33 (January 1991). Amended LR 19:1539 (December 1993), amended by the Office of the Governor, Board of Examiners of Certified Shorthand Reporters, LR 33:2420 (November 2007), LR 37:318 (January 2011), LR 48:

#### **Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed rule on the family has been considered. This proposed rule has no impact on family functioning, stability, or autonomy as described in R.S. 49:972.

#### **Small Business Analysis**

Pursuant to R.S. 49:965.6, methods for reduction of the impact on small business, as defined in the Regulatory Flexibility Act, have been considered when creating this proposed Rule.

This proposed Rule is not anticipated to have an adverse impact on small businesses; therefore, a Small Business Economic Impact Statement has not been prepared.

#### **Poverty Impact Statement**

The proposed Rule should not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973.B. In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;

2. the effect on early childhood development and preschool through postsecondary education development;

3. the effect on employment and workforce development;

4. the effect on taxes and tax credits;

5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

#### **Provider Impact Statement**

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;

2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or

3. the overall effect on the ability of the provider to provide the same level of service.

#### **Public Comments**

Interested persons may submit written comments to Judge Kimya M. Holmes, Chair of the Louisiana Board of Examiners of Certified Shorthand Reporters, 1450 Poydras St., Ste. 630, New Orleans, LA 70112.

#### **Public Hearing**

A public hearing on this proposed Rule is scheduled for Monday, March 28, 2022 at 9:30 a.m. in Suite 630, Benson Tower, 1450 Poydras St., Ste. 630, New Orleans, LA 70112. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Judge Kimya M. Holmes  
Chair

#### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Continuing Education**

##### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There is no impact on the expenditures of the Louisiana Board of Examiners of Certified Shorthand Reporters (CSR Board) as a result of the proposed rule that awards continuing education credit for pro bono work.

##### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There is no impact on revenue collections of state or local governmental units as a result of the proposed rule change.

##### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed rule will affect certified shorthand reporters by allowing those persons who complete pro bono work for credit of continuing education. The new exception will provide additional opportunities to earn continuing education credits.

##### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There is no anticipated effect on competition or employment as a result of this rule change.

Judge Kimya M. Holmes  
Chair  
2202#044

Alan M. Boxberger  
Interim Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Office of the Governor  
Capital Area Groundwater Conservation Commission**

**Independent Remote Monitoring System and Pumpage Fees  
(LAC 56:V.707 and 1107)**

The Board of Commissioners of the Capital Area Groundwater Conservation District, which consists of the Parishes of Ascension, East and West Baton Rouge, East and West Feliciana, and Pointe Coupee, has determined that the users of the Southern Hills Aquifer System must be adequately metered to allow the Capital Area Groundwater Conservation District the ability to prevent waste of groundwater resources, and to prevent or alleviate damaging or potentially damaging subsidence of the land surface caused by withdrawal of groundwater within the district. The Capital Area Groundwater Conservation District plans to install an independent remote monitoring system to meter and monitor the groundwater users to ensure a precise understanding of how much groundwater is being removed to ensure the conservation of the aquifer. Additionally, the independent remote monitoring system will determine the extent of chlorides within the aquifer. This rule change will adopt a rule as part of LAC 56:V.707A.2. This action is in accordance with Louisiana Revised Statutes 38:3076.A.(7), (8), (9), (10), (13), (14)(a)(b),(17),(18).

The Board of Commissioners of the Capital Area Groundwater Conservation District has increased the pumping charges for non-exempt ground water users from \$20 per million gallons of water pumped to \$65 per million gallons of water pumped. The Board has determined that this increase is necessary to fund the monitoring and metering of groundwater users in the Capital Area. The Capital Area Groundwater Conservation District plans to install an independent remote monitoring system to meter the groundwater users to ensure a precise understanding of how much groundwater is being consumed to ensure the conservation of the aquifer and monitor the extent of chlorides in the aquifer. This rule change will amend the rule in LAC 56:V.1007. This action is in accordance with Louisiana Revised Statutes 38:3076(14) and 38:3079.

**Title 56**

**PUBLIC WORKS**

**Part V. Capital Area Ground Water**

**Conservation Commission**

**Chapter 7. Rules and Regulations for Metering and/or Recording the Yield of Water Wells**

**§707. Measuring Well Yield**

A.1. - A.1.c. ...

2. The commission shall have the authority to install an independent remote monitoring system on well owner's property for the purpose of ensuring an accurate measurement of the total yield of each well and monitor the extent of chlorides in the aquifer to prevent waste of groundwater resources, and to prevent or alleviate damaging or potentially damaging subsidence of the land surface caused by withdrawal of groundwater within the district.

a. If there is a discrepancy or inconsistency between the owner's meter and the commission's meter, the owner may require the commission to hire an independent

contractor to verify the accuracy of the commission's meter at the owner's expense.

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

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Capital Area Ground Water Conservation Commission, LR 3:307 (July 1977), repromulgated LR 33:2647 (December 2007), amended LR 48:

**Chapter 11. Determination of and Payment of Accounts  
§1107. Pumpage Fee**

A. The pumping charges for ground water users shall be \$65 per million gallons and is to be paid quarterly.

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

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Capital Area Ground Water Conservation Commission, LR 1:291 (July 1975), amended LR 10:592 (August 1984) effective January 1, 1985, repromulgated LR 33:2649 (December 2007), amended LR 34:435 (March 2008), effective April 1, 2008, LR 39:486 (March 2013), LR 42:403 (March 2016), LR 45:1580 (November 2019), LR 48:

**Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed rule on family formation, stability, and autonomy has been considered. The proposed Rule should not have any known or foreseeable impact on family functioning, stability, or autonomy as described in R.S. 49:972.

**Poverty Impact Statement**

The proposed Rule should not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973.B. In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits; or
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

**Small Business Analysis**

Pursuant to R.S. 49:965.6, methods for reduction of the impact on small business, as defined in the Regulatory Flexibility Act, have been considered when creating this proposed Rule. This proposed Rule is not anticipated to have an adverse impact on small businesses; therefore, a Small Business Economic Impact Statement has not been prepared.

**Provider Impact Statement**

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

**Public Comments**

Interested persons may submit written comments to Gary Beard, Executive Director, Capital Area Groundwater



Conservation District, 3535 South Sherwood Forest Blvd., Ste. 137, Baton Rouge, LA 70816, either by mail or hand delivery. Comments may also be sent by email to [gary@cagwcc.com](mailto:gary@cagwcc.com). All written comments must be received no later than 4 p.m., on March 24th.

### Public Hearing

A public hearing will be held on March 28th at 1:30 p.m. at The Office of Conservation, LaSalle Building, 617 N Third Street, LaBelle Room, first floor, Baton Rouge, LA 70802. Oral comments will be accepted at that meeting.

Gary Beard  
Executive Director

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: Independent Remote Monitoring System and Pumpage Fees

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed pumpage fee increase rule will result in increased programmatic costs of approximately \$1,492,327 from FY 22 to FY 23 and \$100,505 from FY 23 to FY 24. It is anticipated that implementation of this proposed independent remote monitoring system rule will result in increased programmatic costs of approximately \$1.5 million per year. The proposed pumpage fee increase rule raises the Capital Area Groundwater Conservation District's pumpage fee from \$20 per million gallons of groundwater pumped to \$65 per million gallons of groundwater pumped. The increased revenue is necessary to fund the independent remote monitoring system on groundwater users in the Capital Area. The Capital Area Groundwater Conservation District plans to install an independent remote monitoring system of the groundwater users to ensure a precise understanding of how much groundwater is being consumed to ensure the conservation of the aquifer. Additionally, the system will monitor the extent of chlorides within the aquifer. There are no estimated implementation costs or savings to state or local governmental units as a result of the proposed independent remote monitoring system rule change.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The Capital Area Groundwater Conservation District received \$1,144,778 during fiscal year 2021, from pumping fees. The District estimates an increase of \$2,575,571 of which results in an annual pumpage income of \$3,720,529. The Capital Area Groundwater Conservation District estimates a 5% increase in revenue from the implementation of the independent remote monitoring system.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The 58 users, including municipalities and industries in Ascension, East Baton Rouge, East Feliciana, Pointe Coupee, West Baton Rouge and West Feliciana parishes, which are subject to the current \$20 per million gallons of groundwater pumped, will be charged an additional \$45 per million gallons of groundwater pumped with the proposed pumpage fee increase. Users may experience an increase or decrease of monthly payment to the Capital Area Groundwater Conservation District based on the data received from the Commission's independent remote monitoring system.

It is estimated that the average household's water bill would be slightly increased. If the current monthly bill to the

average household is approximately 8 cents, then the increase would be approximately 18 cents per month. This cost reflects the actual cost of the water as charged by the District. Thus, the local governments would not be affected by the increase since it could be a "pass-through" to the consumers.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment as a result of these rule changes.

Gary Beard  
Executive Director  
2202#023

Alan M. Boxberger  
Interim Fiscal Officer  
Legislative Fiscal Office

## NOTICE OF INTENT

### Office of the Governor Capital Area Ground Water Conservation Commission

#### Limitations and Prohibitions on Water Pumping (LAC 56:V.Chapter 13)

The Capital Area Ground Water Conservation Commission (also known as the Capital Area Groundwater Conservation District) proposes to adopt LAC 56.V.1301-1305 as authorized by R.S. 38:3071 et seq. This proposed Rule is being promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Board of Commissioners of the Capital Area Ground Water Conservation Commission approved the necessary additions and amendments to the provisions governing limitations and prohibitions on water pumping to adopt the prohibition of particular water production at certain depths, the establishment of a procedure for the issuance of water well permits, and a policy of subjecting any existing pumping limits to an annual review by the Board of Commissioners.

### Title 56 PUBLIC WORKS

#### Part V. Capital Area Ground Water Conservation Commission

#### Chapter 13. Limitations and Prohibitions on Pumping §1301. Purpose

A. The purpose of this Chapter is to specify any pumping limits and prohibitions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3071, et seq., R.S. 38:3076(A)(19) and 3078.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Capital Area Ground Water Conservation Commission, LR 48:

#### §1303. Prohibition of Pumping in Certain Sands

A. Except for those wells already approved by the Board of Commissioners of the Capital Area Ground Water Conservation Commission that are currently producing in the "1,000-foot", "1,500-foot" and "1,700-foot" sands subject to the jurisdiction of the Capital Area Ground Water Conservation Commission, no water production or pumping shall be permitted to occur in the "1,000-foot", "1,500-foot" and "1,700-foot" sands of the area subject to the jurisdiction of the Capital Area Ground Water Conservation Commission, except for those wells devoted exclusively to public supply.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3071, et seq., R.S. 38:3076(A)(19) and 3078.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Capital Area Ground Water Conservation Commission, LR 48:

**§1305. Annual Review of Pumping Limits**

A. Any pumping limits that are in place by the Capital Area Ground Water Conservation Commission shall be subject to annual review and re-adoption at the last Commission meeting each calendar year.

B. Any pumping limits in place by the Capital Area Ground Water Conservation Commission shall be included in the Capital Area Ground Water Conservation Commission's policies and procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3071, et seq., R.S. 38:3076(A)(19) and 3078.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Capital Area Ground Water Conservation Commission, LR 48:

**Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed rule on family formation, stability, and autonomy has been considered. The proposed Rule should not have any known or foreseeable impact on family functioning, stability, or autonomy as described in R.S. 49:972.

**Poverty Impact Statement**

The proposed Rule should not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973.B. In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits; or
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

**Small Business Analysis**

Pursuant to R.S. 49:965.6, methods for reduction of the impact on small business, as defined in the Regulatory Flexibility Act, have been considered when creating this proposed Rule. This proposed Rule is not anticipated to have an adverse impact on small businesses; therefore, a Small Business Economic Impact Statement has not been prepared.

**Provider Impact Statement**

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

**Public Comments**

Interested persons may submit written comments to Gary Beard, Executive Director, Capital Area Groundwater Conservation District, 3535 South Sherwood Forest Blvd.,

Ste. 137, Baton Rouge, LA 70816, either by mail or hand delivery. Comments may also be sent by email to gary@cagwcc.com. All written comments must be received no later than 4 p.m., on March 24th.

**Public Hearing**

A public hearing will be held on March 28th at 1:30 p.m. at The Office of Conservation, LaSalle Building, 617 N Third Street, LaBelle Room, first floor, Baton Rouge, LA 70802. Oral comments will be accepted at that meeting.

Gary Beard  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Limitations and  
Prohibitions on Water Pumping**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no costs anticipated for implementing these proposed rule changes. These rule changes provides for as follows: (1) prohibition of pumping in certain sands to occur in 1,000-foot, 1,500-foot and 1,700-foot sands of the area subject to the jurisdiction of the Capital Area Ground Water Conservation Commission (CAGWCC), except for those wells devoted exclusively to public supply and (2) any pumping limits that are in place by the CAGWCC shall be subject to annual review and re-adoption at the Commission meeting each calendar year.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no anticipated effects on revenue collections of state or local governmental units by this rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits to directly affected persons, small business, or non-governmental groups anticipated from this rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule would have no effect on competition and/or employment.

Gary J. Beard  
Executive Director  
2202#022

Alan M. Boxberger  
Interim Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Office of the Governor  
Commission on Law Enforcement and  
Administration of Criminal Justice**

General Subgrant Guidelines  
(LAC 22:III.101, 5101, and 5301)

In accordance with the provision of R.S. 15:1204, et seq., and R.S. 40:905 et seq., which is the Administrative Procedure Act, the Louisiana Commission on Law Enforcement hereby, gives notice of its intent to promulgate rules and regulations relative to subgrant applications.

**Title 22**  
**CORRECTIONS, CRIMINAL JUSTICE AND LAW**  
**ENFORCEMENT**

**Part III. Commission on Law Enforcement and**  
**Administration of Criminal Justice**

**Subpart 1. Privacy and Security Regulation**

**Chapter 1. Preface**

**§101. Preface**

A. - B. ...

C. A separate set of guidelines and implementation instructions was published to provide significant assistance in understanding and adapting the regulations to local needs and peculiarities. Questions concerning the regulations or guidelines may be addressed to the Louisiana Commission on Law Enforcement at its recognized business address.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:447 (November 1977), amended LR 4:503 (December 1978), amended LR 48:

**Subpart 5. Grant Application or Subgrants**  
**Utilizing Federal, State or Self-Generated**  
**Funds**

**Chapter 51. Appeals Procedure**

**§5101. Appeals Procedure**

A. When an application for funding is rejected by the commission, or when an approved subgrant is discontinued, the applicant or subgrantee may appeal the decision of the commission by filing a notice of appeal with the Louisiana Commission on Law Enforcement at the recognized business address. The notice of appeal must be by certified mail and must be filed no later than 15 business days after receipt of the notice of denial by the applicant or subgrantee.

B. - I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 15:1071 (December 1989), amended LR 48:

**Chapter 53. Drug Abuse Resistance Education**  
**(D.A.R.E.)**

**§5301. Introduction**

A. In response to the mounting concern about the use of drugs by youth, the Louisiana Commission on Law Enforcement makes Drug Abuse Resistance Education (D.A.R.E.) grants available to sheriffs' offices, marshal and constable offices, and police departments who can demonstrate the capacity to offer the D.A.R.E. program in accordance with nationally recognized curriculum standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204.9.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 21:566 (June 1995), amended LR 48:

**Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed rule has been considered. This proposed rule will have no impact on family functioning, stability, or autonomy as described in R.S. 49:972 since it updates grant application procedures for the Louisiana Commission on Law Enforcement.

**Poverty Impact Statement**

The proposed Rule should not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973. B. In particular, there should be no known or foreseeable effect on: (1) the effect on household income, assets, and financial security; (2) the effect on early childhood development and preschool through post-secondary education development; (3) the effect on employment and workforce development; (4) the effect on taxes and tax credits; (5) the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

**Provider Impact Statement**

The proposed rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on: (1) the effect on the staffing level requirement or qualifications required to provide the same level of service; (2) the total direct and indirect effect on the cost to the providers to provide the same level of service; or (3) the overall effect on the ability of the provider to the same level of service.

**Public Comments**

Interested persons may submit written comments on this proposed Rule no later than March 22, 2022 at 5pm to Bob Wertz, Louisiana Commission on Law Enforcement, Box 3133 Baton Rouge, LA 70821. An analysis of the proposed rule shows that it will have no impact on the family as described in R.S. 49.972, nor any impact on small business as defined by Act 820 of 2008.

Jim Craft  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT**  
**FOR ADMINISTRATIVE RULES**  
**RULE TITLE: General Subgrant Guidelines**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There is no anticipated fiscal impact to state or local governmental units as a result of the proposed ruled change. The revisions align the administrative code with existing practices regarding the law enforcement entities eligible to receive DARE grants. The Louisiana Commission on Law Enforcement does not anticipate any changes in the number of grants awarded. The revisions also make technical changes.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of the proposed rule will not increase revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

It is estimated that implementation of the proposed rules will have little or no effect on directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition or employment in the public or private sector as a result of this proposal.

Jim Craft  
Executive Director  
2202#024

Alan M. Boxberger  
Interim Fiscal Officer  
Legislative Fiscal Office

## NOTICE OF INTENT

**Office of the Governor  
Division of Administration  
Office of Group Benefits**

Employee Benefits (LAC 32:I.317)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., as authorized pursuant to R.S. 42:801 and 42:802, the Office of the Governor, Division of Administration, Office of Group Benefits, proposes to amend Chapter 3, of LAC 32:I, Employee Benefits. The Rule is revised to amend the employee benefits provision governing the effective date of change of classification for dependents of enrollees for special enrollment events.

### Title 32

#### EMPLOYEE BENEFITS

##### Part I. General Provisions

### Chapter 3. Uniform Provisions – Participation in the Office of Group Benefits

#### §317. Change of Classification

A. Adding or Deleting Dependents. When a dependent is added to the enrollee's coverage due to a HIPAA special enrollment event or deleted from the enrollee's coverage consistent with a change in the dependent's status, as set forth in the applicable OGB health plan document, applications made by active enrollees shall be provided to their HR liaison and applications made by retired enrollees shall be provided to OGB. Application is required to be made within 30 days of the event unless a longer application period is required by federal or state law.

B. When a dependent is added to or deleted from the enrollee's coverage during an OGB designated enrollment period, application is required to be made as directed for the OGB designated enrollment period.

#### C. Effective Date of Change in Classification

1. When adding a dependent due to a HIPAA special enrollment event results in a change in classification, the change in classification will be effective on the date of the event.

2. When the addition of a dependent changes the classification of coverage, the new premium rate will be charged for the entire month if the date of the HIPAA special enrollment event occurs before the fifteenth day of the month. If the date of the HIPAA special enrollment event occurs on or after the fifteenth day of the month, the new premium rate will not be charged until the first day of the following month.

3. When a dependent is added to an enrollee's coverage under a special enrollment right that requires the effective date of coverage to be the same as the date of the qualifying event and the addition of the dependent changes the enrollee's coverage classification, the increase in the monthly premium due as a result of the coverage change shall be prorated from the qualifying event date until the first day of the following month.

D. Notification of Change. It is the enrollee's responsibility to make application for any change in classification of coverage that affects the enrollee's contribution amount.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by Office of the Governor, Division of Administration, Office of Group Benefits, LR 41:341 (February 2015), effective March 1, 2015, amended LR 41:2351 (November 2015), effective January 1, 2016, amended LR 42:51 (January 2016), LR 48:

#### Family Impact Statement

The proposed Rules are not anticipated to have an impact on family formation, functioning, stability, or autonomy, as described in R.S. 49:972.

#### Poverty Impact Statement

The proposed Rules are not anticipated to have an impact on poverty, as described in R.S. 49:973.

#### Small Business Analysis

The proposed Rules are not anticipated to have an adverse effect or economic impact on small businesses in accordance with the Regulatory Flexibility Act.

#### Provider Impact Statement

The proposed Rules are not anticipated to have an impact on providers of services funded by the state as described in HCR 170 of the 2014 Regular Legislative Session.

#### Public Comments

Interested persons may submit written comments about the proposed Rules to the Office of Group Benefits, Attn.: Tameika Richard Henry, P.O. Box 44036, Baton Rouge, LA 70804. The deadline for receipt of written comments is Monday, March 14, 2022 by 4:30 PM.

