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Executive Orders

EXECUTIVE ORDER BJ 08-16

Advance Refunding Bond Allocation Procedures

WHEREAS, Sections 1400M and 1400N of the Internal Revenue Code of 1986, as amended (hereafter "the Code"), limit the total principal amount of certain Advance Refunding Bonds, hereinafter defined, that may be issued and designated by the governor to an amount not exceeding four billion five hundred million (\$4,500,000,000) dollars during the period commencing December 22, 2005, and before January 1, 2011;

WHEREAS, the governor has successfully authorized existing systems used to allocate ceilings on certain other types of bonds authorized to be issued, the interest on which is excluded from income tax for federal tax purposes and for which limitations are placed on such bonds by the federal government;

WHEREAS, the governor hereby elects to (a) establish the method to be used in allocating the ceilings, (b) provide the application procedure for obtaining an allocation of Bonds subject to such ceilings, and (c) establish a system of record keeping for such allocations, for Advance Refunding Bonds all as hereinafter defined; and

WHEREAS, the best interests of the state of Louisiana would be served by establishing a bond allocation system to coordinate the cooperative efforts of the Louisiana State Bond Commission and the Governor to allocate bonds in a fair and equitable manner and in a manner providing the best and most effective results for the state and its local governments; furthermore, the methodologies and procedures set up by this Order will result in allocating the ceilings for the bonds described herein, from which the governor may designate the Advance Refunding Bonds, hereinafter defined.

NOW THEREFORE I, BOBBY JINDAL, 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: DEFINITIONS

A. Each abbreviation provided in the preamble of this Order, *supra*, shall have the same meaning throughout all the sections, subsections, and paragraphs of this Order.

B. The following definitions shall apply:

1. "Advance Refunding Bonds" means bonds issued between the period of December 22, 2005, and before January 1, 2011, meeting the requirements of Section 1400N(b) of the Code, as determined by the letter of bond counsel submitted in connection with an application by the Issuer of such bonds for an allocation from the ceiling of four billion five hundred million (\$4,500,000,000) dollars available for such purpose and for designation of such bonds as Advance Refunding Bonds under the ceiling;

2. "Issuer" means the issuer of the Advance Refunding Bonds (including the state of Louisiana or any political subdivision thereof and including those entities that issue bonds on behalf of such entities under the Code and regulations and procedures related thereto).

SECTION 2: CREATION OF POOLS; METHOD OF ALLOCATION; DESIGNATION OF SUCH BONDS

A. A pool designated as the "Advance Refunding Bonds Pool" is hereby created, from which allocations from the ceiling of up to four billion five hundred million (\$4,500,000,000) dollars of Advance Refunding Bonds shall be granted. Provided that the governor is furnished sufficient back-up and support for the efficiency and economic benefits of each application for an allocation from the Advance Refunding Bonds Pool, the governor will approve, subject to review of the efficiency and economic benefits of each such request, an allocation of a portion of the ceiling for such Advance Refunding Bonds on a first come - first served basis and designate such bonds as Advance Refunding Bonds under the provisions of Section 1400N of the Code until such Pool is reduced to one billion five hundred million (\$1,500,000,000) dollars at which point the governor will devise criteria to evaluate the relative value and benefit for each financing thereafter.

B. The issuance of an executive order by the governor awarding a portion of the respective ceilings for Advance Refunding Bonds and designating such bonds as such shall be evidence of each allocation granted for such purposes pursuant to this Order. A copy of such executive order shall be promptly furnished to the Louisiana State Bond Commission for information and record keeping purposes.

SECTION 3: APPLICATION PROCEDURE FOR ALLOCATIONS

A. An application for an allocation from the Advance Refunding Bond Pool shall be submitted by the Issuer to the Louisiana State Bond Commission, with a copy to the governor, or the governor's designee, requesting an allocation from the ceiling with respect thereto and designation of such bonds as Advance Refunding Bonds and together with back-up and support for the efficiency and economic benefits of each application. Such request for an allocation shall be accompanied by the letter of bond counsel determining that such allocation will constitute an allocation for bonds that meet the requirements of Advance Refunding Bonds under Section 1400N of the Code, provided the Issuer receives an allocation and designation.

B. At a minimum, all requests for allocations from the Advance Refunding Bond Pool must contain the following information:

1. The name and address of the Issuer of the bonds;
 - (a) an appropriate person from whom information regarding the project can be obtained, and
 - (b) the person to whom notification of the allocation should be made;
2. The amount of the ceiling which the Issuer is requesting be allocated;
3. A specific date as to when the bond allocation is required and when the financing is intended to close;
4. schedule showing the projected timing of the use of the bond proceeds;
5. information necessary to evidence compliance with any additional criteria established from time to time by the governor; and

6. A letter from bond counsel, addressed to the governor and the Louisiana State Bond Commission, expressing that the bonds for which an allocation is requested are subject to the ceiling from which the allocation is requested.

C. Upon receipt of the application, the Louisiana State Bond Commission staff shall determine if the requirements of this Order for such application have been met and report to the governor.

D. Any allocation from the ceiling shall expire unless the bonds receiving the allocation are delivered by the earlier of (1) two hundred forty (240) days from the date of notice of allocation is mailed to the person designated.

E. The Louisiana State Bond Commission staff shall promptly notify the governor when the Advance Refunding Bond Pool approaches or reaches a level of one billion five hundred million (\$1,500,000,000) dollars.

F. The Louisiana State Bond Commission staff shall maintain accurate records of all allocations and all Bonds delivered. All Issuers of bonds that have received an allocation shall notify the Louisiana State Bond Commission staff of the delivery of bonds within five (5) days after the delivery of such bonds and shall specify the total principal amount of bonds issued. The Louisiana State Bond Commission staff shall provide to any person so requesting, within a reasonable time:

(a) the amount of unallocated ceiling remaining on such date as specified by the Bond Commission in its response to the request;

(b) a list of allocations (naming the Issuer and amount of allocation) which have been made and the date of each allocation;

(c) a list of applications being held by the Louisiana State Bond Commission staff which have not received an allocation; and

(d) a list of bonds which have been given an allocation and have been delivered.

G. The governor may, at his election, grant allocations and/or designations thereunder by executive order, letter or other written evidence of such allocations and/or designations signed by the governor. Such allocations and/or designations by the governor shall be delivered and retained, for record keeping purposes, in the same manner as the executive orders issued thereunder and shall have the same force and effect in granting allocations and/or designations thereunder.

H. This Order only relates to Advance Refunding bonds subject to the bond volume limitations set forth in Section 1004N of the Code. No Issuer shall apply for or be entitled to an allocation from the ceiling for bonds that are not subject to the limitations set forth in Section 1004N.

I. Any modification, amendment, supplementation, or rescission of this Order, if any, shall not rescind any allocation and/or designation of bonds pursuant to the terms of this Order if such allocation and/or designation is required under federal law in order to maintain the tax-exempt status of the bonds receiving the allocation and/or designation.

SECTION 4: MISCELLANEOUS PROVISIONS

A. The responsibility of the Louisiana State Bond Commission staff as set forth in this Order shall be exercised by the Louisiana State Bond Commission staff independent of its other duties and responsibilities owed to the Louisiana State Bond Commission.

B. 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, at the Capitol, in the city of Baton Rouge, on this 21st day of April, 2008.

Bobby Jindal
Governor

ATTEST BY
THE GOVERNOR
Jay Dardenne
Secretary of State
0804#074

EXECUTIVE ORDER BJ 08-17

Bond Allocation—Industrial Development Board
of the City of New Orleans, Louisiana, Inc.

WHEREAS, pursuant to the Tax Reform Act of 1986 and Act 51 of the 1986 Regular Session of the Louisiana Legislature, Executive Order No. KBB 2005-12 was issued to establish:

(1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 2008 (hereafter "the 2008 Ceiling");

(2) the procedure for obtaining an allocation of bonds under the 2008 Ceiling; and

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

WHEREAS, the Industrial Development Board of the City of New Orleans, Louisiana, Inc. has requested an allocation from the 2008 Ceiling to provide a multifamily low-income residential rental facility located in the Upper Ninth Ward, in the city of New Orleans, parish of Orleans, state of Louisiana, in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended;

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

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 2008 Ceiling in the amount shown:

Amount of Allocation	Name of Issuer	Name of Project
\$18,600,000	Industrial Development Board of the City of New Orleans, Louisiana, Inc.	New Savoy Place Phase I Project

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

SECTION 3: The allocation granted herein shall be valid and in full force and effect through December 31, 2008, provided that such bonds are delivered to the initial purchasers thereof on or before August 5, 2008.

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, at the Capitol, in the city of Baton Rouge, on this 7th day of May, 2008.

Bobby Jindal
Governor

ATTEST BY
THE GOVERNOR
Jay Dardenne
Secretary of State
0804#075

Emergency Rules

DECLARATION OF EMERGENCY

Department of Economic Development Boxing and Wrestling Commission

Boxing and Wrestling Standards
(LAC 46:XI.102, 108 and 737)

The Louisiana State Boxing and Wrestling Commission does hereby exercise the emergency provisions of the Administrative Procedure Act, R.S. 49:953(b) and 49:967(D), and adopts the following Rule. The Louisiana State Boxing and Wrestling Commission, by this Emergency Rule, will make changes to LAC 46:XI.102, Annual License Fees, to properly reflect the amendments to and language of R.S. 65, Licenses, Fees, Bonds previously promulgated by HB 348 in 2007. It will also add a required minimum of \$10,000 injury/\$10,000 death insurance for each contestant to be provided by the promoter of said event to Chapter 1. General Rules.

This Emergency Rule will also delete discovered redundant rules which are addressed in other Sections of the Mixed Technique Event Chapter previously published as an Emergency Rule in February 2008 and to make minor changes to update these new rules to reflect the norms accepted by national associations regulating oversight of Mixed Technique Events.

This Emergency Rule is effective May 10, 2008, and will remain in effect for a period of 120 days, unless renewed by the commissioner or until adoption of the final Rule, whichever occurs first.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XI. Boxing and Wrestling

Chapter 1. General Rules

§102. Annual License Fees

A. The following is a scale of fees for licensees.

1. Wrestling and Mixed Technique Event Promoters—\$250
2. Boxing Promoters—\$500
3. Matchmakers—\$250
4. Referees—\$25
5. Managers—\$25
6. Announcers—\$25
7. Professional Boxing Contestants in Main Bouts—\$25
8. Seconds—\$25
9. Professional Wrestling Contestants—\$25
10. Other licenses—\$25

AUTHORITY NOTE: Adopted in accordance with R.S. 4:65(B).

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission 1967, amended 1974, amended by the Department of Economic Development, Boxing and Wrestling Commission, LR 22:697 (August 1996), amended by the Office of the Governor, Boxing and Wrestling Commission, LR 31:2003 (August 2005), amended by the

Department of Economic Development, Boxing and Wrestling Commission LR 34:

§108. Medical Requirements

A. Each contestant participating in any sport under this commission's jurisdiction must furnish to the commission physician a certified medical certificate evidencing that the contestant has been tested for HIV and said test results are negative. Said test and certificate shall be dated not more than six months prior to the scheduled event and said certificate is to be presented at the time of "weigh in."

B. A promoter shall provide insurance and pay all deductibles for contestants, to cover medical, surgical and hospital care with a minimum limit of \$10,000 for injuries sustained while participating in a contest and \$10,000 to a contestant's estate if he dies of injuries suffered while participating in a contest. At least ten calendar days before an event the promoter shall provide to the department for each event to be conducted, a certificate of insurance showing proper coverage. The promoter shall supply to those participating in the event the proper information for filing a medical claim.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61.D, R.S. 4:64 and R.S. 4:67.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Boxing and Wrestling Commission, LR 32:242 (February 2006), amended by the Department of Economic Development, Boxing and Wrestling Commission LR 34:

Chapter 7. Mixed Technique Events

§737. Mixed Technique Event Exhibition Rules

A. MTE Exhibitions shall be conducted using §707, Professional Mixed Technique Rules, above with the following modifications.

1. Conduct of Promotion. If you are interested in staging a mixed technique event exhibition contest you must notify the commission in writing and to be considered for approval you must:

- a. submit a written list of the name, address, age, height, weight, trainer and training gym of each contestant said list to be submitted no later than the Monday prior to the event and any changes to said list to be within a reasonable time based upon the approval of the chairman;
- b. submit a writing from each contestant that he or she has never engaged in a professional Mixed Technique Event or professional mixed martial arts contest;
- c. submit writing from the contestant's trainer that the contestant is skilled enough and healthy to compete and that the contestant has been training for the sport longer than 30 days;
- d. submit the name of the referee(s) you intend to use; however the commission may mandate that you use a referee approved by the commission;
- e. agree to abide by any other conditions which the commissioner may impose on this new activity as events are reviewed and amendments may be made;
- f. agree in writing that you will observe all Mixed Technique Event Rules;

g. submit in writing a statement to the effect that the fighter is not being paid any gratuity for participating in the event, and memorialize each and every actual expense, to a maximum of \$100 that is being reimbursed to the fighter;

h. if you are not a promoter who also owns and operates his own gym you must utilize a matchmaker approved by the commission who shall arrange and approve all fights on the card; and

i. ensure that all advertising concerning the event to be conducted indicates that it is an amateur event, and the word "amateur" must be as large as any other print on the advertisement on a written or printed advertisement and must be announced in any television or radio advertisements.

B. Equipment. Exhibition contestants shall use a minimum 7 ounce open fingered gloves.

C. Acts Constituting Fouls in addition to those listed under §707, Professional Mixed Technique Event Rules, Subsection G, Acts Constituting Fouls:

1. illegal techniques while standing:
 - a. elbowing; and
 - b. kneeling to the head;
2. illegal techniques while on the ground:
 - a. any downward striking to an opponent's head while the back of that opponent's head is pinned to the mat or when the opponent has both shoulders pinned to the mat;
 3. additional items:
 - a. if punch or kick (excluding kicks to the legs or leg sweeps) causes a knockdown:
 - i. the action will not continue;
 - ii. the standing fighter will not continue to attack;
 - iii. the referee will begin a 10 count and the standing fighter must go to a neutral corner during the count; and
 - iv. if the referee determines that the downed fighter can continue, then the fight shall resume with the fighters in a standing position;
 - b. in the event that the referee believes that the fighter is in trouble he is authorized to give an eight count; this shall be a standing eight while the parties are standing; or simply an eight count if they are on the ground with the position of the fighters to be maintained when the actions continues;
 - c. in the event that the referee feels that the two fighters in the ring are mismatched to the point where the contest is not fair, then he shall immediately stop the fight at that point. Any matchmaker or promoter who arranged that fight shall be subject to immediate suspension of their license by the attending commission member as the commission deems the mismatching of amateur fighters to present an immediate danger to the public and the fighters;
 - d. the referee has as his number one concern the welfare of the fighters and shall conduct himself and the fight at all times with the understanding that the fighters are amateur fighters and are not to be subjected to undue punishment; which will require stoppages much sooner than those in a professional mixed technique event. Any referee who permits an amateur fighter to absorb undue punishment or grossly fails to stop a fight in a timely manner shall be subject to immediate suspension by the attending commission member as the commission deems that unnecessary injury of amateur fighters to present an immediate danger to the public and the fighters;

e. in the event that the commission member in attendance feels that the promoter has violated any of the rules of this Section concerning mixed technique exhibitions or has submitted forms or paperwork to the commission that are fraudulent, or determines that the fighters were paid any gratuity, the commission member shall, at the close of the fight issue a summons to that promoter to appear before the commission at the next scheduled meeting to determine whether his license shall be suspended.

D. At each MTE exhibition event there shall also professional MTE bouts equaling either 25 percent of the number of bouts on the card or a minimum of two professional bouts whichever is greater; however this rule will be inapplicable to venues with a occupancy capacity of 500 people or less, as set by the fire marshal, with the further understanding that this Rule shall always apply to any outdoor event or other venue where it is impossible for the firemarshal to set the occupancy capacity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61.D, R.S. 4:64 and R.S. 4:67.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Boxing and Wrestling Commission LR 34:

Alvin Topham
Chairman

0805#069

DECLARATION OF EMERGENCY

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

Disproportionate Share Hospital Payments
Non-Rural Community Hospitals and
Federally Mandated Statutory Hospitals
(LAC 50.V.2701 and 2703)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends LAC 50:V.2701 and 2703 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repromulgated all of the rules governing the Disproportionate Share Hospital (DSH) payment methodology in LAC 50:V.Chapters 25 and 27 (*Louisiana Register*, Volume 34, Number 4). The department now proposes to amend the April 20, 2008 Rule to revise the provisions governing non-rural community hospitals and federally mandated statutory hospitals to clarify that hospitals qualifying as a non-rural community hospital in state fiscal year 2007-2008 may also qualify in the federally mandated statutory hospital category.

This action is being taken to promote the public health and welfare of uninsured individuals, and ensure their continued

access to health services by assuring that hospitals are adequately reimbursed for furnishing uncompensated care. It is estimated that implementation of this Emergency Rule will have no fiscal impact for state fiscal year 2007-2008.

Effective May 1, 2008, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the April 20, 2008 Rule governing disproportionate share hospital payments.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Medical Assistance Program—Hospital Services

Subpart 3. Disproportionate Share Hospital Payments

Chapter 27. Qualifying Hospitals

§2701. Non-Rural Community Hospitals

A. Definitions

Non-Rural Community Hospital—a non-state hospital that does not receive disproportionate share payments under any other qualification category except the federally mandated statutory hospital category. These hospitals may be either publicly or privately owned. In addition, psychiatric, rehabilitation and long term hospitals may qualify for this category.

B. - I. ...

J. Hospitals qualifying as non-rural community hospitals in state fiscal year 2007-2008 may also qualify in the federally mandated statutory hospital category.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:655 (April 2008), amended LR 34:

§2703. Federally Mandated Statutory Hospitals

A. Definition

Federally Mandated Statutory Hospital—a hospital that meets the federal DSH statutory utilization requirements in §2503.A.4.a-b.ii.

B. - D.2. ...

E. The federally mandated statutory hospital category may also include hospitals qualifying as non-rural community hospitals in state fiscal year 2007-2008.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:656 (April 2008), amended LR 34:

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

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

Alan Levine
Secretary

0805#019

DECLARATION OF EMERGENCY

Department of Health and Hospitals

Office of the Secretary

Bureau of Health Services Financing

Federally Qualified Health Centers Reimbursement Methodology—Payment for Adjunct Services (LAC 50:XI.10703)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt LAC 50:XI.10703 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing established provisions governing provider enrollment and clarified the provisions governing services and the reimbursement methodology for federally qualified health centers (*Louisiana Register*, Volume 32, Number 10). Act 18 of the 2007 Regular Session of the Louisiana Legislature authorized expenditures to the Medical Vendor Program to reimburse professional services providers, including federally qualified health centers (FQHCs), who provide and report services rendered in settings other than hospital emergency departments during evening, weekend or holiday hours.

In compliance with the directives of Act 18, the department adopted provisions to allow for the reimbursement of an additional payment to FQHCs for professional services provided during evening, weekend or holiday hours (*Louisiana Register*, Volume 33, Number 10). This Emergency Rule is being promulgated to continue the provisions of the October 20, 2007 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by ensuring recipient access to primary and urgent care that can be acquired in a setting other than hospital emergency departments.

Effective June 18, 2008, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the reimbursement methodology governing FQHCs to adopt provisions establishing reimbursement for the payment of adjunct services when professional services are provided during evening, weekend or holiday hours.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XI. Clinic Services

Subpart 13. Federally Qualified Health Centers

Chapter 107. Reimbursement Methodology

§10703. Alternate Payment Methodology

A. Effective for dates of service on or after October 20, 2007, the Medicaid Program establishes an alternate

payment methodology for adjunct services provided by federally qualified health centers (FQHCs) when these professional services are rendered during evening, weekend or holiday hours. This alternate payment methodology is in addition to the prospective payment system methodology established for FQHC services.

1. A payment for adjunct services is not allowed when the encounter is for dental services only.

B. The reimbursement for adjunct services is a flat fee, based on the current procedural terminology (CPT) procedure code, in addition to the reimbursement for the associated office encounter.

C. Reimbursement is limited to services rendered between the hours of 5 p.m. and 8 a.m., Monday through Friday, on weekends and state legal holidays. Documentation relative to this reimbursement must include the time that the services were rendered.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

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

Alan Levine
Secretary

0805#039

DECLARATION OF EMERGENCY

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

Inpatient Hospital Services—Non-Rural, Non-State Hospitals Reimbursement Methodology Coverage of Hemophilia Blood Products (LAC 50:V.965)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts LAC 50:V.965 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953.B(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a Rule in June of 1994 which established the prospective reimbursement methodology for inpatient services provided in private (non-state) acute care general hospitals (*Louisiana Register*, Volume 20, Number 6). The reimbursement methodology was subsequently amended to establish a weighted average per diem for each hospital peer group and discontinue the practice of automatically applying an inflation adjustment to the reimbursement rates in those

years when the rates are not rebased (*Louisiana Register*, Volumes 22 and 25, Numbers 1 and 5).

The department now proposes to amend the reimbursement methodology for non-rural, non-state acute care hospitals to provide additional reimbursements to certain hospitals, classified as major teaching hospitals, for the extraordinary costs incurred in the purchase of blood products for Medicaid recipients who have been diagnosed with hemophilia. This Emergency Rule is being promulgated to avoid imminent peril to public health, safety and welfare of Medicaid recipients by ensuring that they have access to medically necessary hospital services and medications. It is estimated that the implementation of this proposed Rule will increase expenditures for inpatient hospital services by approximately \$132,329 for state fiscal year 2007-2008.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 1. Inpatient Hospitals

Chapter 9. Non-Rural, Non-State Hospitals

Subchapter B. Reimbursement Methodology

§965. Hemophilia Blood Products

A. Effective for dates of service on or after May 20, 2008, the Department of Health and Hospitals shall provide additional reimbursements to certain non-rural, non-state acute care hospitals for the extraordinary costs incurred in purchasing blood products for certain Medicaid recipients diagnosed with, and receiving inpatient treatment for hemophilia.

B. Hospital Qualifications. To qualify for the additional reimbursement, the hospital must:

1. be classified as a major teaching hospital and contractually affiliated with a university located in Louisiana that is recognized by the Centers for Disease Control and Prevention and the Health Resource and Services Administration, Maternal and Child Health Bureau as maintaining a comprehensive hemophilia care center;

2. have provided recombinant therapy to a Medicaid recipient who has been diagnosed with hemophilia and has been hospitalized at the qualifying hospital for a period exceeding six days; and

3. have actual cost exceeding \$50,000 for acquiring the blood products used in the provision of recombinant therapy during the hospitalization:

a. actual cost is the hospital's cost of acquiring blood products for the approved inpatient hospital dates of service as contained on the hospital's original invoices, less all discount and rebate programs applicable to the invoiced products.

C. Reimbursement. Hospitals who meet the aforementioned qualifications may receive reimbursement for their actual costs that exceed \$50,000 if the hospital submits a request for reimbursement to the Medicaid Program within 180 days of the patient's discharge from the hospital.