#### Public Hearing

A public hearing on the proposed Rules may be held on Tuesday, March 29, 2022, beginning at 8:00 AM, in the Louisiana Purchase Room (Room 1-100) on the first floor of the Claiborne Building, located at 1201 North Third Street, Baton Rouge, LA 70802, if such a hearing is requested by Monday, March 14, 2022. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at the hearing. Individuals with disabilities who require special services or accommodations should contact Tameika Richard Henry by phone at 225-342-9589 or by email [tameika.richardhenry@la.gov](mailto:tameika.richardhenry@la.gov) at least seven working days in advance of the hearing. For assistance in determining if a hearing will be held, please call OGB Customer Service at 225-925-6625, or at 1-800-272-8451.

David W. Couvillon  
Chief Executive Officer

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Employee Benefits

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed change to LAC 32:I.317 is not anticipated to have an impact on the expenditures of the Office of Group Benefits ("OGB"). The proposed rule amends the provision governing the effective date of change of classification for dependents of enrollees for certain special enrollment events.

There may be individual instances where self-funded health plan medical and/or pharmacy claims expenditures increase without the benefit of a premium rate change/increase due to a change in a subscriber's premium tier classification as a result of the addition of a dependent due to birth or marriage.

However, since the current administrative rule uses a mid-month cutoff to either charge one month of existing premium rates or one month at the new/higher premium rates, no changes to agency expenditures is anticipated, as long as the HIPAA special enrollment events are distributed uniformly throughout the month (which would be expected in incidences of births and marriages).

Additionally, there may be minimal one-time costs associated with required programming updates to OGB's IMPACT eligibility and premium billing system, estimated to be \$7,900. Costs of programming updates are regularly included in the OGB's annual operating budget.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed change to LAC 32:I.317 is anticipated to result in an approximate \$10,000 increase in OGB premium revenue in FY 22 and a \$20,000 increase in OGB premium revenues annually in subsequent fiscal years.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed change to LAC 32:I.317 is anticipated to impact various OGB enrollees and dependents who meet specific criteria.

An OGB enrollee who experiences the birth of a child or the gain of a spouse through marriage qualifies for a special enrollment period (as a result of these qualifying life events or "QLEs"), during which time the enrollee may add the dependent to their insurance coverage. OGB's QLE guidelines for the birth of a child or the gain of a spouse through marriage provide that the effective date of coverage for the new dependent be the same date as the QLE. The addition of the new dependent to the enrollee's coverage results in a change in the enrollee's coverage classification, which will result in a change in the amount of monthly premiums billed.

Those OGB enrollees who meet the criteria mentioned above and who experience the following changes in coverage classification will be impacted by the proposed changes to LAC 32:I.317:

- from "enrollee only" coverage to "enrollee + child(ren)" coverage;
- from "enrollee only" coverage to "enrollee + spouse" coverage;
- from "enrollee only" coverage to "family" coverage;
- from "enrollee + child(ren)" coverage to "family" coverage; and
- from "enrollee + spouse" coverage to "family" coverage.

As a result of the proposed change to LAC 32:I.317, such OGB enrollees will have the resulting additional premium amount prorated for the number of days remaining in the first month of coverage following the effective date of such coverage.

The cost to those individual enrollees impacted by the proposed change to LAC 32:I.317 cannot be estimated, as it depends upon the enrollees' plan selection, employer contribution level, existing coverage classification, and employment status.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The effect of the proposed changes to LAC 32:I.317 on competition and employment is unknown but estimated to be minimal to none.

Col. David W. Couvillon  
Chief Executive Officer  
2202#025

Alan M. Boxberger  
Interim Fiscal Officer  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Health Board of Pharmacy

Fees (LAC 46:LIII.115)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy hereby gives notice of its intent to add a new section of rules, §115, to itemize all the fees charged by the board. Most of the proposed fees represent increases from the current fees identified in R.S. 37:1184.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part LIII. Pharmacists

#### Chapter 1. Introduction

#### §115. Fees

A. The fees charged and collected by the board shall not be less nor more than the following schedule.

1. Credentialing Fees for Persons

a. Pharmacy Technician Candidate

i. Application fee for new pharmacy technician candidate registration—\$50.

b. Pharmacy Technician

i. Application fee for new pharmacy technician certificate—\$100.

ii. Certificate renewal fee, per year—\$60.

iii. Delinquent renewal fee, per year (50 percent of renewal fee)—\$30.

iv. Reinstatement fee for lapsed, suspended, or revoked certificate—\$200.

c. Pharmacy Intern

i. Application fee for new pharmacy intern registration—\$50.

d. Pharmacist

i. Application fee for new pharmacist license—\$300.

ii. Application fee for transfer of pharmacist license—\$150.

iii. License renewal fee, per year—\$150.

iv. Delinquent renewal fee, per year (50 percent of renewal fee)—\$75.

v. Reinstatement fee for lapsed, suspended, or revoked license—\$200.

vi. Pharmacy education support fee, per year—\$100.

2. Credentialing Fees for Businesses

a. Pharmacy

i. Application fee for new pharmacy permit—\$500.

ii. Application fee for change of location of pharmacy permit—\$200.

iii. Pharmacy permit renewal fee, per year—\$200.

iv. Delinquent renewal fee for pharmacy permit, per year (50 percent of renewal fee)—\$100.

vi. Application fee for new controlled dangerous substance (CDS) license for pharmacy—\$25.

vii. CDS license renewal fee, per year—\$25.

- viii. Delinquent renewal fee for CDS license, per year (50 percent of renewal fee)—\$12.50
  - ix. Application fee for new emergency drug kit (EDK) permit—\$50.
  - x. EDK permit renewal fee, per year—\$50.
  - xi. Application fee for new automated medication system (AMS) registration—\$150.
  - xii. AMS registration renewal fee, per year—\$150.
  - xiii. Application fee for new sterile compounding pharmacy permit—\$500.
  - xiv. Sterile compounding pharmacy permit renewal fee, per year—\$500.
  - xv. Reinstatement fee for lapsed, suspended, or revoked pharmacy permit, CDS license, EDK permit, AMS registration, or sterile compounding pharmacy permit—\$200.
  - xvi. Pharmacy education support fee, per year—\$100.
- b. Durable Medical Equipment Provider
    - i. Application fee for new durable medical equipment (DME) permit—\$200.
    - ii. DME permit renewal fee, per year—\$200.
    - iii. Delinquent renewal fee for DME permit, per year (50 percent of renewal fee)—\$100.
    - iv. Reinstatement fee for lapsed, suspended, or revoked DME permit—\$200.
    - v. Pharmacy education support fee, per year—\$100.
  - c. Pharmacy Benefit Manager
    - i. Application fee for new pharmacy benefit manager (PBM) permit—\$500.
    - ii. PBM permit renewal fee, per year—\$500.
    - iii. delinquent renewal fee for PBM permit, per year (50 percent of renewal fee)—\$250.
3. Fees for Products and Services
- a. Products
    - i. Pharmacist certificate—\$75.
    - ii. Pharmacist silver certificate—\$100.
    - iii. Louisiana Pharmacy Law Book—\$40.
    - iv. Official list of licensees, per credential type—\$150.
    - v. Photocopies of documents, per page—\$0.50
  - b. Services
    - i. Administrative hearing fee—\$250.
    - ii. Certification of credential—\$20.
    - iii. Certification of practical experience to another jurisdiction—\$25.
    - iv. Certification of document as true copy of office record—\$5.
    - v. Handling and mailing, per page—\$1.
4. Board member per diem, per day—\$75.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182(A)(21).

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 48:

#### **Family Impact Statement**

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a family impact statement on the Rule proposed for adoption, repeal, or amendment. The following statements will be published in the *Louisiana Register* with the proposed agency Rule.

1. The Effect on the Stability of the Family. The proposed Rule will have no effect on the stability of the family.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. The proposed Rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect on the Functioning of the Family. The proposed Rule will have no effect on the functioning of the family.

4. The Effect on Family Earnings and Family Budget. The proposed Rule will have no effect on family earnings but could impact a family budget.

5. The Effect on the Behavior and Personal Responsibility of Children. The proposed Rule will have no effect on the behavior and personal responsibility of children.

6. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. The proposed Rule will have no effect on the ability of the family or a local government to perform the activity as contained in the proposed Rule.

#### **Poverty Impact Statement**

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a poverty impact statement on the Rule proposed for adoption, repeal, or amendment.

1. The Effect on Household Income, Assets, and Financial Security. The proposed Rule will have no effect on household income, assets, or financial security.

2. The Effect on Early Childhood Development and Preschool through Postsecondary Education Development. The proposed Rule will have no effect on early childhood development or preschool through postsecondary education development.

3. The Effect on Employment and Workforce Development. The proposed Rule will have no effect on employment or workforce development.

4. The Effect on Taxes and Tax Credits. The proposed Rule will have no effect on taxes or tax credits.

5. The Effect on Child and Dependent Care, Housing, Health Care, Nutrition, Transportation, and Utilities Assistance. The proposed Rule will have no effect on child and dependent care, housing, health care, nutrition, transportation, or utilities assistance.

#### **Small Business Analysis**

In accordance with Section 965 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a regulatory flexibility analysis on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, each of the following methods of reducing the impact of the proposed Rule on small businesses:

1. The Establishment of Less Stringent Compliance or Reporting Requirements for Small Businesses. The proposed Rule will have no effect on compliance or reporting requirements for small business.

2. The Establishment of Less Stringent Schedules or Deadlines for Compliance or Reporting Requirements for Small Businesses. The proposed Rule will have no effect on

schedules or deadlines for compliance or reporting requirements for small business.

3. The Consolidation or Simplification of Compliance or Reporting Requirements for Small Businesses. The proposed Rule will have no effect on compliance or reporting requirements for small business.

4. The Establishment of Performance Standards for Small Businesses to Replace Design or Operational Standards Required in the Proposed Rule. The proposed Rule will have no effect on standards.

5. The Exemption of Small Businesses from All or Any Part of the Requirements Contained in the Proposed Rule. There are no exemptions for small businesses in the proposed Rule.

#### **Provider Impact Statement**

In accordance with House Concurrent Resolution No. 170 of the Regular Session of the 2014 Legislature, there is hereby submitted a provider impact statement on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, the following effects on the providers of services to individuals with developmental disabilities:

1. The effect on the staffing level requirements or qualifications required to provide the same level of service. The proposed Rule will have no effect on the staffing level requirements or the qualifications for that staff to provide the same level of service.

2. The Total Direct and Indirect Effect on the Cost to the Provider to Provide the Same Level of Service. The proposed Rule will have no effect on the cost to the provider to provide the same level of service.

3. The Overall Effect on the Ability of the Provider to Provide the Same Level of service. The proposed Rule will have no effect on the ability of the provider to provide the same level of service.

#### **Public Comments**

Interested persons may submit written comments, via United States Postal Service or other mail carrier, or in the alternative by personal delivery to Malcolm J Broussard, Executive Director, at the office of the Louisiana Board of Pharmacy, 3388 Brentwood Drive, Baton Rouge, LA 70809-1700. He is responsible for responding to inquiries regarding the proposed Rule.

#### **Public Hearing**

A public hearing to solicit comments and testimony on the proposed Rule is scheduled for 9 a.m. on Friday, March 25, 2022 at the board office which is located at 3388 Brentwood Drive, Baton Rouge, Louisiana 70809. During the hearing, all interested persons will be afforded an opportunity to submit comments and testimony, either verbally or in writing. The deadline for the receipt of all comments and testimony is 12 p.m. noon that same day. To request reasonable accommodations for persons with disabilities, please call the board office at 225.925.6496.

Malcolm J Broussard  
Executive Director

## **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

### **RULE TITLE: Fees**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed rule will require the Louisiana Board of Pharmacy (LBP) to publish the proposed and final rules in the State Register, resulting in printing expenses of \$1,000 in FY 2022. There will be no additional expenditures or cost savings for LBP or other state or local governmental units. Although some state governmental units operate pharmacies licensed by LBP, those permits are fee-exempt.

The proposed rule will create a new section of rules to itemize all the fees charged by the Board. The fees listed in the proposal represent the first fee increase since 2005.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule fee increases will generate approximately \$932,800 per fiscal year for LBP from fees paid by persons and businesses credentialed by the Board. The proposed rule will not affect revenue collections for other state or local governmental units.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed rule fee increases will generate approximately \$932,800 per fiscal year for LBP from fees paid by persons and businesses credentialed by the Board.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

Due to the universal nature of these fee increases, the proposed rule changes will have an indeterminate but likely minimal impact on competition or employment.

Malcolm J. Broussard  
Executive Director  
2202#021

Alan M. Boxberger  
Interim Fiscal Officer  
Legislative Fiscal Office

### **NOTICE OF INTENT**

#### **Department of Health Board of Pharmacy**

Raw Marijuana Products  
(LAC 46:LIII.2440, 2443, 2453, and 2457)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy hereby gives notice of its intent to amend §§2440, 2443, 2453, and 2457 of its rules relative to marijuana pharmacies to implement the provisions of Act 424 of the 2021 Legislature. The proposed changes in §2440 make a technical change in the reference to the initial enabling legislation for the medical marijuana program and identifies the mandates within 2021 legislation. The proposed changes in §2443 add raw marijuana products to those items which producers are authorized to distribute to marijuana pharmacies, identify laboratory testing standards for such raw products, add additional dosage forms including pectin-based chewables as well as combustible and edible dosage

forms and removes the prohibition on inclusion of marijuana in beverages. The proposed changes in §2453 authorize marijuana pharmacies to temporarily maintain a supply of marijuana products outside safes and vaults during their hours of operation. The proposed changes in §2457 remove the reference to referral as a description of a recommendation form, adds a requirement for recommendations for raw products when intended for persons under the age of 21 years, and identifies the dispensing limitations of raw marijuana products included in the 2021 legislation.

**Title 46**  
**PROFESSIONAL AND OCCUPATIONAL**  
**STANDARDS**

**Part LIII. Pharmacists**

**Chapter 24. Limited Service Providers**

**Subchapter E. Marijuana Pharmacy**

**§2440. Preamble; Warning; Consultation Suggested**

A. Pursuant to Act 261 of the Regular Session of the 2015 Legislature as well as subsequent amendments, the Board of Pharmacy was directed to:

1. ...
2. Adopt rules relating to the dispensing of recommended marijuana for therapeutic use, with such rules to include, at a minimum, the following:
  - a. - d. ...
  - e. Standards, procedures, and protocols to ensure all recommended therapeutic marijuana dispensed, with the exception of raw or crude marijuana product, is consistently pharmaceutical grade.
  - f. - k. ...
  - l. limitations on dispensing of raw or crude marijuana.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 43:1538 (August 2017), amended LR 48:

**§2443. Marijuana Products**

**A. Exclusive Source**

1. The exclusive source of marijuana products shall be the producers licensed for that activity by the Department of Agriculture and Forestry (LDAF).

2. Licensed producers shall prepare pharmaceutical grade marijuana products as well as raw marijuana products for distribution to marijuana pharmacies licensed by the board.

3. ...

**B. Laboratory Testing**

1. ...

2. A producer shall make available each such batch at the production facility for testing by a laboratory approved by LDAF. The laboratory employee shall select a random sample from each such batch.

a. Medical marijuana concentrate shall not be used to produce any final product until it has passed all analysis limits for:

i. - v. ...

b. Product shall not be released for delivery to a marijuana pharmacy for sale or consumption until it has passed all concentrate analysis limits for:

i. - iii. ...

c. Final products not produced from concentrate, e.g., dried and cured flower, shall not be released for delivery to a marijuana pharmacy for sale or consumption until it has passed all analysis limits for:

i. active ingredient analysis for characterization of potency;

ii. pesticide active ingredients, including but not limited to the most recent list of targeted pesticides published by LDAF;

iii. heavy metals;

iv. mycotoxins;

v. microbiological contaminants; and

vi. homogeneity.

d. LDAF personnel may select a random sample at any point in the process for the purpose of analysis for anything the LDAF deems necessary.

e. Samples shall be secured in a manner approved by LDAF at all times when not in immediate use for the analyses being conducted.

3. ...

**4. Testing Specifications**

a. - c.iv. ...

d. With respect to the pesticide chemical residue test, a marijuana sample shall be deemed to have passed if it does not contain any residues appearing on LDAF's approved list and any approved residues present are less than the limits allowed by LDAF.

e. ...

f. With respect to the test for homogeneity, a marijuana sample shall be deemed passed if each aliquot tested is within plus or minus 15 percent of the total aliquots average finding for potency for each labeled active ingredient. Any solid product will be considered not homogenous if 10 percent of the product contains more than 20 percent of the total active ingredient.

g. Every sample shall undergo an active ingredient analysis or potency analysis.

i. - i.(d). ...

ii. For product samples, the potency test is to establish the active ingredient composition for verification of labeling to ensure accurate dosing. The maximum variance permitted is 15 percent from the labeled amount. For example, a product labeled as containing 10 milligrams of tetrahydrocannabinol (THC) shall contain no less than 8.5 milligrams THC and no more than 11.5 milligrams THC. For final products containing THCA, the total THC determined shall also be within the variance allowed for the THC as labeled.

5. - 8. ...

**C. Product Dosage Forms**

1. The producer shall limit their production of pharmaceutical grade products to the following dosage forms:

a. - c. ...

d. gelatin-based or pectin-based chewables;

e. - h. ...

i. bulk raw product.

2. The producer may produce other products from raw or crude marijuana, including dried flower, buds, and other plant material, intended for the following methods of administration:



- a. combustible forms for inhalation, including but not limited to pre-rolls; and
  - b. edible forms for ingestion.
3. No marijuana product shall:
- a. include alcoholic liquor, dietary supplements, or any drug, except for marijuana. For purposes of this provision, alcoholic liquor does not include any liquid or solid containing less than 0.5 percent of alcohol by volume, or ethanol-based tinctures.
  - b. be manufactured or sold in a form or with a design that:
    - i. - iv. ...
  - c. have had pesticide chemicals or organic solvents used during the production or manufacturing process other than those which may be approved by the commissioner of LDAF.
4. Any marijuana product not in compliance with the provisions of this Section shall be deemed adulterated.

D. - E.4.f. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 43:1540 (August 2017), amended LR 45:1473 (October 2019), LR 46:568 (April 2020), LR 46:1227 (September 2020), LR 47:590 (May 2021), LR 48:

**§2453. Security Requirements for Marijuana Pharmacies**

A. A marijuana pharmacy shall:

1. - 3. ...

4. keep all approved safes and vaults securely locked and protected from entry, except for the actual time required to remove or replace marijuana, provided that during hours of operation the pharmacist-in-charge may authorize the placement of a limited quantity of dispensing stock outside such safes or vaults but within the secure prescription department.

A.5. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 43:1548 (August 2017), amended LR 48:

**§2457. Standards of Practice**

A. - D.5. ...

E. Professional Practice Standards

1. Recommendation / opinion (hereinafter, “request”) for Therapeutic Marijuana

a. - a.ii. ...

b. The request shall disclose the following information at a minimum:

i. - iii. ...

iv. type of marijuana product requested;

v. - vii. ...

c. Requests for marijuana products shall expire one year after the date of issue, unless a shorter period of time is indicated by the physician. A pharmacist shall not dispense marijuana product pursuant to an expired request.

d. Requests for raw or crude marijuana products intended for persons under 21 years of age shall specifically indicate a recommendation for raw or crude forms of marijuana for such persons.

e. A marijuana pharmacy shall transfer an unexpired request for marijuana product to another marijuana pharmacy when requested by the patient or his caregiver.

2. Dispensing Marijuana Products

a. Prior to dispensing any marijuana product to a patient, the pharmacist shall review the patient’s records in the state prescription monitoring program. The pharmacist shall resolve any concerns identified in that review by consultation with the recommending physician.

b. Dispensing Limitations

i. A pharmacist shall not dispense more than two and one-half ounces, or 71 grams, of raw or crude marijuana every 14 days to any person.

ii. Subject to the above limitation on dispensing raw or crude marijuana products, a pharmacist may dispense marijuana products on multiple occasions as indicated by the physician and needed by the patient until the request expires; however, the pharmacist shall not dispense more than a 90-day supply of marijuana product at one time nor more than a one-year supply pursuant to a single request.

E.3. - E.6.e.iv. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 43:1550 (August 2017), amended LR 45:1473 (October 2019), LR 47:246 (February 2021), LR 47:1111 (August 2021), LR 48:

**Family Impact Statement**

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a family impact statement on the Rule proposed for adoption, repeal, or amendment. The following statements will be published in the *Louisiana Register* with the proposed agency Rule.

1. The Effect on the Stability of the Family. The proposed rule changes will have no effect on the stability of the family.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. The proposed rule changes will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect on the Functioning of the Family. The proposed rule changes will have no effect on the functioning of the family.

4. The Effect on Family Earnings and Family Budget. The proposed rule changes will have no effect on family earnings or family budget.

5. The Effect on the Behavior and Personal Responsibility of Children. The proposed rule changes will have no effect on the behavior and personal responsibility of children.

6. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. The proposed rule changes will have no effect on the ability of the family or a local government to perform the activity as contained in the proposed rule changes.

**Poverty Impact Statement**

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a

poverty impact statement on the Rule proposed for adoption, repeal, or amendment.

1. The Effect on Household Income, Assets, and Financial Security. The proposed rule changes will have no effect on household income, assets, or financial security.

2. The Effect on Early Childhood Development and Preschool through Postsecondary Education Development. The proposed rule changes will have no effect on early childhood development or preschool through postsecondary education development.

3. The Effect on Employment and Workforce Development. The proposed rule changes will have no effect on employment or workforce development.

4. The Effect on Taxes and Tax Credits. The proposed rule changes will have no effect on taxes or tax credits.

5. The Effect on Child and Dependent Care, Housing, Health Care, Nutrition, Transportation, and Utilities Assistance. The proposed rule changes will authorize the use of raw or crude marijuana for therapeutic purposes, which could provide more appropriate dosage forms for children, which could affect healthcare of children or other dependents.

#### **Small Business Analysis**

In accordance with Section 965 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a regulatory flexibility analysis on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, each of the following methods of reducing the impact of the proposed Rule on small businesses:

1. The Establishment of Less Stringent Compliance or Reporting Requirements for Small Businesses. The proposed rule changes will have no effect on compliance or reporting requirements for small businesses.

2. The Establishment of Less Stringent Schedules or Deadlines for Compliance or Reporting Requirements for Small Businesses. The proposed rule changes will have no effect on schedules or deadlines for compliance or reporting requirements for small businesses.

3. The Consolidation or Simplification of Compliance or Reporting Requirements for Small Businesses. The proposed rule changes will have no effect on compliance or reporting requirements for small businesses.

4. The Establishment of Performance Standards for Small Businesses to Replace Design or Operational Standards Required in the Proposed Rule. The proposed rule changes do not include design standards but do include a provision for temporary relaxation of security standards for marijuana products to facilitate efficient dispensing operations in marijuana pharmacies.

5. The Exemption of Small Businesses from All or Any Part of the Requirements Contained in the Proposed Rule. There are no exemptions for small businesses in the proposed rule changes.

#### **Provider Impact Statement**

In accordance with House Concurrent Resolution No. 170 of the Regular Session of the 2014 Legislature, there is hereby submitted a provider impact statement on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, the following effects on the providers of services to individuals with developmental disabilities:

1. The effect on the staffing level requirements or qualifications required to provide the same level of service. The proposed rule changes will have no effect on the staffing level requirements or the qualifications for that staff to provide the same level of service.

2. The Total Direct and Indirect Effect on the Cost to the Provider to Provide the Same Level of Service. The proposed rule changes will have no effect on the cost to the provider to provide the same level of service.

3. The Overall Effect on the Ability of the Provider to Provide the Same Level of service. The proposed rule changes will have no effect on the ability of the provider to provide the same level of service.

#### **Public Comments**

Interested persons may submit written comments, via United States Postal Service or other mail carrier, or in the alternative by personal delivery to Malcolm J Broussard, Executive Director, at the office of the Louisiana Board of Pharmacy, 3388 Brentwood Drive, Baton Rouge, LA 70809-1700. He is responsible for responding to inquiries regarding the proposed Rule amendment.

#### **Public Hearing**

A public hearing to solicit comments and testimony on the proposed rule changes is scheduled for 9:00 am on Friday, March 25, 2022 at the board office which is located at 3388 Brentwood Drive, Baton Rouge, Louisiana 70809. During the hearing, all interested persons will be afforded an opportunity to submit comments or testimony, either verbally or in writing. The deadline for the receipt of all comments and testimony is 12 p.m. noon that same day. To request reasonable accommodations for persons with disabilities, please call the board office at 225.925.6496.

Malcolm J Broussard  
Executive Director

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Raw Marijuana Products**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed rule changes will require the Louisiana Board of Pharmacy (LBP) to publish the proposed and final rules in the state register, resulting in printing expenses of \$1,000 in FY 22. There will be no additional expenditures or cost savings for LBP or other state or local governmental units.

The proposed rule changes authorize the use of raw marijuana products, establish laboratory and testing standards and permissible dosage forms for such products, as well as dispensing limitations for such products at marijuana pharmacies. Other proposed rule changes include an allowance for the temporary placement of marijuana products outside safes and vaults but within the prescription department to facilitate efficient dispensing operations in marijuana pharmacies.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule change will not affect revenue collections of state or local governmental units.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed rule changes will authorize producers of marijuana products to include raw marijuana products among

the items they may distribute to marijuana pharmacies. The marijuana pharmacies may sell raw marijuana products pursuant to recommendations, subject to certain dispensing limitations. The addition of new products and dosage forms may increase sales transactions in pharmacies, however, additional product selection may lead to substitutional rather than additive sales. This rule does not directly influence existing recommendation volume by prescribers.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

To the extent the addition of new products and dosage forms increases the number of sales transactions in marijuana pharmacies, it is possible the pharmacies may need to hire more employees, which would improve employment opportunities in those geographical areas. The proposed rule changes may also stimulate price competition among the marijuana pharmacies.

Malcolm J. Broussard  
Executive Director  
2202#020

Alan M. Boxberger  
Interim Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

Behavioral Health Service Providers  
Licensing Standards  
(LAC 48:I.Chapters 56 and 57)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 48:I.Chapters 56 and 57 as authorized by R.S. 36:254 and R.S. 40:2151-2162. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Act 328 of the 2020 Regular Session of the Louisiana Legislature and Acts 372 and 433 of the 2021 Regular Session of the Louisiana Legislature revised the requirements relative to the licensure of certain providers of behavioral health services. In compliance with Acts 328, 372, and 433, the Department of Health, Bureau of Health Services Financing proposes to amend the provisions governing the licensing of behavioral health service providers in order to: 1) provide further definitions and provisions related to the geographic service area, 2) update the licensure and staff requirements, 3) update admission, transfer and discharge requirements, and 4) add provisions governing mobile services, mental health intensive outpatient programs, and onsite access to medication assisted treatment.

**Title 48**

**PUBLIC HEALTH-GENERAL**

**Part I. General Administration**

**Subpart 3. Licensing and Certification**

**Chapter 56. Behavioral Health Service Providers**

**Subchapter A. General Provisions**

**§5601. Introduction**

A. - B. ...

C. The following providers shall be licensed under the BHS provider license:

1. substance use/addiction treatment facilities;

2. - 3. ...

D. Licensed substance use/addiction treatment facilities and mental health clinics have one year from the date of

promulgation of the final Rule to comply with all of the provisions herein.

NOTE: Existing licensed substance use/addiction treatment facilities and mental health clinics shall be required to apply for a BHS provider license at the time of renewal of their current license(s).

E. The following entities shall be exempt from the licensure requirements for BHS providers:

1. - 10. ...

11. an individual licensed physician assistant (PA), or a group practice of licensed PAs, providing services under the auspices of and pursuant to the scope of the individual's license or group's licenses;

12. school-based health clinics/centers that are certified by the LDH, Office of Public Health, and enrolled in the Medicaid Program;

13. those local public school governing authorities, if such exemption is applicable to only school-based BHS provided through the Medicaid Early and Periodic Screening, Diagnostic, and Treatment program;

14. a health care provider or entity solely providing case management or peer support services, or a combination thereof;

a. - d. NOTE. Repealed.

15. facilities or services operated for the sole purpose of providing substance use or mental health services to courts that are recognized and certified by the Louisiana Supreme Court as specialty courts;

16. an individual licensed advanced practice registered nurse (APRN), or a group practice of licensed APRNs, providing services under the auspices of and pursuant to the scope of the individual's license or group's licenses;

17. rural health clinics (RHCs) providing RHC services under a license issued pursuant to R.S. 40:2197; and

18. facilities or services operated by the Department of Public Safety and Corrections, Corrections Services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1682 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1379 (July 2017), LR 48:

**§5603. Definitions**

\*\*\*

*Addiction Counselor*—any person who is licensed, certified, or registered in accordance with state statute and procedures established by the Addictive Disorder Regulatory Authority and who, by means of his special knowledge acquired through formal education or practical experience, is qualified to provide addiction counseling services to those individuals afflicted with or suffering from an addictive disorder or certain co-occurring disorders.

\*\*\*

*Addiction Outpatient Treatment Services (ASAM Level 1)*—an outpatient program that offers comprehensive, coordinated, professionally directed and defined addiction treatment services that may vary in level of intensity and may be delivered in a wide variety of settings. Services are provided in regularly scheduled sessions of fewer than nine contact hours a week.

*Addictive Disorder*—the repeated pathological use of substances including but not limited to alcohol, drugs, or tobacco, or repeated pathological compulsive behaviors

including but limited to gambling, which cause physical, psychological, emotional, economic, legal, social, or other harms to the individual afflicted with the addiction or to others affected by the individual's affliction. Addiction disorder includes instances where withdrawal from or tolerance to the substance or behaviors are present, and also instances involving use and abuse of substances.

\*\*\*

*Advanced Practice Registered Nurse (APRN)*—a licensed health care practitioner who is acting within the scope of practice of his/her respective licensing boards(s) and/or certifications.

*Alternate Service Delivery Area*—an area that is not contiguous to the geographic service area of the licensed BHS parent location and/or is in an LDH region where a BHS provider may be allowed to provide Homebuilders services when the provider has less than three staff providing such services in that region.

*Ambulatory Withdrawal Management with Extended on-site Monitoring (ASAM Level 2-WM)*—an organized outpatient addiction treatment service that may be delivered in an office setting or health care or behavioral health services provider by trained clinicians who provide medically supervised evaluation, withdrawal management and referral services. The services are designed to treat the client's level of clinical severity to achieve safe and comfortable withdrawal from mood-altering chemicals and to effectively facilitate the client's entry into ongoing treatment and recovery. The services are provided in conjunction with intensive outpatient treatment services (level 2.1).

\*\*\*

*Authorized Licensed Prescriber*—a physician, PA, nurse practitioner, or medical psychologist (MP) licensed in the state of Louisiana and with full prescriptive authority who is authorized by the BHS provider to prescribe treatment to clients of the specific BHS provider at which he/she practices.

\*\*\*

*Behavioral Health Services*—mental health services, substance use/addiction treatment services, or a combination of such services, for adults, adolescents and children. Such services may be provided in a residential setting, in a clinic setting on an outpatient basis, or in a home or community setting.

\*\*\*

*Business Location or Primary Business Office Location*—the physical location/address that is designated by the provider as the main or primary business office location; there shall be only one designation of the main or primary business office location per provider; the main or primary business office location may be a licensed residential location, a licensed outpatient clinic, or other office location within the geographic service area authorized by the license.

*Campus*—for purposes of this Chapter, a location where BHS services are provided that is within the geographic service area as the licensed BHS provider. A campus may have multiple buildings/multiple addresses as long as those buildings are contiguous and not separated by public streets, and are within the same geographic service area as the licensed BHS provider.

\*\*\*

*Certified Addiction Counselor (CAC)*—pursuant to R.S. 37:3387.1, any person who, by means of his specific knowledge acquired through formal education and practical experience, is qualified to provide addictive disorder counseling services and is certified by the ADRA as a CAC. The CAC shall not practice independently and shall not render a diagnostic impression.

*Certified Clinical Supervisor*—any person holding the necessary credential of licensed, certified, or registered addiction counselor or any person who holds a specialty substance use credential in another professional discipline in a human services field at the master's level or higher; and who has satisfied the requirements established by the Addictive Disorder Regulatory Authority (ADRA) to provide clinical supervision.

*Cessation of Business*—provider is non-operational and/or has stopped offering or providing services to the community.

*Change of Ownership (CHOW)*—the addiction, substitution, or removal, whether by sale, transfer, lease, gift or otherwise, of a licensed health care provider subject to this rule by a person, corporation, or other entity, which results in a change of controlling interest of assets or other equity interests of the licensed entity may constitute a CHOW of the licensed entity. An example of an action that constitutes a CHOW includes, but is not limited to, the leasing of the licensed entity.

\*\*\*

*Client*—any person who seeks and receives treatment or services, including but not limited to rehabilitation services or addiction counseling services, furnished by a provider licensed pursuant to this Chapter.

\*\*\*

*Clinically Managed High-Intensity Residential Treatment Services (ASAM Level 3.5)*—a residential program that offers continuous observation, monitoring, and treatment by clinical staff designed to treat clients experiencing substance-related disorders who have clinically-relevant social and psychological problems, such as criminal activity, impaired functioning and disaffiliation from mainstream values, with the goal of promoting abstinence from substance use and antisocial behavior and affecting a global change in clients' lifestyles, attitudes and values.

*Clinically Managed Low Intensity Residential Treatment Services (ASAM Level 3.1)*—a residential program that offers at least five hours a week of a combination of low-intensity clinical and recovery-focused services for substance-related disorders. Services may include individual, group and family therapy, medication management and medication education, and treatment is directed toward applying recovery skills, preventing relapse, improving emotional functioning, promoting personal responsibility and reintegrating the client into the worlds of work, education and family life (e.g., halfway house).

*Clinically Managed Population Specific High-Intensity Residential Treatment Services (ASAM Level 3.3)*—a residential program that offers at least 20 hours per week of a combination of medium-intensity clinical and recovery-focused services in a structured recovery environment to support recovery from substance-related disorders; is frequently referred to as extended or long term care.

*Clinically Managed Residential Withdrawal Management (Social) (ASAM LEVEL 3.2-WM)*—an organized residential program utilizing 24 hour active programming and containment provided in a non-medical setting that provides relatively extended, sub-acute treatments, medication monitoring observation, and support in a supervised environment for a client experiencing non-life threatening withdrawal symptoms from the effects of alcohol/drugs and impaired functioning and who is able to participate in daily residential activities.

\* \* \*

*Co-Occurring Disorder*—a disorder in which an individual has at least one psychiatric disorder as well as an addictive disorder.

\* \* \*

*Counselor in Training (CIT)*—any person who has not yet met the qualification to become a licensed, certified, or registered counselor, but who has made application to the ADRA in accordance with state statute and procedures established by the ADRA. The CIT shall not practice independently and shall only work under the direct supervision of a licensed addiction counselor (LAC), CAC, or registered addiction counselor; or in the absence of a licensed, certified, or registered addiction counselor, under the direction of a qualified mental health professional.

\* \* \*

*Department*—the LDH or any office or agency thereof designated by the secretary to administer the provisions of this Chapter.

\* \* \*

*Dispensing Physician*—any physician in the state of Louisiana who is registered as a dispensing physician with the Louisiana State Board of Medical Examiners (LSBME) and who dispenses to his/her patients any drug, chemical, or medication, except a bona fide medication sample.

\* \* \*

*Facility Need Approval (FNA)*—the letter of approval from the Office of Behavioral Health (OBH) which is required for licensure applicants for opioid treatment programs prior to applying for a BHS provider license or the letter of approval from the Facility Need Review (FNR) Committee within the department which is required for licensure applicants for psychosocial rehabilitation (PSR) or CPST services prior to applying for a BHS provider license.

*FDA*—the Food and Drug Administration of the United States Department of Health and Human Services.

*Financial Viability*—the provider seeking licensure is able to provide verification and continuous maintenance of all of the following pursuant to R.S. 40:2153:

1. ...
2. proof of professional liability insurance of at least \$500,000 or proof of self-insurance of at least \$100,000, along with proof of enrollment as a qualified health care provider with the Louisiana Patient's Compensation Fund (PCF):

- a. if the BHS provider is self-insured and is not enrolled in the PCF, professional liability limits shall be \$1 million per occurrence/\$3 million per annual aggregate.

NOTE: the LDH-HSS shall specifically be identified as the certificate holder on any policies and any certificates of insurance issued as proof of insurance by the insurer or producer (agent).

3. proof of workers' compensation insurance; and
4. proof of general liability insurance of at least \$500,000.

*Geographic Service Area*—the geographic service location for a public or private behavioral health services provider licensed pursuant to this Part shall be defined to include:

1. the parish in which the provider's business office is located;
2. any parish contiguous to the parish in which the provider's business office is located; and
3. any distance within a fifty mile radius of the provider's business office.

\* \* \*

*Health Standards Section (HSS)*—the licensing and certification section of the LDH.

*High Risk Behavior*—includes substance use, gambling, violence, academic failure, delinquency behavior, and mental health issues such as depression, anxiety, and suicidal ideations.

\* \* \*

*Intensive Outpatient Treatment Services (ASAM Level 2.1)*—professionally directed assessment, diagnosis, treatment and recovery services provided in an organized non-residential treatment setting, including individual, group, family counseling and psycho-education on recovery as well as monitoring of drug use, medication management, medical and psychiatric examinations, crisis mitigation coverage and orientation to community-based support groups. Services may be offered during the day, before or after work or school, in the evening or on a weekend, and the program shall provide nine or more hours of structured programming per week for adults and six or more hours of structured programming per week for children/adolescents.

\* \* \*

*Licensed Mental Health Professional (LMHP)*—an individual who is currently licensed and in good standing in the state of Louisiana to practice within the scope of all applicable state laws, practice acts and the individual's professional license, as one of the following:

1. - 6. ...
7. advanced practice registered nurse (APRN); or
8. ...

*Licensed Rehabilitation Counselor (LRC)*—any person who holds himself out to the public, for a fee or other personal gain, by any title or description of services incorporating the words "licensed professional vocational rehabilitation counselor" or any similar terms, and who offers to render professional rehabilitation counseling services denoting a client-counselor relationship in which the counselor assumes responsibility for knowledge, skill, and ethical considerations needed to assist individuals, groups, organizations, or the general public, and who implies that he is licensed to engage in the practice of rehabilitation counseling. An LRC is also known as a licensed professional vocational rehabilitation counselor. An LRC is not permitted to provide assessment or treatment services for substance use/addiction, mental health or co-occurring disorders under his/her scope of practice under state law.

\* \* \*

*Medical Psychologist*—a licensed psychological practitioner who has undergone specialized training in clinical psychopharmacology and has passed a national proficiency examination in psychopharmacology approved by the LSBME.

*Medically Monitored Inpatient Withdrawal Management (Medically Supported ) (ASAM Level 3.7-WM)*—a residential program that provides 24-hour observation, monitoring and treatment delivered by medical and nursing professionals to clients whose withdrawal signs and symptoms are moderate to severe and thus require residential care, but do not need the full resources of an acute care hospital.

*Medically Monitored Intensive Inpatient Treatment Services (Co-occurring) (ASAM Level 3.7)*—a residential program that provides a planned regimen of 24-hour professionally directed evaluation, observation, medical monitoring and addiction treatment to clients with co-occurring psychiatric and substance disorders whose disorders are so severe that they require a residential level of care but do not need the full resources of an acute care hospital. The program provides 24 hours of structured treatment activities per week, including, but not limited to, psychiatric and substance use assessments, diagnosis treatment, and habilitative and rehabilitation services.

\*\*\*

*Mental Health Clinic*—an entity through which outpatient behavioral health services are provided, including screening, diagnosis, management or treatment of a mental disorder, mental illness, or other psychological or psychiatric condition or problem, mental health intensive outpatient services, and 24-hour emergency services that are provided either directly or through formal affiliation with other agencies by an interdisciplinary team of mental health professionals and subordinates in accordance with a plan of treatment or under the direction of a psychiatrist or another qualified physician with psychiatric consultation.