1. The request for reimbursement shall be submitted in a format specified by the department.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

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

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

Alan Levine
Secretary

0805#032

DECLARATION OF EMERGENCY

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

Inpatient Hospital Services—Small Rural Hospitals Reimbursement Methodology (LAC 50:V.1125 and 1127)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts LAC 50:V.1123 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953.B(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a Rule which established the prospective reimbursement methodology for inpatient hospital services provided in private (non-state) acute care general hospitals (*Louisiana Register*, Volume 20, Number 6), free-standing psychiatric hospitals and distinct part psychiatric units (*Louisiana Register*, Volume 19, Number 6). In compliance with the directives of Act 17 of the 2006 Regular Session of the Louisiana Legislature, the bureau amended the reimbursement methodology for inpatient hospital services to increase the Medicaid reimbursement rates paid to private hospitals and free-standing and distinct part psychiatric units (*Louisiana Register*, Volume 33, Number 2).

Act 327 of the 2007 Regular Session of the Louisiana Legislature authorized the department to amend the reimbursement methodology governing state fiscal year 2009 Medicaid payments to small rural hospitals for inpatient and outpatient hospital services and psychiatric services, including services provided by hospital-based rural health clinics. In compliance with the directives of Act 327, the department proposes to amend the provisions governing the reimbursement methodology for inpatient hospital services and psychiatric services rendered by small rural hospitals.

This Emergency Rule is being promulgated to promote the health and welfare of Medicaid recipients by ensuring sufficient provider participation in the Hospital Services Program and recipient access to providers of these medically

necessary services. It is estimated that the implementation of this proposed Rule will increase expenditures for inpatient hospital services by approximately \$1,988,258 for state fiscal year 2008-2009.

Effective July 1, 2008, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the reimbursement methodology governing payments to small rural hospitals for inpatient hospital services and psychiatric services for state fiscal year 2009.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 1. Inpatient Hospitals

Chapter 11. Rural, Non-State Hospitals

Subchapter B. Reimbursement Methodology

§1125. Small Rural Hospitals

A. Effective for dates of service on or after July 1, 2008, the prospective per diem rate paid to small rural hospitals for inpatient acute care services shall be the median cost amount plus 10 percent.

1. The per diem rate calculation shall be based on each hospital's year-end cost report period ending in calendar year 2006. If the cost reporting period is not a full period (12 months), the latest filed full period cost report shall be used.

B. The Medicaid cost per inpatient day for each small rural hospital shall be inflated from their applicable cost reporting period to the midpoint of the implementation year (December 31, 2008) by the Medicare market basket inflation factor for PPS hospitals, then arrayed from high to low to determine the median inpatient acute cost per day for all small rural hospitals.

C. The median cost and rates shall be rebased at least every other year using the latest filed full period cost reports as filed in accordance with Medicare timely filing guidelines.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§1127. Inpatient Psychiatric Hospital Services

A. Effective for dates of service on or after July 1, 2008, the prospective per diem rate paid to small rural hospitals for psychiatric services rendered in distinct part psychiatric units shall be the median cost amount per inpatient day plus 10 percent.

1. The per diem rate calculation shall be based on each hospital's year-end cost report period ending in calendar year 2006. If the cost reporting period is not a full period (12 months), the latest filed full period cost report shall be used.

B. The Medicaid cost per inpatient psychiatric day for each small rural hospital shall be inflated from their applicable cost reporting period to the midpoint of the implementation year (December 31, 2008) by the Medicare market basket inflation factor for PPS hospitals, then arrayed from high to low to determine the median inpatient acute cost per day for all small rural hospitals.

C. The median cost and rates shall be rebased at least every other year using the latest filed full period cost reports

as filed in accordance with Medicare timely filing guidelines.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

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

Alan Levine
Secretary

0805#033

DECLARATION OF EMERGENCY

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

Medicaid Eligibility Family Opportunity Act Medicaid Program (LAC 50:III.2303 and 10305)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt LAC 50:III.2303 and 10305 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Family Opportunity Act, signed into law by Congress as part of the Deficit Reduction Act of 2005, contains provisions which allow states to offer a Medicaid buy-in program for children with disabilities. This optional Medicaid coverage is available to families with income above the financial standards for Supplemental Security Income (SSI) benefits but not more than 300 percent of the federal poverty level.

In compliance with the directives of the Family Opportunity Act, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing implemented a Medicaid buy-in program, known as the Family Opportunity Act Medicaid Program, to provide health care coverage to children with disabilities who are not eligible for SSI disability benefits due to excess income or resources (*Louisiana Register*, Volume 33, Number 10). This Emergency Rule is being promulgated to amend the provisions of the October 20, 2007 Emergency Rule to clarify the program's income limits and to revise the provisions governing premium payments to incorporate a sliding fee scale as recommended by the Centers for Medicare and Medicaid Services. This action is being taken to secure enhanced federal revenue.

Effective May 20, 2008, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services

Financing amends the provisions of the October 20, 2007 Emergency Rule governing the Family Opportunity Act Medicaid Program.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part III. Eligibility

Subpart 3. Eligibility Groups and Factors

Chapter 23. Eligibility Groups and Programs

§2303. Family Opportunity Act Medicaid Program

A. The Family Opportunity Act, signed into law by Congress as part of the Deficit Reduction Act of 2005, allows states to offer a Medicaid buy-in program to families with income up to 300 percent of the Federal Poverty Level (FPL) for children with disabilities who are not eligible for Supplemental Security Income (SSI) disability benefits due to excess income or resources. The department hereby implements a Medicaid buy-in program called the Family Opportunity Act Medicaid Program to provide Medicaid coverage to children with disabilities.

B. Eligibility Requirements. Children born on or after October 1, 1995 and who meet the following requirements may receive health care coverage through the Family Opportunity Act Medicaid Program.

1. The child must have a disability which meets the Social Security Administration's childhood disability criteria.

2. Gross family income must not be more than 300 percent of the federal poverty level (FPL) using the income methodologies of the SSI program.

a. For the purpose of determining family income, the family unit shall consist of the following members:

- i. child(ren) with disabilities;
- ii. natural or legal parent(s); and
- iii. siblings under age 19.

b. Step-parents and step-siblings are excluded from the income determination.

3. The child may be uninsured or underinsured.

a. Parents are required to enroll in available employer-sponsored health plans when the employer contributes at least 50 percent of the annual premium costs. Participation in such employer-sponsored health plans is a condition of continuing Medicaid coverage.

C. Children eligible under the Family Opportunity Act Medicaid Program shall receive coverage of medically necessary health care services provided under the Medicaid State Plan.

D. Premium Payments. Families with gross income above 200 percent but not more than 300 percent of the FPL are required to pay premiums for Medicaid coverage. Families with gross income up to 200 percent of the FPL are not required to pay premiums for Medicaid coverage.

1. The amounts paid for premiums for Medicaid-required family coverage and other cost-sharing may not exceed 5 percent of a family's income for families with income up to 200 percent of the FPL and 7.5 percent of a family's income for families with income above 200 percent of the FPL.

2. For families with gross income above 200 percent but not more than 300 percent of the FPL, the premium amount for Medicaid is determined by whether the natural or legal parent(s) living in the household is paying for other creditable health insurance that covers the child(ren) with disabilities.

a. Families who have other creditable health insurance that provides coverage to the child(ren) with disabilities will pay a family Medicaid premium on a sliding scale as follows:

i. \$12 per month for families with income above 200 percent up to 250 percent of the FPL;

ii. \$15 per month for families with income above 250 percent but not more than 300 percent of the FPL;

b. Families who do not have other creditable health insurance that provides coverage to the child(ren) with disabilities will pay a family Medicaid premium on a sliding scale as follows:

i. no premium is required for families with income from 0 percent and up to 200 percent of the FPL;

ii. \$30 per month for families with income above 200 percent and up to 250 percent of the FPL;

iii. \$35 per month for families with income above 250 percent but not more than 300 percent of the FPL;

3. The first premium is due the month following the month that eligibility is established. Prepayment of premiums is not required. A child's eligibility for medical assistance will not terminate on the basis of failure to pay a premium until the failure to pay continues for at least 60 days from the date on which the premium was past due.

4. The premium may be waived in any case where it is determined that requiring a payment would create an undue hardship for the family. Undue hardships exist when a family:

a. is homeless or displaced due to a flood, fire, or natural disaster;

b. resides in an area where there is a presidential-declared emergency in effect;

c. presents a current notice of eviction or foreclosure; or

d. has other reasons as determined by the department.

5. Families whose eligibility has been terminated for non-payment of premiums must pay any outstanding premium balances for Medicaid-covered months before eligibility can be re-established, unless:

a. the liability has been canceled by the Bureau of Appeals or the Medicaid Recovery Unit; or

b. there has been a lapse in Medicaid coverage of at least 12 months.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

Subpart 5. Financial Eligibility

Chapter 103. Income

§10305. Income Disregards

A. For recipients in the Family Opportunity Act Medicaid Program, an income disregard of \$85 will be applied to total gross (earned and unearned) family income and then half of the remaining income will be disregarded.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

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

Alan Levine
Secretary

0805#035

DECLARATION OF EMERGENCY

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

Multi-Systemic Therapy (LAC 50:XV.Chapters 251-257)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts LAC 50:XV.Chapter 251 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953.B (1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt provisions governing the coverage and reimbursement of Multi-Systemic Therapy (MST) for youth with serious emotional/behavioral disturbances who are at risk of out-of-home placement or returning home from out-of-home placement as a result of the emotional/behavioral disturbance. The MST model is based on empirical data and evidence-based interventions that target specific behaviors with individualized behavioral interventions.

This action is being taken to avoid imminent peril to the health and welfare of youth who are in critical need of this service. It is estimated that implementation of this Emergency Rule will increase expenditures in the Medicaid Program by approximately \$3,033,188 for state fiscal year 2008-2009.

Effective July 1, 2008, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts provisions governing the coverage and reimbursement of Multi-Systemic Therapy.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 17. Multi-Systemic Therapy

Chapter 251. General Provisions

§25101. Introduction

A. Effective July 1, 2008, the Medicaid Program shall provide for the coverage and reimbursement of Multi-Systemic Therapy (MST) for youth. MST provides an intensive home/family and community-based treatment for youth who are at risk of out-of-home placement or who are returning home from placement which resulted from serious emotional/behavioral disturbance.

B. The MST model is based on empirical data and evidence-based interventions that target specific behaviors with individualized behavioral interventions.

C. Services are provided through a team approach to individuals and their families. The intent of the team approach is to:

1. promote the family's capacity to monitor and manage the youth's behavior;

2. involve families and other systems, such as schools, probation officers, extended families and community connections;

3. provide access to a variety of interventions 24 hours per day, seven days per week by staff that will maintain contact and intervene as one organizational unit; and

4. include structured face-to-face therapeutic interventions to provide support and guidance in all areas of functional domains (adaptive, communication, psychosocial, problem solving, behavior management, etc.).

D. A psychiatric, psychological or psychosocial evaluation completed by a licensed psychiatrist, psychologist or licensed clinical social worker no more than 12 months prior to the admission to MST services shall be on file to document medical necessity for MST services.

E. All MST services must be provided to, or directed exclusively toward the treatment of the Medicaid eligible youth.

F. Medicaid coverage of MST services is contingent upon appropriation of funding by the Louisiana Legislature.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§25103. Recipient Qualifications

A. Admission Criteria. In order to receive MST services, the recipient must be a youth from 11 through 17 years of age with serious emotional/behavioral disturbances and meet the following criteria. The youth is:

1. involved in, or at serious risk of involvement with the juvenile justice system; and

2. at risk of out-of-home placement as a result of one or more of the following behaviors, or returning from out-of-home placement where one or more of these behaviors was the focus of treatment;

- a. anti-social behavior;
- b. aggressive/violent behavior; or
- c. substance abusing behavior.

B. MST services may not be clinically appropriate for individuals who meet the following conditions:

1. youth who meet criteria for out-of-home placement due to suicidal, homicidal or psychotic behavior;

2. youth living independently, or youth for whom a primary caregiver cannot be identified despite extensive efforts to locate all extended family, adult friends and other potential surrogate caregivers;

3. the referral problem is limited to serious sexual misbehavior; or

4. youth has a primary diagnosis of an autism spectrum disorder.

C. Continuing Treatment Criteria. Individuals must meet all of the following criteria for continuing treatment through MST:

1. treatment does not require a more intensive level of care;

2. the treatment plan has been developed, implemented, and updated based on the youth's clinical condition and response to treatment, as well as the strengths of the family, with realistic goals and objectives clearly stated;

3. progress is clearly evident in objective terms, but goals of treatment have not yet been achieved, or adjustments in the treatment plan to address the lack of progress are evident; and

4. the family is actively involved in treatment, or there are active, persistent efforts being made which are expected to lead to engagement in treatment.

D. Discharge Criteria. Individuals who meet one or more of the following criteria no longer meet medical necessity criteria for MST and shall be discharged from MST treatment:

1. the recipient's treatment plan goals and objectives have been substantially met;

2. the recipient meets criteria for higher or lower level of treatment, care or services;

3. the recipient, family, guardian and/or custodian are not engaging in treatment or not following program rules and regulations despite attempts to address barriers to treatment;

4. consent for treatment has been withdrawn; or

5. the youth and/or family have not benefitted from MST, despite documented efforts to engage, and there is no reasonable expectation of progress at this level of care despite treatment.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

Chapter 253. Services

§25301. Covered Services

A. The components of MST services include:

1. an initial assessment to identify the focus of the MST intervention;

2. therapeutic interventions with the individual and his or her family;

3. peer intervention;

4. specialized therapeutic and rehabilitative interventions to address all areas seen as contributing to an individual's delinquency including, but not limited to:

- a. substance abuse;
- b. sexual abuse; or
- c. domestic violence; and

5. crisis stabilization.

B. The duration of MST intervention is typically three to six months. Weekly interventions may range from three to 20 hours per week and may be less as a case nears closure.

C. Services are primarily provided in the home, but may also be provided at school and in other community settings.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§25303. Service Exclusions

A. MST services are comprehensive of all other mental health services, with the exception of psychiatric/psychological evaluation or assessment and medication management. These may be provided and billed separately for a recipient receiving MST services.

B. MST shall not be billed in conjunction with the following services:

1. mental health rehabilitation (MHR) services other than medication management and assessment;
2. partial hospitalization;
3. day treatment;
4. residential services, including therapeutic foster care;
5. respite care; or
6. any other outpatient therapies (individual, family and group).

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

Chapter 255. Provider Participation

§25501. Provider Qualifications

A. In order to enroll to participate in the Louisiana Medicaid Program as a Medicaid provider of MST services, agencies must be licensed to provide such services by MST Services, Inc. of Mount Pleasant, South Carolina, or any of its approved subsidiaries.

B. An MST agency must be a behavioral health/substance abuse provider organization which:

1. is a legally recognized entity in the United States and qualified to do business in Louisiana; and
2. meets the standards established by the Bureau of Health Services Financing or its designee.

C. Providers must document team coordination on each case at least once per week. Weekly standardized MST documentation will be required and the provider must allow the bureau to access its MST report data.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§25503. Staffing Requirements

A. Clinical services and supervision must be provided by licensed behavioral health practitioners in accordance with their respective licensing board regulations. All practitioners must hold an unrestricted Louisiana license.

B. Staffing for MST services shall be comprised of no more than one-third bachelors level staff and, at a minimum, two-thirds licensed masters level staff. MST team members must include, at a minimum:

1. a Masters level clinical supervisor who is an independently licensed behavioral health professional; and
2. licensed masters, non-licensed masters or bachelors level behavioral health staff able to provide 24 hour coverage, seven days per week:

a. licensed masters level behavioral health practitioners may perform all therapeutic interventions and supervision of non-licensed staff;

b. non-licensed master's level and bachelors level behavioral health practitioners may not provide clinical supervision and must be supervised by a licensed masters level practitioner for all clinical activities:

i. bachelor's level staff must have a degree in social work, counseling, psychology or a related human services field and must have at least three years of experience working with the target population (youth and their families).

3. All college degrees must be from a nationally accredited institution of higher education as defined in Section 102(b) of the Higher Education Act of 1965, as amended.

C. All clinical staff is required to participate in and complete a prescribed five day MST introductory training and subsequent quarterly trainings.

D. MST direct service staff to family ratio shall not exceed one to six (1:6).

E. Clinical Supervision. Weekly supervision shall be provided by an independently licensed masters level behavioral health practitioner who is MST trained. This supervision, following the MST supervisory protocol, shall be provided to team members on topics directly related to the needs of MST individuals and their families on an ongoing basis.

1. A minimum of one hour local group supervision per week and one hour of telephone consultation per week with an MST systems supervisor is required.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services financing, LR 34:

Chapter 257. Reimbursement

§25701. Reimbursement Methodology

A. Reimbursement for MST services shall be a prospective flat rate for each approved unit of service provided to the recipient. One quarter hour (15 minutes) is the standard unit of service, which covers both service provision and administrative costs.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services financing, LR 34:

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

Alan Levine
Secretary

0805#036

DECLARATION OF EMERGENCY

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

Outpatient Hospital Services—Small Rural Hospitals Reimbursement Methodology (LAC 50:V.Chapters 51-61)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts LAC 50:V.Chapters 51-61 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953.B(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a Rule which established the reimbursement methodology for outpatient hospital services at an interim rate of 60 percent of billed charges and cost settlement adjusted to 83 percent of allowable costs documented in the cost report, except for laboratory services subject to the Medicare fee schedule, outpatient rehabilitation and outpatient surgeries (*Louisiana Register*, Volume 22, Number 1). The January 20, 1996, Rule was subsequently amended to reduce the reimbursement rate paid for outpatient services (*Louisiana Register*, Volume 26, Number 12). Rules were later promulgated to increase the reimbursement paid for outpatient hospital rehabilitation services rendered to Medicaid recipients who are age 3 and older, outpatient clinic services and outpatient laboratory services (*Louisiana Register*, Volume 29, Number 7). In compliance with Act 17 of the 2006 Regular Session of the Louisiana Legislature, the department amended the reimbursement methodology for outpatient services to increase the Medicaid reimbursement rates paid for outpatient services rendered in private (non-state) acute hospitals (*Louisiana Register*, Volume 33, Number 2).

Act 327 of the 2007 Regular Session of the Louisiana Legislature authorized the department to amend the reimbursement methodology governing state fiscal year 2009 Medicaid payments to small rural hospitals for inpatient and outpatient hospital services and psychiatric services, including services provided by hospital-based rural health clinics. In compliance with the directives of Act 327, the department proposes to amend the provisions governing the reimbursement methodology for outpatient hospital services rendered by small rural hospitals.

This Emergency Rule is being promulgated to promote the health and welfare of Medicaid recipients by ensuring sufficient provider participation in the Hospital Services Program and recipient access to providers of these medically necessary services. It is estimated that the implementation of this proposed Rule will increase expenditures for outpatient hospital services by approximately \$645,661 for state fiscal year 2008-2009.

Effective July 1, 2008, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services

Financing amends the reimbursement methodology governing payments to small rural hospitals for outpatient hospital services for state fiscal year 2009.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 5. Outpatient Hospitals

Chapter 51. General Provisions (Reserved)

Chapter 53. Outpatient Surgery

§5311. Reimbursement Methodology

A. Effective for dates of service on or after July 1, 2008, the reimbursement amount paid to small rural hospitals for outpatient hospital surgery services shall be as follows:

1. Small rural hospitals shall receive an interim payment for claims which shall be the Medicaid fee schedule payment on file for each service as of July 1, 2008.

2. A quarterly interim cost settlement payment shall be made to each small rural hospital to estimate a payment of 110 percent of allowable cost for fee schedule services.

a. The interim cost settlement payment shall be calculated by subtracting the actual quarterly payments for the applicable dates of services from 110 percent of the allowable costs of the quarterly claims. The cost to charge ratio from the latest filed cost report shall be applied to quarterly charges for the outpatient claims paid by fee schedule and multiplied by 110 percent of the allowable costs as calculated through the cost report settlement process.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

Chapter 55. Clinic Services

§5511. Reimbursement Methodology

A. Effective for dates of service on or after July 1, 2008, the reimbursement amount paid to small rural hospitals for outpatient hospital clinic services shall be as follows:

1. Small rural hospitals shall receive an interim payment for claims which shall be the Medicaid fee schedule payment on file for each service as of July 1, 2008.

2. A quarterly interim cost settlement payment shall be made to each small rural hospital to estimate a payment of 110 percent of allowable cost for fee schedule services.

a. The interim cost settlement payment shall be calculated by subtracting the actual quarterly payments for the applicable dates of services from 110 percent of the allowable costs of the quarterly claims. The cost to charge ratio from the latest filed cost report shall be applied to quarterly charges for the outpatient claims paid by fee schedule and multiplied by 110 percent of the allowable costs as calculated through the cost report settlement process.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

Chapter 57. Laboratory Services

§5711. Reimbursement Methodology

A. Effective for dates of service on or after July 1, 2008, the reimbursement amount paid to small rural hospitals for outpatient clinical diagnostic laboratory services shall be a

fee schedule amount equal to the Medicare Fee Schedule amount on file as of July 1, 2008.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

Chapter 59. Rehabilitation Services

§5911. Reimbursement Methodology

A. Effective for dates of service on or after July 1, 2008, the reimbursement amount paid to small rural hospitals for rehabilitation services shall be as follows.

1. Small rural hospitals shall receive an interim payment for claims which shall be the Medicaid fee schedule payment on file for each service as of July 1, 2008.

2. A quarterly interim cost settlement payment shall be made to each small rural hospital to estimate a payment of 110 percent of allowable cost for fee schedule services.

a. The interim cost settlement payment shall be calculated by subtracting the actual quarterly payments for the applicable dates of services from 110 percent of the allowable costs of the quarterly claims. The cost to charge ratio from the latest filed cost report shall be applied to quarterly charges for the outpatient claims paid by fee schedule and multiplied by 110 percent of the allowable costs as calculated through the cost report settlement process.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

Chapter 61. Other Covered Services

Subchapter B. Reimbursement Methodology

§6113. Other Outpatient Hospital Services Not

Included In Any Other Group

A. Effective for dates of service on or after July 1, 2008, the reimbursement amount paid to small rural hospitals for outpatient hospital services other than clinical diagnostic laboratory services, outpatient surgeries, rehabilitation services, and outpatient hospital facility fees shall be as follows.

1. Small rural hospitals shall receive an interim payment for claims which shall be 110 percent of each hospital's cost to charge ratio as calculated from the latest filed cost report.

2. Final reimbursement shall be 110 percent of allowable cost as calculated through the cost report settlement process.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

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

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A

copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Alan Levine
Secretary

0805#034

DECLARATION OF EMERGENCY

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

Pain Management Clinics—Licensing Standards (LAC 48:I.7801)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends LAC 48:I.7801 as authorized by R.S. 36:254 and R.S. 40:2198.11-13. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

In compliance with Act 488 of the 2005 Regular Session of the Louisiana Legislature, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions establishing the licensing standards for pain management clinics (*Louisiana Register*, Volume 34, Number 1). Pain management clinics are public or private facilities which primarily engage in the treatment of pain by prescribing narcotic medications. The department promulgated an Emergency Rule to amend the provisions contained in the January 20, 2008 Rule to further clarify the definition of pain management specialist as related to services furnished by urgent care facilities (*Louisiana Register*, Volume 34, Number 1). This Emergency Rule is being promulgated to continue the provisions of the January 20, 2008 Emergency Rule. This action is being taken to promote the health and well-being of Louisiana citizens by assuring access to these medically necessary health care services while enhancing the quality of care being furnished to patients.