*Mental Health Intensive Outpatient Programs (MH IOPs)*—professionally directed assessment, diagnosis, and treatment provided in an organized non-residential treatment setting, including individual, group, family counseling and psycho-education as well as, medication management, medical and psychiatric examinations, and crisis mitigation coverage. Services may be offered during the day, before or after work or school, in the evening or on a weekend, and the program shall provide nine or more hours of structured programming per week for adults and six or more hours of structured programming per week for children/adolescents.

*Mental Health Rehabilitation (MHR)*—an outpatient healthcare program provider of any PSR, crisis intervention (CI) and/or CPST services that promotes the restoration of community functioning and well-being of an individual diagnosed with a mental health or mental or emotional disorder. The MHR provider utilizes evidence based supports and interventions designed to improve individual and community outcomes.

\*\*\*

*Mobile Crisis Response Team (MCRT)*—unlicensed staff and recognized peer support specialist deploy in teams initially to assess and address a crisis as part of mobile crisis intervention response services, enlisting the assistance of an LMHP if needed. Exceptions to the team deployment may be

made by the team leader. One staff person may deploy after the initial assessment, if appropriate as determined by the team leader. Unlicensed individuals work under the supervision of an LMHP or psychiatrist who is acting within the scope of his/her professional license and applicable state law. MCRTs operate under an agency or facility license issued by LDH Health Standards.

*Mobile Unit*—any trailer or self-propelled unit equipped with a chassis on wheels and intended to provide behavioral health services on a temporary basis at a temporary location. These units shall be maintained and equipped to be moved.

*Mothers with Dependent Children Program or Dependent Care Program*—a program that is designed to provide substance use/addiction treatment to mothers with dependent children who remain with the parent while the parent is in treatment.

\*\*\*

*Nurse*—any registered nurse licensed and in good standing with the Louisiana State Board of Nursing (LSBN) or any practical nurse licensed and in good standing with the Louisiana State Board of Practical Nurse Examiners (LSBPE).

\*\*\*

*Off-Site*—a parent facility's alternate location or premises that provides behavioral health services on a routine basis within the geographic service area of the licensed BHS provider that:

1. is detached from the parent provider and does not share the same campus;
2. the geographic service location for a public or private behavioral health services provider licensed pursuant to this Part shall be defined to include:
  - a. the parish in which the provider's business office is located;
  - b. any parish contiguous to the parish in which the provider's business office is located; and
  - c. any distance within a fifty mile radius of the provider's business office.
3. is owned by, leased by or donated or loaned to the parent provider for the purpose of providing behavioral health services; and
4. has a sub-license issued under the parent facility's license.

\*\*\*

*Onsite Access*—for purposes of §5712 of this Rule, the delivery of the treatment to the patient at the location of the residential substance use disorder facility. For purposes of §5712, onsite access does not mean that the residential substance use disorder facility is required to maintain stock of the medication-assisted treatment at the facility.

\*\*\*

*OSFM*—the Louisiana Department of Public Safety and Corrections (LDPSC), Office of State Fire Marshal (OSM).

\*\*\*

*Parent Facility*—the main building or premises of a BHS provider where services are provided on-site and administrative records are maintained.

*Partial Hospitalization Services (ASAM Level 2.5)*—an organized outpatient service that delivers treatment to adolescents and adults. This level encompasses services that meet the multidimensional instability and complex needs of

people with addiction and co-occurring conditions which do not require 24-hour care.

*Peer Support Specialist*—an individual with personal lived experience with a minimum of 12 consecutive months of recovery from behavioral health conditions and successfully navigating the behavioral health services system. Recognized peer support specialists must successfully complete an OBH-approved peer training program, continuing education requirements, and clinical supervision prior to providing peer support services.

\*\*\*

*Physician Assistant*—a licensed health care practitioner who is acting within the practice of his/her respective licensing boards(s) and/or certifications.

\*\*\*

*Prevention Specialist*—an individual who works with individuals, families and communities to create environments and conditions that support wellness and the ability of individuals to withstand changes. Prevention specialists are trained in needs assessment, planning and evaluation, prevention education and service delivery, communication, community organization, public policy and environmental change. A Prevention specialist is any person who has received credentials from the ADRA to be a licensed, certified, or registered prevention professional.

*Prevention Specialist-in-Training*—any person who has not yet met the qualifications to become a licensed, certified, or registered prevention professional, but who has made application to the ADRA in accordance with the provisions of state statute and procedures established by the ADRA, and works under the supervision as required by ADRA.

\*\*\*

*Registered Addiction Counselor (RAC)*—pursuant to R.S. 37:3387.2, any person who, by means of his/her specific knowledge acquired through formal education and practical experience, is qualified to provide addictive disorder counseling services and is registered by the ADRA as a RAC. The RAC shall not practice independently and shall not render a diagnostic impression.

\*\*\*

*Secretary*—the secretary of the LDH or his/her designee.

\*\*\*

*Site/Premises*—a single identifiable geographic location owned, leased, or controlled by a provider where any element of treatment is offered or provided. Multiple buildings may be contained in the license only if they are connected by walkways and not separated by public streets.

\*\*\*

*State Opioid Treatment Authority (SOTA)*—the agency or other appropriate officials designated by the governor or his/her designee, to exercise the responsibility and authority within the state for governing the treatment of opiate addiction with an opioid drug. The SOTA for the state of Louisiana is the OBH.

\*\*\*

*Substance Use/Addiction Treatment Service*—a service related to the screening, diagnosis, management, or treatment for the use of or addiction to controlled dangerous substances, drugs or inhalants, alcohol, problem gambling or a combination thereof; may also be referred to as substance use disorder service.

\*\*\*

*Unlicensed Professional (UP)*—for purposes of this Rule, any unlicensed behavioral health professional who cannot practice independently or without supervision by a LMHP. This includes but is not limited to CACs, RACs and unlicensed addiction counselors, social workers or psychologists.

\*\*\*

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1682 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1380 (July 2017), LR 46:587 (April 2020), LR 48:

## **Subchapter B. Licensing**

### **§5605. General Provisions**

A. - E. ...

F. Provider Names. A BHS provider is prohibited from using:

1. ...

2. a name that resembles the name of another BHS provider licensed by the department as determined by the Louisiana Secretary of State;

F.3. - G.11. ...

H. Plan Review

1. Plan review is required for outpatient clinics and residential BHS provider locations where direct care services or treatment will be provided, except for the physical environment of a substance use/addiction treatment facility or licensed mental health clinic at the time of this Chapter's promulgation.

2. - 4.b....

I. Waivers

1. - 3. ...

4. Waivers are not transferable in a CHOW or geographic change of location, and are subject to review or revocation upon any change in circumstances related to the waiver.

J. - L.9. ...

M. Geographic Service Area

1. The geographic service area is the geographic area that a BHS provider's license allows services (including all telehealth services) to be provided to clients.

2. For purposes of this licensing rule, the geographic service area shall be established as follows:

a. for providers owned and/or operated by a human service district or authority, the geographic service area shall be the parishes and jurisdiction of the district or authority in statute;

b. for providers participating in the Homebuilders program, the geographic service area shall be the parishes of the LDH region in which the provider is licensed and has its primary business office location;

i. upon receipt of a written waiver request from such provider, the LDH Health Standards Section may grant a waiver to a Homebuilders provider to operate in another LDH region for good cause shown;

ii. the LDH Health Standards Section may request from the Homebuilders provider any documentation or information necessary to be able to evaluate and make a determination to grant or deny the waiver request; and

iii. if granted, the waiver shall be for a limited time, and not to exceed six months.

c. for mobile crisis response teams, the geographic service area shall be the parishes of the LDH region in which the provider is licensed and has its primary business office location;

d. for all other BHS providers, the geographic service area shall be as follows:

i. for providers of residential services the geographic service area shall be the fixed, licensed residential location geographic address and any licensed offsite residential location geographic address only;

ii. for providers of outpatient services (other than providers with a mental health service program that provide services only in the home and community – see below) the geographic service area shall be:

(a). the geographic address of the licensed outpatient clinic;

(b). the geographic address of any licensed offsite outpatient clinic;

(c). in a home or community location in the parish in which the primary business office of the BHS provider is located;

(d). in a home or community location in any parish contiguous to the parish in which the BHS provider's primary business office is located, and

(e). in a home or community location that is within a 50 mile radius of the BHS provider's primary business office.

iii. for providers of a mental health service program that provide services only in the home and community (defined as providers without a fixed, licensed outpatient clinic that only provide behavioral health services to clients in a home or community setting) the geographic service area shall be:

(a). the geographic address of the home or community location in the parish in which the designated primary business office of the BHS provider is located;

(b). the geographic address of the home or community location in any parish contiguous to the parish in which the BHS provider's primary business office is located; and

(c). the geographic address of the home or community location that is within a 50 mile radius of the BHS provider's designated primary business office.

3. A BHS provider may not provide telehealth services outside of its geographic service area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2162.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1687 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1380 (July 2017), LR 46:588 (April 2020), LR 48:

### **§5606. License Restrictions and Exceptions**

A. - A.2. ...

B. A BHS provider may apply for a waiver from the HSS to provide home or community services to a client residing outside of the provider's designated geographic service area only under the following conditions:

B.1. - D. ...

E. Exception to Service Delivery Area. A BHS Homebuilders provider may request the approval of an

alternate service delivery area that shall include the following submitted to the HSS:

1. letter of FNR approval for the alternate geographic service delivery area; and

2. attestation that the Homebuilders program currently has less than three staff providing Homebuilders services in the alternate geographic service delivery area;

F. Exceptions during a Gubernatorial Declared State of Emergency or Disaster

1. To ensure the health and safety of clients, and the coordination and continuation of services to clients, during a gubernatorial declared state of emergency or disaster in Louisiana, the department, through written notice sent electronically to licensed BHS providers, may allow a licensed BHS provider to operate and provide services to existing clients who are receiving outpatient BHS services and who have evacuated or temporarily relocated to another location in the state when the following apply:

a. the client has evacuated or temporarily relocated to a location outside of the provider's licensed region due to the declared state of emergency or disaster;

b. the client shall have been a client of the BHS provider as of the declared state of emergency or disaster, with an approved treatment plan;

c. the provider has sufficient and qualified staff to provide services at the client's temporary location;

d. the provider is responsible for ensuring that all essential services, are provided in accordance with the treatment plan; and

e. the provider shall not interfere with the client's right to choose a provider of his/her choice if the client elects a new BHS provider in the area where the client relocates. The provider shall facilitate client's selection.

2. Under the provisions of §5606.F.1-4, the department's initial written notice to licensed BHS providers to authorize these allowances shall be for a period not to exceed 45 days. The department may extend this initial period, not to exceed an additional 45 days, upon written notice sent electronically to the licensed BHS providers.

3. Under the supervision of §5606.F.1-4, the department, in its discretion, may authorize these allowances statewide or to certain affected parishes.

4. A BHS provider who wants to provide services to a client that has temporarily relocated out of state must contact that state's licensing/certification department to obtain any necessary licensing and/or certification before providing services in that state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2162.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 46:588 (April 2020), amended LR 48:

### **§5607. Initial Licensure Application Process**

A. ...

B. The completed initial licensing application packet shall include:

1. - 2. ...

3. the LDH plan review approval letter from OSFM, if applicable;

4. - 10. ...

11. if operated by a corporate entity, such as a corporation or a limited liability company, current proof of registration and status with the Louisiana Secretary of State;



12. any other documentation or information required by the department for licensure including, but not limited to:

- a. documentation for opioid treatment programs, such as a copy of the OBH FNA letter; and
- b. a copy of the FNR approval letter for providers of PSR/CPST;

13. for a residential substance use disorder facility, submission of the attestation in accordance with §5712 of this Rule.

C. Deadline for Submitting Initial Licensure Application for Unlicensed Agencies

1. Any unlicensed agency that is a provider of any PSR, CI and/or community psychiatric support and treatment services prior to the promulgation of this Rule and is required to be licensed as a BHS provider has 180 days from the promulgation of this Rule to submit an initial licensing application packet to HSS.

C.2. - H. ...

1. A BHS provider is prohibited from providing behavioral health services to clients during the initial application process and prior to obtaining a license, unless the applicant qualifies as one of the following facilities:

1. ...
2. a licensed substance use/addiction treatment facility; or
3. an agency that is a provider of PSR, community psychiatric support and treatment, and/or CI services.

J. - J.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1688 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1381 (July 2017), LR 48:

### §5615. Renewal of License

A. ...

B. To renew a license, the BHS provider shall submit a completed license renewal application packet to the department at least 30 days prior to the expiration of the current license. The license renewal application packet shall include:

1. - 5. ...
6. payment of any outstanding fees, fines or monies owed to the department;
7. for a residential substance use disorder facility, submission of the attestation in accordance with §5712 of this Rule; and
8. any other documentation required by the department.

C. - G.3.d. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1691 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1381 (July 2017), LR 48:

### §5643. Core Staffing Personnel Qualifications and Responsibilities

A. ...

B. Professional Staffing Standards. All BHS providers shall, at a minimum, have the following staff:

1. a medical director who:

a. is a physician, or an APRN, or a MP, with a current, unrestricted license to practice in the state of Louisiana with two years of qualifying experience in treating psychiatric disorders;

\* \* \*

b. has the following assigned responsibilities:

- i. ...
- ii. provides oversight for provider policy/procedure, client treatment plans and staff regarding the medical needs of the clients according to the current standards of medical practice;

b.iii. - d. ...

2. a clinical director who, for those mental health rehabilitation providers which exclusively provide the evidenced-based practice multi-systemic therapy (MST), functional family therapy (FFT) or Homebuilders:

a. ...

b. has the following assigned responsibilities:

- i. ...
- ii. provides oversight for provider policy/procedure, client treatment plans and staff regarding the clinical needs of the clients according the current standards of clinical practice;

B.2.b.iii. - 4.viii. ...

5. nursing staff who, for those BHS providers whose services include medication management and/or addiction treatment services:

- a. provide the nursing care and services under the direction of a registered nurse (RN) necessary to meet the needs of the clients; and

b. - b.i. ...

- ii. Nursing services may be provided directly by the BHS provider or may be provided or arranged via written contract, agreement, policy, or other document. The BHS provider shall maintain documentation of such arrangement.

C. Other Staffing Requirements. The provider shall abide by the following staffing requirements that are applicable to its provider:

1. Licensed Mental Health Professionals

- a. The provider shall maintain a sufficient number of LMHPs, who are licensed to practice independently in the state of Louisiana to diagnose and treat mental illness and/or substance use, to meet the needs of the provider's clients.

b. - b.iii. ...

- iv. provide on-site and direct professional supervision of any UP or inexperienced professional;

v. - vi. ...

2. Unlicensed Professionals

- a. The provider shall maintain a sufficient number of UPs to meet the needs of its clients;

b. - b.v. ...

3. Direct Care Aides

- a. A residential provider shall have a sufficient number of direct care aides to meet the needs of the clients;

- b. A provider that provides outpatient services shall use direct care aides as needed;

3.c. - E.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1700 (September 2015), amended by the Department of Health,

Bureau of Health Services Financing, LR 43:1383 (July 2017), LR 48:

### **§5645. Personnel Records**

A. - A.10. ...

11. prior to hiring the unlicensed direct care staff member, and once employed, at least every six months thereafter or more often, the provider shall have documentation of reviewing the Louisiana state nurse aide registry and the Louisiana direct service worker registry on the Louisiana Adverse Action website to ensure that each unlicensed direct care staff member does not have a negative finding on either registry; and

A.12. - B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1702 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 48:

### **Subchapter F. Admission, Transfer and Discharge**

#### **§5669. Interior Space for Residential Facilities**

A. - C.3. ...

D. Client Bedrooms. The provider shall ensure that each client bedroom in the facility:

1. - 4. ...

5. contains no more than four beds;

EXCEPTION: Providers licensed as substance use/addiction treatment residential facilities at the time this Rule is promulgated that have more than four clients per bedroom, may maintain the existing bedroom space that allows more than four clients per bedroom provided that the bedroom space has been previously approved by a LDH waiver. This exception applies only to the currently licensed physical location.

6. - 7.c. ...

8. has a window;

D.9. - E.7. ...

8. prohibit bunk beds in the following programs:

a. clinically managed residential withdrawal management (ASAM level 3.2-WM);

b. Clinically Managed High Intensity Residential treatment services (ASAM level 3.5);

c. medically monitored intensive residential treatment services (ASAM level 3.7); and

d. medically monitored inpatient withdrawal (ASAM level 3.7WM).

F. Bathrooms

1. - 2. ...

3. The provider shall ensure that each client has personal hygiene items, such as a toothbrush, toothpaste, shampoo, and soap as needed.

4. In a multi-level facility, there shall be at least one full bathroom with bathing facility reserved for client use on each client floor.

5. ...

6. The provider shall have at least one separate toilet and a lavatory for the staff located within the facility.

H. - I. ...

J. Staff Quarters. The provider utilizing live-in staff shall provide adequate, separate living space with a private bathroom to include a shower for staff usage only.

K. - L. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1707 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1385 (July 2017), LR 48:

#### **§5670. Mobile Units**

A. All BHS providers offering services via a mobile unit shall notify the HSS prior to providing services via a mobile unit.

B. The mobile unit shall be maintained in safe working order and in compliance with applicable state and federal regulations and laws, including but not limited to those regulations and law relative to the safe and effective operation of motor vehicles.

C. A licensed behavioral health provider operating a mobile unit shall provide behavioral health services only in the geographic service area of the licensed behavioral health service provider.

D. All BHS providers utilizing a mobile unit shall have policies and procedures that address the use of mobile units.

NOTE: The provisions of this Section shall be effective upon the promulgation of this Rule and not to exceed one year as a pilot program limited only to currently licensed local governing entity (LGE) BHS providers. At the end of the one year pilot period, LDH will re-evaluate these provisions to determine whether they should continue for LGE BHS providers only, or whether to apply them to all other licensed BHS providers of mobile services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 48:

### **Subchapter J. Safety and Emergency Preparedness**

#### **§5673. Infection Control**

A. ...

B. The provider shall have an active Infection Control Program that requires:

1. reporting of infectious disease in accordance with current CDC and state and federal OPH guidelines;

B.2. - 3. ...

4. a designated infection control coordinator who:

a. develops and implements policies and procedures related to infection control that follow most recently published/current state and federal infection control guidelines in preparation for, during, and after a public health emergency or disaster; and

b. ...

5. universal precautions, including proper handwashing and personal protective equipment, as needed; and

6. ...

C. The provider shall maintain a clean and sanitary environment and shall ensure that:

1. appropriate supplies and personal protective equipment, as needed, are available to staff;

C.2. - F.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

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

41:1709 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 48:

**§5677. Inactivation of License due to a Declared Disaster or Emergency**

A. A licensed BHS provider located in a parish which is the subject of an executive order or proclamation of emergency or disaster issued, may seek to inactivate its license for a period not to exceed one year, provided that the provider:

1. - 1.b....

c. includes an attestation that the emergency or disaster is the sole causal factor in the interruption of the provision of services;

A.1.d. - E. ...

F. During the period of inactivation, the department prohibits CHOW of the provider.

G. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1711 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 48:

**Subchapter L. Additional Requirements for Mental Health Programs**

\* \* \*

**§5684. Mobile Services**

A. Outreach Mobile Services

1. community outreach services (including access to specialized care;

2. prevention and awareness strategies (primary prevention);

3. screening, brief intervention and referral to treatment (SBIRT);

4. recovery support services;

5. peer recovery coaching;

6. naran education and distribution;

7. other similar educational and outreach services; and

8. may be provided in a car, van, motor home, kiosk, etc.