Effective May 30, 2008, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the provisions governing pain management clinics.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 78. Pain Management Clinics

Subchapter A. General Provisions

§7801. Definitions

* * *

Pain Specialist—a physician, licensed in Louisiana, with a certification in the subspecialty of pain management by a member board of the American Boards of Medical Specialties.

1. For urgent care facilities in operation on or before June 15, 2005, the definition of pain specialist is a physician who is licensed in the state of Louisiana, board certified in his or her area of residency training and certified within one year from the adoption of this rule in the subspecialty of pain management by any board or academy providing such designation such as the American Boards of Medical Specialties, American Board of Pain Management, American Academy of Pain Management or the American Board of Interventional Pain Physicians. Any conflict, inconsistency or ambiguity with any other regulations contained in this chapter shall be controlled by §7801.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 40:2198.11-13.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:0000 (January 2008), amended LR 34:

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

Alan Levine
Secretary

0805#040

DECLARATION OF EMERGENCY

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

Professional Services Program—Adult Immunizations (LAC 50:IX.Chapters 83-87)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts LAC 50:IX.Chapters 83-87 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

Act 18 of the 2007 Regular Session of the Louisiana Legislature authorized expenditures to the Medical Vendor Program to allow for the coverage of certain adult immunizations provided by a medical professional for influenza, pneumococcal and human papillomavirus (HPV) diseases. These immunizations will be covered for Medicaid recipients who are age 21 or older. In compliance with the directives of Act 18, the Department by Emergency Rule adopted provisions to allow for the reimbursement of adult immunizations for influenza, pneumococcal and HPV diseases (*Louisiana Register*, Volume 33, Number 9). This Emergency Rule is being promulgated to continue the provisions of the October 1, 2007 Emergency Rule.

This Emergency Rule is being promulgated to promote the health and welfare of Medicaid recipients by ensuring recipient access to preventive care to aid in the eradication of serious illnesses that may disrupt normal family functioning.

Effective May 30, 2008, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts provisions for the coverage of certain adult immunizations.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part IX. Professional Services Program

Subpart 7. Immunizations

Chapter 83. Children's Immunizations (Reserved)

Chapter 85. Adult Immunizations

§8501. General Provisions

A. Effective October 1, 2007, the department shall provide Medicaid coverage for certain immunizations administered by enrolled Medicaid providers for adult recipients, age 21 or older. Adult immunizations shall be covered for the following diseases:

1. influenza;
2. pneumococcal; and
3. human papillomavirus (HPV).

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§8503. Coverage Restrictions

A. HPV Immunizations. Immunizations for HPV are restricted to female recipients from age 21 through 26 years old.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

Chapter 87. Reimbursement

§8701. Reimbursement Methodology

A. Adult Immunizations. Providers shall be reimbursed according to the established fee schedule for the vaccine and the administration of the vaccine.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

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

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

Alan Levine
Secretary

0805#041

DECLARATION OF EMERGENCY

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

Professional Services Program—Physicians Services
Payment for Adjunct Services
(LAC 50:IX.15121)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt LAC 50:IX.15121 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

Act 18 of the 2007 Regular Session of the Louisiana Legislature authorized expenditures to the Medical Vendor Program to reimburse professional services providers who provide and report services rendered in settings other than hospital emergency departments during evening, weekend or holiday hours.

In compliance with the directives of Act 18, the department adopted provisions allowing for the reimbursement of an additional payment to professional services providers for services provided in settings other than hospital emergency departments during evening, weekend or holiday hours (*Louisiana Register*, Volume 33, Number 10). This Emergency Rule is being promulgated to continue the provisions of the October 20, 2007 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by ensuring recipient access to primary and urgent care that can be acquired in a setting other than hospital emergency departments.

Effective June 18, 2008, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the reimbursement methodology governing professional services to adopt provisions establishing reimbursement for the payment of adjunct services when professional services are provided in a setting other than hospital emergency departments during evening, weekend or holiday hours.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part IX. Professional Services Program

Subpart 15. Reimbursement

Chapter 151. Reimbursement Methodology

§15121. Payment for Adjunct Services

A. Effective for dates of service on or after October 20, 2007, the Medicaid Program shall provide reimbursement for the payment of adjunct services in addition to the reimbursement for evaluation and management services and the associated ancillary services when these professional services are rendered in settings other than hospital emergency departments during evening, weekend or holiday hours.

B. The reimbursement for adjunct services is a flat fee in addition to the reimbursement for the associated evaluation and management and ancillary services.

C. Reimbursement is limited to services rendered between the hours of 5 p.m. and 8 a.m., Monday through Friday, on weekends and state legal holidays. Documentation relative to this reimbursement must include the time that the services were rendered.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

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

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

Alan Levine
Secretary

0805#042

DECLARATION OF EMERGENCY

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

Rural Health Clinics
Reimbursement Methodology
(LAC 50:XI.16705)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts LAC 50:XI.16705 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953.B(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions governing services, provider participation and reimbursement methodology for rural health clinics (*Louisiana Register*, Volume 32, Number 12). The department promulgated an Emergency Rule to amend the provisions of the December 20, 2006 Rule governing the reimbursement methodology for rural health clinics to allow for the reimbursement of an additional payment to rural health clinics for professional services provided during evening, weekend or holiday hours (*Louisiana Register*, Volume 33, Number 10).

Act 327 of the 2007 Regular Session of the Louisiana Legislature authorized the department to amend the reimbursement methodology governing state fiscal year 2009 Medicaid payments to small rural hospitals for inpatient and outpatient hospital services and psychiatric services, including services provided by hospital-based rural health clinics. In compliance with the directives of Act 327, the department proposes to amend the provisions governing the reimbursement methodology for hospital-based rural health clinics.

This Emergency Rule is being promulgated to promote the health and welfare of Medicaid recipients by ensuring sufficient provider participation in the Medicaid Program and recipient access to providers of these medically necessary services. It is estimated that the implementation of this proposed Rule will increase expenditures for rural health clinic services by approximately \$2,541,131 for state fiscal year 2008-2009.

Effective July 1, 2008, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the reimbursement methodology governing payments to hospital-based rural health clinics for state fiscal year 2009.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XI. Clinic Services

Subpart 15. Rural Health Clinics

Chapter 167. Reimbursement Methodology

§16705. Hospital-Based Rural Health Clinics

A. Effective for dates of service on or after July 1, 2008, the reimbursement methodology for services rendered by a rural health clinic that was licensed as part of a small rural hospital as of July 1, 2007 shall be as follows.

1. Hospital-based rural health clinics shall be reimbursed in the aggregate at 110 percent of reasonable costs.

2. Interim payments for claims shall be the Medicaid PPS per visit rate in effect as of July 1, 2008 for each provider.

3. Final reimbursement shall be 110 percent of allowable cost as calculated through the cost settlement process.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

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

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

Alan Levine
Secretary

0805#037

DECLARATION OF EMERGENCY

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

Rural Health Clinics Reimbursement Methodology—Payment for Adjunct Services (LAC 50:XI.16703)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt LAC 50:XI.16703 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions governing services, provider participation and reimbursement methodology for rural health clinics (*Louisiana Register*, Volume 32, Number 12). Act 18 of the 2007 Regular Session of the Louisiana Legislature authorized expenditures to the Medical Vendor Program for payments to private and public providers of health care services. In order to facilitate access to primary and urgent care in settings other than hospital emergency departments and encourage utilization, the bureau determined that it was necessary to provide reimbursement to professional services providers, including rural health clinics, for furnishing services during evening, weekend or holiday hours.

In compliance with the directives of Act 18, the department by Emergency Rule adopted provisions to allow for the reimbursement of an additional payment to rural health clinics for professional services provided during evening, weekend or holiday hours (*Louisiana Register*, Volume 33, Number 10). This Emergency Rule is being promulgated to continue the provisions of the October 20, 2007 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by ensuring recipient access to primary and urgent care that can be acquired in a setting other than hospital emergency departments.

Effective June 18, 2007, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the reimbursement methodology governing rural health clinics to allow for the reimbursement of an additional payment to rural health clinics for professional services provided during evening, weekend or holiday hours.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XI. Clinic Services

Subpart 15. Rural Health Clinics

Chapter 167. Reimbursement Methodology

§16703. Alternate Payment Methodology

A. Effective for dates of service on or after October 20, 2007, the Medicaid Program establishes an alternate payment methodology for adjunct services provided by rural

health clinics (RHCs) when these professional services are rendered during evening, weekend or holiday hours. This alternate payment methodology is in addition to the prospective payment system methodology established for RHC services.

1. A payment for adjunct services is not allowed when the encounter is for dental services only.

B. The reimbursement for adjunct services is a flat fee, based on the current procedural terminology (CPT) procedure code, in addition to the reimbursement for the associated office encounter.

C. Reimbursement is limited to services rendered between the hours of 5 p.m. and 8 a.m., Monday through Friday, on weekends and state legal holidays. Documentation relative to this reimbursement must include the time that the services were rendered.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

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

Alan Levine
Secretary

0805#038

DECLARATION OF EMERGENCY

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

Targeted Case Management Reimbursement Methodology (LAC 50:XV.10701-10703)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends LAC 50:XV.10701 and adopts §10703 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953.B(1) et seq., and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repromulgated the rules governing optional targeted case management services under the Medicaid Program for inclusion in the Louisiana Administrative Code (*Louisiana Register*, Volume 30, Number 5). The department now proposes to amend the provisions of the May 20, 2004 Rule governing the reimbursement methodology for targeted case management to require case management agencies to bill in 15 minute increments. This Rule also adopts provisions establishing cost reporting requirements for targeted case management.

This action is being taken to avoid federal sanctions. It is anticipated that the implementation of this Emergency Rule will be cost neutral for state fiscal year 2008-2009.

Effective May 1, 2008, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the reimbursement methodology governing targeted case management services.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 7. Targeted Case Management

Chapter 107. Reimbursement

§10701. Reimbursement

A. Effective for dates of service on or after May 1, 2008, reimbursement for case management services shall be a prospective rate for each approved unit of service provided to the recipient.

1. One quarter hour (15 minutes) is the standard unit of service which covers both service provision and administrative costs.

2. All services must be prior authorized.

B. ...

C. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:1040 (May 2004), amended LR 31:2032 (August 2005), amended LR 34:

§10703. Cost Reports

A. Case management agencies shall provide annual cost reports based on the state fiscal year, starting with the period beginning July 1, 2008 and ending June 30, 2009. Completed reports are due within 90 calendar days after the end of each fiscal year.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

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

Alan Levine
Secretary

0805#020

DECLARATION OF EMERGENCY

Department of Public Safety and Corrections Corrections Services

Louisiana Sex Offender Assessment Panels (LAC 22:I.109)

In accordance with the provisions R.S. 49:953, the Department of Public Safety and Corrections, Corrections Services, hereby determines that adoption of an Emergency Rule for implementation of the Louisiana Sex Offender

Assessment Panels mandated by Act No. 186 of the 2006 Regular Session and Act No. 126 of the 2007 Regular Session is necessary and that for the following reasons failure to adopt the Rule on an emergency basis will result in imminent peril to the public health, safety and welfare.

Act No. 186 of the 2006 Regular Session created the Louisiana Sex Offender Assessment Panels within the Department of Public Safety and Corrections. The Act mandated membership and duties for the panels. The panels were to evaluate each offender convicted of a sex offense as defined in R.S. 15:541(14.1) who were to be released from the custody of the department by any means, to determine if the offender may be a child sexual predator or sexually violent predator.

This Act required the membership of a panel to be comprised of a psychologist and a physician who are qualified in forensic evaluations of sex offenders, along with a retired law enforcement officer, the Secretary of the Department of Public Safety and Corrections or his designee, the warden or deputy warden of the institution where the offender was incarcerated and a probation and parole officer with a minimum of 10 years experience to be appointed by the governor.

The members outside of the Department of Public Safety and Corrections were to receive a per diem not to exceed \$40/hr. for each day in meetings.

Due to the minimum compensation offered to professionals, the cumbersome volume of work and the inability to recruit psychologists and physicians to serve on a panel, the panels were never properly appointed.

Act No. 126 of the 2007 Regular Session amended R.S. 15:560 et seq., and reduced the membership from six to three members. A psychologist or a psychiatrist in the employment or under contract to the Department of Public Safety and Corrections was required to be a member.

The department has maintained a list of all sex offenders that were convicted of a sex offense as defined in R.S. 15:541(14.1) or who were released from the custody of the department by any means, on or after August 15, 2006. This list contains over 700 sex offenders. The department is concerned with the imminent peril to the public health, safety and welfare of the department and the general public and desires to adopt the Louisiana Sex Offender Assessment Panels process as an Emergency Rule. The panels must immediately begin reviewing information on the released offenders and the department desires to proceed at once.

For the foregoing reasons, the Department of Public Safety and Corrections, Corrections Services, has determined that the adoption of an Emergency Rule for implementation of the Louisiana Sex Offender Assessment Panels is necessary and hereby provides notice of its declaration of emergency effective on June 15, 2008, in accordance with R.S. 49:953. This Emergency Rule shall be in effect for 120 days or until adoption of the final Rule, whichever occurs first.

Title 22
CORRECTIONS, CRIMINAL JUSTICE AND LAW
ENFORCEMENT
Part I. Corrections

Chapter 1. Secretary's Office
§109. Louisiana Sex Offender Assessment Panels

A. Purpose. To establish the secretary's policy relative to the formation of the Louisiana Sex Offender Assessment Panels pursuant to legislative intent and the provisions of Act 186 of the 2006 Regular Session and Act 126 of the 2007 Regular Session. The provisions of this regulation shall apply to all sex offenders as defined in R.S. 15:541(14.1) who are convicted or who are released by any means from the department's custody on or after August 15, 2006.

B. Applicability: deputy secretary, chief of operations, undersecretary, assistant secretary, wardens, Director of the Division of Probation and Parole, Chairman of the Board of Pardons, Chairman of the Board of Parole and local jail administrators. Each unit head is responsible for ensuring that appropriate unit written policy and procedures are in place to comply with the provisions of this regulation.

C. Policy. To constitute the department's policy regarding Louisiana Sex Offender Assessment Panels pursuant to legislative intent.

D. Definitions

Child Sexual Predator—a person determined by a Louisiana Sex Offender Assessment Panel who has been convicted of a sex offense as defined in R.S. 15:541(14.1) and who is likely to engage in additional sex offenses against children because he has a mental abnormality or condition which can be verified by a psychiatrist or psychologist, or because he has a history of committing crimes, wrongs, or acts involving sexually assaultive behavior or acts which indicate a lustful disposition toward children.

Mental Abnormality—a congenital or acquired condition of a person that affects the emotional or volitional capacity of the person in a manner that predisposes that person to the commission of criminal sexual acts to a degree that makes the person a menace to the health and safety of others. Nothing in this definition is intended to supersede or apply to the definitions found in R.S. 14:10 or 14 in reference to criminal intent or insanity.

Sexually Violent Predator—a person who has been convicted of a sex offense as defined in R.S. 15:541(14.1) and who has a mental abnormality or anti-social personality disorder that makes the person likely to engage in predatory sexually violent offenses as determined by a Louisiana Sex Offender Assessment Panel.

E. Panel Composition and Guidelines

1. Pursuant to the provisions of R.S. 15:560.2, the secretary is hereby authorized to create not more than three Louisiana Sex Offender Assessment Panels. An employee of the Office of Adult Services shall be designated by the secretary to serve as coordinator for the panels. Each panel shall consist of three members as follows:

a. one member shall be a psychologist licensed by the Louisiana State Board of Examiners of Psychologists who has been engaged in the practice of clinical or counseling psychology for not less than three consecutive years or a psychiatrist in the employ or under contract to the department whose credentials and experience are not incompatible with the evaluation of the potential threat to public safety that may be posed by a child sexual predator or a sexually violent predator;

b. one member shall be the secretary or designee who shall be chairman;

c. one member shall be the warden, or in his absence the deputy warden, of the institution where the offender is incarcerated or a probation and parole officer with a minimum of 10 years experience, or a retired law enforcement officer with at least five years of experience in investigating sex offenses.

2. A majority of the members of a panel shall constitute a quorum. All official actions of a panel shall require an affirmative vote of a majority of the members of the panel.

3. Each panel shall meet at least once quarterly and upon the call of the chairman or upon the request of any two members.

4. Notwithstanding the provisions of R.S. 15:574.12, each panel shall review presentence reports, prison records, medical and psychological records, information and data gathered by the staffs of the Board of Pardons and the Board of Parole, information provided by the sex offender (which may include a personal interview), the district attorney or the assistant district attorney from the judicial district which prosecuted the sex offender and any other information obtained by the boards or the department.

5. Each panel shall have the duty to evaluate every offender who has been convicted of a sex offense as defined in R.S. 15:541(14.1) and who is to be released from the custody of the department, by any means, to determine if he is a child sexual predator or a sexually violent predator in accordance with the provisions of R.S. 15:560.1.

6. Each panel shall meet and evaluate every sex offender as defined by this regulation at least six months prior to the release date of the sex offender.

7. Any decision by a panel may be appealed in accordance with Department Regulation No. B-05-005 "Administrative Remedy Procedure."

8. A panel's review will be conducted via file review utilizing the information contained in Paragraph E.4. Telephone or video conferencing may be conducted at the discretion of the panel.

9. Panel decisions will be recorded by individual vote and official results shall be maintained on a docket sheet results form.

10. Recommendations made by individuals other than those employed by the department or the local jail facility where the inmate is housed shall be made in writing.

11. Pursuant to R.S. 15:560.3A.(1), (2), and (3), upon a determination by a panel that a sex offender is a child sexual

predator or a sexually violent predator, the sex offender shall be:

a. required to register as a sex offender in accordance with the provisions of R.S. 15:542 et seq., for the duration of his natural life;

b. required to provide community notification in accordance with the provisions of R.S. 15:542 et seq., for the duration of his natural life;

c. required to be electronically monitored pursuant to the provisions of R.S. 15:560.4.

F. Electronic Monitoring of Child Sexual Predators or Sexually Violent Predators

1. Each sex offender determined to be a child sexual predator or a sexually violent predator pursuant to the provisions of this regulation shall be required to be electronically monitored in a fashion that provides for electronic location tracking.

2. Unless it is determined pursuant to Department Regulation No. C-07-004 "Offender Payment for Electronic Monitoring" that a sex offender is unable to pay all or any portion of the costs for electronic monitoring, each sex offender to be electronically monitored shall pay the cost of such monitoring.

3. The costs attributable to the electronic monitoring of an offender who has been determined unable to pay shall be borne by the department if, and only to the degree that sufficient funds are made available for such purpose whether by appropriation of state funds or from any other source.

4. Only in the case that a sex offender determined to be a child sexual predator or a sexual violent predator is unable to pay his own electronic monitoring costs, and there are no funds available to the department to pay for such monitoring, may the requirements of electronic monitoring be waived.

G. Notification of Release

1. In accordance with R.S. 40:2528, Public Safety Services shall promulgate rules and regulations regarding the department's notification to the Office of State Police when a child sexual predator or sexually violent predator has been released from imprisonment. State police shall then send out an alert by means of a predator alert system to local law enforcement officials to inform them of such releases.

H. Rights of Action

1. Any employee who participates in the sex offender review process pursuant to this regulation shall be immune from civil or criminal liability when the actions taken are in good faith in a reasonable manner in accordance with generally accepted medical or other professional practices.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:560.3(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 34:

James M. Le Blanc
Secretary

0804#030

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

2008 Deepwater Grouper and Tilefishes Commercial Season Closure

The commercial seasons for the harvest of deepwater groupers and tilefishes in Louisiana state waters will close effective 12:01 a.m. on May 10, 2008. The deepwater grouper assemblage includes misty, snowy, yellowedge, Warsaw grouper, and speckled hind. The tilefish assemblage includes tilefish, goldface tilefish, blackline tilefish, anchor tilefish and blueline tilefish. The secretary has been informed that the commercial seasons for deepwater groupers and tilefishes in the Federal waters of the Gulf of Mexico off the coast of Louisiana will both close at 12:01 a.m. on May 10, 2008, and will remain closed until 12:01 a.m., January 1, 2009.

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, R.S. 49:967 which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons, R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, and the authority given to the secretary of the department by the commission in its resolution of January 9, 2008 to modify opening and closing dates of 2008 commercial reef fish seasons in Louisiana state waters when he is informed by the Regional Director of NOAA Fisheries that the seasons have been closed in adjacent Federal waters, and that NOAA Fisheries requests that the season be modified in Louisiana State waters, the Secretary hereby declares:

The commercial fisheries for deepwater groupers and tilefishes in Louisiana waters will both close at 12:01 a.m. on May 10, 2008, and remain closed until 12:01 a.m., January 1, 2009. Effective with these closures, no person shall commercially harvest, possess, purchase, barter, trade, sell or attempt to purchase, barter, trade or sell deepwater groupers or tilefishes whether within or without Louisiana waters. Effective with the closures, no person shall possess deepwater groupers or tilefishes in excess of a daily bag limit, which may only be in possession during the open recreational season. Nothing shall prohibit the possession or sale of fish legally taken prior to the closure providing that all commercial dealers possessing deepwater groupers or tilefishes taken legally prior to the closure shall maintain appropriate records in accordance with R.S. 56:306.5 and R.S. 56:306.6.

The secretary has been notified by NOAA Fisheries that the commercial deepwater grouper and tilefish seasons in Federal waters of the Gulf of Mexico will both close at 12:01 a.m. on May 10, 2008, and the seasons will remain closed until 12:01 a.m., January 1, 2009. Having compatible season regulations in state waters is necessary to provide effective rules and efficient enforcement for the fishery, to prevent overfishing of these species in the long term.

Robert J. Barham
Secretary

0804#060

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

2008 Spring Shrimp Season

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons and R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all or part of inside waters and shall have the authority to open or close outside waters, the Wildlife and Fisheries Commission does hereby set the 2008 Spring Shrimp Season in Louisiana state waters to open as follows:

Shrimp Management Zone 1, that portion of Louisiana's inside waters from the Mississippi/Louisiana state line to the eastern shore of South Pass of the Mississippi River, to open at 12 noon June 2, 2008, and

Shrimp Management Zone 2, that portion of Louisiana's inside waters from the eastern shore of South Pass of the Mississippi River to the western shore of Vermilion Bay and Southwest Pass at Marsh Island and that portion of the State's Outside Waters south of the Inside/Outside Shrimp Line as described in R.S. 56:495 from the Atchafalaya River Ship Channel at Eugene Island as delineated by the River Channel Buoy Line to the eastern shore of Freshwater Bayou at 92 degrees 18 minutes 33 seconds west longitude to open at 12 noon May 12, 2008.