B. Outreach Mobile Team

1. LMHP

2. prevention specialist

3. peer support specialist

4. Medical professional (licensed practical nurse (LPN), RN, or medical doctor (MD))

C. Behavioral Health Mobile Clinic (BHMC) Services

1. behavioral health services provided in a mobile unit that travels to various locations within the behavioral health service provider (BHSP)'s geographic service area;

2. only existing licensed LGEs shall be authorized to provide behavioral health services in a BHMC;

3. BHSP may utilize a BMHC to provide services to youth and/or adults who may be struggling to access behavioral health services through traditional means because of barriers to treatment such as transportation, family issues, child care concerns or conflicting work schedules;

4. BHSP shall ensure that services are provided in a secure, private/HIPAA compliant space and offering the same behavioral health services provided in the brick and mortar clinic;

5. BHSP shall ensure client records are maintained in a secure and confidential manner;

6. BHSP shall ensure staff is available consistent with the services provided in the BHMC; and

7. BHMC service shall be provided in a motor home/recreational vehicle type vehicle;

8. BHMC services include the following:

a. intake, assessments and enrollment of new clients;

b. medical screens for entrance into a behavioral health treatment service/program by appropriate medical professional in accordance with their scope of practice;

c. screening, brief intervention and referral to treatment;

d. counseling services;

e. coping skills;

f. case management/care coordination;

g. stress management;

h. relapse prevention;

i. individual recovery planning;

j. medication assisted treatment (MAT) services (Methadone is excluded from this mobile service); and

k. pharmacy services.

9. excluded mobile services include, but are not limited to the following:

a. Opioid Treatment Program (OTP);

b. substance use disorder residential services;

c. Medicaid home and community based services (behavioral health and waiver); and

d. crisis services.

NOTE: The provisions of this Section shall be effective upon the promulgation of this Rule and not to exceed one year as a pilot program limited only to currently licensed local governing entity (LGE) BHS providers. At the end of the one year pilot period, LDH will re-evaluate these provisions to determine whether they should continue for LGE BHS providers only, or whether to apply them to all other licensed BHS providers of mobile services.

D. Mobile Crisis Response

1. mobile crisis response services are an initial or emergent crisis intervention response for adults 21 years or over intended to provide relief, resolution and intervention provided by a mobile crisis response team (MCRT);

2. this service shall be provided under the supervision of an LMHP with experience regarding this specialized mental health service. the LMHP or physician shall be available at all times to provide back-up, support and/or consultation from assessment of risk and through all services delivered during a crisis; and

3. this service is not intended to be conducted or provided inside the vehicle; the vehicle is for transport of employees to the clients' location in their home/community.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 48:

**§5691. Behavioral Health Service Providers with a Mental Health Program that Provide Services Only in the Home and Community**

A. ...

B. Primary Business Office. The provider offering behavioral health services only in the home or community shall have a business location that:

1. - 2. ...

3. has at least one employee on duty in the primary business office during hours of operation listed on the approved license application;

4. - 5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1713 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 48:

### **§5692. Mental Health Intensive Outpatient Programs (MHIOPs)**

A. The provider shall:

1. develop admission criteria that recognizes the dual-function of MHIOPs (i.e., that they can serve as both a step-down from hospitalization and as a preventative measure to hospitalization);

2. maintain a minimum of nine contact hours per week for adults, at a minimum of three days per week, with a maximum of 19 hours per week;

3. maintain a minimum of six hours per week for children/adolescents, at a minimum of three days per week, with a maximum of 19 hours per week;

4. review and update the treatment plan in collaboration with the client as needed or at a minimum of every 30 days;

5. have the capability to provide:

- a. individual, group, and family therapy;
- b. crisis management/coverage capabilities;
- c. medication management capabilities; and
- d. basic case management services;

6. conduct a biopsychosocial assessment which must include an assessment for substance use/addiction, and refer to a proper level of care for addiction treatment, where indicated;

7. offer aftercare/continuing care group counseling services to people successfully completing a MH IOP; and

8. have a structured psychoeducational curriculum in place that covers, at a minimum, the following subjects:

- a. disease education (i.e., education on mental illness/various psychiatric illnesses);
- b. the role of medication and proper medication management in the treatment of psychiatric illnesses;
- c. education on co-occurring illnesses;
- d. education on developing a long-term recovery plan, and guidance towards getting grounded in community-based support programming geared towards people with chronic mental health challenges;
- e. education on symptom management;
- f. education on crisis management;
- g. education on the role of nutrition in the treatment of mental health issues; and
- h. education on the role of family/key personal stakeholders in a recovery plan.

B. Staffing. The provider shall ensure that:

1. a physician is on site as needed for the management of psychiatric and medical needs and on call 24 hours per day, seven days per week;

2. there is a clinical supervisor on-site 10 hours a week and on call 24 hours per day, seven days per week;

3. there is at least one LMHP on site when clinical services are being provided;

4. each LMHP/UP caseload does not exceed 1:25 active clients; and

5. there are nursing services available as needed to meet the nursing needs of the clients.

a. nursing services may be provided directly by the BHS provider or may be provided or arranged via written contract, agreement, policy or other document. The BHS provider shall maintain documentation of such arrangement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 48:

### **Subchapter M. Additional Requirements for Substance Use/Addiction Treatment Programs**

NOTE: In addition to the requirements applicable to all BHS providers, a provider that provides substance use/addiction treatment services shall meet the requirements of Subchapter M.

### **§5695. Addiction Outpatient Treatment Services (ASAM Level 1)**

A. The BHS provider shall:

1. only admit clients clinically appropriate for ASAM level 1 into this program;

A.2. - B.5.a. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1714 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 48:

### **§5697. Intensive Outpatient Treatment Services (ASAM Level 2.1)**

A. The provider shall:

1. only admit clients clinically appropriate for ASAM level 2.1 into this program;

A.2. - B.5.a. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1714 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 48:

### **§5698. Partial Hospitalization Services (substance use only) (ASAM Level 2.5)**

A. The provider shall:

1. only admit clients clinically appropriate for ASAM level 2.5 into this program;

A.1.a. - B.5.a. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:1387 (July 2017), LR 48:

### **§5699. Ambulatory Withdrawal Management with Extended On-Site Monitoring (ASAM Level 2-WM) (Adults Only)**

A. The BHS provider shall:

1. only admit clients clinically appropriate for ASAM level 2-WM into this program;

2. ...

3. ensure that level 2-WM services are offered in conjunction with intensive outpatient treatment services (ASAM level 2.1);

B. - B.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1715 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 48:

**§5701. Clinically Managed Low-Intensity Residential Treatment Services (ASAM Level 3.1)**

A. The BHS provider shall:

1. only admit clients clinically appropriate for ASAM level 3.1 into its Clinically Managed Low-Intensity Residential Treatment Services;

A.2. - B.4.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1715 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 48:

**§5703. Clinically Managed Residential Withdrawal (Social) (ASAM Level 3.2-WM)**

A. The provider shall:

1. only admit clients clinically appropriate for ASAM level 3.2-WM into its Clinically Managed Residential Withdrawal Management Program;

A.2. - B.1. ...

2. The provider shall orient the direct care staff to monitor, observe and recognize early symptoms of serious illness associated with withdrawal management and to access emergency services promptly.

C. - C.5.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1715 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 48:

**§5705. Clinically Managed Population Specific High-Intensity Residential Treatment (ASAM Level 3.3) (Adult Only)**

A. The provider shall:

1. only admit clients clinically appropriate for ASAM level 3.3 into its Clinically Managed High-Intensity Residential Treatment Services;

2. offer at least 20 hours per week of a combination of high-intensity clinical and recovery-focused services;

A.3. - B.6. ...

C. Mothers with Dependent Children Program (Dependent Care Program)

1. A provider's Mothers with Dependent Children Program shall:

a. meet the requirements of ASAM level 3.3;

1.b. - 2.f. ...

3. Clinical Care for Children. The provider shall:

a. address the specialized and therapeutic needs and care for the dependent children and develop an individualized treatment plan to address those needs, to include goals, objectives and target dates;

C.3.b. - 7.e. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

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

41:1716 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 48:

**§5707. Clinically Managed High-Intensity Residential Treatment Services (ASAM Level 3.5)**

A. The provider shall:

1. admit only clients clinically appropriate for ASAM level 3.5 into its Clinically Managed High Intensity Residential Treatment Services;

A.2. - B.6.d.i. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1717 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 48:

**§5709. Medically Monitored Intensive Inpatient Treatment Services (Co-occurring) (ASAM Level 3.7) (Adults Only)**

A. The provider shall:

1. admit only clients clinically appropriate for ASAM level 3.7 into its Medically Monitored Intensive Residential Inpatient Treatment Services; and

A.2. - B.4. ...

5. its on-site nursing staff is solely responsible for 3.7 program and does not provide services for other levels of care at the same time;

6. - 8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1718 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 48:

**§5711. Medically Monitored Inpatient Withdrawal Management (Medically Supported) (ASAM Level 3.7-WM) (Adults Only)**

A. The provider shall:

1. admit only clients clinically appropriate for ASAM level 3.7-WM into its Medically Monitored Inpatient Withdrawal Management Program;

A.2. - C.2.e.ii ...

3. Clinical Supervisor and UPs

3.a. - 5....

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1718 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 48:

**Subchapter N. Additional Requirement for Substance Use/Addictive Residential Treatment Programs**

NOTE: In addition to the requirements applicable to all BHS providers, residential programs that treat substance use/addiction shall meet the applicable requirements below.

**§5712. Onsite Access to Medication-Assisted Treatment**

A. Each residential substance use disorder facility licensed as a BHS provider that provides treatment for opioid use disorder shall provide all of the following:

1. onsite access, as defined in the Rule, to at least one form of FDA-approved opioid antagonist treatment; and

2. onsite access, as defined in this Rule, to at least one form of FDA-approved partial opioid agonist treatment.

B. A residential substance use disorder facility licensed as a BHS provider shall not be found to be in violation of this Section if prior authorization from a patient's health insurer, a Medicaid program, is required, and the preapproval request is denied by the patient's health insurer.

C. Each residential substance use disorder facility licensed as a BHS provider which provides treatment for opioid use disorder shall submit to the department on its initial licensing application and/or its annual licensing renewal application an attestation as to whether it is complying with the requirements of §5712.A and when such compliance began.

D. If the licensed facility is not fully complying with the requirements of §5712.A, then the attestation that the facility submits to the department shall include a report addressing its progress toward satisfying the requirements of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 48:

### **Subchapter O. Additional Requirement for Substance Opioid Treatment Programs**

\* \* \*

#### **§5723. General Provisions**

- A. A provider with an opioid treatment program shall:
1. meet the requirements of the protocols established by OBH/SOTA;
  2. ...
  3. upon the death of a client:
    - a. report the death of a client enrolled in their clinic to the SOTA within 24 hours of the discovery of the client's death;
    - b. ...
    - c. submit documentation on the cause and/or circumstances to SOTA and to HSS, if applicable, within 24 hours of the provider's receipt of the documentation; and
  - 3.d. - 4....

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1720 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1388 (July 2017), LR 48:

#### **§5725. Treatment**

- A. - B.5.c. ...
- C. Counseling. The provider shall ensure that:
1. - 4. ...
  5. all counseling is provided individually or in homogenous groups, including but not limited to family member(s), spouse, child(ren) or significant other as identified by the client, not to exceed 12 clients.
- D. Physical Evaluations/Examinations. The provider shall ensure that each client has a documented physical evaluation and examination by a physician or APRN as follows:

1. - 5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1721 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 48:

#### **§5727. Additional Staffing Requirements**

- A. - A.1.b. ...
- c. The provider's pharmacist or dispensing physician shall:
- i. - v. ...
  - vi. maintain medication records for at least three years in accordance with state laws, rules and regulations;
  - vii. approve all transport devices for take-home medications in accordance with the program's diversion control policy;
  - viii. work collaboratively with the medical director to decrease the dose to accomplish gradual, but complete withdrawal, only when requested by the member;
  - ix. contribute to the development of the initial treatment plan;
  - x. contribute to the documentation for the treatment plan review every 90 days in the first two years of treatment; and
  - xi. document response to treatment in progress notes at least every 30 days.
2. Nursing
- a. - b. ...
- c. The responsibilities of the nurse(s) include but are not limited to:
- i. administering medications;
  - ii. monitoring the client's response to medications;
  - iii. evaluating the client's use of medications and treatment from the program and other sources;
  - iv. documenting responses to treatment in progress notes at least every 30 days;
  - v. contributing to documentation for the treatment plan review every 90 days in the first two years of treatment;
  - vi. conducting drug screens; and
  - vii. participating in discharge planning.
3. Licensed Mental Health Professionals
- a. ...
- b. licensed mental health professionals shall have a current, valid and unrestricted license in the state of Louisiana, and must comply with current, applicable scope of practice and supervisory requirements identified by their respective licensing boards.
- i. - ii. Repealed.
- c. the LMHP providing substance use treatment services shall have documented credentials, experience and/or training in working with members who have substance use disorders, which shall be maintained in the individual's personnel record.
- d. the provider shall ensure that:
- i. the caseload of the LMHP shall not exceed 75 active clients; and
  - ii. there is an LMHP on site at least five hours/week.
- e. licensed mental health professionals shall provide the following services:
- i. conduct orientation;
  - ii. develop the initial plan for treatment;
  - iii. revise treatment to include input by all disciplines, members and significant others;
  - iv. provide individual counseling;
  - v. contribute to the development as well as document the initial treatment plan;

vi. document response to treatment in progress notes at least every 30 days;

vii. contribute to the development as well as document reviews of treatment plan every 90 days in the first two years of treatment by the treatment team; and

viii. conduct in discharge planning as appropriate.

#### 4. Unlicensed Professionals

a. - b. ...

c. unlicensed professionals of substance use services must be registered with the addictive disorders regulatory authority (ADRA) and meet regulations and requirements in accordance with RS 37:3387 et seq.

i. written verification of ADRA registration and documentation of supervision when applicable shall be maintained in the individual's personnel record.

ii. unlicensed staff who fall under a professional scope of behavioral health practice with formal board approved clinical supervision and whose scope includes the provision of substance use services will not need to register with ADRA.

d. unlicensed substance use providers must meet at least one of the following qualifications:

i. be a master's prepared behavioral health professional that has not obtained full licensure privileges and is participating in ongoing professional supervision. When working in substance use treatment settings, the master's-prepared UP must be supervised by an LMHP, who meets the requirements of this Section;

ii. be a registered addiction counselor;

iii. be a certified addiction counselor; or

iv. be a CIT that is registered with ADRA and is currently participating in a supervision required by the addictive disorders practice act.

e. unlicensed professionals perform the following services under the supervision of a physician or LMHP:

i. participate in conducting orientation;

ii. participate in discharge planning as appropriate; and

iii. provide support to the treatment team where applicable, while only providing assistance allowable under the auspices of and pursuant to the scope of the individual's license.

5. Physician or APRN. There shall be a physician or APRN who is on-site as needed or on-call as needed during hours of operation.

a. the physician or APRN shall have a current, valid unrestricted license to practice in the state of Louisiana. The physician or APRN shall be on-site or on-call as needed during the hours of operation to provide the following services:

i. examine member for admission (physician only)

ii. administer medications;

iii. monitor the member's response to medications;

iv. evaluate the member's use of medication and treatment from the program and other sources;

v. contribute to the development of the initial treatment plan;

vi. contribute to the documentation regarding the response to treatment for treatment plan reviews;

vii. contribute to the documentation for the treatment plan review every 90 days in the first two years of treatment;

viii. conduct drug screens; and

ix. participate in discharge planning.

#### 6. Medical Director.

a. the provider shall ensure that its medical director is a licensed physician with a current, valid unrestricted license to practice in the state of Louisiana with two years of qualifying experience in treating psychiatric disorders.

b. the medical director shall provide the following services:

i. decrease the dose to accomplish gradual, but complete withdrawal, only when requested by the member;

ii. provide medically approved and medically supervised assistance for withdrawal, only when requested by the member;

iii. participate in the documentation of reviews of treatment plan every 90 days in the first two years of treatment;

iv. order take home doses; and

v. participate in discharge planning.

#### 7. Clinical Supervisor (CS)

a. state regulations require supervision of unlicensed professionals by a CS, who:

i. is an LMHP that maintains a current and unrestricted license with its respective professional board or licensing authority in the state of Louisiana;

ii. shall be on duty and on call as needed; and

iii. has two years of qualifying clinical experience as an LMHP in the provision of services provided by the provider;

b. the CS shall have the following responsibilities:

i. provide supervision utilizing evidenced-based techniques related to the practice of behavioral health counseling;

ii. serve as resource person for other professionals counseling persons with behavioral health disorders;

iii. attend and participate in care conferences, treatment planning activities, and discharge planning;

iv. provide oversight and supervision of such activities as recreation, art/music, or vocational education;

v. function as member advocate in treatment decisions;

vi. ensure the provider adheres to rules and regulations regarding all behavioral health treatment, such as group size, caseload, and referrals;

vii. provide only those services that are within the person's scope of practice; and

viii. assist the clinical director and/or medical director and governing body with the development and implementation of policies and procedures.

B. Training. All direct care employees shall receive orientation and training for and demonstrate knowledge of the following, including, but not limited to:

1. - 3. ...

4. poly-drug addiction;

5. information necessary to ensure care is provided within accepted standards of practice; and

6. non-licensed direct care staff are required to complete a basic clinical competency training program approved by OBH prior to providing the service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1721 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 48:

### §5729. Medications

A. - B.4. ...

5. Exceptions to the Standard Schedule. The provider shall request and obtain approval for a federally identified exception to the standard schedule from the SOTA. Any exception shall be for an emergency or severe travel hardship.

C. - C.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1722 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1388 (July 2017), LR 48:

#### Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

#### Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

#### Small Business Analysis

In compliance with Act 820 of the 2008 Regular Session of the Louisiana Legislature, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule will have no impact on small businesses, as described in R.S. 49:978.1 et seq.

#### Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

#### Public Comments

Interested persons may submit written comments to Tasheka Dukes, RN, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821. Ms. Dukes is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on April 1, 2022.

#### Public Hearing

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the

Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on March 14, 2022. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on March 31, 2022 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after March 14, 2022. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage, which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Dr. Courtney N. Phillips  
Secretary

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: Behavioral Health Service Providers Licensing Standards

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 21-22. It is anticipated that \$7,560 will be expended in FY 21-22 for the state's administrative expense for promulgation of this proposed rule and the final rule.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will have no effect on revenue collections since the fees from currently licensed providers will continue to be collected in the same amounts.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

In compliance with Act 328 of the 2020 Regular Session of the Louisiana Legislature and Acts 372 and 433 of the 2021 Regular Session of the Louisiana Legislature, this proposed rule amends the provisions governing the licensing of behavioral health service providers in order to: 1) provide further definitions and provisions related to the geographic service area, 2) update the licensure and staff requirements, 3) update admission, transfer and discharge requirements, and 4) add provisions governing mobile services, mental health intensive outpatient programs, and onsite access to medication assisted treatment. Implementation of this proposed rule will impact behavioral health providers that elect to offer behavioral health services via mobile units, since any costs with regard to the mobile unit will be incurred by the provider. Since behavioral health providers may choose whether or not to utilize mobile units, it is not possible to estimate the potential impact on these providers in FY 21-22, FY 22-23 and FY 23-24; however, those that pursue this option will benefit from the guidance the rule provides for offering services via a mobile unit.



IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)

This rule has no known effect on competition and employment.

Tasheka Dukes, RN  
Deputy Assistant Secretary  
2202#048

Evan Brasseaux  
Interim Deputy Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

Nursing Facilities  
Licensing Standards  
(LAC 48:I.9767)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 48:I.9767 as authorized by R.S. 36:254 and 40:2009.1 et seq. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health, Bureau of Health Services Financing proposes to amend the provisions governing the licensing of nursing facilities in order to allow a facility to request one six-month extension of a two year license inactivation following the issuance of an executive order or proclamation of an emergency or disaster.

**Title 48**

**PUBLIC HEALTH-GENERAL**

**Part I. General Administration**

**Subpart 3. Licensing and Certification**

**Chapter 97. Nursing Facilities**

**Subchapter B. Organization and General Services**

**§9767. Emergency Preparedness**

A. - J.2. ...

K. Inactivation of License due to Declared Disaster or Emergency

1. A licensed nursing facility in an area or areas which have been affected by an executive order or proclamation of emergency or disaster issued in accordance with R.S. 29:724 or R.S. 29:766 may seek to inactivate its license for a period not to exceed two years, provided that the following conditions are met:

a. - a.iii. ...

\* \* \*

b. the licensed nursing facility resumes operating as a nursing facility in the same service area within two years of issuance of an executive order or proclamation of emergency or disaster in accordance with R.S. 29:724 or R.S. 29:766;

i. A nursing facility may request one extension, not to exceed an additional six months for good cause shown by the facility. This request for an extension may be granted at the sole discretion of the department.

K.1.c. - M.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1905 (November 2016), amended LR 48:

**Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

**Poverty Impact Statement**

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

**Small Business Analysis**

In compliance with Act 820 of the 2008 Regular Session of the Louisiana Legislature, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule will have no impact on small businesses, as described in R.S. 49:978.1 et seq.

**Provider Impact Statement**

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

**Public Comments**

Interested persons may submit written comments to Tasheka Dukes, RN, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821. Ms. Dukes is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on April 1, 2022.

**Public Hearing**

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on March 14, 2022. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on, March 31, 2022 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after March 14, 2022. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage, which is located between North Sixth and North Fifth/North and Main Streets (cater-corner

from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Dr. Courtney N. Phillips  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Nursing Facilities Licensing Standards**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 21-22. It is anticipated that \$540 will be expended in FY 21-22 for the state's administrative expense for promulgation of this proposed rule and the final rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will not affect federal revenue collections since the licensing fees, in the same amounts, will continue to be collected.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

This proposed rule amends the provisions governing the licensing of nursing facilities in order to allow a facility to request one six-month extension of a two year license inactivation following the issuance of an executive order or proclamation of an emergency or disaster. It is anticipated that implementation of this proposed rule will not result in costs to nursing facility providers in FY 21-22, FY 22-23 and FY 23-24, but will be beneficial to facilities requiring additional time to reopen following a declared emergency or disaster.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

This rule has no known effect on competition and employment.

Tasheka Dukes, RN  
Deputy Assistant Secretary  
2202#049

Evan Brasseaux  
Interim Deputy Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Public Safety and Corrections  
Corrections Services**

**Offender Incentive Pay and Other Wage Compensation  
(LAC 22:I.331)**

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950), the Department of Public Safety and Corrections, Corrections Services, hereby gives notice of its intent to amend the contents of §331, Offender Incentive Pay and Other Wage Compensation.

Pursuant to R.S. 15:873, the Department of Public Safety and Corrections, Corrections Services, proposes to adjust incentive wage pay rates for offender tutors, mentors and facilitators on a graduating scale. These changes will establish the respective wages and make them uniform

across all facilities. Also included in the proposed amendment are minor language and punctuation changes.

**Title 22**

**CORRECTIONS, CRIMINAL JUSTICE AND LAW  
ENFORCEMENT**

**Part I. Corrections**

**Chapter 3. Adult Services**

**Subchapter A. General**

**§331. Offender Incentive Pay and Other Wage  
Compensation**

A. Purpose—this department regulation governs payment of incentive pay and other wage compensation to offenders.

B. Applicability—deputy secretary, undersecretary, chief of operations, director of prison enterprises, regional wardens and wardens. Each warden and the director of prison enterprises shall ensure appropriate facility written policies and procedures are in place to comply with the provisions of this department regulation.

C. Policy. Compensation shall be paid, in accordance with the provisions of this department regulation and the applicable and governing laws, to offenders who have performed satisfactory work in the job assignment in which they have been classified, except those offenders who opt to receive good time in lieu of incentive pay pursuant to R.S. 15:571.3.

**D. Eligibility**

1. An offender sentenced or resentenced or who is returning to the physical custody of the department on or after September 20, 2008 who is not eligible to earn good time at any rate shall serve three years from the date of reception prior to becoming eligible to earn incentive pay.

a. Grandfather Clause: Offenders Received at a Reception and Diagnostic Center Prior to September 20, 2008

i. The provisions of Paragraph D.1 above shall apply to offenders received at a reception and diagnostic center on or after September 20, 2008. Offenders received at a reception and diagnostic center prior to September 20, 2008 shall be subject to the waiting period previously in effect for this regulation. Offenders who are currently receiving incentive pay shall not be affected and shall continue to be eligible to receive incentive pay as they did on the effective date of this regulation, but shall be subject to the provisions of Subparagraph E.2.a as it applies to job changes.

b. Exception. Offenders participating in a certified apprenticeship program

i. Offenders in the physical custody of the department who are participating in a certified apprenticeship program shall not be required to serve three years from the date of reception prior to becoming eligible to earn incentive pay. These offenders shall be eligible to earn incentive pay while participating in the certified apprenticeship program.

2. An offender sentenced or re-sentenced or who is returning to the physical custody of the department on or after September 20, 2008, who is eligible to earn good time at any rate shall not be eligible to earn incentive pay.

a. Grandfather Clause: Offenders Earning Good Time Pursuant to Act 1099 of the 1995 Regular Session

i. Offenders currently earning good time at a rate of three days for every 17 days served pursuant to Act 1099 of the 1995 Regular Session who are also earning incentive pay shall be allowed to continue to earn incentive pay at authorized rates.

E. Procedures

1. Pay Rules

a. 80 hours in a Two-Week Period

i. No offender shall earn incentive pay for more than 80 hours in a two-week period, unless specifically authorized by mutual agreement of the director of prison enterprises and the warden of the respective institution.

ii. Exception: Governor's Mansion

(a). Offenders assigned to job duties at the governor's mansion shall not be limited to 80 hours in a two week period.

b. Actual Hours Worked

i. Offenders who are eligible to earn incentive pay shall be paid only for actual hours worked in their job assignment. Offenders shall not be paid for time spent away from their job assignment due to circumstances such as holidays, callouts, duty status, weather, illness, etc.

c. Extra Duty Assignments

i. Incentive pay shall not be paid for extra duty assignments that are imposed as sanctions through the offender disciplinary process.

d. Forfeiture Due to Disciplinary Sanction

i. Any offender whose incentive pay is forfeited as a disciplinary sanction shall return to the "introductory pay level" of \$0.02 per hour for a six-month period if his eligibility to earn incentive pay is reinstated. At the end of the six-month period, the offender's pay shall be automatically adjusted to the lowest pay rate for the assigned job.

e. Professional Offender Job Classifications

i. Offenders who were previously incarcerated and working in a professional offender job classification who return to the physical custody of the department shall not be ensured placement in the previously worked professional offender job classification. Placing an offender in a previously worked professional offender job classification shall be at the discretion of the warden or designee.

ii. Once eligible to earn incentive pay, if a returning offender is placed in a previously worked professional offender job classification, the offender shall be paid at the lowest pay rate and shall earn any increases in pay rate by working his way up the pay scale as if he had not previously worked in the professional offender job classification.

iii. For the purpose of this regulation, a *professional offender job classification* is defined as a peer minister/tutor, mentor/tutor, American Sign Language interpreter, or counsel substitute.

f. Private Sector/Prison Industry Enhancement (PS/PIE) Programs or Work Release Programs

i. For the purpose of this regulation, wages earned from a private sector/ prison industry enhancement (PS/PIE) program or a work release program shall not be considered "incentive pay." Therefore, offenders employed in any of these programs are eligible to earn good time. The director of prison enterprises shall establish record-keeping

procedures relating to wages earned by offenders employed in a PS/PIE program which shall include all mandatory deductions from offender wages, other deductions such as child support or garnishment, and the distribution of net offender wages to offender banking.

2. Pay Rates

a. Once eligible to earn incentive pay, each offender shall initially be paid an "introductory pay level" of \$0.02 per hour for a period of six months. After six months, the offender shall be paid at the lowest pay rate that is commensurate with the job assignment he is placed in by the institution. In the event of a change in an offender's job assignment or custody status, the offender's rate of compensation shall automatically be adjusted to the lowest pay rate of the assigned job. If a change in job assignment is not for disciplinary reasons, the warden may approve the offender to be paid at the same rate as the previous job assignment and the rate of compensation shall not be automatically adjusted to the lowest pay rate of the new job assignment.

i. Grandfather Clause: Offenders Earning Incentive Pay Prior to Effective Date of this Regulation

(a). Offenders earning incentive pay at any rate, prior to the effective date of this regulation, shall continue to earn at these rates. If the offender is reassigned to a new job or vacates the job for any reason and it has been determined the rate of pay for the job that he is leaving should be lower, the next offender to fill that position shall receive the adjusted lower rate.

b. An offender may receive an increase in his/her hourly pay rate of no greater than \$0.04 per hour on an annual basis unless specifically authorized by mutual agreement of the director of prison enterprises and the warden of the respective institution, except as provided below in Subparagraphs E.2.f. - 1 of this Section.

c. A series of pay ranges and a standardized list of job titles shall be established by the director of prison enterprises and approved by the secretary or designee. The institutions shall be assigned limits on the total amount of incentive pay paid in certain pay ranges. These limits shall be derived on a percentage basis determined by the total hours worked by offenders who are eligible to earn incentive pay at each institution and shall be approved by the director of prison enterprises and the secretary or designee. Prison enterprises shall issue reports detailing each institution's status with regard to their limits on a quarterly basis. Offender banking shall monitor the assigned limits to ensure that the institutions remain within their limits and report discrepancies to the chief of operations, the appropriate regional warden, the director of prison enterprises and the warden of the institution.

i. The regional wardens shall work closely with the director of prison enterprises to ensure that any institution that exceeds the established limits is brought back into compliance in an expeditious manner.

ii. Exception: Offenders in PE Job Titles

(a). Offenders who work in prison enterprises job titles shall not affect an institution's pay range percentage limits.

d. All offenders classified in limited duty status and who are eligible to earn incentive pay shall earn at a rate of no more than \$0.04 per hour. This excludes offenders

classified as regular duty with restrictions or those with a temporary limited duty status.

e. All offenders classified in working cellblocks and maximum custody field lines who are eligible to earn incentive pay shall earn at the rate of \$0.02 per hour.

f. All offenders assigned as students to educational or career and technical education programs who are eligible to earn incentive pay shall be paid at the rate of \$0.04 per hour.

i. Exception: Offenders in NOBTS

(a). Offenders enrolled in the New Orleans Baptist Theological Seminary program and its positive impact on the department, offenders enrolled in this program shall earn incentive pay at the following rates.

Freshmen:	\$0.14 per hour
Sophomores:	\$0.16 per hour
Juniors:	\$0.18 per hour
Seniors:	\$0.20 per hour.

ii. Upon completion of any educational or career and technical education program, the offender may, upon request and at the discretion of the warden and based upon availability, return to the same job at the same rate of pay he held prior to enrollment in the program.

g. Offenders assigned to prison enterprises industrial, agricultural service or other prison enterprises jobs may be compensated at a rate up to \$0.40 per hour, pursuant to 2009 La. Acts No. 85 § 1 (R.S. 15:873). The pay range for prison enterprises jobs shall be established by the director of prison enterprises and approved by the secretary or designee.

h. Tutors shall earn incentive pay at the following rates.

Registered Academic Tutor	\$0.25 per hour	Registered CTE Tutor	\$0.25 per hour
Certified Academic Tutor	\$0.65 per hour	Certified CTE Tutor	\$0.65 per hour
Certified College Tutor	\$0.75 per hour	Lead Certified CTE Tutor	\$0.75 per hour

i. Registered Tutors may earn \$0.25 per hour during the first 12 months after registration and may receive an annual increase of \$0.05 per hour, up to a maximum of \$0.50 per hour. Certified Tutors may earn \$0.65 per hour during the first 12 months after certification and may receive an annual increase of \$0.05 per hour, up to a maximum of \$1.00 per hour.

i. Offenders who have completed the department's American Sign Language course shall earn incentive pay at the following rates.

BEI III or BEI Basic	\$0.70 per hour
BEI IV or BEI Advanced OR RID NIC	\$0.80 per hour
BEI V or BEI Master	\$0.90 per hour May be increased to a maximum of \$1.00 per hour, at the discretion of the secretary or designee.

j. Offenders working as mentors shall earn incentive pay at the following rates.

Mentor:	\$0.50 per hour
Certified Mentor:	\$0.65 per hour
Lead Certified Mentor:	\$0.75 per hour

i. Mentors may earn \$0.50 per hour during the first 12 months in this position and may receive an annual increase of \$0.05 per hour, up to a maximum of \$0.65 per hour. Certified Mentors may earn \$0.65 per hour during the first 12 months in this position and may receive an annual increase of \$0.05 per hour, up to a maximum of \$0.75 per hour. Lead certified mentors may earn \$0.75 per hour during the first 12 months in this position and may receive an annual increase of \$0.05 per hour, up to a maximum of \$1.00.

k. Offenders who are assigned to work as counsel substitutes shall be paid in accordance with their education and years of legal experience. Incentive pay shall be earned at the following rates.

Legal Worker 1	\$0.25 per hour Must be enrolled in paralegal classes OR have less than five years legal work experience.
Legal Worker 2	\$0.50 per hour Must have attained paralegal certificate or paralegal degree and have less than three years legal work experience OR have five years legal work experience and no paralegal certificate or paralegal degree.
Legal Worker 3	\$0.80 per hour Must have attained paralegal certificate or paralegal degree and have a minimum of three years legal work experience OR have ten years legal work experience and no paralegal certificate or paralegal degree.
Counsel Substitutes	May receive an annual increase of \$0.05 per hour, up to a maximum of \$1.00 per hour, at the discretion of the secretary or designee.

l. Offenders working as facilitators shall earn incentive pay at the following rates:

Facilitator	\$0.20 per hour
-------------	-----------------

a. Facilitators may earn \$0.20 per hour during the first 12 months in this position and may receive an annual increase of \$0.05 per hour, up to a maximum of \$0.40 per hour.

F. Sources of Funding

1. Pursuant to R.S. 15:873, offender compensation may be paid from the following sources:

a. offenders assigned to any state agency that operates from self-generated revenues shall be paid from those self-generated revenues; or

b. The division of prison enterprises.

2. Pursuant to R.S. 15:873, offenders who are employed in a certified PS/PIE program shall be paid by one of the following, in accordance with the PS/PIE program's operational model and the terms of the employment agreement:

- a. the private business that employs the offender; or
- b. the Division of Prison Enterprises.

3. Offenders who are participating in a transitional work program shall be paid by the private business that

employs them, in accordance with the terms of the employment agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:950.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 34:1927 (September 2008), amended LR 36:531 (March 2010), LR 38:1253 (May 2012), LR 40:2600 (December 2014), LR 41: 1307 (July 2015), LR 45:69 (January 2019), LR 48:

**Family Impact Statement**

Amendment to the current Rule should not have any known or foreseeable impact on family formation, stability or autonomy, as described in R.S. 49:972.

**Poverty Impact Statement**

The proposed Rule should not have any known or foreseeable impact on poverty as described in R.S. 49:973.

**Small Business Analysis**

The proposed Rule should not have any known or foreseeable costs and/or benefits to directly affected persons, small businesses, or non-governmental groups.

**Provider Impact Statement**

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2024 Regular Legislative Session.

**Public Comments**

Written comments may be addressed to Natalie Laborde, Executive Counsel, Department of Public Safety and Corrections, P. O. Box 94304, Baton Rouge, LA 70804 until 4:30 p.m. on February 9, 2022.

James M. Le Blanc  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

**RULE TITLE: Offender Incentive Pay and Other Wage Compensation**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed revisions regarding offender incentive pay and the recategorization and creation of certain positions will result in an increase in self-generated revenue expenditures for the Department of Public Safety & Corrections (DPS&C); however, such costs are indeterminable.

The proposed rules will increase the incentive pay for Tutors in some instances, decrease the incentive pay in others, and create new categories of incentive pay. The net fiscal impact associated with the incentive pay adjustments is indeterminable as it is unknown what number of future Tutors will be assigned to each category. In addition, the proposed rules will combine multiple mentor programs across correctional facilities and reclassify mentor positions; the increase in the number of inmates classified as Certified Mentors will result in an indeterminable increase in costs. Finally, the proposed rules create the new position of Facilitator with a pay rate of \$0.20 per hour, which will result in an increase in the expenditures. The department estimates there will be no more than twenty Facilitators per correctional facility; actual costs are indeterminable and will depend upon the number of participants and hours worked.

Offender incentive pay is funded through self-generated revenue through the Division of Prison Enterprises.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no effect on revenue collections of state or local governmental units as a result of the proposed rule changes.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

Offenders who receive an increase in their hourly pay will experience economic benefits; however, some offenders will experience an economic loss due to the decrease in their hourly pay as a result of the proposed rules. Other offenders will have the opportunity to receive incentive pay with the creation of new categories.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There is no estimated effect on competition and employment as a result of the proposed rule changes.

Thomas C. Bickham, III  
Undersecretary  
2202#010

Alan M. Boxberger  
Deputy Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Revenue  
Policy Services Division**

Income: Withholding Tax (LAC 61:I.1515)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and Act 285 of the 2021 Regular Session of the Louisiana Legislature, and R.S. 47:114, 114.1, 1511, 1520(A)(2) the Department of Revenue, Policy Services Division, (“the Department”), gives notice that rulemaking procedures have been initiated to amend LAC 61:I.1515. Louisiana Revised Statute 1520(A)(2) authorizes the Secretary the discretion to require electronic filing of tax returns or reports by administrative rule promulgated with legislative oversight in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The purpose of this regulation is to amend the rule on Mandatory Electronic Filing of Tax Returns to conform to the return reporting requirements set forth under Louisiana Revised Statute 47:114.1 as authorized by Act 285 of the 2021 Regular Session of the Louisiana Legislature. Specifically, this proposed amendment requires service recipients who file 50 or more Federal Form 1099-NEC to file such forms electronically using the electronic format prescribed by the department.

**Title 61**

**REVENUE AND TAXATION**

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

**Chapter 15. Income: Withholding Tax**

**§1515. Withholding Tax Statements and Returns—  
Electronic Filing Requirements**

**A. - C. ...**

a. Service recipients that file 50 or more Federal Form 1099-NECs due on or after January 1, 2022, are required to electronically file Federal Form 1099-NECs using the electronic format prescribed by the department.

**D. - E. ...**

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:114, R.S. 47:287.614, R.S. 47:609, R.S. 47:1511 and R.S. 47:1520(A)(2).

HISTORICAL NOTE: Promulgated by the Louisiana Department of Revenue, Policy Services Division, LR 28:1489 (June 2002), amended LR 35:2204 (October 2009), LR 38:2382 (September 2012), amended LR44:1638 (September 2018), amended by the Department of Revenue, Policy Services Division, LR 48:

### Family Impact Statement

The proposed amendments to LAC 61:I.1515, regarding return reporting requirements for Income Tax withholding, should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically, the implementation of this proposed rule will have no known or foreseeable effect on:

1. The stability of the family.
2. The authority and rights of parents regarding the education and supervision of their children.
3. The functioning of the family.
4. Family earnings and family budget.
5. The behavior and personal responsibility of children.
6. The ability of the family or a local government to perform this function.

### Poverty Statement

This proposed regulation will have no impact on poverty as described in R.S. 49:973.

### Small Business Analysis

It is anticipated that this proposed amendment should not have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act. The agency, consistent with health, safety, environmental and economic factors has considered and, where possible, utilized regulatory methods in drafting this proposed amendment to accomplish the objectives of applicable statutes while minimizing any anticipated adverse impact on small businesses.

### Provider Impact Statement

The proposed amendment will have no known or foreseeable effect on:

1. The staffing levels requirements or qualifications required to provide the same level of service.
2. The total direct and indirect effect on the cost to the provider to provide the same level of service.
3. The overall effect on the ability of the provider to provide the same level of service.

### Public Comments

Any interested person may submit written data, views, arguments or comments regarding these proposed amendments to Christina Junker, Attorney, Policy Services Division, Office of Legal Affairs by mail to P.O. Box 44098, Baton Rouge, LA 70804-4098. All comments must be received no later than 4:00 p.m., Friday, March 25, 2022.

### Public Hearing

A public hearing will be held on Monday, March 28, 2022, at 10:00 a.m. in the LaBelle Room, on the first floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA 70802.

Kevin Richard  
Secretary

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: **Income: Withholding Tax**

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Implementation of this proposed rule amendment will result in approximately \$51,360 of programming and testing costs to redesign the current web application for electronic filing. This proposed rule amends the rule requiring electronic filing of withholding tax statements and returns. Specifically, this proposed amendment requires service recipients who file 50 or more federal 1099-NEC forms to file such forms electronically with the Louisiana Department of Revenue (LDR).