Shrimp Management Zone 3, that portion of Louisiana's inside waters from the western shore of Vermilion Bay and Southwest Pass at Marsh Island westward to the Louisiana/Texas State Line, to open at 12 noon June 2, 2008.

The commission also hereby grants authority to the Secretary of the Department of Wildlife and Fisheries to close any portion of the state's inside waters to protect small white shrimp if biological and technical data indicates the need to do so, or enforcement problems develop.

Patrick C. Morrow
Chairman

0805#013

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Oyster Season Reopening—St. Bernard Parish

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B) and R.S. 49:967(D), and under the authority of R.S. 56:433(B)1 which provides that the Wildlife and Fisheries Commission may designate what parts or portions of the natural reefs may be fished for oysters, and a Resolution adopted by the Wildlife and Fisheries Commission on August 2, 2007 which authorized the Secretary of the Department of Wildlife and Fisheries to take emergency action if necessary to reopen areas, the secretary hereby declares:

The 2007/2008 oyster season shall reopen at one-half hour before sunrise on Sunday, April 13, 2008 and shall close at one-half hour after sunset on Saturday, April 26, 2008 within the public oyster seed grounds located within Department of Health and Hospitals (DHH) harvest areas 1, 2, and 3 in St. Bernard Parish. Harvestable quantities of oyster resources continue to exist in these public oyster seed grounds and the possible opening of the Bonnet Carre Spillway has placed that resource in imminent peril. As the oyster resources in these areas are in imminent peril from the spillway opening, allowing limited harvest of the resource is in the best interest of the Louisiana oyster industry.

The Secretary of the Department of Wildlife and Fisheries is authorized to take emergency action as necessary to close areas if oyster mortalities are occurring or to delay the season or close areas where it is found that there are excessive amounts of non-living reef material in seed oyster loads, or if oyster resources and/or reefs are being adversely impacted, or if enforcement problems are encountered.

Robert J. Barham
Secretary

0805#001

Rules

RULE

Department of Agriculture and Forestry Seed Commission

Seeds (LAC 7:XIII.129 and 131)

In accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., and R.S. 3:1433, the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, adopted regulations governing the use of a global positioning satellite (GPS) as well as amending the deadline for sugarcane application.

In order for USDA and the Louisiana Department of Agriculture and Forestry to get a more accurate location of seed stock fields to be certified for seed production, the department is amending regulations to require the use of GPS coordinates. In the past farmers and inspectors of seed stock fields have had difficulties determining the correct fields to be inspected due to a lack of accurate information. GPS coordinates submitted with the application will correct these difficulties and will provide valuable reference information for both the department and farmers.

The department is also adopting Rules regarding the current application deadline for sugarcane field inspections. The current deadline is May 1st. However, sugarcane field inspections usually begin in April. Therefore, under the current deadline an application may be received after the first field inspection is due thereby disqualifying the crop from being certified.

These Rules are enabled by R.S. 3:1433.

Title 7

AGRICULTURE AND ANIMALS

Part XIII. Seeds

Chapter 1. Contaminated Seed Stock and Other Propagating Stock

Subchapter B. General Seed Certification Requirements

§129. Application for Field Certification

A. The grower must apply for certification on or before the application deadline shown in §131 for seed stock to be certified by the Department of Agriculture and Forestry. The grower must submit a completed application on the form provided by the department.

B. Applications for certification of seed stock for a crop or variety listed in §131 which are submitted after the deadline specified in §131 will not be approved unless field inspection(s) can be completed prior to harvest.

C. Information to accompany application:

1. name of variety;
2. GPS coordinates at or about the center point of each field presented for certification;
3. copy of the purchase invoice, or statement showing class of seed purchased;

4. one sample tag from each lot number (If the grower plants seed of his own production, the class of seed and lot number shall be identified by documentation acceptable to the Department of Agriculture and Forestry); and

5. a map of each field presented for certification.

D. It is the duty of the grower to notify the department at least two weeks prior to harvest of the anticipated harvest date for each field presented for certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433 and R.S. 3:1434.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:565 (November 1982), amended LR 12:825 (December 1986), LR 34:863 (May 2008).

§131. Application Deadlines

- A. Onion bulbs and seed, and shallots—March 1.
- B. Tissue Culture Sugarcane—April 1.
- C. Clover (crimson, red, white), rescue grass, harding grass, vetch, and Irish potatoes—April 1.
- D. Oats, wheat, ryegrass, singletary peas—April 15.
- E. Watermelon—May 1.
- F. Sweet potatoes and sweet potato plants:
 1. greenhouse plantings (virus-tested)—45 days prior to planting;
 2. field plantings—June 1.
- G. Okra—June 15.
- H. Rice—July 1.
- I. Cotton, millet, sesame, sunflower, tree—July 15.
- J. Tomatoes (Spring)—June 1, (Fall)—July 15.
- K. Soybeans—August 1.
- L. Corn—a minimum of 30 days prior to pollination.
- M. Cowpeas—a minimum of 30 days prior to harvest.
- N. Grasses:
 1. bermuda grasses:
 - a. new plantings—minimum of 30 days prior to harvest;
 - b. established stands (fields certified the previous year)—June 1. Renewal application must be submitted;
 2. turf and pasture grass:
 - a. new plantings—at least 15 days prior to land preparation for planting;
 - b. established stands (fields certified the previous year)—June 1. Renewal application must be submitted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:565 (November 1982), amended LR 9:195 (April 1983), amended by the Department of Agriculture and Forestry, Seed Commission, LR 12:825 (December 1986), LR 13:155 (March 1987), LR 13:232 (April 1987), LR 14:603 (September 1988), LR 23:1283 (October 1997), LR 25:1617 (September 1999), LR 34:863 (May 2008).

Bob Odom
Commissioner

0805#061

RULE

**Department of Environmental Quality
Office of the Secretary**

**Motor Fuels UST Trust Fund Procedures
(LAC 33:XI.1121)(UT012)**

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Underground Storage Tanks regulations, LAC 33:XI.1121 (Log #UT012).

This Rule provides for the use of a lien in substitute for the owner's financial responsibility required by law for an underground storage tank owner who has established inability to pay and who has ceased operations. In addition, the Rule provides that the use of the lien be limited to 20 percent of the amount collected in the previous fiscal year. The Rule also defines, from the requirements of R.S. 30:2195.2 and 2194.4(A)(1), that reimbursement from the Motor Fuels Underground Storage Tank Trust Fund (MFUSTTF) for "all necessary and appropriate expenditures" to owners for response actions taken "when authorized by the secretary" shall be made, in cases with multiple releases from, and multiple owners of, one or more UST systems, for work done in compliance with a single corrective action plan approved by the department. The Rule allows the department to choose a response action contractor (RAC) should the owners, within 90 days of the most recent release, be unable to agree on a single RAC to submit work plans and applications to investigate and perform the cleanup. This Rule revision implements Act 447 of the 2006 Regular Session of the Louisiana Legislature, provides guidance for the regulated community, and eliminates the recurring problem concerning multiple RACs when a site has more than one release and more than one owner. These changes are necessary to ensure the fiscal stability of the MFUSTTF. The basis and rationale for this Rule are to implement Act 447 and to ensure the continuing financial viability of the Motor Fuels Underground Storage Tank Trust Fund.

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 XI. Underground Storage Tanks

Chapter 11. Financial Responsibility

§1121. Use of the Motor Fuels Underground Storage Tank Trust Fund

The administrative authority was authorized by R.S. 30:2194-2195.10 to receive and administer the Motor Fuels Underground Storage Tank Trust Fund (MFUSTTF) to provide financial responsibility for owners and/or operators of underground motor fuel storage tanks. Under the conditions described in this Section, an owner and/or operator who is eligible for participation in the MFUSTTF may use this mechanism to partially fulfill the financial

responsibility requirements for eligible USTs. To use the MFUSTTF as a mechanism for meeting the requirements of LAC 33:XI.1107, the owner and/or operator must be an *eligible participant* as defined in Subsection A of this Section. In addition, the owner and/or operator must use one of the other mechanisms described in LAC 33:XI.1111-1119 or 1123-1125 to demonstrate financial responsibility for the amounts specified in Subsection C of this Section, which are the responsibility of the participant and not covered by the MFUSTTF.

A. Definitions. The following terms shall have the meanings ascribed to them as used in this Section.

* * *

Eligible Participant—any owner of an operating or newly-installed underground storage tank who has registered the tank with the department prior to the date of a release, has paid the annual tank registration fees along with any late payment fees, has met the financial responsibility requirements imposed by Subsection B of this Section, and, if applicable, has met the noncompliance financial responsibility amounts provided in R.S. 30:2195.10.

* * *

B. Financial Responsibility Requirements for MFUSTTF Participants

1. Unless revised by the administrative authority in accordance with R.S. 30:2195.9(A)(3), MFUSTTF participants taking response actions must pay the following amounts before any disbursements are made from the fund:

a. \$10,000 per occurrence for cleanup and an additional \$10,000 per occurrence for third-party judgments, for the period from July 15, 1988 through December 31, 1989;

b. \$15,000 per occurrence for cleanup and an additional \$15,000 per occurrence for third-party judgments, for the period from January 1, 1990 through July 14, 1992;

c. for the period from July 15, 1992 through June 15, 1995:

i. \$5,000 per occurrence for cleanup and an additional \$5,000 for third-party judgments for owners with 1 to 12 tanks in Louisiana;

ii. \$10,000 per occurrence for cleanup and an additional \$10,000 for third-party judgments for owners with 13 to 99 tanks in Louisiana; and

iii. \$15,000 per occurrence for cleanup and an additional \$15,000 for third-party judgments for owners with 100 or more tanks in Louisiana; and

d. \$5,000 per occurrence for cleanup and an additional \$5,000 per occurrence for third-party judgments, for the period from June 16, 1995 through December 31, 2001.

2. Thereafter, the advisory board shall review the financial responsibility requirements on an annual basis and may recommend adjustments to the requirements to the administrative authority. The administrative authority shall determine and set the financial responsibility requirements annually [as provided in R.S. 30:2195.9(A)(3)].

3. Eligible participants must demonstrate financial responsibility for the established amounts by the allowable mechanisms described in LAC 33:XI.1111-1119 and LAC 33:XI.1123-1125.

4. Substitution of a Departmental Lien

a. A lien filed by the department with the same ranking and privilege as that authorized by R.S. 30:2195(F)(2) may be substituted for the financial responsibility requirement of this Section, but in no case shall the lien be substituted on behalf of an owner and/or operator who continues to operate the system. The use of the funds in the MFUSTTF during any fiscal year on a site for which the lien, as authorized by this Section, has been used to substitute for the financial responsibility amount shall not exceed 20 percent of the amount collected in the previous fiscal year. The administrative authority is authorized to exceed the 20 percent limitation contained in this Paragraph upon recommendation by the advisory board.

b. Upon recommendation by the advisory board to exceed the 20 percent limitation as provided in Subparagraph B.4.a of this Section, the administrative authority shall provide written notification to the Senate Committee on Environmental Quality and the House Committee on the Environment listing the project name, the project location, and the amount of the project that exceeds the 20 percent limitation.

C. - D.2. ...

3. For sites with more than one eligible release and with multiple owners and/or operators wishing to use MFUSTTF monies, cost effective procedures shall require that the multiple owners and/or operators provide to the administrative authority a single investigation and corrective action plan that complies with the requirements of LAC 33:XI.709, 711, and 715. The MFUSTTF shall reimburse the owners and/or operators only after the submittal of one certified request for reimbursement for work that has been completed according to the administrative authority's approved investigation and corrective action plan.

4. For sites with more than one eligible release and with multiple owners and/or operators wishing to use MFUSTTF monies who cannot agree on the selection of a single qualified response action contractor (RAC) for the purpose of complying with Paragraph D.3 of this Section, or who have failed to begin investigation or corrective action within the time required by the administrative authority, the administrative authority shall select a RAC to carry out the investigation and/or corrective action or order the respective owners and/or operators to begin investigation or corrective action without MFUSTTF monies. The administrative authority, in choosing a RAC, shall solicit notices of interest in the project from all approved RACs and select a RAC randomly through a public drawing from all RACs expressing an interest in the project. The RAC selected shall not be one currently under contract to any one of the multiple owners and/or operators of the site. Owners and/or operators shall continue to monitor site cleanup and shall sign and submit a sworn application requesting reimbursement. Thereafter, the administrative authority shall determine all reasonable costs and shall pay the RAC directly.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and specifically 2195-2195.10.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended LR 17:658 (July 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2561 (November 2000), LR 27:521 (April 2001), amended by

the Office of Environmental Assessment, LR 31:1577 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 34:864 (May 2008).

Herman Robinson, CPM
Executive Counsel

0805#077

RULE

**Department of Environmental Quality
Office of the Secretary
Legal Affairs Division**

Incorporation by Reference—2007
(LAC 33:I.3931; V.3099; IX.2301, 4901,
and 4903; and XV.1517)(MM007ft)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Environmental Quality regulations, LAC 33:I.3931; V.3099; IX.2301, 4901, and 4903; and XV.1517 (Log #MM007ft).

This Rule is identical to federal regulations found in 10 CFR Part 71, Appendix A, January 1, 2007; 40 CFR 117.3, Part 136, Part 266, Appendices I-IX and XI-XIII, 302.4, 302.6(e), 355.40(a)(2)(vii), Part 401, Parts 405-415, and Parts 417-471, July 1, 2007; and 72 FR 40245-40250, July 24, 2007, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3550 or Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the Rule. This Rule will be promulgated in accordance with the procedures in R.S. 49:953(F)(3) and (4).

This Rule incorporates by reference into LAC 33:I, V, IX, and XV the corresponding federal reportable quantity list of hazardous substances in 40 CFR 117.3 and 302.4, July 1, 2007; administrative reporting exemptions for certain air releases of NOx in 40 CFR 302.6(e) and 355.40(a)(2)(vii), July 1, 2007; hazardous waste regulations in 40 CFR Part 266, Appendices I-IX and XI-XIII, July 1, 2007; National Pollutant Discharge Elimination System regulations in 40 CFR Parts 136, 401, 405-415, and 417-471, July 1, 2007; radiation regulations in 10 CFR Part 71, Appendix A, January 1, 2007; and amendments to the Concentrated Animal Feeding Operations (CAFO) Point Source Category Regulations (40 CFR Part 412) at 72 FR 40245-40250, July 24, 2007. In order for Louisiana to maintain equivalency with federal regulations, the most current Code of Federal Regulations must be adopted into the LAC. This rulemaking is necessary to maintain delegation, authorization, etc., granted to Louisiana by EPA. This incorporation by reference package has been amended to keep Louisiana's regulations current with their federal counterparts. The basis and rationale for this Rule are to mirror the federal regulations in order to maintain equivalency. 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 2. Notification

Chapter 39. Notification Regulations and Procedures for Unauthorized Discharges

Subchapter E. Reportable Quantities for Notification of Unauthorized Discharges

§3931. Reportable Quantity List for Pollutants

A. Incorporation by Reference of Federal Regulations

1. Except as provided in Subsection B of this Section, the following federal reportable quantity lists are incorporated by reference:

a. 40 CFR 117.3, July 1, 2007, Table 117.3—Reportable Quantities of Hazardous Substances Designated Pursuant to Section 311 of the Clean Water Act; and

b. 40 CFR 302.4, July 1, 2007, Table 302.4—List of Hazardous Substances and Reportable Quantities.

2. Notification Requirements. The following administrative reporting exemptions are hereby incorporated by reference:

a. 40 CFR 302.6(e), July 1, 2007—Notification Requirements; and

b. 40 CFR 355.40(a)(2)(vii), July 1, 2007—Emergency Release Notification.

B. - Note #. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2025(J), 2060(H), 2076(D), 2183(I), 2194(C), 2204(A), and 2373(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August 1985), amended LR 19:1022 (August 1993), LR 20:183 (February 1994), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:944 (September 1995), LR 22:341 (May 1996), amended by the Office of the Secretary, LR 24:1288 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:2229 (December 2001), LR 28:994 (May 2002), LR 29:698 (May 2003), LR 30:751 (April 2004), LR 30:1669 (August 2004), amended by the Office of Environmental Assessment, LR 31:919 (April 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:603 (April 2006), LR 32:2248 (December 2006), LR 33:640 (April 2007), LR 33:2628 (December 2007), LR 34:866 (May 2008).

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental Quality—Hazardous Waste

Chapter 30. Hazardous Waste Burned in Boilers and Industrial Furnaces

§3099. Appendices—Appendix A, B, C, D, E, F, G, H, I, J, K, and L

Appendix A. Tier I and Tier II Feed Rate and Emissions Screening Limits For Metals

A. 40 CFR 266, Appendix I, July 1, 2007, is hereby incorporated by reference.

Appendix B. Tier I Feed Rate Screening Limits for Total Chlorine

A. 40 CFR 266, Appendix II, July 1, 2007, is hereby incorporated by reference.

Appendix C. Tier II Emission Rate Screening Limits for Free Chlorine and Hydrogen Chloride

A. 40 CFR 266, Appendix III, July 1, 2007, is hereby incorporated by reference.

Appendix D. Reference Air Concentrations

A. 40 CFR 266, Appendix IV, July 1, 2007, is hereby incorporated by reference, except that in regulations incorporated thereby, references to 40 CFR 261, Appendix VIII and 266, Appendix V shall mean LAC 33:V.3105, Table 1 and LAC 33:V.3099.Appendix E, respectively.

Appendix E. Risk-Specific Doses (10⁻⁵)

A. 40 CFR 266, Appendix V, July 1, 2007, is hereby incorporated by reference.

Appendix F. Stack Plume Rise [Estimated Plume Rise (in Meters) Based on Stack Exit Flow Rate and Gas Temperature]

A. 40 CFR 266, Appendix VI, July 1, 2007, is hereby incorporated by reference.

Appendix G. Health-Based Limits for Exclusion of Waste-Derived Residues

A. 40 CFR 266, Appendix VII, July 1, 2007, is hereby incorporated by reference, except that in regulations incorporated thereby, 40 CFR 261, Appendix VIII, 266.112(b)(1) and (b)(2)(i), and 268.43 shall mean LAC 33:V.3105, Table 1, 3025.B.1 and B.2.a, and LAC 33:V.2299.Appendix, Table 2, respectively.

Appendix H. Organic Compounds for Which Residues Must Be Analyzed

A. 40 CFR 266, Appendix VIII, July 1, 2007, is hereby incorporated by reference.

Appendix I. Methods Manual for Compliance with the BIF Regulations

A. 40 CFR 266, Appendix IX, July 1, 2007, is hereby incorporated by reference, except as follows.

A.1. - B. ...

Appendix J. Lead-Bearing Materials That May Be Processed in Exempt Lead Smelters

A. 40 CFR 266, Appendix XI, July 1, 2007, is hereby incorporated by reference.

Appendix K. Nickel or Chromium-Bearing Materials That May Be Processed in Exempt Nickel-Chromium Recovery Furnaces

A. 40 CFR 266, Appendix XII, July 1, 2007, is hereby incorporated by reference, except that the footnote should be deleted.

Appendix L. Mercury-Bearing Wastes That May Be Processed in Exempt Mercury Recovery Units

A. 40 CFR 266, Appendix XIII, July 1, 2007, is hereby incorporated by reference, except that in regulations incorporated thereby, 40 CFR 261, Appendix VIII shall mean LAC 33:V.3105, Table 1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 22:827 (September 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:300 (March 2001), LR 27:2231 (December 2001), LR 28:996 (May 2002), LR 29:700 (May 2003), LR 30:751 (April 2004), amended by the Office of Environmental Assessment, LR 31:919 (April 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:603 (April 2006), LR 33:640 (April 2007), LR 34:866 (May 2008).

Part IX. Water Quality

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

Chapter 23. Definitions and General LPDES Program Requirements

§2301. General Conditions

A. - E. ...

F. All references to the *Code of Federal Regulations* (CFR) contained in this Chapter shall refer to those regulations published in the July 1, 2007 CFR, unless otherwise noted.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:199 (February 1997), LR 23:722 (June 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1467 (August 1999), LR 26:1609 (August 2000), LR 27:2231 (December 2001), LR 28:996 (May 2002), LR 29:700 (May 2003), repromulgated LR 30:230 (February 2004), LR 30:752 (April 2004), amended by the Office of Environmental Assessment, LR 31:920 (April 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:604 (April 2006), LR 33:641 (April 2007), LR 33:2365 (November 2007), LR 34:867 (May 2008).

Chapter 49. Incorporation by Reference

§4901. 40 CFR Part 136

A. 40 CFR Part 136, Guidelines Establishing Test Procedures for the Analysis of Pollutants, July 1, 2007, in its entirety, is hereby incorporated by reference.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:958 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1467 (August 1999), LR 26:1609 (August 2000), LR 27:2231 (December 2001), LR 28:996 (May 2002), LR 29:700 (May 2003), repromulgated LR 30:232 (February 2004), amended LR 30:752 (April 2004), amended by the Office of Environmental Assessment, LR 31:920 (April 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:604 (April 2006), LR 33:641 (April 2007), LR 34:867 (May 2008).

§4903. 40 CFR Chapter I, Subchapter N

A. 40 CFR Chapter I, Subchapter N, Effluent Guidelines and Standards, Parts 401 and 405-471, July 1, 2007, are hereby incorporated by reference.

B. Amendments as promulgated on July 24, 2007, in the *Federal Register*, 72 FR 40245-40250, to 40 CFR Part 412, Concentrated Animal Feeding Operations (CAFO) Point Source Category, are hereby incorporated by reference.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:958 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1467 (August 1999), LR 26:1609 (August 2000), LR 27:2232 (December 2001), LR 28:996 (May 2002), LR 29:700 (May 2003), LR 29:1467 (August 2003), repromulgated LR 30:232 (February 2004), amended LR 30:752 (April 2004), amended by the Office of Environmental Assessment, LR 31:920 (April 2005), amended by the Office of the Secretary, Legal Affairs Division LR 32:604 (April 2006), LR 32:819 (May 2006), LR 33:641 (April 2007), LR 34:867 (May 2008).

Part XV. Radiation Protection

Chapter 15. Transportation of Radioactive Material

§1517. Incorporation by Reference

A. 10 CFR Part 71, Appendix A, January 1, 2007, is hereby incorporated by reference.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2104 and 2113.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:1270 (June 2000), amended LR 27:2233 (December 2001), LR 28:997 (May 2002), LR 29:701 (May 2003), LR 30:752 (April 2004), amended by the Office of Environmental Assessment, LR 31:920 (April 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:604 (April 2006), LR 33:641 (April 2007), LR 34:867 (May 2008)

Herman Robinson, CPM
Executive Counsel

0805#078

RULE

Board of Elementary and Secondary Education

Bulletin 111—The Louisiana School,
District, and State Accountability System
(LAC 28:LXXXIII.703, 3501-3507, and 4310)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 111—The Louisiana School, District, and State Accountability System* (LAC Part Number LXXXIII). Act 478 of the 1997 Regular Legislative Session called for the development of an Accountability System for the purpose of implementing fundamental changes in classroom teaching by helping schools and communities focus on improved student achievement. The State's Accountability System is an evolving system with different components that are required to change in response to state and federal laws and regulations.

The changes to Bulletin 111 §703 and §4310 clarify how calculations are rounded off for students who may achieve proficiency on alternate assessments. The changes in §§3501, 3503, 3505, and 3507 eliminate references to defunct tests, change the wording for "routing" options available to schools, and limit the number of times to three that assessment results for GED/Skills Options students may be included in accountability calculations.

Title 28

EDUCATION

Part. LXXXIII. Bulletin 111—The Louisiana School, District, and State Accountability System

Chapter 7. Subgroup Component

§703. Inclusion of Students in the Subgroup Component

A. - C.1.b.ii. ...

c. Beginning in Fall 2007, districts that exceed the 2 percent cap may do so without penalty if the sum of LAA1 and LAA2 students labeled proficient does not exceed 3 percent of all students tested within the district.

d. When calculating the 1 percent, 2 percent, and 3 percent caps for alternate assessment purposes, all decimals in results shall be rounded to the next highest whole number.

i. 1.0 percent of 628 students is 6.28 students.

The 1.0 percent cap, in this instance, is 7 students.

C.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2743 (December 2003), amended LR 30:1619 (August 2004), repromulgated LR 30:1996 (September 2004), amended LR 30:2256 (October 2004), amended LR 30:2445 (November 2004), LR 31:912 (April 2005), LR 31:2762 (November 2005), LR 33:253 (February 2007), LR 34:867 (May 2008).

Chapter 35. Inclusion of Alternative Education Students

§3501. Routing Choices

A. Each superintendent, in conjunction with the alternative school director, shall choose from one of two routing options for including assessment results in the Louisiana Accountability System for the system's alternative education schools.

B. ...

1. For those LEAs providing educational services directly to students in these programs/facilities, the LEA must designate the program/facility as a routing or non-routing alternative school, and the students' assessment, dropout/exit and attendance data shall be included in the LEA's data for district accountability purposes.

2. ...

a. If an LEA does satisfy its educational obligations by contract, the program/facility shall be designated as a non-routing alternative school and will receive its own SPS.

b. The data for these students shall not be included in the local school district's data for district accountability purposes.

c. The assessment, dropout/exit and attendance results for these students shall be included in a "R.S. 17:100.1 school district" for accountability purposes. The department shall have the discretion to create multiple "R.S. 17:100.1 school districts" so that the accountability data accurately reflects the operation of the various programs/facilities.

C. GED/Skills Option students' iLEAP, LAA 1, and LAA 2 assessment results shall be included in accountability no more than three times.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2753 (December 2003), amended 31:423 (February 2005), LR 34:868 (May 2008).

§3503. Routing Schools

A. The assessment results, and beginning in 2008 with the Baseline SPS, the dropout, and graduation data for every alternative education student at a routing alternative school shall be returned to ("sent back") and included in the home-based school's and district's accountability calculations for both the SPS and subgroup components. The alternative school itself shall receive a "diagnostic" SPS, not to be used for rewards or corrective actions, if a statistically valid number of students were enrolled in the school at the time of testing

B. Students included in the GED/Skills Option program will be included in school accountability. They will be required to take the 9th grade iLEAP exams—or participate in LEAP Alternate Assessment Level 1 or Level 2 (LAA 1 or 2) while enrolled. All programs will be considered routing for alternative education purposes, and student test score data, and beginning in 2008 with the Baseline SPS, dropout, and graduation data will be sent back to the sending high schools and districts for accountability purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2753 (December 2003), amended LR 30:2446 (November 2004), LR 32:1028 (June 2006), LR 33:2600 (December 2007), LR 34:868 (May 2008).

§3505. Non-Routing Schools

A. ...

B. In order to be eligible for non-routing status, an alternative school shall meet all of the following requirements:

1. - 2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2753 (December 2003), LR 34:868 (May 2008).

§3507. Option Considerations

A. Once routing status is selected for an alternative school, it shall retain that status for at least 10 years. An appeal to the SBESE may be made to change the status prior to the end of 10 years if a school's purpose and/or student eligibility changes.

B. All students pursuing a regular high school diploma, working in curricula developed from Louisiana Content Standards, shall be included in the state-testing program, with those scores included in an SPS, and the subgroup component.

B.1. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2753 (December 2003), amended LR 33:2600 (December 2007), LR 34:868 (May 2008).

§4310. Subgroup Component AYP (Adequate Yearly Progress)

A. - B.3.d.i. ...

e. LEP students shall participate in the statewide assessments.

i. Scores shall not be included in AMO or improvement in percent proficient calculations for LEP students who have not been enrolled in an English-speaking school for one full school year.

f. When calculating the 1 percent, 2 percent, and 3 percent caps for alternate assessment purposes, all decimals in results shall be rounded to the next highest whole number.

i. 1.0 percent of 1341 students is 13.41 students.

The 1.0 percent cap, in this instance, is 14 students.

B.4. - E.2.b.NOTE ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1447 (July 2004), amended LR 30:2446 (November 2004), LR 31:424 (February 2005), LR 31:633 (March 2005), LR 31:913 (April 2005), LR 32:1029 (June 2006), amended LR 33:635 (April 2007), LR 34:868 (May 2008).

Weegie Peabody
Executive Director

0805#006

RULE

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of School Personnel—Cooperative Education (LAC 28:CXXXI.657)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 746—Louisiana Standards for State Certification of School Personnel: §657.Cooperative Education*. This revision will expand the option of having certification endorsements added to valid standard Louisiana certificates in the areas of Cooperative Office Education (COE), Cooperative Agriculture Education (CAE), Cooperative Marketing Education (CME), Cooperative Family/Consumer Sciences (CFCS), and Cooperative Technology Education (CTE). In addition, Career and Technical Industrial Education (CTTIE) teachers will be eligible to add-on Trade and Industrial Cooperative Education (TICE) or Cooperative Health Occupations (CHO) to their valid Louisiana CTTIE certificates. Previously teachers were only able to add Cooperative Office Education to Business Education certificates. This will allow teachers to add cooperative education in the area of their teaching assignment.

Title 28 EDUCATION

Part CXXXI. Bulletin 746—Louisiana Standards for State Certification of School Personnel Chapter 6. Endorsements to Existing Certification Subchapter C. All Other Teaching Endorsement Areas §657. Cooperative Education

A. Cooperative education eligibility requirements for certification in Cooperative Agriculture Education (CAE), Cooperative Office Education (COE), Cooperative Marketing Education (CME), Cooperative Family and Consumer Sciences (CFCS), or Cooperative Technology Education (CTE):

1. hold a valid Louisiana teaching certificate in the area of Business, Agriculture, Marketing, Family and Consumer Science or Technology Education;
2. have a minimum of one year of teaching experience in Business, Agriculture, Marketing Family and Consumer Science or Technology Education;
3. have completed six semester hours, to include Principles and/or Philosophy of Vocational Education and Cooperative Education Methods (Method and/or Techniques of Teaching Cooperative Education);
4. have a minimum of 1,500 hours of employment in program occupations approved by the Family, Career and Technical Education, Career and Technical Education

Section, Louisiana Department of Education or a minimum of 120 hours in a supervised field practicum in the area of occupational certification, offered by a regionally accredited post secondary institution, or other requirements as specified by the industry.

B. Cooperative Education eligibility requirements for Trade and Industrial Cooperative Education (TICE) and Cooperative Health Occupations (CHO) for teachers holding CTTIE certificates:

1. hold a valid Louisiana CTTIE teaching certificate in the area of the CTTIE certification area;
2. have a minimum of one year teaching experience in the CTTIE certification area;
3. have completed six semester hours, to include Principles and/or Philosophy of Career and Technical Education and Cooperative Education Methods (Method and/or Techniques of Teaching Cooperative Education);

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1819 (October 2006), amended LR 34:869 (May 2008).

Weegie Peabody
Executive Director

0805#007

RULE

Office of the Governor Division of Administration Racing Commission

Pick N (LAC 35:XIII.Chapter 116)

The Louisiana State Racing Commission has amended LAC 35:XIII.116 "Pick Four," to revise all Sections of the existing "Pick Four" Rule to include "Pick N" wagering.

Title 35 HORSE RACING Part XIII. Wagering

Chapter 116. Pick N

§11601. Description; Selection; Principle

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

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

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

§11603. Wagering Pool

A. The Pick N pool shall be held entirely separate from all other pools and is no part of a daily double, exacta, trifecta, quinella, or any other wagering pool. The Pick N pool is a pool wherein the bettor is required to select N consecutive winning horses and is not a parlay.

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

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

§11605. Denominations

A. Pick N tickets shall be sold in not less than denominations approved by commission.

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

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

§11607. Approval; Notation

A. Races in which Pick N pools are conducted shall be approved by the commission and clearly designated in the program, and Pick N tickets will be clearly marked as "Pick N" tickets.

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

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

§11609. Procedure

A. After the wagering closes for the first race of the N designated "Pick N" races, the commission will be deducted from the pari-mutuel pool in accordance with Louisiana law. The remaining net pool, subject to distribution among winning ticket holders shall be distributed among the holders of tickets which correctly designate the winner in each of the N races comprising the Pick N and the aggregate number of winning tickets shall be divided into the net pool and be paid the same payoff price.

1. In the event no ticket is sold combining winners of all the races comprising the Pick N, the holders of tickets which correctly designate the most official winners, but less than N, in each of the N races comprising the Pick N shall be deemed winning ticket holders, and the aggregate number of winning tickets shall be divided into the net pool and be paid the same payoff price.

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

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

§11611. No Winning Ticket

A. In the event no winning ticket is sold that would require the distribution of the Pick N pool as mentioned in §11609, the association shall make a complete refund of the Pick N pool.

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

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

§11613. Cancelled Races

A. If for any reason one or more of the races comprising the Pick N is/are cancelled or declared "no race," the net pool shall be distributed as provided in §11609.

B. In the event the Pick N pool is opened and wagers accepted, and all N races comprising the Pick N are cancelled for any reason, the association shall make a complete refund of the Pick N pool.

AUTHORITY NOTE: Promulgated in accordance with R.S.

4:149, R.S. 4:149.1 and R.S. 4:149.2.

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

§11615. Dead Heats

A. In the event of a dead heat for win between two or more horses in any Pick N race, all such horses in the dead heat for win shall be considered as winning horses in the race for the purpose of calculating the pool.

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

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

§11617. Closing Time; Disclosure

A. No pari-mutuel ticket for the Pick N pool shall be sold, exchanged or cancelled after the time of the closing of wagering in the first of the N races comprising the Pick N except for such refunds on Pick N tickets as required by this regulation, and no person shall disclose the number of tickets sold in the Pick N pool or the number or amount of tickets selecting winners of Pick N races until such time as the stewards have determined the last race comprising the Pick N to be official. At the conclusion of the race immediately prior to the last race of the Pick N, the association may display potential distributions to ticket holders depending upon the outcome of the last race of the Pick N.

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

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

§11619. Entry or Field

A. Those horses constituting an entry or a field as defined within the rules of racing shall race in any Pick N race as a single wagering interest for the purpose of the Pick-N pari-mutuel pool calculations and payouts to the public. A scratch after wagering has begun of any part of an entry or field selection in such race shall have no effect with respect to the status of such entry and/or field as a viable wagering interest.

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

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

§11621. Scratches and Non-Starters

A. At anytime after wagering begins on the Pick N pool should a horse, entire betting entry or field be scratched, excused or declared a non-starter in any Pick N race, no further tickets selecting such horse, betting entry or field shall be issued, and wagers upon such horse, betting entry or field, for purposes of the Pick N pool shall be deemed wagers upon the horse, betting entry or field upon which the most money has been wagered in the win pool at the close of win pool betting for such race. In the event of a money tie in the win pool, the tied horse, betting entry or field with the lowest running number, as designated by the official racing program, shall be designated as the favorite for substitution purposes. For the purpose of this Section, when horses are prevented from starting by any malfunction of the starting gate itself they shall be considered as having been excused by the stewards. After close of betting, there shall be no refund, except as provided in §11611 or §11613.

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

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

§11623. Display

A. These rules shall be prominently displayed in the betting area of the association conducting the Pick N.

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

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

§11625. Unforeseen Circumstances

A. Should circumstances occur which are not foreseen in these rules, questions arising thereby shall be resolved by the association and/or commission in accordance with general pari-mutuel practices. Decisions regarding distribution of the Pick N pools shall be final.

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

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

Charles A. Gardiner III
Executive Director

0805#008

RULE

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

Louisiana Trust Company
(LAC 10:I.1501 and 1503)

In accordance with R.S. 49:950, et seq., the Administrative Procedure Act, as provided under R.S. 6:126(A), and as authorized by R.S. 6:576; 6:592; and 6:613, the Commissioner of the Office of Financial Institutions has promulgated a Rule to provide for the administration and regulatory oversight of the Louisiana Trust Company Statutes (R.S. 6:571, et seq.). The Rule establishes fees and assessments to cover anticipated regulatory costs.

Title 10

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

Part I. Financial Institutions

Chapter 15. Louisiana Trust Company

§1501. General Provisions

A. The Depository Institutions' Section of the Louisiana Office of Financial Institutions ("OFI") is funded entirely through assessments and fees levied on state-chartered financial institutions for services rendered. All fees detailed in this rule are nonrefundable and must be paid at the time the application is filed with this office. An applicant may submit a request that a reduced fee be charged for the simultaneous filing of similar multiple applications other than de novo applications. This request will not be approved for applications that are not expected to be consummated within 12 months of the filing date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121; 6:576; 6:592; and 6:613.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 34:871 (May 2008).

§1503. Fees and Assessments

A. Pursuant to the authority granted under R.S. 6:121; 6:576; 6:592; and 6:613, the following fee and assessment structure is hereby established to cover necessary costs associated with the administration of the Louisiana Trust Company Law, R.S. 6:571 et seq.

Description	Fee
A. Application for a de novo public trust company, or the merger or consolidation of public trust companies.	\$10,000
B. The conversion from a national or federally-chartered trust company to a state-chartered public trust company.	\$1,500
C. Application for a Louisiana trust company to establish a trust office or trust representative office.	Standard Form: \$1,000 Short Form: \$250
D. Application to form a de novo private trust company	\$5,000
E. Application for a conversion or merger of a state-chartered trust company into a federally chartered depository institution or a federal trust company.	\$1,500
F. Semi-annual assessment for each public trust company domiciled in Louisiana to be assessed no later than June 30th and December 31st.	\$2,500
G. Semi-annual assessment for each private trust company domiciled in Louisiana to be assessed no later than June 30th and December 31st.	\$1,000
H. Examination fee for each trust company domiciled in Louisiana. Fee per examiner.	\$50 per hour
I. Review of a restatement and/or amendment to the Articles of Incorporation of a state-chartered Louisiana trust company.	\$250
J. Application by a state-chartered trust company to establish or acquire a subsidiary.	\$500
K. Annual certification for each private trust company	\$500
L. The conversion from a private trust company to a public trust company.	\$5,000
M. Examination fee for each out-of-state branch, administrative office, trust production office, or representative office of any trust company domiciled in Louisiana.	Any fees assessed pursuant to this rule plus any amounts assessed by the host state regulator for participating in the examination of the Louisiana entity.
N. Examination fee for each branch, administrative office, or representative office of any out-of-state trust company operating in Louisiana in the absence of a sharing agreement between OFI and the host state that establishes fees for examinations and other administrative cost. This fee shall be billed to the primary regulator of the out-of-state entity being examined, and due upon receipt of the OFI invoice.	\$50/hour per examiner plus the actual expenses incurred by this office to conduct or assist in conducting such examinations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121; 6:576; 6:592; and 6:613.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 34:871 (May 2008).

John Ducrest, CPA
Commissioner

0805#027

RULE

Department of Health and Hospitals Board of Optometry Examiners

Optometry Regulations (LAC 46:LI.107 and 503)

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 promulgating the following amendments to the Sections set forth below.

The Louisiana State Board of Optometry Examiners amended Sections 107 and 503, Title 46, Part LI of the Louisiana Administrative Code by adoption of the following amended Sections.

A preamble which explains the basis and rationale for the intended action, and summarizing the information and data supporting the intended action has not been prepared. A description of the subjects and issues involved is as follows:

Section 107(B)(3) strikes "or", "applied" and "or oral antibiotic, and oral antihistamines" and adds "or other form", "used", and "or orally" within the definition of *Diagnostic and Therapeutic Agent* in order to conform the Rule to Act 66 of the 2007 Regular Session of the Louisiana Legislature which changed the definition.

Section 107(B)(3) strikes "including contact lenses" and adds "including plano and zero power contact lenses" and ",or for orthotic or prosthetic purposes, or cosmetic purposes with respect to the adaptation of contact lenses" within the definition of *Optometry* in order to conform the Rule to Act 596 of the 2006 Regular Session of the Louisiana Legislature which changed the definition.

Section 107(B)(3) strikes "incision and" and adds "and its adnexa" and ", provided, however, no optometrist shall carry out any such procedures referenced in this Paragraph unless certified by the board to treat those abnormal conditions and pathology of the human eye and its adnexa" within Clause iii of the definition of *Optometry* in order to conform the Rule to Act 596 of the 2006 Regular Session of the Louisiana Legislature which changed the definition.

Section 503(G)(1) strikes "or oral antibiotics, or oral antihistamines" and adds, "or other form" and "when used topically or orally" and "diagnosis," within the definition of *Therapeutic Pharmaceutical Agents* in order to conform the Rule to Act 66 of the 2007 Regular Session of the Louisiana Legislature which changed the definition.

The Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Title 46 PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LI. Optometrists

Chapter 1. General Provisions

§107. Organization of the Board

A. Introduction. See the provision of the Act relative to the organization of the board, in particular, R.S. 37:1041-1048.

B. Definitions

1. As used in this Chapter, the following terms have the meaning ascribed to them in this Section, unless the context clearly indicates otherwise.

2. Masculine terms shall include the feminine and, when the context requires, shall include partnership and/or professional corporations.

3. Where the context requires, singular shall include the plural or plural shall include the singular.

Act—the Optometry Practice Act, R.S. 37:1041 et seq.

Board—the Louisiana State Board of Optometry Examiners.

Diagnostic and Therapeutic Pharmaceutical Agent—any chemical in solution, suspension, emulsion, ointment base, or other form when used topically or orally that has the property of assisting in the diagnosis, prevention, treatment, or mitigation of abnormal conditions and pathology of the human eye and its adnexa, or those which may be used for such purposes, and certain approved narcotics, only when used in treatment of disorders or diseases of the eye and its adnexa. Licensed pharmacists of this state shall fill prescriptions for such pharmaceutical agents of licensed optometrists certified by the board to use such pharmaceutical agents.

i. Any *diagnostic and therapeutic pharmaceutical agent* as defined above listed in Schedules III, IV and V of the Uniform Controlled Dangerous Substances Law shall be limited to use or to be prescribed by a licensed optometrist for a maximum of 48 hours when used in treatment or disorders or diseases of the eye and its adnexa.

ii. *Diagnostic and therapeutic pharmaceutical agent* shall not include any drug or other substances listed in Schedules I and II of the Uniform Controlled Dangerous Substances Law provided in R.S. 40:963 and 964 which shall be prohibited from use by a licensed optometrist.

iii. A licensed optometrist may prescribe one additional 48 hour prescription only if warranted by a follow-up exam.

Licensed Optometrist—a person licensed and holding a certificate issued under the provisions of the act.

Optometry—that practice in which a person employs primary eye care procedures or applies any means other than ophthalmic surgery for the measurement of the power and testing the range of vision of the human eye, and determines its accommodative and, refractive state, general scope of function, and the adaptation of frames and lenses, in all their phases, including plano and zero power contact lenses, to overcome errors of refraction and restore as near as possible normal human vision, or for orthotic or prosthetic purposes,

or cosmetic purposes with respect to the adaption of contact lenses. Optometry also includes the examination and diagnosis, and treatment, other than by ophthalmic surgery, of abnormal conditions and pathology of the human eye and its adnexa, including the use and prescription of diagnostic and therapeutic pharmaceutical agents. Optometrists shall issue prescriptions, directions and orders regarding medications and treatments which may be carried out by other health care personnel including optometrists, physicians, dentists, osteopaths, pharmacists, nurses, and others.

i. *Ophthalmic Surgery*—a procedure upon the human eye or its adnexa in which in vivo human tissue is injected, cut, burned, frozen, sutured, vaporized, coagulated, or photodisrupted by the use of surgical instrumentation such as, but not limited to, a scalpel, cryoprobe, laser, electric cautery, or ionizing radiation. Nothing in this Optometry Practice Act shall limit an optometrist's ability to use diagnostic instruments utilizing laser or ultrasound technology in the performance of primary eye care. Only persons licensed to practice medicine by the Louisiana State Board of Medical Examiners under the laws of this state may perform ophthalmic surgery.

ii. Nothing in the Optometry Practice Act shall prohibit the dilation and irrigation of lacrimal ducts, insertion and removal of lacrimal plugs, foreign body removal from superficial ocular tissue, suture removal, removal of eyelashes, drainage of superficial lesions of the eye and its adnexa, or corneal shaping with external ophthalmic devices such as contact lenses by optometrists, provided, however, no optometrist shall carry out any such procedures referenced in this Paragraph unless certified by the board to treat those abnormal conditions and pathology of the human eye and its adnexa.

C. Purpose. The purpose of the board is to regulate the practice of optometry in Louisiana and to carry out the purposes and enforce the provision of the law of Louisiana relating thereto. The laws of Louisiana relating to the practice of optometry are set forth, in part, in the Optometry Practice Act, R.S. 37:1041 et seq.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Optometry Examiners, LR 32:629 (April 2006), amended LR 34:872 (May 2008).

Chapter 5. Practicing Optometry

§503. License to Practice Optometry

A. - F.5. ...

G. Certification to Use Diagnostic and Therapeutic Drugs and to Treat Ocular Pathology. An optometrist may be certified to use ocular diagnostic and therapeutic pharmaceutical agents and to diagnose and treat ocular pathology. In order to obtain such certification, an optometrist shall comply with the following requirements.

1. Certification to Use Diagnostic Drugs

a. In order to be approved as an optometrist authorized to use diagnostic drugs, as set forth in Act 123 of the 1975 Session of the Louisiana Legislature, an optometrist shall present to the secretary of the Louisiana

State Board of Optometry Examiners for approval by the board, the following:

i. evidence that the applicant is a licensed Louisiana optometrist, holding a current license in compliance with all license and renewal requirements of the Louisiana Optometry Practice Act for the year in which he applies for certification;

ii. transcript credits, in writing, evidencing that the applicant has completed a minimum of five university semester hours in pharmacology from an accredited university or college of optometry, subsequent to December 31, 1971. The pharmacology hours shall consist of a minimum of two hours in general pharmacology and a minimum of three hours in ocular pharmacology.

b. Upon submission of the above, the secretary shall present same to the board for approval at the next regular meeting. Upon approval by the board, the secretary shall cause to be issued to the optometrist a certificate indicating compliance with the legislative requirement and intent.

c. The certificate issued by the secretary shall be over the secretary's signature and bear a number identical to the number on the license originally issued by the board to the optometrist.

2. Certification to Treat Pathology and to Use and Prescribe Therapeutic Pharmaceutical Agents.

a. Definitions. For purposes of this Paragraph 2 the following definitions shall apply:

Application Date—the date the board receives in its office by certified mail an application for certification under this Paragraph 2.