Local governmental units are not affected by this proposal.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated direct material effect on governmental revenues as a result of this proposed rule amendment.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Although LDR cannot determine the additional costs incurred by these service recipients to comply with this change, any costs are expected to be minimal, as online access and activity has largely become a business standard. These filers may incur costs to the extent that additional fees are charged by tax preparers or tax preparation software companies.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule amendment is not anticipated to have any effect on competition or employment.

Kevin J. Richard  
Secretary  
2202#026

Alan M. Boxberger  
Deputy Fiscal Officer  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Wildlife and Fisheries Wildlife and Fisheries Commission

#### Domesticated Aquatic Organisms (LAC 76:VII.Chapter 9)

Editor's Note: This Notice of Intent is being repromulgated to correct a manifest typographical error. The original document may be viewed on pages 1607-1609 of the October 20, 2021 edition of the *Louisiana Register*.

Under the authority of R.S. 56:411, et seq., and in accordance with the provisions of the Administrative Procedure Act, La. R.S. 49:950, et seq., the Wildlife and Fisheries Commission hereby advertises its intent to add and update permit fees as mandated in Act 356 of the 2021 Legislative Session. Additional definitions were added to this Rule which further define the permits as updated in law. The associated fees serve to offset departmental costs for required inspection and oversight.

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of

Intent and final Rule, including but not limited to, the filing of the fiscal and economic impact statement, the filing of the notice of intent and final rule and the preparation of reports and correspondence to other agencies of government.

#### Title 76

### WILDLIFE AND FISHERIES

#### Part VII. Fish and Other Aquatic life

#### Chapter 9. Aquaculture

#### §900. Domesticated Aquatic Organisms (DAO)

##### A. Definitions

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*Culture*—all activities associated with the rearing, nurturing, or growing of approved DAO species and life stages.

\*\*\*

*Species Specific Culture Permits*—permits that are required for any species which have restricted methods of culture.

\*\*\*

##### B. - D.20. ...

E. The Domesticated Aquatic Organism License shall cost \$25 for residents and \$500 for nonresidents. All holders of species specific culture permits must have a valid domesticated aquatic organism license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:327(A)(2) and R.S. 56:411.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 47:1335 (September 2021), amended LR 48:

#### §901. Triploid Grass Carp (TGC)

##### A. - B.3.e. ...

##### C. TGC Sales Permit

##### 1. Request Procedure for a TGC Sales Permit

a. Individuals wishing to sell live TGC in the state must first obtain a TGC Sales Permit through an application furnished by the department.

b. The TGC Sales Permit shall be valid for one year beginning January 1 and ending December 31 of that same calendar year. The permit may be purchased at any time during the year for the current permit year and beginning November 15 for the immediately following permit year. The cost of a TGC Sales Permit is \$100.

##### C.1.c. - D.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:318, R.S. 56:319 and R.S. 56:319.1.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Office of Fisheries, LR 17:806 (August 1991), amended LR 19:511 (April 1993), LR 24:962 (May 1998), LR 37:3534 (December 2011), repromulgated LR 38:433 (February 2012), amended by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 47:1337 (September 2021), LR 48:

#### §903. Tilapia

##### A. - F.4. ...

##### G. General Rules for Tilapia

1. The cost of a tilapia culture permit shall be \$100 and live holding permit shall be \$50 and may include the actual cost of the on-site inspection. Universities conducting research approved by the department shall be exempt from the fee charge.

##### G.2. - G.15. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:318, R.S. 56:319 and R.S. 319.1.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Office of Fisheries, LR 17:804 (August 1991), amended LR 20:1022 (September 1994), LR 21:594 (June 1995), LR 25:1987 (October 1999), amended by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 47:1338 (September 2021), LR 48:

#### §911. Shovelnose Sturgeon

##### A. - F.3. ...

##### G. General Rules for Shovelnose Sturgeon

1. The cost of a Shovelnose Sturgeon permit shall be \$100 and may include the actual cost of the on-site inspection. Universities and other facilities conducting research approved by the department shall be exempt from the fee charge.

##### G.2. - H.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:318 and R.S. 56:319.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 44:1455 (August 2018), amended LR 47:1341 (September 2021), LR 48:

#### §913. Rainbow Trout

##### A. - C.4.a. ...

5. The cost of a Rainbow Trout Permit shall be \$100 and may include the actual cost of the on-site inspection. Universities and other facilities conducting research approved by the department shall be exempt from the fee charge. Permits expire on December 31 of every year. Any permit issued after November 15, will be valid for the remainder of that calendar year and the following calendar year.

##### C.6. - C.14. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:318 and R.S. 56:319.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 47:1344 (September 2021), amended LR 48:

#### §915. Aquarium Livestock

##### A. - C.8.a. ...

9. The cost of an Aquarium Livestock permit shall be \$100 and may include the actual cost of the on-site inspection. Universities and other facilities conducting research approved by the department shall be exempt from the fee charge. Permits expire on December 31 every year. Any permit issued after November 15 will be valid for the remainder of that calendar year and the following calendar year.

##### C.10. - C.19. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:318 and R.S. 56:319.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 47:1345 (September 2021), amended LR 48:

#### §919. Freshwater Prawns

##### A. - C.8.a. ...

9. The cost of a Freshwater Prawn Permit shall be \$100 and may include the actual cost of the on-site inspection. Universities and other facilities conducting research approved by the department shall be exempt from the fee charge. Permits expire on December 31 every year. Any permit issued after November 15 will be valid for the remainder of that calendar year and the following calendar year.

C.10. - C.18. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:318 and R.S. 56:319.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 47:1346 (September 2021), amended LR 48:

**Family Impact Statement**

In accordance with Act 1183 of 1999 Regular Session of the Louisiana Legislature, the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent. This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

**Poverty Impact Statement**

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

**Small Business Analysis**

This proposed Rule has no known impact on small businesses as described in R.S. 49:965.2 through R.S. 49:965.8.

**Provider Impact Statement**

This Rule has no known impact on providers as described in HCR 170 of 2014.

**Public Comments**

Interested persons may submit written comments relative to the proposed Rule to Mr. Robert Bourgeois, Fisheries Biologist, Office of Fisheries, Department of Wildlife and Fisheries, P.O. Box 98000, Baton Rouge, LA 70898-9000, prior to 4:30 p.m., Thursday, December 2, 2021.

Jerri G. Smitko  
Chair

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

**RULE TITLE: Domesticated Aquatic Organisms**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed rule change will have no expenditure impact on state or local governmental units.

The proposed rule change adjusts the schedule of fees for several permits for the sale or possession of domestic aquatic organisms to make the published rule consistent with Louisiana Revised Statutes.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule change is anticipated to have a minor effect on revenue collections of the Louisiana Department of Wildlife and Fisheries (LDWF) from license fees, ranging from \$800 to \$1,000.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed rule change is anticipated to result in a minor aggregate expenditure increase statewide on persons or businesses holding the associated permits.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed rule change is anticipated to have no impact on receipts or income in Louisiana.

Bryan McClinton  
Undersecretary  
2202#017

Alan M. Boxberger  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Workforce Commission  
Plumbing Board**

Continuing Professional Education Programs  
(LAC 46:LV.1001 and 1002)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:953, the Louisiana State Plumbing Board (board), hereby determines that the implementation of an amendment to LAC 46:LV.1001 and 1002 to removing the requirement for continuing education providers (CPE) to produce their own course materials which will, upon implementation, be produced by the board. This amendment will be effective upon final publication in the *Louisiana Register*.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part LV. Plumbers**

**Chapter 10. Continuing Professional Education  
Programs**

**§1001. Tradesman, Journeyman and Master Plumbers**

**A. CPE Requirement**

1. All persons seeking to renew a tradesman license issued by the-board are required to attend and show proof of attendance at no less than 3 1/2 hours of a board-approved CPE class in the prior calendar year, as set out in this Section.

2. All persons seeking to renew a journeyman license issued by the-board are required to attend and show proof of attendance at no less than 3 1/2 hours of a board-approved CPE class in the prior calendar year, as set out in this Section.

3. All persons seeking to renew a master plumber license or to convert an inactive master plumber license to an active master plumber license must attend and show proof of attendance at no less than five hours of a board-approved CPE class in the prior calendar year, as set out in this Section.

4. A holder of an inactive master plumber license who seeks to renew said license must file an affidavit in a form provided by the board, that they have been inactive as a plumber in the previous year, and that they will remain inactive and not work as a plumber for the year for which they seek to renew their license. Upon such filing with the board, the holder of an inactive master plumber license will not be required to meet the CPE requirements set out herein.

5. A holder of an inactive master plumber's license who seeks to function as a journeyman plumber is required to attend and show proof of attendance at no less than 3 1/2 hours of a board-approved CPE class in the prior calendar year, as set out in this Section.

6. All persons holding and seeking to renew both journeyman plumber or tradesman plumber and gas fitter licenses issued by the board are required to attend and show proof of attendance at no less than 4 1/2 hours as set out in this Section and in §1002.

7. All persons holding and seeking to renew both journeyman plumber or tradesman plumber and master gas fitter licenses issued by the board are required to attend and



show proof of attendance at no less than six hours as set out in this Section and in §1002.

8. All persons holding and seeking to renew both master plumber and gas fitter licenses issued by the board are required to attend and show proof of attendance at no less than six hours as set out in this Section and in §1002.

9. All persons holding and seeking to renew both master plumber and master gas fitter licenses issued by the board are required to attend and show proof of attendance at no less than six hours as set out in this section and in §1002.

#### B. Course Materials

1. The board shall be the exclusive agency for distribution of CPE course materials.

2. The course materials will provide the basis for a minimum of 3 1/2 hours of study for tradesman plumbers and journeyman plumbers. One hour will be in the subjects of health protection, consumer protection or environmental protection, 1/2 hour shall include information concerning R.S. 37:1361, et seq., LAC 46:LV, and 2 hours covering current industry practices and codes, and subjects from a list approved and published by the board.

3. The course materials will provide the basis for a minimum of 5 hours of study for master plumbers. One hour will be in the subjects of health protection, consumer protection or environmental protection, 1/2 hour shall include information concerning R.S. 37:1361, et seq., LAC 46:LV, 2 hours covering current industry practices, codes, and subjects from a list approved and published by the board, and 1 1/2 hours on business topics approved by the board.

4. The course materials will include board forms within the binding of the course materials that may be removed for use by the licensees. The forms will include CPE evaluation forms.

5. The board must have legal ownership of or an appropriate license for the use of all copyrighted material included within the course materials. Board approved course materials will contain a prominently displayed approval statement in 10-point bold type or larger containing the following language.

"THIS CONTINUING PROFESSIONAL EDUCATION COURSE MATERIAL HAS BEEN APPROVED BY THE LOUISIANA STATE PLUMBING BOARD FOR USE IN THE (State Year) CPE YEAR. BY ITS APPROVAL OF THIS COURSE MATERIAL, THE LOUISIANA STATE PLUMBING BOARD DOES NOT ASSUME ANY RESPONSIBILITY FOR THE ACCURACY OF THE CONTENTS. FURTHER, THE LOUISIANA STATE PLUMBING BOARD HAS NOT MADE ANY DETERMINATION THAT THE PARTY PUBLISHING THE COURSE MATERIALS HAS COMPLIED WITH ANY APPLICABLE COPYRIGHT AND OTHER LAWS IN PUBLISHING THE COURSE MATERIAL AND THE LOUISIANA STATE PLUMBING BOARD DOES NOT ASSUME ANY LIABILITY OR RESPONSIBILITY THEREFOR. THE COURSE MATERIAL IS NOT BEING PUBLISHED BY NOR IS IT A PUBLICATION OF THE LOUISIANA STATE PLUMBING BOARD."

6. The board will conduct instructor training in the use of course materials.

#### C. Course Providers

1. Course providers shall offer classroom instruction in the course materials used for the CPE required for renewal of tradesman, journeymen and master licenses

issued under the Act. Board approval of course providers will be subject to all of the terms and conditions of this Section.

2. CPE courses shall be presented in one of the following formats:

a. for tradesman and journeyman plumbers, a

minimum of 3 1/2 classroom hours presented on one day; or

b. for master plumbers, five hours on one day; or

c. for master plumbers, two sessions totaling five classroom hours presented within a 30-day period.

3. Continuing professional education must be based on the course materials and provided in a format approved by the board.

4. In addition to required classroom education offered in each region, material may be provided in additional formatting as approved by the board.

5. Each course provider shall, at its own expense and in a format approved by the board, mail, fax or electronically transmit to the board certification of each licensee's completion of CPE requirements within 10 days of completion.

6. The board is authorized to enter into a cooperative endeavor agreement with either the Louisiana Association of Plumbing, Heating and Cooling Contractors of Louisiana or the Louisiana Pipe Trades Association, or any subsidiary or affiliate of either non-profit organization, to jointly provide CPE services to licensed journeyman and master plumbers. The board is authorized to share costs and expenses with either organization under terms and conditions that promote the public interest and avoid gratuitous donation of public funds.

7. Each course provider must notify the board at least seven working days before conducting classes; the notice shall contain the time(s) and place(s) where the classes will occur.

8. Each course provider will perform self-monitoring and reporting as required by the board, including a certified roster of all persons attending the course, with the license number of each attendee included.

9. Each course provider shall permit any board member or a duly designated representative of the board to monitor any CPE class for compliance purposes.

10. Each course provider shall use only course instructors that have been approved by the board. Each course provider shall annually submit to the board's office a list of course instructors it employs and the instructors' credentials for approval.

a. Lists of course instructors to be approved for the following year must be submitted no later than 30 days prior to the date of the board's last scheduled quarterly meeting for approval by the board, unless an extension is requested at or before the August board meeting and granted by the board.

b. Prior to allowing course instructors to teach CPE, course providers must provide documentation to the board showing the instructor's qualifications to teach CPE, including but not limited to detailed information on an experience in providing instruction, assistance in providing instruction or successful completion of training for providing instruction.

c. Course instructors must comply with this Section. Course providers shall notify the board within 10

working days of any change of an instructor's employment status with the course provider.

11. Any individual, business or association who wishes to be a course provider shall apply to the board for approval using application forms prepared by the board. In order to be approved, the application must satisfy the board as to the ability of the individual, business or association to provide quality instruction in the course materials as required in this Section and must include:

- a. name and address of the applicant;
- b. names and addresses of all officers, directors, trustees or members of the governing board of any business or association applying;
- c. certificate of good standing issued by the Louisiana Secretary of State for corporate applicants;
- d. taxpayer identification number;
- e. facsimile number, statewide toll free telephone number, Internet web site or electronic mail address;
- f. fees to be charged to licensees for attending the course;
- g. a CPE class scheduling plan for providing at least one course in each of the following cities: Lafayette, New Orleans, Baton Rouge, Alexandria, Shreveport, Lake Charles and Monroe; however, the board or its director may, solely at their discretion, grant a request that the course not be offered in one or more of these locations, upon a demonstration of economic infeasibility by the course provider;
- h. a method for quarterly reporting compilations of licensee evaluations of course provider and course instructors to the board;
- i. identification of the approved course materials options which will be used by the course provider; and
- j. an application fee to be set as provided by law.

12. The course provider shall purchase course materials from the board.

13. The fees charged to the licensees for attending the course will be determined by the course provider.

14. The board may refuse to accept any application for approval as a course provider that is not complete. The board may deny approval of an application for any of the following reasons:

- a. failure to comply with the provisions of this Section;
- b. inadequate instruction of the materials required to be included in course materials; or
- c. unsatisfactory evaluations of the course provider by licensees, board members or board staff.

15. If an application is refused or disapproved, written notice detailing the basis of the decision shall be provided to the applicant within 90 days of the date of the decision.

16. A course provider's authority to offer instruction in the course materials for which CPE credit is given expires on December 31 of the calendar year following approval.

17. The board shall review course providers for quality of instruction: The board shall also investigate and take appropriate action, consistent with the Louisiana Administrative Procedure Act, up to and including revocation of authority to provide CPE, regarding complaints involving approved course providers.

18. A provider's failure to comply with this Section constitutes grounds for disciplinary action in accord with the Louisiana Administrative Procedure Act, up to and including

revocation of authority to provide CPE, against the provider or for denial of future applications for approval as a course provider.

#### D. Course Instructors

1. The board will initially approve course instructors to provide instruction in the course materials used for the CPE required for renewal of tradesman plumber, journeyman plumber and master plumber licenses. Board approval of course instructors will be subject to all terms and conditions of this Section. An individual who wishes to be approved by the board as a course instructor must apply to the board using an application form approved by the board. The following minimum criteria will be used by the board in considering approval of course instructors:

- a. all course instructors for master gas fitters must hold a Louisiana state master gas fitter license, and those for gas fitter must hold a master or gas fitter license; and
- b. demonstrate an ability to train others, including but not limited to providing a description of their previous training experience; and
- c. must be employed by an approved course provider.

2. An approved course instructor may use, under its live supervision, a non-licensed supplemental lecturer to present subjects of health protection, consumer protection, or environmental protection, information concerning R.S. 37:1361, et seq., LAC 46:LV published by the board. Prior to approval, a course instructor must identify to the board, any supplemental lecturer they intend to use, including a resume from the supplemental lecturer, and the subject matter the supplemental lecturer will discuss within 30 days prior to the course being conducted.

3. As a course instructor and licensee of the board, a course instructor must:

- a. be well versed in and knowledgeable of the course materials;
- b. maintain an orderly and professional classroom environment; and
- c. coordinate with the course provider to develop an appropriate method for handling disorderly and disruptive students. A course instructor shall report to the course provider and the board any non-responsive or disruptive student who attends a CPE course. The board may deny CPE credit to any such student and require, at the student's expense, successful completion of an additional CPE course to receive credit.

4. The board shall review course instructors for quality of instruction. The board shall also respond to complaints regarding course instructors.

5. A course instructor's failure to comply with this Section constitutes grounds for disciplinary action against the instructor or for disapproval of future applications for approval as a course instructor, in accord with the Louisiana Administrative Procedure Act.

6. A course instructor may use a vendor approved by the board to provide instruction on products specific to only one approved gas topic and/or one approved plumbing topic.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1366(I).

HISTORICAL NOTE: Promulgated by the Department of Labor, State Plumbing Board, LR 30:2068 (September 2004), amended LR 37:2440 (August 2011), amended by the Workforce

## **§1002. Gas Fitters and Master Gas Fitters**

### **A. CPE Requirement**

1. All persons seeking to renew a gas fitter license issued by the board are required to attend and show proof of attendance at no less than 2 1/2 hours of a board-approved CPE class in the prior calendar year, as set out in this Section.

2. All persons seeking to renew a master gas fitter license or to convert an inactive master gas fitter license to an active master gas fitter license must attend and show proof of attendance at no less than four hours of a board-approved CPE class in the prior calendar year, as set out in this Section.

3. A holder of an inactive master gas fitter license who seeks to renew said license must file an affidavit in a form provided by the board, that they have been inactive as a gas fitter in the previous year, and that they will remain inactive and not work as a gas fitter for the year for which they seek to renew their license. Upon such filing with the board, the holder of an inactive master gas fitter license will not be required to meet the CPE requirements set out herein.

4. A holder of an inactive master gas fitter license who seeks to function as a gas fitter is required to attend and show proof of attendance at no less than 2 1/2 hours of a board-approved CPE class in the prior calendar year, as set out in this Section.

5. All persons holding and seeking to renew both gas fitter and journeyman plumber licenses issued by the board are required to attend and show proof of attendance at no less than 4 1/2 hours as set out in this Section and in §1001.

6. All persons holding and seeking to renew both gas fitter and master plumber licenses issued by the board are required to attend and show proof of attendance at no less than six hours as set out in this Section and in §1001.

7. All persons holding and seeking to renew both master gas fitter and journeyman plumber licenses issued by the board are required to attend and show proof of attendance at no less than six hours as set out in this Section and in §1001.

8. All persons holding and seeking to renew both master gas fitter and master plumber licenses issued by the board are required to attend and show proof of attendance at no less than six hours as set out in this Section and in §1001.