Approved Educational Institution—an educational institution providing education in optometry that is approved by the board and is accredited by a regional or professional accrediting organization which is recognized or approved by the Council of Post-Secondary Accreditation of the United States Department of Education.

Board—the Louisiana State Board of Optometry Examiners.

Therapeutic Pharmaceutical Agents—any chemical in solution, suspension, emulsion, ointment base, or other form that when used topically or orally has the property of assisting in the diagnosis, prevention, treatment, or mitigation of abnormal conditions and pathology of the human eye and its adnexa, or those which may be used for such purposes, and certain approved narcotics when used in the treatment of disorders or diseases of the eye and its adnexa.

* * *

G.2.b. - H.4. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Optometry Examiners, LR 32:632 (April 2006), amended LR 34:873 (May 2008).

James D. Sanderfur, O.D.
Secretary

0805#009

RULE

**Department of Health and Hospitals
Board of Practical Nurse Examiners**

Approved Fees
(LAC 46:XLVII.1715)

The Board of Practical Nurse Examiners, in accordance with R.S. 37:961-979 and with the Administrative Procedure Act, R.S. 49:950 et seq., hereby amends LAC 46:XLVII.1715. Approved Fees. The change will increase certain fees collected by the board and is needed to allow the board to continue to operate. Fees were last increased in 1999.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XLVII. Nurses

Subpart 1. Practical Nurses

Chapter 17. Licensure

§1715. Approved Fees

A. Fees

- 1. License by examination \$100
- 2. License by endorsement \$ 50
- 3. Duplicate license \$ 30
- 4. Renewal of license \$ 50
- 5. Reinstatement of license which has been suspended, revoked or which has lapsed by nonrenewal \$150
- 6. Duplicate renewal \$ 20
- 7. Delinquency fee in addition to renewal fee for nursing license (per year delinquent) \$ 70
- 8. Survey fee \$500
- 9. Renewal of certificate of accreditation \$200
- 10. Evaluation of credits of applicants for admission to approved program \$ 50
- 11. Evaluation of credits of out-of-state applicants for Louisiana practical nurse license \$ 50
- 12. Verification of Louisiana license to out-of-state board \$ 30
- 13. Certification of good-stand license \$ 5

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969 and 37:977 as amended Act 272, 1982 and Act 54, 1991.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:200 (April 1977), amended LR 10:342 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners LR 18:1130 (October 1992), repromulgated LR 18:1263 (November 1992), amended LR 26:2618 (November 2000), LR 34:874 (May 2008).

Claire Doody Glaviano
Executive Director

0805#002

RULE

**Department of Health and Hospitals
Board of Wholesale Drug Distributors**

License Procedure
(LAC 46:XCI.103, 301, 309, and 311)

The Louisiana Board of Wholesale Drug Distributors has amended LAC 46:XCI.103, 301, 309, and 311 in accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., and R.S. 37:3467 et seq., of the Louisiana Board of Wholesale Drug Distributors Practice Act. These Rule amendments will assist and support the board in its ability to license and regulate entities in the wholesale distribution of legend drugs and medical devices in/within the state.

**Title 46
PROFESSIONAL AND OCCUPATION STANDARDS**

Part XCI. Wholesale Drug Distributors

Chapter 1. General Provisions

§103. Definition

A. As used in this regulation, unless the context otherwise requires:

* * *

Applicant or Responsible Party—an individual designated by the applying or licensed entity as the person responsible for facility operations and/or licensing for the applying or licensed facility location.

* * *

Drug or Device—any legend drug or legend device intended for use by humans which can be dispensed by prescription or order of a licensed practitioner and whose labeling contains the legend "Caution: Federal law prohibits dispensing without a prescription." or "Caution: Federal law restricts this device to sale by or on the order of a (*licensed healthcare practitioner*)." or "Rx only."

* * *

Legend Drug—

a. a drug limited by Section 503(b)(1) of the federal Food, Drug, and Cosmetic Act to being dispensed by or upon a licensed practitioner's prescription because the drug is:

- i. habit-forming;
- ii. toxic or having potential for harm;
- iii. limited in its use to use under a practitioner's supervision by the new drug application for the drug.

b. The product label of a legend drug is required to contain the statement "Rx Only" or "CAUTION: FEDERAL LAW PROHIBITS DISPENSING WITHOUT A PRESCRIPTION".

c. ...

* * *

Medical Gas—any pure gas or gas mixture packaged as any liquefied (cryogenic) or compressed gas (vaporized) that is designated as a drug product.

* * *

Off-Site Storage Facility—a structure, warehouse, or building used by a licensed wholesale drug or device distributor strictly for storage of legend drugs or devices.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Wholesale Drug Distributors, LR 18:381 (April 1992), amended LR 29:1479 (August 2003), LR 32:394 (March 2006), LR 34:874 (May 2008).

Chapter 3. Wholesale Drug or Device Distributors

§301. Licensing, Renewal and Reinstatement Requirements

A. Every wholesale drug or device distributor who engages in the wholesale distribution of drugs or devices, to include without limitation, manufacturing in this state, shipping in or into this state or selling or offering to sell in or into this state, shall register annually with the board by application for a license on a form furnished by the board and accompanied by the license fee.

1. The board shall require a separate license for each facility or physical location directly or indirectly owned or operated by the same business entity or for a parent entity with divisions, subdivisions, subsidiaries, and/or affiliate companies when operations are conducted at more than one location and there exists joint ownership and control among all the entities.

2. Parent entity must license all divisions, subdivisions, subsidiaries, and/or affiliate companies owned by the parent company that sell and/or ship legend drugs or devices in or into Louisiana.

B. - C. ...

D. Each application for the renewal of the license must be made on or before December 31 of each year.

1. If a license is not timely and properly renewed on or before the December 31 expiration date, a person may apply for reinstatement of the expired license within one year, or by the next December 31 after expiration of the license, upon timely and properly submitting an application to the board, and other pertinent information which may be requested, as well as payment of the renewal fee and the reinstatement fee.

2. During the period the license is expired until reinstatement of the expired license, the person may not lawfully operate as a wholesale drug or device distributor in Louisiana.

3. If a license is expired beyond one year, a person may apply for reinstatement of the expired license by submitting an application to the board, along with any pertinent information and documents which may be required, as well as payment of the application fee and the reinstatement fee.

E. - I.1. ...

J. If a licensed in-state wholesale drug or device distributor has an additional off-site storage facility, the off-site storage facility may operate under the current wholesale drug or device distribution license held by the licensee as long as the off-site storage facility is in compliance with §309A.1 of these regulations and has temperature monitoring and an alarm system and the off-site storage facility does not physically receive or distribute legend drugs or devices from its location.

K. A license shall not be issued by the board for any wholesale drug or device distributor to operate from or out of a dwelling, building, or property zoned as residential.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Wholesale Drug Distributors, LR 18:382 (April 1992), amended LR 29:1479 (August 2003), LR 32:396 (March 2006), LR 34:875 (May 2008).

§309. Storage and Handling Requirements

A. - A.3.a. ...

b. Appropriate electromechanical or electronic temperature recording equipment, devices, and logs approved by the board shall be utilized to document proper storage of drugs or devices. Spring-loaded or mercury driven temperature monitoring devices are not approved by the board for use in monitoring and recording product temperature.

3.c - 5.d. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Wholesale Drug Distributors, LR 18:382 (April 1992), amended LR 29:1480 (August 2003), LR 32:398 (March 2006), LR 34:875 (May 2008).

§311. Drug or Device Distribution Recordkeeping

A. - C. ...

D. Copies of current licenses for customers who are authorized by law or regulation to procure or possess drugs or devices shall be maintained for all customers that are shipped or sold drugs or devices. If customer licenses are maintained off site, a list of customer names, addresses, license numbers, and license expiration dates shall be maintained at the licensed distribution location for all customers that are shipped or sold drugs or devices.

E. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Wholesale Drug Distributors, LR 18:383 (April 1992), amended LR 29:1480 (August 2003), LR 32:399 (March 2006), LR 34:875 (May 2008).

Kimberly B. Barbier
Executive Assistant

0805#021

RULE

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

Inpatient Hospital Services—Non-Rural, Non-State
Hospitals—Children's Specialty Hospitals Psychiatric Units
(LAC 50:V.911)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted LAC 50:V.911 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.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part V. Hospital Services
Subpart 1. Inpatient Hospitals
Chapter 9. Non-Rural Private Hospitals
Subchapter A. General Provisions

§911. Children's Specialty Hospitals Psychiatric Units

A. A psychiatric sub-provider unit in a Medicare Prospective Payment System (PPS) exempt children's specialty hospital may enroll in the Medicaid Program. The hospital must submit an attestation to the department that the unit meets the PPS exempt criteria outlined in 42 CFR 412.25 [except 412.25(a)(1)(ii)]. Enrollment of the new unit will be effective upon verification of the hospital's attestation by the department.

B. Changes in the number of beds in existing units may only be made at the start of the hospital's cost reporting period. The hospital must notify the department of changes in bed size at least 90 days prior to the end of the hospital's cost reporting period. Qualifying Medicaid services provided in these approved units shall be subjected to the existing pre-admission certification requirements for children and adolescents in distinct part psychiatric/substance abuse units in acute care general hospitals.

C. Reimbursement for services will be the inpatient psychiatric prospective per diem rate.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:876 (May 2008).

Alan Levine
Secretary

0805#045

RULE

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

Inpatient Hospital Services—Non-Rural, Non-State
Hospitals—Reimbursement Rate Increase
(LAC 50:V.953-959)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted LAC 50:V.953-959 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.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part V. Hospital Services
Subpart 1. Inpatient Hospitals
Chapter 9. Non-Rural, Non-State Hospitals
Subchapter B. Reimbursement Methodology
§953. Acute Care Hospitals

A. For dates of service on or after September 1, 2007, the prospective per diem rate paid to non-rural private (non-state) acute care hospitals for inpatient services shall be increased by 4.75 percent of the rate on file for August 31, 2007.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:876 (May 2008).

§955. Long Term Hospitals

A. For dates of service on or after September 1, 2007, the prospective per diem rate paid to long term hospitals for inpatient services shall be increased by 4.75 percent of the rate on file for August 31, 2007.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:876 (May 2008).

§957. Hospital Intensive Neurological Rehabilitation Units

A. For dates of service on or after September 1, 2007, the prospective per diem rate paid to hospital intensive neurological rehabilitation care units shall be increased by 4.75 percent of the rate on file for August 31, 2007.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:876 (May 2008).

§959. Inpatient Psychiatric Hospital Services

A. For dates of service on or after September 1, 2007, the prospective per diem rate paid to private free-standing psychiatric hospitals and distinct part psychiatric units shall be increased by 4.75 percent of the rate on file for August 31, 2007.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:876 (May 2008).

Alan Levine
Secretary

0805#043

RULE

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

Inpatient Hospital Services—Non-Rural, Non-State
Hospitals—Supplemental Payments
(LAC 50:V.901, 953 and 1331)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted LAC 50:V.901, 953 and 1331 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 provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 1. Inpatient Hospitals

Chapter 9. Non-Rural, Non-State Hospitals

Subchapter A. General Provisions

§901. Definitions

Non-Rural, Non-State Hospital—a hospital which is either owned and operated by a private entity, a hospital service district or a parish and does not meet the definition of a rural hospital as set forth in R.S. 40:1300.143(3)(a).

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:877 (May 2008).

Subchapter B. Reimbursement Methodology

§953. Acute Care Hospitals

A. For dates of service on or after September 1, 2007, the prospective per diem rate paid to non-rural, non-state acute care hospitals for inpatient services shall be increased by 4.75 percent of the rate on file for August 31, 2007.

B. Effective for dates of services on or after October 1, 2007, a quarterly supplemental payment will be issued to non-rural, non-state acute care hospitals that qualify as a high Medicaid hospital.

1. Qualifying Criteria. A hospital is considered to be a "high Medicaid hospital" if it has a Medicaid inpatient utilization percentage greater than 30 percent based on the 12 month cost report period ending in SFY 2006. For the purposes of calculating the Medicaid inpatient utilization percentage, Medicaid days shall include nursery and distinct part psychiatric unit days, but shall not include Medicare crossover days.

2. Each eligible hospital will receive a quarterly supplemental payment which shall be calculated based on the pro rata share of each qualifying hospital's paid Medicaid days (including covered nursery and distinct part psychiatric unit days) for dates of service in SFY 2007 to the total Medicaid days of all eligible hospitals multiplied by

\$5,000,000 which is the amount appropriated for these supplemental payments.

3. Rehabilitation hospitals, long term acute care hospitals and free-standing psychiatric hospitals are not eligible for this supplemental payment.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:877 (May 2008).

Chapter 13. Teaching Hospitals

Subchapter B. Reimbursement Methodology

§1331. Acute Care Hospitals

A. Effective for dates of services on or after October 1, 2007, a quarterly supplemental payment will be issued to non-rural, non-state acute care hospitals that furnish additional graduate medical education (GME) services.

B. Qualifying Criteria. In order to qualify for the supplemental payment, an acute care hospital must meet the following criteria. The hospital must:

1. be a non-rural, non-state hospital;
2. have a documented affiliation agreement with a Louisiana medical school accredited by the Liaison Committee on Medical Education (LCME);
3. have greater than five additional intern and resident full time equivalencies (FTEs) in SFY 2007 and the first six months of 2008 as compared to the pre-Hurricane Katrina period of SFY 2005;

a. these additional intern and residency FTEs must directly result from the graduate medical education (GME) programs that were formerly taught at the Medical Center of Louisiana at New Orleans (MCLNO) and the suspension of training at MCLNO due to the impact of Hurricane Katrina; and

4. reimburse the medical school for the direct GME costs. Direct GME costs are defined as the costs of the residents' salaries and the faculty and administrative costs from the medical school.

C. Each qualifying hospital shall be paid their pro rata share of the \$5,000,000 supplemental GME payment pool based on their weighted Medicaid days. Paid Medicaid days (including newborn days included with the mother's stay) for dates of service in SFY 2007 shall be weighted using the following factor(s) as applicable:

1. 1.0—if the qualifying hospital has average additional resident FTEs of greater than 5, but less than or equal to 10; or
2. 1.5—if the qualifying hospital has average additional resident FTEs of equal to or greater than 10, but less than or equal to 20; or
3. 2.0—if the qualifying hospital has an average additional resident FTEs of equal to or greater than 20; and
4. 1.5—if the qualifying hospital's cost is at least 20 percent more than the current Medicaid per diem rate.

D. Payment of one-third of \$5,000,000 will be made at the beginning of each calendar quarter in SFY 2007 beginning with October 2007.

E. Rehabilitation hospitals, long term acute care hospitals and free-standing psychiatric hospitals are not eligible for this supplemental payment.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:877 (May 2008).

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

Alan Levine
Secretary

0805#044

RULE

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

Medicaid Eligibility—Disability Medicaid Program (LAC 50:III.2305)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted LAC 50:III.2305 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.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part III. Eligibility

Subpart 3. Eligibility Groups and Factors

Chapter 23. Eligibility Groups and Medicaid Programs

§2305. Disability Medicaid Program

A. The Disability Medicaid Program provides Medicaid-only coverage to individuals who are aged or have a disability, and who meet income and resource requirements for Supplemental Security Income (SSI) cash assistance.

B. Individuals receiving services in the Disability Medicaid Program will be included as an optional coverage group under the Medicaid state plan.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:878 (May 2008).

Alan Levine
Secretary

0805#046

RULE

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

Medical Transportation Program—Emergency and Non-Emergency Ambulance Services—Reimbursement Rate Increase (LAC 50:XXVII.325, 571, and 573)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted LAC 50:XXVII.325, 571, and 573 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part. XXVII. Medical Transportation Program

Chapter 3. Emergency Medical Transportation Subchapter B. Ground Transportation

§325. Reimbursement

A. The Medicaid reimbursement for land-based ambulance services is the rate established in the state fee schedule (based on Medicare rates) for emergency ambulance transport, basic life support, advanced life support and mileage, oxygen, intravenous fluids, and disposable supplies administered during the emergency ambulance transport minus the amount paid by any liable third party coverage.

B. For dates of service on or after September 1, 2006, the base rate for emergency ambulance transportation services is increased by 5 percent of the rates in effect on August 31, 2006.

C. For dates of service on or after September 1, 2006, the ground mileage reimbursement rate for emergency ambulance transportation services is increased by 17 percent of the rates in effect on August 31, 2006.

D. For dates of service on or after September 1, 2007, the ground mileage reimbursement rate for emergency ambulance transportation services in effect on August 31, 2007 is increased by \$2.50.

E. For dates of service on or after September 1, 2007, the ancillary services rate for emergency ambulance transportation services is increased by 70 percent of the rate in effect on August 31, 2007.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:878 (May 2008).

Chapter 5. Non-Emergency Medical Transportation Subchapter D. Reimbursement

§571. Non-Emergency Ambulance Transportation

A. Reimbursement for non-emergency ambulance transportation claims shall be allowed only when accompanied by the medical certification form justifying the need for ambulance services.

B. For dates of service on or after September 1, 2007, the ground mileage reimbursement rate in effect on August 31, 2007 for non-emergency ambulance transportation services is increased by \$2.50.

C. For dates of service on or after September 1, 2007, the ancillary services rate for non-emergency ambulance transportation services is increased by 70 percent of the rate in effect on August 31, 2007.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:878 (May 2008).

§573. Non-Emergency, Non-Ambulance Transportation

A. For dates of service on or after September 1, 2006, the reimbursement rate for non-emergency, non-ambulance medical transportation services is increased by 5 percent of the rates in effect on August 31, 2006.

B. For dates of service on or after December 1, 2006, the reimbursement rate for non-emergency, non-ambulance medical transportation services is increased by an additional 9 percent of the rates in effect on November 30, 2006.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:879 (May 2008).

Alan Levine
Secretary

0805#047

RULE

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

Nursing Facilities—Evacuation and Temporary Sheltering Costs (LAC 50:VII.1319)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted LAC 50:VII.1319 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.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part VII. Long Term Care Services

Subpart 1. Nursing Facilities

Chapter 13. Reimbursement

§1319. Evacuation and Temporary Sheltering Costs

A. Nursing facilities required to participate in an evacuation, as directed by the appropriate parish or state official, or which act as a host shelter site may be entitled to reimbursement of its documented and allowable evacuation and temporary sheltering costs.

1. The expense incurred must be in excess of any existing or anticipated reimbursement from any other sources, including the Federal Emergency Management Agency (FEMA) or its successor.

2. Nursing facilities must first apply for evacuation or sheltering reimbursement from all other sources and request that the department apply for FEMA assistance on their behalf.

3. Nursing facilities must submit expense and reimbursement documentation directly related to the evacuation or temporary sheltering of Medicaid nursing home residents to the department.

B. Eligible Expenses. Expenses eligible for reimbursement must occur as a result of an evacuation and be reasonable, necessary, and proper. Eligible expenses are subject to audit at the department's discretion and may include the following.

1. Evacuation Expenses. Evacuation expenses include expenses from the date of evacuation to the date of arrival at a temporary shelter or another nursing facility. Evacuation expenses include:

a. resident transportation and lodging expenses during travel;

b. nursing staff expenses when accompanying residents, including:

i. transportation;

ii. lodging; and

iii. additional direct care expenses, when a direct care expense increase of 10 percent or more is documented:

(a). the direct care expense increase must be based on a comparison to the average of the previous two pay periods or other period comparisons determined acceptable by the department;

c. any additional allowable costs as defined in the CMS Publication 15-1, last modified 9/8/2005, that are directly related to the evacuation and that would normally be allowed under the nursing facility case-mix rate.

2. Non-Nursing Facility Temporary Sheltering Expenses. Non-nursing facility temporary sheltering expenses include expenses from the date the Medicaid residents arrive at a non-nursing facility temporary shelter to the date all Medicaid residents leave the shelter. A non-nursing facility temporary shelter includes shelters that are not part of a licensed nursing facility and are not billing for the residents under the Medicaid case-mix reimbursement system or any other Medicaid reimbursement system. Non-nursing facility temporary sheltering expenses may include:

a. additional nursing staff expenses including:

i. lodging; and

ii. additional direct care expenses, when a direct care expense increase of 10 percent or more is documented:

(a). the direct care expense increase must be based on a comparison to the average of the previous two pay periods or other period comparisons determined acceptable by the department;

b. care-related expenses as defined in LAC 50:VII.1305 and incurred in excess of care-related expenses prior to the evacuation;

c. additional medically necessary equipment such as beds and portable ventilators that are not available from the evacuating nursing facility and are rented or purchased specifically for the temporary sheltered residents, and:

i. these expenses will be capped at a daily rental fee not to exceed the total purchase price of the item;

ii. the allowable daily rental fee will be determined by the department;

d. any additional allowable costs as defined in the CMS Publication 15-1, last modified 9/8/2005, that are directly related to the temporary sheltering and that would normally be allowed under the nursing facility case-mix rate.

3. Host Nursing Facility Temporary Sheltering Expenses. Host nursing facility temporary sheltering expenses include expenses from the date the Medicaid residents are admitted to a licensed nursing facility to the date all temporary sheltered Medicaid residents are discharged from the nursing facility, not to exceed a six-month period.

a. The host nursing facility shall bill for the residents under Medicaid's case-mix reimbursement system.

b. Additional direct care expenses may be submitted when a direct care expense increase of 10 percent or more is documented.

i. The direct care expense increase must be based on a comparison to the average of the previous two pay periods or other period comparisons determined acceptable by the department.

C. Payment of Eligible Expenses

1. For payment purposes, total eligible Medicaid expenses will be the sum of nonresident-specific eligible expenses multiplied by the facility's Medicaid occupancy percentage plus Medicaid resident-specific expenses.

a. If Medicaid occupancy is not easily verified using the evacuation resident listing, the Medicaid occupancy from the most recently filed cost report will be used.

2. Payments shall be made as quarterly lump-sum payments until all eligible expenses have been submitted and paid. Eligible expense documentation must be submitted to the department by the end of each calendar quarter.

3. All eligible expenses documented and allowed under §1319 will be removed from allowable expense when the nursing facility's Medicaid cost report is filed. These expenses will not be included in the allowable cost used to set case-mix reimbursement rates in future years.

a. Equipment purchases that are reimbursed on a rental rate under §1319.B.2c. may have their remaining basis included as allowable cost on future costs reports provided that the equipment is in the nursing facility and being used. If the remaining basis requires capitalization under CMS Publication 15-1 guidelines, last modified 9/8/2005, then depreciation will be recognized.

4. Payments shall remain under the upper payment limit cap for nursing facilities.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:879 (May 2008).

Alan Levine
Secretary

0805#048

RULE

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

Nursing Facilities—Resident Personal Fund Accounts (LAC 48:I.9734)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has amended LAC 48:I.9734 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.

Title 48

PUBLIC HEALTH—GENERAL

PART I. General Administration

Subpart 3. Licensing

Chapter 97. Nursing Homes

Subchapter C. Resident Rights

§9734. Resident Personal Fund Account

A. - C. ...

D. The provisions of this Section shall have no effect on federal or state tax obligations or liabilities of the deceased resident's estate. If there are other laws or regulations which conflict with these provisions, those laws or regulations will govern over and supersede the conflicting provisions.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:1350 (July 2007), amended LR 34:880 (May 2008).

Alan Levine
Secretary

0805#049

RULE

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

Pharmacy Benefits Management Program—Antihemophilia Drugs Reimbursements (LAC 50:XXIX.971)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted LAC 50:XXIX.971 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.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XXIX. Pharmacy
Chapter 9. Methods of Payment
Subchapter F. Antihemophilia Drugs
§971. Reimbursement

A. Anti-hemophilia drugs purchased by a covered entity through the 340B Program and dispensed to Medicaid recipients shall be billed to Medicaid at actual acquisition cost plus 10 percent and the dispensing fee unless the covered entity has implemented the Medicaid carve-out option. If the covered entity has implemented the Medicaid carve-out option, such drugs shall be reimbursed at AWP minus 30 percent plus the dispensing fee or the billed charges, whichever is less.

B. Anti-hemophilia drugs purchased by a non-340B covered entity shall be reimbursed at AWP minus 30 percent plus the dispensing fee or the billed charges, whichever is less.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:881 (May 2008).

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

Alan Levine
Secretary

0805#050

RULE

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

Prosthetics and Orthotics—Reimbursement Rate Increase
(LAC 50:XVII.501, 1505, 1707, 1907 and 10117)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has amended LAC 50:XVII.501 and repealed LAC 50:XVII.1505, 1707, 1907 and 10117 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XVII. Prosthetics and Orthotics
Subpart 1. General Provisions

Chapter 5. Reimbursement
§501. Reimbursement Methodology

A. Effective for dates of service on or after September 6, 2007, the reimbursement for prosthetic and orthotic devices is 90 percent of the 2007 Medicare Fee Schedule amount or billed charges, whichever is the lesser amount, unless otherwise stipulated. If an item is not available at 90 percent

of the 2007 Medicare fee schedule amount, the flat fee that will be utilized is the lowest cost at which the item has been determined to be widely available by analyzing usual and customary fees charged in the community.

1. This rate does not apply to prosthetics and orthotics that are:

a. already reimbursed at a higher amount than 90 percent of the 2007 Medicare Fee Schedule; or

b. not included on the 2007 Medicare Fee Schedule, such as customized items for which there is no established fee. These items must be individually priced.

B. Items not listed on the Medicare Fee Schedule will continue to be reimbursed at the lowest cost at which the item has been determined to be widely available by analyzing usual and customary fees charged in the community for the HCPC procedure code.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1597 (July 2005), amended LR 34:881 (May 2008).

Subpart 3. Prosthetic Devices

Chapter 15. Artificial Eyes, Scleral Shell, and Related Services

§1505. Reimbursement

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1598 (July 2005), repealed LR 34:881 (May 2008).

Chapter 17. Breast or Mammary Prostheses

§1707. Reimbursement

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1598 (July 2005), repealed LR 34:881 (May 2008).

Chapter 19. Support and Surgical Stockings

§1907. Reimbursement

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1598 (July 2005), repealed LR 34:881 (May 2008).

Subpart 5. Orthotic Devices

Chapter 101. General Provisions

§10117. Reimbursement

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1599 (July 2005), repealed LR 34:881 (May 2008).

Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of

Health and Human Services, Centers for Medicare and Medicaid Services.

Alan Levine
Secretary

0805#051

RULE

Department of Public Safety and Corrections Office of State Police

Hazardous Material Information Development
Preparedness and Response Act
(LAC 33:V.10111 and 10119)

The Department of Public Safety and Corrections, Office of State Police, in accordance with R.S. 49:950 et seq., and R.S. 30:2361 et seq., hereby amends its rules regulating hazardous materials release reporting and chemical inventory filing to redefine the term "hospitalization", to reflect the current address for the Transportation and Environmental Safety Section of the Office of State Police, and to clarify release reporting requirements for the chemicals, nitrogen oxide and nitrogen dioxide.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Wastes and Hazardous Materials

Subpart 2. Department of Public Safety and Corrections—Hazardous Materials

Chapter 101. Hazardous Material Information Development, Preparedness, and Response Act

§10111. Release and Incident Reporting

A. - E.1.e. ...

f. Releases of nitrogen oxide to the air that are the result of combustion and combustion-related activities that are less than 1,000 pounds per 24 hours, and releases of nitrogen dioxide to the air that are the result of combustion and combustion-related activities that are less than 1,000 pounds per 24 hours are not reportable.

E.2. - G.15. ...

H. Facilities must also make follow-up written reports for all reportable releases and incidents within five business days after the release or incident has occurred. This report must be made to the local emergency planning committee with jurisdiction over a facility and to the Department of Public Safety and Corrections, Office of State Police, TESS-Right-to-Know Unit, P.O. Box 66168, Baton Rouge, LA 70896. The format for this report should be as outlined in Subsection G above. Any additional information not given in the initial telephone notification should also be included.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2361 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 12:329 (May 1986), amended LR 13:186 (March 1987), LR 13:761 (December 1987), LR 14:803 (November 1988), LR 16:975 (November 1990), LR 27:861 (June 2001), LR 34:882 (May 2008).

§10119. Inventory Form

A. - B. ...

C. The "Louisiana Tier Two Emergency and Hazardous Chemical Inventory" form is the official inventory form for compliance with R.S. 30:2361-2380, Louisiana's Right-to-Know law, and is the form selected by the Louisiana Emergency Response Commission for inventory reporting as required under Section 312 of SARA. The inventory form can be obtained via the Right-to-Know website at www.lsp.org/rtk.html or upon request to the Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section P.O. Box 66168, Baton Rouge, LA 70896.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2361 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 12:330 (May 1986), amended LR 13:186 (March 1987), LR 13:762 (December 1987), LR 14:804 (November 1988), LR 16:975 (November 1990), LR 27:865 (June 2001), LR 28:2554 (December 2002), LR 34:882 (May 2008).

Jill P. Boudreaux
Undersecretary

0805#071

RULE

Department of Public Safety and Corrections Office of State Police

Motor Carrier Safety and Hazardous Materials
(LAC 33:V.10303)

The Department of Public Safety and Corrections, Office of State Police, in accordance with R.S. 49:950 et seq., and R.S. 32:1501 et seq., hereby amends its rules regulating motor carrier safety and hazardous materials by adopting 49 Code of Federal Regulations Parts 107, 355, 360, 365, 367, 373, 374, 375, 376, 379, 384, 387, 388, and 389 by reference. This amendment will enable the state of Louisiana to become compliant with the Federal Motor Carrier Safety Assistance Program and to enforce these additional regulations. This amendment also updates the revised edition of the Code of Federal Regulations in which the adopted parts are located.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Wastes and Hazardous Materials

Subpart 2. Department of Public Safety and Corrections—Hazardous Materials

Chapter 103. Motor Carrier Safety and Hazardous Materials

§10303. Federal Motor Carrier Safety and Hazardous Materials

A. The following federal motor carrier safety regulations and hazardous materials regulations promulgated by the United States Department of Transportation, revised as of

September 1, 2007, and contained in the following Parts of 49 CFR as now in effect or as hereafter amended, are made a part of this Chapter.

RULE

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

State Uniform Construction Code (LAC 55:VI.301)

In accordance with the provisions of Act 12 of the 2005 First Extraordinary Session, R.S. 40:1730:22(C) and (D) and R.S. 40:1730.34(B) relative to the authority of the Louisiana State Uniform Construction Code Council to promulgate and enforce rules, the Louisiana State Uniform Construction Code Council has amended a Section under Chapter 3 to include the mechanical and electrical chapters into the International Residential Code as part of the Louisiana State Uniform Construction Code.

Title 55

PUBLIC SAFETY

Part VI. Uniform Construction Code

Chapter 3. Adoption of the Louisiana State Uniform Construction Code

§301. Louisiana State Uniform Construction Code

A. - A.2. ...

3.a. International Residential Code, 2006 Edition, not including Parts I-Administrative, V-Mechanical, VII-Plumbing and VIII-Electrical. The applicable standards referenced in that code are included for regulation of construction within this state. The enforcement of such standards shall be mandatory only with respect to new construction, reconstruction, additions to homes previously built to the International Residential Code, and extensive alterations. Appendix J, Existing Buildings and Structures, may be adopted and enforced only at the option of a parish, municipality, or regional planning commission. For purposes of this part, section R301.2.1.1 of the 2003 edition of the International Residential Code is hereby specifically adopted in lieu of the 2006 edition and shall remain in effect until the 2009 edition of the International Residential Code is published. Part IV-Energy Conservation of the latest edition of the International Residential Code is hereby amended to require that supply and return ducts be insulated to a minimum of R-6. Furthermore, IRC R301.2.1.1 (Design Criteria) shall be amended as follows and shall only apply to the International Residential Code:

- i. amendment of R301.2.1.1 (Design Criteria);
- ii. item 6, the American Concrete Institute, *Guide to Concrete Masonry Residential Construction in High Winds Areas*, shall be added;
- iii. item 7, Institute for Business and Home Safety, *Optional Code-plus Fortified for Safer Living*, shall be added;
- iv. item 8, Federal Alliance for Safe Homes, *Optional Code-plus Blueprint for Safety*, shall be added.

b. Additionally, Section 302, R302.1 Exterior Walls shall be amended to add the following exception:

- i. On lots that are 50 feet or less in width and that contain a one or two family dwelling or townhouse that was in existence prior to October 1, 2005, the following are permitted for rebuilding:

Hazardous Material Regulations	
Part 107	Hazardous Materials Program Procedures
Part 171	General Information, Regulations, and Definitions
Part 172	Hazardous Materials Table, Special Provisions, and Hazardous Materials Communications, Emergency Response Information, and Training Requirements
Part 173	Shippers—General Requirements for Shipments and Packagings
Part 177	Carriage by Public Highways
Part 178	Specifications for Packagings
Part 180	Continuing Qualification and Maintenance of Packagings
Motor Carrier Safety Regulations	
Part 355	Compatibility of State Laws and Regulations Affecting Interstate Motor Carrier Operations
Part 360	Fees for Motor Carrier Registration and Insurance
Part 365	Rules Governing Applications for Operating Authority
Part 367	Standards for Registration with States
Part 373	Receipts and Bills
Part 374	Passenger Carrier Regulations
Part 375	Transportation of Household Goods in Interstate Commerce: Consumer Protection Regulations
Part 376	Lease and Interchange of Vehicles
Part 379	Preservation of Records
Part 382	Controlled Substances and Alcohol Use and Testing
Part 383	Commercial Driver's License Standards; Requirements and Penalties
Part 384	State Compliance with Commercial Driver's License Program
Part 385	Safety Fitness Procedures
Part 386	Rules of Practice for Motor Carrier, Broker, Freight Forwarder and Hazardous Materials Proceedings
Part 387	Minimum Levels of Financial Responsibility for Motor Carriers
Part 388	Cooperative Agreements with States
Part 389	Rulemaking Procedures-Federal Motor Carrier Safety
Part 390	Federal Motor Carrier Safety Regulations; General
Part 391	Qualifications of Drivers
Part 392	Driving of Commercial Motor Vehicles
Part 393	Parts and Accessories Necessary for Safe Operation
Part 395	Hours of Service of Drivers
Part 396	Inspection, Repair, and Maintenance
Part 397	Transportation of Hazardous Materials; Driving and Parking Rules

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 14:31 (January 1988), amended LR 17:1115 (November 1991), LR 19:351 (March 1993), LR 20:58 (January 1994), LR 24:956 (May 1998), LR 24:2321 (December 1998), LR 29:711 (May 2003), LR 30:447 (March 2004), LR 32:641 (April 2006), LR 34:882 (May 2008).

Jill P. Boudreaux
Undersecretary

0805#070

(a) a projection 2 feet from the property line with a 1 hour minimum fire-resistance rating on the underside.

(b) a wall 3 feet or more from the property with a 0 hour minimum fire-resistance rating.

4. - 7. ...

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

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Uniform Construction Code Council, LR 33:291 (February 2007), amended LR 34:883 (May 2008).

Jill Boudreaux
Undersecretary

0805#066

RULE

Department of Social Services Office of Community Services

Refugee Resettlement Program (LAC 67.V.Chapter 5)

The Louisiana Department of Social Services, Office of Community Services, has repealed LAC 67: Part V, Subpart 2, Chapter 5, Refugee Resettlement Program, in its entirety. This program is no longer administered by the Office of Community Services.

Title 67 SOCIAL SERVICES

Part V. Office of Community Services

Subpart 2. Community Services

Chapter 5. Refugee Resettlement Program

Subchapter A. Goals and Services

§501. Authority

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:474(3).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 29:713 (May 2003), repealed LR 34:884 (May 2008).

§503. Program Goals

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:474(3).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 29:713 (May 2003), repealed LR 34:884 (May 2008).

§505. Program Services

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:474(3).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 29:713 (May 2003), repealed LR 34:884 (May 2008).

Subchapter B. Refugee Cash Assistance

§507. Application, Eligibility, and Incentive Bonuses for Refugee Cash Assistance

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:474(3).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 29:713 (May 2003), repealed LR 34:884 (May 2008).

§509. Amount of Refugee Cash Assistance

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:474(3).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 29:713 (May 2003), repealed LR 34:884 (May 2008).

§511. Mandatory Participation in Employment Services

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:474(3).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 29:713 (May 2003), repealed LR 34:884 (May 2008).

Subchapter C. Refugee Medical Assistance

§513. Eligibility and Furnishing Services for Refugee Medical Assistance

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:474(3).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 29:713 (May 2003), repealed LR 34:884 (May 2008).

Subchapter D. Refugee Social Services

§515. Application, Eligibility, and furnishing of Refugee Social Services

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:474(3).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 17:1226 (December 1991), amended by the Department of Social Services, Office of Community Services, LR 29:713 (May 2003), repealed LR 34:884 (May 2008).

Ann Silverberg Williams
Secretary

0805#058

RULE

Department of Social Services Office of Family Support

Food Stamp Program—Work Participation Requirements
for Able-Bodied Adults without Dependents
(LAC 67:III.1940)

The Department of Social Services, Office of Family Support, amended the Administrative Procedure Act, R.S. 49:953(B) in Title 67:III, Subpart 3, Food Stamp Program, Chapter 19, Certification of Eligible Households, Section 1940, Work Participation Requirements for Able-bodied Adults Without Dependents.

Revisions are needed in order to be consistent with federal regulations for the Food Stamp Program in 7 CFR 273.24. Failure to comply with federal regulations regarding the

Food Stamp Program can result in federal sanctions. Changes include corrections to the exemptions to the work participation requirements for able-bodied adults without dependents and clarification of language concerning the one-time three month extension of eligibility for individuals who regain eligibility but are no longer fulfilling the work requirement provisions. The changes do not affect current recipients because prior to November 1, 2007, Louisiana had a statewide waiver from the work participation requirements for able-bodied adults without dependents.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 3. Food Stamp Program

Chapter 19. Certification of Eligible Households

Subchapter G. Work Requirements

**§1940. Work Participation Requirements for Able-bodied Adults without Dependents
[Effective 10/1/97 by Emergency Rule]**

A. - A.3. ...

B. An individual is exempt from this requirement if the individual is:

1. under age 18, or 50 years of age or older;
2. medically certified as physically or mentally unfit for employment;
3. a parent of a household member under age 18, even if the household member who is under age 18 does not receive food stamps;
4. residing in a household where a household member is under age 18, even if the household member who is under age 18 does not receive food stamps;
5. pregnant; or
6. otherwise exempt from work registration requirements.

C. Individuals can regain eligibility for assistance.

1.-1.c. ...

2. An individual who regained eligibility and who is no longer fulfilling the work requirement is eligible for three consecutive countable months one time in any 36 month period, starting on the date the individual first notifies the agency that he or she is no longer fulfilling the work requirement, unless the individual has been satisfying the work requirement by participating in a work or workfare program, in which case the period starts on the date the agency notifies the individual that he or she is no longer meeting the work requirement.

D. The first countable month of this provision is November, 1996.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, 7 CFR 273.24.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:81 (January 1997), amended LR 34:885 (May 2008).

Ann Silverberg Williamson
Secretary

0805#056

RULE

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

Flotation Devices (LAC 76:XI.103)

The Wildlife and Fisheries Commission hereby amends Rules governing the wearing of personal flotation devices being worn by persons aboard Class A motorboats propelled by a hand tiller outboard motor while underway.

Title 76

WILDLIFE AND FISHERIES

Part XI. Boating

**Chapter 1. Vessel Equipment; Requirements;
Penalties**

§103. Flotation Devices

A. In accordance with R.S. 34:851.24(F)1, the provisions of this Act shall apply on all waters within the jurisdiction of this state.

B. Definitions

Hand Tiller Outboard Motor—an outboard motor that has a tiller or steering arm attached to the outboard motor to facilitate steering and does not have any mechanical assist device which is rigidly attached to the boat and used in steering the vessel, including but not limited to mechanical, hydraulic, or electronic control systems. Hand tiller outboard motor shall not mean any type of electronic trolling motor.

Operate—to navigate or otherwise control the movement of a vessel, including controlling the vessel's propulsion system.

Operator—any person who navigates or is otherwise in control or in charge of the movement of a vessel, including the vessel's propulsion system.

Owner—a person, other than the lienholder, having the property in or registration to the vessel.

Personal Flotation Device or *PFD*—a device approved by the United States Coast Guard under 46 CFR Part 160, which is labeled with such approval and with the appropriate size for the person intended and which is in serviceable condition.

Readily Accessible—easily located and retrieved without searching, delay, hindrance or being in a locked area.

Serviceable Condition—a condition as defined by the United States Coast Guard under 33 CFR Part 175.23.

Trick Water-skier—a trick water-skier is a person whose equipment and activities have all of the following characteristics:

a. type of skis: for standard double trick skis, a length of no more than 46 inches and width of at least 8 inches, with no keels on the bottom; for single trick boards, a length of no more than 56 inches and width of at least 22 inches, with no keel on bottom; and

b. tow rope no longer than 50 feet.

Vessel—watercraft and airboats of every description, other than seaplane(s), located on the water and, used or

capable of being used as a means of transportation on the water.

Watersports—activities that involve being towed by, or riding in the wake of, a vessel and include but are not limited to water skiing, wake boarding, wake surfing, and tubing.

C. Personal Flotation Device Requirements

1. Every operator of a vessel shall ensure that the vessel is carrying at least one readily accessible Type I, II, or III wearable personal flotation device for each person on board. In addition, vessels 16 feet or over in length shall carry at least one Type IV throwable personal flotation device.

2. A United States Coast Guard approved Type V PFD may be used in lieu of a Type I, II, or III PFD required by this Part provided:

a. the approval label on the Type V PFD indicates that the device is approved by the United States Coast Guard:

i. for the activity for which the vessel is being used; or

ii. as a substitute for a PFD of the type required by this Act on the vessel in use; and

b. the PFD is used in accordance with any requirements of its approval label; and

c. the PFD is used in accordance with requirements in its owner's manual, if its approval label makes reference to such manual.

3. All persons onboard a Class A motorboat which is being propelled by a hand tiller outboard motor shall be required to wear a USCG approved Type I, II, III, or V personal flotation device while the motorboat is underway.

a. The operator shall be responsible to ensure all persons on board are in compliance with this Section. Violation of this Section is a class one violation as defined in R.S. 56:31.

4. Persons engaged in watersports shall wear a Type I, II, III or V PFD. No vessel operator shall tow a watersports participant who is not wearing such a device. No person shall use an inflatable PFD to meet the requirements of this Section. Exceptions to the requirements of this Subsection are allowed during Department of Wildlife and Fisheries and/or United States Coast Guard permitted marine events under the following conditions:

a. a skier engaged in barefoot water-skiing who wears a barefoot wetsuit designed specifically for such activity;

b. a skier engaged in trick water-skiing whose movements would be restricted or impeded by the bulk of a PFD;

c. the operator of a vessel towing a trick water-skier or barefoot water-skier shall make a PFD readily available aboard the tow vessel for each such skier who elects not to wear such a device while skiing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:851.24 and R.S. 34:851.27.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR

11:705 (July 1985), amended LR 26:1493 (July 2000), LR 33:538 (March 2007), LR 34:885 (May 2008).

Robert J. Barham
Secretary

0805#015

RULE

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

Gill Net, Trammel Net and Grass Carp Prohibitions
(LAC 76:VII.112)

The Wildlife and Fisheries Commission hereby prohibits the take of grass carp and prohibit the use and possession of gill and trammel nets in designated areas stocked with triploid grass carp.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

**Chapter 1. Freshwater Sports and Commercial
Fishing**

**§112. Prohibit the Use and Possession of Gill Nets and
Trammel Nets; Prohibit the Taking of Grass
Carp**

A. No person shall use or possess any gill net or trammel net in the areas designated below as restricted areas. No person shall take or sell any fish taken with the prohibited gear. Additionally, no person shall take or possess any grass carp within the restricted areas.

1. Restricted areas:

a. Spring Bayou Wildlife Management Area (WMA), Avoyelles Parish;

b. Old River, Avoyelles Parish;

c. Little River, Avoyelles Parish.

B. Violation of the provisions of this Section constitutes a class two violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:21, R.S. 56:22.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 34:886 (May 2008).

Robert J. Barham
Secretary

0805#014

RULE

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

Marine Event Permits (LAC 76:XI.305)

The Wildlife and Fisheries Commission has adopted a Rule governing the permitting of marine events on the navigable waterways within the jurisdiction of the state of Louisiana.

Title 76
WILDLIFE AND FISHERIES
Part XI. Boating

Chapter 3. Boating Safety
§305. Marine Event Permits

A. The following regulations shall prescribe the permitting requirements for marine events on the navigable waterways within the jurisdiction of this state so as insure the safety of life. Through Memorandum of Understanding between the United States Coast Guard and the Louisiana Department of Wildlife and Fisheries and authority vested in the commission, the Department of Wildlife and Fisheries has the responsibility to permit and regulate marine events on navigable waters over which the state has jurisdiction.

B. Definitions

Marine Event or *Events*—an organized event of limited duration held on the water, including but not limited to regattas, parades, fireworks displays, and boat races, which by its nature, circumstances or location, will introduce extra or unusual hazards to the safety of lives on the navigable waters within the jurisdiction of the state of Louisiana.

a. Examples of conditions which are deemed to introduce extra or unusual hazards to the safety of life include but are not limited to:

- i. an inherently hazardous competition;
- ii. an event occurring in an area where there is a customary presence of pleasure craft;
- iii. any obstruction of navigable channel which may reasonably be expected to result; and
- iv. the expected accumulation of spectator craft.

C. An individual or organization planning to hold a marine event, shall submit an application to the LDWF.

1. The application shall be submitted 30 days prior to the proposed event.

2. The application shall include the following details:

- a. name and address of sponsoring person or organization;
- b. name, address, and telephone of person in charge of the event;
- c. nature and purpose of the event;
- d. information as to general public interest;
- e. estimated number and types of watercraft participating in the event;
- f. estimated number and types of spectator watercraft;
- g. number of boats being furnished by sponsoring organizations to patrol event;
- h. a time schedule and description of events; and
- i. a section of a chart or scale drawing showing the boundaries of the event, various water courses, or areas to be utilized by participants, officials, and spectator craft.