### **B. Course Materials**

1. The board shall be the exclusive agency for distribution of CPE course materials.

2. The course materials will provide the basis for a minimum of 2 1/2 hours of study for gas fitters. One hour will be in the subjects of health protection, consumer protection or environmental protection, 1/2 hours shall include information concerning R.S. 37:1361 et seq., LAC 46:LV, and one hour covering current industry practices and codes, and subjects from a list approved and published by the board.

3. The course materials will provide the basis for a minimum of four classroom hours of study for master gas fitters. One hour will be in the subjects of health protection, consumer protection or environmental protection, 1/2 hour shall include information concerning R.S. 37:1361 et seq., LAC 46:LV, and one hour covering current industry

practices, codes, and subjects from a list approved and published by the board, and 1 1/2 hours on business topics approved by the board.

4. The course materials will include board forms within the binding of the course materials that may be removed for use by the licensees. The forms will include CPE evaluation forms.

5. The publishers of course materials must have legal ownership of or an appropriate license for the use of all copyrighted material included within the course materials. Board-approved course materials will contain a prominently displayed approval statement in 10-point bold type or larger containing the following language.

“THIS CONTINUING PROFESSIONAL EDUCATION COURSE MATERIAL HAS BEEN APPROVED BY THE LOUISIANA STATE PLUMBING BOARD FOR USE IN THE (state year) CPE YEAR. BY ITS APPROVAL OF THIS COURSE MATERIAL, THE LOUISIANA STATE PLUMBING BOARD DOES NOT ASSUME ANY RESPONSIBILITY FOR THE ACCURACY OF THE CONTENTS. FURTHER, THE LOUISIANA STATE PLUMBING BOARD HAS NOT MADE ANY DETERMINATION THAT THE PARTY PUBLISHING THE COURSE MATERIALS HAS COMPLIED WITH ANY APPLICABLE COPYRIGHT AND OTHER LAWS IN PUBLISHING THE COURSE MATERIAL AND THE LOUISIANA STATE PLUMBING BOARD DOES NOT ASSUME ANY LIABILITY OR RESPONSIBILITY THEREFOR. THE COURSE MATERIAL IS NOT BEING PUBLISHED BY NOR IS IT A PUBLICATION OF THE LOUISIANA STATE PLUMBING BOARD.”

6. The publishers of course materials will conduct instructor training in the use of course materials.

### **C. Course Providers**

1. Course providers shall offer classroom instruction in the course materials used for the CPE required for renewal of gas fitter and master gas fitter licenses issued under the Act. Board approval of course providers will be subject to all of the terms and conditions of this Section.

2. CPE courses shall be presented in one of the following formats:

a. for gas fitters a minimum of 2 1/2 classroom hours presented on one day; or

b. for master gas fitters, four hours on one day; or

c. for gas fitters two sessions totaling 2 1/2 classroom hours presented within a 30-day period; or

d. for master gas fitters, two sessions totaling four classroom hours presented within a 30-day period.

3. Continuing professional education must be based on the course materials and provided in a format approved by the board.

4. In addition to required classroom education provided in each region, material may be provided in additional formatting as approved by the board.

5. Each course provider shall, at its own expense and in a format approved by the board, mail, fax or electronically transmit to the board certification of each licensee's completion of CPE requirements within 10 days of completion.

6. The board is authorized to enter into a cooperative endeavor agreement with either the Louisiana Association of Plumbing, Heating and Cooling Contractors of Louisiana or the Louisiana Pipe Trades Association, or any subsidiary or affiliate of either non-profit organization, to jointly provide

CPE services to licensed and master gas fitters. The board is authorized to share costs and expenses with either organization under terms and conditions that promote the public interest and avoid gratuitous donation of public funds.

7. Each course provider must notify the board at least seven working days before conducting classes; the notice shall contain the time(s) and place(s) where the classes will occur.

8. Each course provider will perform self-monitoring and reporting as required by the board, including a certified roster of all persons attending the course, with the license number of each attendee included.

9. Each course provider shall permit any board member or a duly designated representative of the board to monitor any CPE class for compliance purposes.

10. Each course provider shall use only course instructors that have been approved by the board. Each course provider shall initially submit to the board's office a list of course instructors it employs and the instructors' credentials for approval. Course instructors will be granted ongoing approval. Any changes to instructors shall be approved by the board.

a. Lists of course instructors to be approved for the following year must be submitted no later than 30 days prior to the date of the board's last scheduled quarterly meeting for approval by the board, unless an extension is requested at or before the August board meeting and granted by the board.

b. Prior to allowing course instructors to teach CPE, course providers must provide documentation to the board showing the instructor's qualifications to teach CPE, including but not limited to detailed information on any experience in providing instruction, assistance in providing instruction or successful completion of training for providing instruction.

c. Course instructors must comply with this Section. Course providers shall notify the board within 10 working days of any change of an instructor's employment status with the course provider.

11. Any individual, business or association who wishes to be a course provider shall apply to the board for approval using application forms prepared by the board. In order to be approved, the application must satisfy the board as to the ability of the individual, business or association to provide quality instruction in the course materials as required in this Section and must include:

- a. name and address of the applicant;
- b. names and addresses of all officers, directors, trustees or members of the governing body of any business or association applying;
- c. certificate of good standing issued by the Louisiana Secretary of State for corporate applicants;
- d. taxpayer identification number;
- e. facsimile number, statewide toll-free telephone number, internet website or electronic mail address;
- f. fees to be charged to licensees for attending the course;

g. A CPE class scheduling plan providing for a least one course in each region. Course providers must, at a minimum, offer the CPE class in each of the following cities: Lafayette, New Orleans, Baton Rouge, Alexandria, Shreveport, Lake Charles and Monroe; any CPE provider for

gas fitting shall conduct both plumber and gas fitter CPE classes. The board or its director may, solely at their discretion, grant a request that the course not be offered in one or more of these locations, upon a demonstration of economic infeasibility by the course provider;

h. a method for quarterly reporting compilations of licensee evaluations of course provider and course instructors to the board;

i. identification of the approved course material options which will be used by the course provider; and

j. an application fee to be set as provided by law.

12. The course provider shall purchase course materials from the board.

13. The fees charged to the licensees for attending the course will be determined by the course provider.

14. The board may refuse to accept any application for approval as a course provider that is not complete. The board may deny approval of an application for any of the following reasons:

a. failure to comply with the provisions of this Section;

b. inadequate instruction of the materials required to be included in course materials; or

c. unsatisfactory evaluations of the course provider by licensees, board members or board staff.

15. If an application is refused or disapproved, written notice detailing the basis of the decision shall be provided to the applicant within 90 days of the date of the decision.

16. A course provider's authority to offer instruction in the course materials for which CPE credit is given expires on December 31 of the calendar year following approval.

17. The board shall review course providers for quality of instruction. The board shall also investigate and take appropriate action, consistent with the Louisiana Administrative Procedure Act, up to and including revocation of authority to provide CPE, regarding complaints involving approved course providers.

18. A provider's failure to comply with this Section constitutes grounds for disciplinary action in accord with the Louisiana Administrative Procedure Act, up to and including revocation of authority to provide CPE, against the provider or for denial of future applications for approval as a course provider.

#### D. Course Instructors

1. The board will initially approve course instructors to provide instruction in the course materials used for the CPE required for renewal of gas fitter and master gas fitter licenses. Board approval of course instructors will be subject to all of the terms and conditions of this Section. An individual who wishes to be approved by the board as a course instructor must apply to the board using an application form approved by the board. The following minimum criteria will be used by the board in considering approval of course instructors:

a. all course instructors for master gas fitters must hold a Louisiana state master gas fitter license, and those for gas fitter must hold a master or gas fitter license; and

b. demonstrate an ability to train others, including but not limited to providing a description of their previous training experience; and

c. must be employed by an approved course provider.

2. An approved course instructor may use, under its live supervision, a non-licensed supplemental lecturer to present subjects of health protection, consumer protection or environmental protection, information concerning R.S. 37:1361, et seq., LAC 46:LV published by the board. Prior to approval, a course instructor must identify to the board, any supplemental lecturer they intend to use, including a resume from the supplemental lecturer, and the subject matter the supplemental lecturer will discuss within 30 days prior to the course being conducted.

3. As a course instructor and licensee of the board, a course instructor must:

- a. be well versed in and knowledgeable of the course materials;
- b. maintain an orderly and professional classroom environment; and
- c. coordinate with the course provider to develop an appropriate method for handling disorderly and disruptive students. A course instructor shall report to the course provider and the board any non-responsive or disruptive student who attends a CPE course. The board may deny CPE credit to any such student and require, at the student's expense, successful completion of an additional CPE course to receive credit.

4. The board shall review course instructors for quality of instruction. The board shall also respond to complaints regarding course instructors.

5. A course instructor's failure to comply with this Section constitutes grounds for disciplinary action against the instructor or for disapproval of future applications for approval as a course instructor, in accord with the Administrative Procedure Act.

6. A course instructor may use a vendor approved by the board to provide instruction on products specific to only one approved gas topic and/or one approved plumbing topic.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1366(I) and R.S. 37:1368(H).

HISTORICAL NOTE: Promulgated by the Workforce Commission, Plumbing Board, LR 43:549 (March 2017), amended LR 44:635 (March 2018), LR 48:

#### **Family Impact Statement**

The proposed amendments to LAC 46:1001 and 1002 and the adoption of LAC rule should have no known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically, the implementation of this propose rule has no known or foreseeable effect on:

1. The stability of the family.
2. The authority and rights of parents regarding the education and supervision of their children.
3. The functioning of the family.
4. Family earnings and family budget.
5. The behavior and personal responsibility of children.
6. The ability of the family or local government to perform this function.

#### **Poverty Impact Statement**

The proposed amendments to LAC 46:1001 and 1002 should have no impact on poverty as described in R.S. 49:973.

#### **Small Business Impact Analysis**

The proposed amended Rules should have no adverse impact on small businesses as defined in the Regulatory Flexibility Act.

#### **Provider Impact Statement**

The proposed amended Rules are not anticipated to have any impact on providers of services funded by the state as described in HCR 170 of the 2014 Regular Legislative Session.

#### **Public Comments**

Any interested person may submit written comments regarding the content of this proposed Rule change to Ashley Jones Tullier, Executive Director of the Board, 11304 Cloverdale Avenue, Baton Rouge, LA, no later than 5:00 p.m., March 10, 2022.

Ashley Jones Tullier  
Executive Director

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Continuing Professional Education Programs**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The estimated cost to the State Plumbing Board (Board) would be approximately (\$25) (\$19 per continuing professional education CPE manual and \$6 for training and shipping). The rule change removes the requirement for CPE providers to put together their own materials based on board-approved topics. It now requires the board to compose and distribute all board-approved CPE material. The baseline number of manuals is estimated to be 4,000.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The board's annual revenue is anticipated to be approximately \$100,000. CPE manuals are sold to providers at \$25 per manual for an estimated 4,000 licensees.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed rule will benefit CPE providers by reducing the cost for providers to prepare manuals as well as reduce the timeframe for providers to obtain the materials to conduct classes.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The implementation of proposed rule will benefit all CPE providers since none will be required to incur the cost to prepare training materials. The manual will be prepared by a third-party vendor and have no impact on employment.

Louis L. Robein  
Board Attorney  
2202#031

Evan Brasseaux  
Interim Deputy Fiscal Officer  
Legislative Fiscal Office

# Committee Reports

## COMMITTEE REPORT

### House of Representatives Committee on Commerce

Oversight Hearing on Rule Proposed by  
Board of Examiners for New Orleans and Baton Rouge  
Steamship Pilots for the Mississippi River  
Qualifications and Examination of Pilots  
(LAC 46:LXX.Chapter 62)

In accordance with the Administrative Procedure Act, particularly the provisions of R.S. 49:968, the House Committee on Commerce and the Senate Committee on Commerce, Consumer Protection, and International Affairs met in a joint meeting on January 24, 2022, for the purpose of exercising legislative oversight with respect to administrative rules proposed by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River ("the board") to amend the rules regarding the qualifications and examination of pilots provided for in LAC 46:LXX.6201 et seq., and the standards of conduct for pilots provided for in LAC 46:LXX.6301 et seq. The board gave notice of its intention to adopt these proposed rules through a Notice of Intent published in the September 2021 edition of the Louisiana Register (LR 47:1381-86 (September, 2021)). On November 20, 2021, a Potpourri notice was published in the November 2021 edition of the Louisiana Register (LR 47:1779-1780) because of substantive changes to the board's proposed rules. On December 20, 2021 the board held a substantive change hearing, and on January 12, 2022, the board submitted to the House Committee on Commerce, in accordance with R.S. 49:968(D)(1)(b), its report of public comments on the proposed rules with substantive changes.

In its January 24, 2022, oversight hearing concerning these proposed rules, the House Committee on Commerce, by a unanimous vote, determined the following: that the proposed rules are not in conformity with the intent and scope of the enabling legislation purporting to authorize it; that the proposed rules are not in conformity with, and are contrary to, applicable provisions of law and of the Louisiana Constitution; that the proposed rules are not advisable; and that the proposed rules are unacceptable.

These proposed rules by the board purport to set qualification, application, licensing, education, experience, notice, training, conduct, continuing professional education, and recency requirements and standards on all applicants and pilots with the New Orleans and Baton Rouge Steamship Pilots Association ("NOBRA"). The rules, as proposed, would restrict diversity in the state's piloting industry and thus fail to conform with the intent and scope of state law providing for the powers and duties of the board. Further, the board did not provide any research or data to justify the purported need for an increase in the qualification and education standards for NOBRA pilots. Primarily for these reasons, the House Committee on Commerce determined that the proposed rules are not advisable, are unacceptable, and are outside the scope of authority granted to the board by the constitution and laws of this state.

By transmittal of this written report and a copy of the proposed rules in accordance with R.S. 49:968(F), the House Committee on Commerce is notifying the Governor, the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, and the Louisiana Register of the action by which it has determined the proposed rules discussed herein to be unacceptable.

Paula Davis  
State Representative, House District No. 69  
Chairwoman

2202#011

# Potpourri

## POTPOURRI

### Department of Health Bureau of Health Services Financing

#### Public Hearing

In light of recent events relative to the Coronavirus Disease 2019 (COVID-19) statewide public health emergency declaration, the Louisiana Department of Health, Bureau of Health Services Financing, will modify the format of the administrative rules hearing scheduled on February 24, 2022 @ 9:30 am for the following healthcare licensing standards proposed rule:

Home and Community Based Services Providers  
Licensing Standards (LAC 48:1.Chapter 50)

The hearing will now proceed via Zoom meeting using the following URL link:

<https://us06web.zoom.us/j/89147045539>

Alternatively, one can join by telephone at the following number:

Dial: USA 602 333 0032  
Conference code: 768964

Please refer to the Notice of Intent published in the January 20, 2022 edition of the Louisiana Register or the Bureau of Health Services Financing Rulemaking website at

<http://ldh.la.gov/index.cfm/newsroom/category/172>.

Questions or requests for additional information may be directed to Allen Enger, LDH Rulemaking Coordinator, at 225-342-1342 or by email to [Allen.Enger@la.gov](mailto:Allen.Enger@la.gov).

Dr. Courtney Phillips  
Secretary

2202#057

## POTPOURRI

### Department of Health Office of Public Health

Public Hearing—Substantive Changes to Proposed Rule; Registration of Foods, Drugs, Cosmetics and Prophylactic Devices (LAC 49:529)

The Office of Public Health published a Notice of Intent to promulgate §§501, 517, 519, 521, 523, 525, 527, and 529 of Title 49 of the Louisiana Administrative Code in the November 20, 2021 edition of the *Louisiana Register*. Due to a legislative request based on constituent feedback, the Office of Public Health proposes to amend certain portions of the proposed Rule. Within Subsection A of §529, the Office of Public Health proposes to amend the requirements

for hemp flower packaging to no longer require packaging to explicitly bear the phrase “not for inhalation” or similar language. No fiscal or economic impact will result from this amendment.

#### Title 49

### PUBLIC HEALTH—FOOD, DRUGS, AND COSMETICS

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

#### §529. Consumable Hemp Products Packaging Requirements: Hemp Flower Packaging

A. Hemp flower consumable products for registration must be packaged in tamper-resistant packaging or with tamper-evident seals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1483(L) and R.S. 40:604.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 46:360 (March 2020), amended LR 47:480 (April 2021), LR 48:

#### Public Hearing

Interested persons may submit written comments to Michael Vidrine, Director, Sanitarian Services, P.O. Box 4489, Baton Rouge, LA 70821. Mr. Vidrine is responsible for responding to inquiries regarding these substantive changes to the proposed Rule. A public hearing on these substantive changes to the proposed Rule is scheduled for Monday, March 21, 2022 at 2 pm via Zoom using the following URL link:

<https://zoom.us/j/99266267815?pwd=K0ljTWdaY2FUeUtZMklZeVhralFDdz09>

At that time all interested persons will be afforded an opportunity to submit data, views, or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30pm, Friday, March 25, 2022.

Dr. Courtney N. Phillips  
Secretary

2202#054

## POTPOURRI

### Department of Justice Occupational Licensing Review Program

Accepting Participants for FY 2022-2023

The Department of Justice is currently accepting occupational licensing boards into the Department of Justice Occupational Licensing Review Program established by R.S. 49:260. This program provides for active state supervision and was established to ensure that participating boards and board members will avoid liability under federal antitrust laws. Participants for the 2022-2023 Fiscal Year will be accepted into the program through May 31, 2022. For information about participating in the program, contact

Emily Andrews, Deputy Director, Louisiana Department of Justice at 225-326-6000.

Angelique Freel  
Civil Division Director

2202#046

**POTPOURRI**

**Workforce Commission  
Office of Workers' Compensation Administration**

**Weekly Compensation Benefits Limits**

Pursuant to R.S. 23:1202, and based on the statewide average weekly wage as determined by the Louisiana Workforce Commission, the following limits shall apply to weekly compensation benefits for claimants injured during the period September 1, 2021 through August 31, 2022.

Average Weekly Wage	Maximum Compensation	Minimum Compensation	Mileage Reimbursement
\$990.85	\$743.00	\$198.00	* .58 cents per mile
*Effective January 10, 2022 the mileage reimbursement is \$0.58 per mile pursuant to R.S. 23:1203(D).			

This information updates R.S. 23:1202 of the Louisiana Workers Compensation Act.

	Average Weekly Wage	Maximum Comp	Minimum Comp
Sept 1, 2000-Aug 31, 2001	517.93	388.00	104.00
Sept 1, 2001-Aug 31, 2002	530.43	398.00	106.00
Sept 1, 2002-Aug 31, 2003	554.31	416.00	111.00
Sept 1, 2003-Aug 31, 2004	572.53	429.00	114.00
Sept 1, 2004-Aug 31, 2005	584.40	438.00	117.00
Sept 1, 2005-Aug 31, 2006	605.46	454.00	121.00
Sept 1, 2006-Aug 31, 2007	637.19	478.00	127.00
Sept. 1, 2007-Aug 31, 2008	696.00	522.00	139.00
Sept. 1, 2008-Aug. 31, 2009	728.10	546.00	146.00
Sept. 1, 2009-Aug. 31, 2010	768.83	577.00	154.00
Sept. 1, 2010-Aug. 31, 2011	772.18	579.00	154.00
Sept. 1, 2011-Aug. 31, 2012	789.00	592.00	158.00
Sept. 1, 2012-Aug. 31, 2013	807.07	605.00	161.00
Sept. 1, 2013-Aug. 31, 2014	825.54	619.00	165.00
Sept. 1, 2014-Aug. 31, 2015	839.76	630.00	168.00
Sept. 1, 2015-Aug. 31, 2016	865.31	649.00	173.00
Sept. 1, 2016-Aug. 31, 2017	876.00	657.00	175.00
Sept. 1, 2017-Aug. 31, 2018	870.00	653.00	174.00
Sept. 1, 2018-Aug. 31, 2019	886.38	665.00	177.00
Sept. 1, 2019-Aug. 31, 2020	916.85	688.00	183.00
Sept. 1, 2020-Aug. 31, 2021	940.00	705.00	188.00
Sept. 1, 2021-Aug. 31, 2022	990.85	743.00	198.00

Actual wages are to be paid if the wages are less than the minimum.

Approved mileage rate as of January 10, 2022 is \$0.58 per mile.

Sheral Kellar  
Assistant Secretary

2202#002



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