D. The department's law enforcement division may issue regulations to promote safety of life on waters before, during, and after a marine event. The department's law enforcement division can limit, exclude or restrict movement of vessel traffic before, during, and after a marine event and may assign patrol boats, if safety requires, to enforce regulations and provide assistance work.

E. Violation of this Section is a class one violation as provided in R.S. 56:31. The department is authorized to prohibit, suspend or terminate any marine event in order to

protect life, public safety or for failure to secure a marine event permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:851.24 and R.S. 34:851.27.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 34:887 (May 2008).

Robert J. Barham
Secretary

0805#016

RULE

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Vessel Monitoring System Requirements
(LAC 76:VII.369, 371, and 515)

The Wildlife and Fisheries Commission hereby enacts Rules governing the use of Vessel Monitoring Systems (VMS) for Out-of-State Landing Program for Oysters, VMS requirements as provided for in Title 56 and closed season shrimp penalty provisions in R.S. 56:495.1 and 56:497.1 provides for consolidation of VMS regulations.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishing

§369. Shrimping Closed Season, Vessel Monitoring System

A. Purpose. To maximize voluntary compliance with shrimping regulations and to reduce purposeful shrimping violations by providing adequate deterrence thereby reducing recidivism.

B. Persons who are required to be monitored:

1. any person subject to a court order requiring monitoring;
2. any person having two or more convictions during the preceding five year period for harvesting shrimp during closed season.

C. Persons required to be monitored shall not be present on board any vessel harvesting or possessing shrimp, or which has any trawl, skimmer, or butterfly net on board, unless that vessel is equipped with and is using and employing an approved, fully functional and operating vessel monitoring system (VMS) as required by R.S. 56:495.1 and R.S. 56:497.1 and these regulations.

D. Required monitoring periods:

1. persons who are subject to a court order requiring that they be monitored shall be monitored and who do not have two or more convictions during the preceding five year period for harvesting shrimp during closed season for the period specified by the order of the court;
2. persons who have had two convictions during the preceding five year period for harvesting shrimp during closed season shall be monitored for a period of three years from the date of the most recent conviction;
3. persons who have had three or more convictions during the preceding five year period for harvesting shrimp during closed season shall be monitored for a period of ten years from the date of the most recent conviction.

E. The VMS unit must be approved and certified, must be installed onboard the vessel, and must be fully operational. The department must first be notified of the installation, before a person who is required to be monitored may be present onboard the vessel. If a person who is required to be monitored is found to be on any vessel-harvesting shrimp or possessing shrimp, or possessing any trawl, skimmer, or butterfly net without an approved VMS device being on board and operating, the person who is required to be monitored shall be in violation of VMS shrimping requirements and shall be guilty of a class four violation pursuant to R.S. 56:497.1.C and R.S. 56:34. Each license issued to a person who is required to be on a VMS monitored vessel shall indicate that the licensee may only be present on a VMS monitored vessel.

F. Persons who are required to be monitored shall be responsible for the VMS Requirements as specified in LAC 76:VII.371.

G. Violation. Failure to abide by any regulation set forth regarding the use or operation of VMS, or failure to have VMS when required shall be a violation of R.S. 56:497.1.C and requirements of probation where applicable. All shrimp taken or possessed by a person in violation of these rules, and who is identified on his commercial license as required to be VMS monitored, shall be deemed illegally taken and possessed. The provisions of this Section do not exempt any person from any other laws, rules, regulation, and license requirements for this or other jurisdictions. Violations of this Section shall constitute a class 4 violation.

H. All costs and monthly fees associated with the installation, operation and monitoring of any VMS system in accordance with these rules shall be the responsibility of the person required to be monitored and shall be paid by him directly to the approved VMS supplier and monitoring facilitator.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:495.1, and R.S. 56:497.1.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 32:1255 (July 2006), amended LR 34:887 (May 2008).

§371. Vessel Monitoring System (VMS) Requirements

A. The following provisions regarding VMS shall be applicable to all provisions of law requiring the use of VMS:

1. the vessel must have onboard a fully operational and approved VMS Device. Approved devices are those devices approved by NOAA Fisheries Service or the Secretary of the Louisiana Department of Wildlife and Fisheries (LDWF) for fisheries in the Gulf of Mexico Reef Fish fishery and which meet the minimum performance criteria specified in Paragraph 2 of this Subsection. In the event that a VMS device is removed from the list of approved devices, vessel owners who installed an approved VMS prior to approval of any revised list will be considered in compliance with requirements of this Paragraph, unless otherwise notified by the LDWF;

2. minimum VMS performance criteria: Basic required features of the VMS are as follows:

a. the VMS shall be satellite-based and tamper proof, i.e., shall not permit the input of false positions; furthermore, satellite selection must be automatic to provide an optimal fix and shall not be capable of being manually overridden;

b. the VMS shall be fully automatic and operational at all times, regardless of weather and environmental conditions;

c. the VMS shall be fully operable and capable of tracking the vessel in all of Louisiana coastal waters and throughout the Gulf of Mexico;

d. the VMS shall be capable of transmitting and storing information including vessel identification, date, time and latitude/longitude;

e. the VMS unit shall make all required transmissions to a designated and approved VMS vendor who shall be responsible for monitoring the vessel and reporting information to the LDWF;

f. the VMS shall provide accurate position transmissions every half-hour, except for those vessels operating solely under the Out-of-State Landing Permit mentioned in Paragraph 3 that require accurate position transmissions every hour, every day of the year, during required monitoring period. In addition, the VMS shall allow polling of individual vessels or any set of vessels at any time and permit those monitoring the vessel to receive position reports in real time. For the purposes of this specification, real time shall constitute data that reflect a delay of 15 minutes or less between the displayed information and the vessel's actual position;

g. the VMS vendor shall be capable of transmitting position data to a LDWF designated computer system via a modem at a minimum speed of 9600 baud. Transmission shall be in a file format acceptable to the LDWF. Such transmission must be made at any time upon demand of the LDWF;

h. the VMS vendor shall be capable of archiving vessel position histories for a minimum of three months, as transmitted by the VMS unit, and provide transmissions to the LDWF of specified portions of archived data in response to LDWF requests in a variety of media (tape, compact disc, etc.) as specified by the LDWF.

3. Operating Requirements. Except as provided in Paragraph 4 (Power Down Exemption) of this Subsection, or unless otherwise required by law, all required VMS units must transmit a signal indicating the vessel's accurate position at least every half hour, 24 hours a day, throughout the year. However, those vessels operating solely under the Out-of-State Landing Permit shall transmit a signal indicating the vessel's accurate position at least every hour, 24 hours a day throughout the year.

4. Power Down Exemption. Any vessel required to have on board a fully operational VMS unit at all times, as specified in Paragraph 3 of this Subsection, is exempt from this requirement provided:

a. the vessel will be continuously out of the water for more than 72 consecutive hours; and

b. a valid letter of exemption obtained pursuant to Subparagraph 5.a of this Subsection has been issued to the vessel and is on board the vessel and the vessel is in compliance with all conditions and requirements of said letter.

5. Letter of Exemption

a. Application. A vessel owner may apply for a letter of exemption from the operating requirements specified in Paragraph 3 of this Subsection for his/her vessel by sending a written request to the LDWF and providing the following:

Sufficient information to determine that the vessel will be out of the water for more than 72 continuous hours; the location of the vessel during the time an exemption is sought; and the exact time period for which an exemption is needed (i.e., the time the VMS will be turned off and turned on again).

b. Issuance. Upon receipt of an application, the LDWF may issue a letter of exemption to the vessel if it is determined that the vessel owner provided sufficient information as required under Subparagraph 5.a of this Subsection and that the issuance of the letter of exemption will not jeopardize accurate monitoring of the vessel's position. Upon written request, the LDWF may change the time period for which the exemption was granted.

6. Presumption. If a VMS unit fails to transmit the required signal of a vessel's position, the vessel shall be deemed to have incurred a VMS violation, for as long as the unit fails to transmit a signal, unless a preponderance of evidence shows that the failure to transmit was due to an unavoidable malfunction, or disruption of the transmission that occurred while the vessel was declared out of the fishery, as applicable, or was not at sea.

7. Replacement. Should a VMS unit require replacement, a vessel owner must submit documentation to the LDWF Law Enforcement Division Headquarters VMS coordinator, within 3 days of installation and prior to the vessel's next trip, verifying that the new VMS unit is an operational, approved system as described in this Section.

8. Access. All vessel owners shall allow the LDWF, and their authorized wildlife enforcement agents or designees access to the vessel's VMS unit and data, if applicable, and location data obtained from its VMS unit, if required, at the time of or after its transmission to the vendor or receiver, as the case may be.

9. Tampering. Tampering with a VMS, a VMS unit, or a VMS signal, is prohibited. Tampering includes any activity that is likely to affect the unit's ability to operate properly, signal, or accurately compute the vessel's position fix.

10. Violation. Failure to abide by any regulation set forth regarding the use or operation of VMS, or failure to have VMS when required shall be a violation of the Louisiana Revised Statutes which mandates VMS and requirements of probation where applicable. All fish taken or possessed by a person in violation of these rules, and who is identified on his commercial license or permit as required to be VMS monitored, shall be deemed illegally taken and possessed. The provisions of this Section do not exempt any person from any other laws, rules, regulation, and license requirements for this or other jurisdictions. Violations of this Section shall constitute a violation of the Section of law requiring the use of VMS.

11. All costs and monthly fees associated with the installation, operation and monitoring of any VMS system in accordance with these rules shall be the responsibility of the person required to be monitored and shall be paid by him directly to the approved VMS supplier and monitoring facilitator.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:424, 56:424.1, R.S. 56:495.1, and R.S. 56:497.1.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 34:888 (May 2008).

Chapter 5. Oysters

§515. Oyster Lessee Out-of-State Landing Program

A. Policy. The oyster lessee out-of-state landing permit is intended for the benefit of an oyster leaseholder, or his duly authorized designee, who desires to land oysters, from privately leased water bottoms only, outside the state of Louisiana, and to provide an effective method of regulating the transportation of oysters landed or off-loaded from a vessel outside of Louisiana. It is for use by Louisiana licensed oyster fishermen. Violation of any provision of the rules, regulations or statutes concerning the oyster out-of-state landing permit by the permittee, oyster harvester or vessel owner while operating under the permit shall result in the suspension and/or revocation of the permit in addition to any citations resulting from activities. The permit shall be valid for up to one calendar year beginning on January 1 and ending on December 31 of the same year. The cost per permit shall be \$100.

B. Permit Application and Procedures

1. Applications shall be available from the Louisiana Department of Wildlife and Fisheries (LDWF) licensing office in Baton Rouge at any time during regular business hours. Completed applications, along with required documentation, will be accepted only by appointment at the LDWF Marine Fisheries Division in Baton Rouge. Applications shall only be accepted from the oyster leaseholder, or harvester operating on the leaseholder's behalf. All required information shall be provided before a permit is issued.

2. Applications shall include the following information:

a. applicant information including name, address, telephone number, social security number, and driver's license number. If applicable, commercial license numbers (vessel, oyster harvester, commercial fisherman) and vessel registration or U.S. Coast Guard (USCG) documentation;

b. leaseholder information including name, address, and leaseholder account identification number:

i. if name of leaseholder is a corporation, partnership, or other legal entity, the Louisiana Secretary of State Charter/Organization number must be provided;

ii. if the name of the leaseholder is different than the applicant, the applicant must provide valid permission from the leaseholder (also refer to Subparagraph B.2.i below);

c. harvester information including name, address, telephone number, social security number, and driver's license number. If applicable, commercial license numbers (vessel, oyster harvester, commercial fisherman) may be required;

d. vessel owner information including name, address, telephone number, social security number, and driver's license number. If applicable, commercial license numbers (vessel, oyster harvester, commercial fisherman) may be required;

e. vessel information including name of vessel, vessel license number, USCG vessel documentation number, and/or vessel registration number, if applicable;

f. lease number(s) to be fished, and leaseholder name and identification number for each lease, while operating under the permit;

g. copies of vessel registration certificate(s) or U.S. Coast Guard vessel documentation certificate;

h. proof of lease ownership by supplying copies of certified lease plats and/or documents:

i. corporation—if lessee name on plat is a corporation, provide the Louisiana Secretary of State Charter/ Organization number. The applicant must be a registered director or agent of the corporation. If the applicant has been given permission to fish the lease(s) by the corporation, please refer to Subparagraph B.2.i below;

ii. power of attorney—if lease(s) listed on the application are not listed under the applicant's account, the applicant shall provide documentation of power of attorney for the estate of the leaseholder. If the applicant has been given permission to fish the lease(s) by the estate of the leaseholder, please refer to Subparagraph B.2.i below;

i. written, signed, notarized, and dated permission from the leaseholder to fish the lease(s), if applicable.

i. corporation—the person granting permission must be a registered director or agent of the corporation which owns the lease(s) listed on the application.

ii. power of attorney—the person granting permission must provide documentation of power of attorney for the estate of the leaseholder which owns the lease(s) listed on the application.

C. Operations. Permits are non-transferable and only the vessel listed on the permit can be used with the permit and only one vessel is allowed per permit. The vessel must maintain the original permit on board at all times while operating under the permit, including during times of fishing and transportation. Valid permission from the leaseholder must be present on the permitted vessel while operating under the permit. The complete original permit must be surrendered to the department in the event the permittee chooses to have the permit modified. Any change in leases fished shall require the permittee to submit a new application at no additional expense prior to fishing different leases. Any change in vessel shall require the permittee to submit a new application and permit fee. At no time while operating under the permit and transporting oysters out-of-state shall the permittee have on board the permitted vessel oysters taken from non-leased water bottoms of the state or from oyster leases not listed on the original permit. The permitted vessel shall display signs, visible from either side of the vessel and from the air, with the words "Oyster Permit" and the permit number shall be placed on these signs in letters at least 12 inches high.

D. Records, Reporting, and Severance Tax. The permittee shall maintain an up-to-date daily record of the number of sacks of oysters landed under the permit on forms provided by the department for that purpose. The permittee shall submit to the department a monthly record of the

number of sacks of oysters landed under the permit and the name and Food and Drug Administration interstate certified shellfish shipper's number of the business to whom the oysters were sold no later than 15 days following the last day of the month on forms provided by the department for that purpose, even if no landings occurred. Failure to submit monthly records or incomplete records to the department before the reporting deadline shall result in suspension or revocation of the permit, at the discretion of the department. Payment of severance tax owed, as outlined in Louisiana R.S. 56:446(A) must accompany the monthly report.

E. Monitoring. The vessel utilized under this permit shall have on-board and in working order an electronic vessel monitoring system as required by R.S. 56:424, as provided herein. Oyster vessels, the owner or operator of any vessel issued an oyster lessee out-of-state landing permit or a vessel that landed oysters from a private lease in Louisiana waters, at a location outside of Louisiana, or intends to land, or lands oysters out of state, must have an operable vessel monitoring system (VMS) unit installed on board that meets the requirements of LAC 76:VII.371. The VMS unit must be certified, installed on board and operable, and the department notified of the installation, before the vessel may begin dredging or transporting oysters.

F. Violation. Failure to abide by any regulation set forth regarding the use or operation of VMS, or failure to have VMS when required shall be considered a violation of the Section of law requiring the use of VMS and requirements of probation where applicable. All fish taken or possessed by a person in violation of these rules shall be deemed illegally taken and possessed. The provisions of this Section do not exempt any person from any other laws, rules, regulation, and license requirements for this or other jurisdictions. Violations of this Section shall constitute a class 2 violation. As a condition maintaining and operating under this permit, persons shall comply with the VMS provisions regardless of the vessels location, failure to comply with VMS rules and regulations, the department shall revoke and not reinstate the Out-of-State Landing Permit for that vessel and person for the period in which it was issued.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56.6(10), R.S. 56:422, R.S. 56:424(B, G), and R.S. 56:425.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Office of Fisheries, LR 22:120 (February 1996), amended by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 31:1624 (July 2005), LR 34:889 (May 2008).

Robert J. Barham
Secretary

0805#017

Notices of Intent

NOTICE OF INTENT

Department of Economic Development Boxing and Wrestling Commission

Boxing and Wrestling Standards
(LAC 46:XI.108, 303 and Chapter 7)

The Louisiana State Boxing and Wrestling Commission does hereby exercise the provisions of the Administrative Procedure Act, R.S. 49:953(b) and 49:967(D) to propose the following Rule. The Louisiana State Boxing and Wrestling Commission proposes to adopt the rules of the United States Amateur Boxing, Inc., and/or the Golden Gloves of America pursuant to amateur boxing contestants and events; to clarify the definitions of "amateur" and "professional" and the corresponding rules thereto in order to ensure that a proper forum for amateur fighters is encouraged; that amateur shows are properly advertised as such and that amateur contestants are equally matched.

Testing for Hepatitis B and Hepatitis C will be added the current HIV drug testing requirements. This proposed Rule will also introduce a new Chapter, Chapter 7. mixed technique events, which is necessary to promote the safety of mixed technique contestants, other participants and spectators in that it will require participants in all mixed technique events to be under the jurisdiction of The Louisiana State Boxing and Wrestling Commission. This new chapter will introduce rules specific to amateur mixed technique events and professional mixed technique events and outlines the commission's demands pertaining to contestants, amateur or professional; rules citing the responsibility of promoters of amateur shows, in particular, and professional mixed technique events; bout durations; judges and referees; and the safety and ring requirements of both.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XI. Boxing and Wrestling

Chapter 1. General Rules

§108. Medical Requirements

A. Each contestant participating in any sport under this commission's jurisdiction must furnish to the commission physician a certified medical certificate evidencing that the contestant has been tested for HIV, Hepatitis B and Hepatitis C and said test results are negative. Said tests and certificates shall be dated not more than six months prior to the scheduled event and said certificates are to be presented at the time of "weigh in".

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61.D, R.S. 4:64 and R.S. 4:67.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Boxing and Wrestling Commission, LR 32:242 (February 2006), amended by the Department of Economic Development, Boxing and Wrestling Commission, LR 34:

Chapter 3. Professional Boxing

§303. Amateur Boxing Associations

A. The commission will recognize an amateur boxing contest or exhibition only if it is registered and sanctioned by United States Amateur Boxing, Inc., and/or the Golden Gloves of America as an amateur boxing contest or exhibition.

B. An amateur boxing contest or exhibition is governed by the rules adopted for amateur boxing contests or exhibitions by United States Amateur Boxing, Inc. The commission hereby adopts by reference those rules as they exist in the form most recently adopted by United States Amateur Boxing, Inc. A copy of those rules may be purchased for a price of \$15, from United States Amateur Boxing, Inc., One Olympic Plaza, Colorado Springs, Colorado 80909. If those rules do not cover a particular situation in an amateur boxing contest or exhibition, the provisions of this chapter concerning unarmed combat and professional boxing contests or exhibitions apply.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61(D) and R.S. 4:64.

HISTORICAL NOTE: Promulgated by Department of Economic Development, Boxing and Wrestling Commission, LR 34:

Chapter 7. Mixed Technique Events

§701. Application of Professional and Amateur Boxing Rules

A. The following conditions specifically described in the professional boxing rules also apply to amateur and professional mixed technique sports and events as put forth in the foregoing Chapter 1, General Rules of Boxing and Wrestling, Title 46, Professional and Occupational Standards, §§101 through 113 except where the intention would be to modify rules which are specific to mixed technique events.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61(D) and R.S. 4:64.

HISTORICAL NOTE: Promulgated by Department of Economic Development, Boxing and Wrestling Commission, LR 34:

§703. Mixed Technique Events (MTE)

A. All mixed technique events shall be conducted under the authority and supervision of the commission.

B. There are hereby established three types of mixed technique event (MTE):

1. MTE amateur events;
2. MTE exhibition events; and
3. MTE professional event.

C. MTE amateur events are defined as those MTE events using amateur fighters and being sponsored by a recognized amateur mixed technique association, duly recognized by the commission.

1. Pursuant to Louisiana Revised Statute 4:67 there shall be no taxes charged to a MTE amateur event sponsored by an AMTA approved by the commission.

D. MTE exhibition events are defined as those MTE events using amateur fighters conducted by a promoter licensed by the commission.

1. MTE exhibition events shall be conducted under the mixed technique event exhibition rules set forth below.

E. MTE professional events are defined as those MTE events using professional fighters conducted by a promoter licensed by the commission.

1. MTE professional events shall be conducted under the mixed technique event professional rules set forth below.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61(D) and R.S. 4:64.

HISTORICAL NOTE: Promulgated by Department of Economic Development, Boxing and Wrestling Commission, LR 34:

§705. Mixed Technique Ring Rules

A. Mixed technique events contests and exhibitions may be held in a ring or in a fenced area.

B. A ring used for a contest or exhibition mixed technique event must meet the following requirements.

1. The ring must be no smaller than 20 feet square and no larger than 32 feet square within the ropes.

2. The ring floor must extend at least 18 inches beyond the ropes. The ring floor must be padded with ensolite or another similar closed-cell foam, with at least a 1-inch layer of foam padding. Padding must extend beyond the ring ropes and over the edge of the platform, with a top covering of canvas, duck or similar material tightly stretched and laced to the ring platform. Material that tends to gather in lumps or ridges must not be used.

3. The ring platform must not be more than 4 feet above the floor of the building and must have suitable steps for the use of the unarmed combatants.

4. Ring posts must be made of metal, not more than 3 inches in diameter, extending from the floor of the building to a minimum height of 58 inches above the ring floor, and must be properly padded in a manner approved by the commission. Ring posts must be at least 18 inches away from the ring ropes.

5. There must be five ring ropes, not less than 1 inch in diameter and wrapped in soft material. The lowest ring rope must be 12 inches above the ring floor.

6. There must not be any obstruction or object, including, without limitation, a triangular border, on any part of the ring floor.

C. A fenced area used in a contest or exhibition mixed technique event must meet the following requirements.

1. The fenced area must be circular or have at least eight equal sides and must be no smaller than 20 feet wide and no larger than 32 feet wide.

2. The floor of the fenced area must be padded with ensolite or another similar closed-cell foam, with at least a 1-inch layer of foam padding, with a top covering of canvas, duck or similar material tightly stretched and laced to the platform of the fenced area. Material that tends to gather in lumps or ridges must not be used.

3. The platform of the fenced area must not be more than 4 feet above the floor of the building and must have suitable steps for the use of the unarmed combatants.

4. Fence posts must be made of metal, not more than 6 inches in diameter, extending from the floor of the building to between 5 and 7 feet above the floor of the

fenced area, and must be properly padded in a manner approved by the commission.

5. The fencing used to enclose the fenced area must be made of a material that will prevent an unarmed combatant from falling out of the fenced area or breaking through the fenced area onto the floor of the building or onto the spectators, including, without limitation, chain link fence coated with vinyl.

6. Any metal portion of the fenced area must be covered and padded in a manner approved by the commission and must not be abrasive to the unarmed combatants.

7. The fenced area must have two entrances.

8. There must not be any obstruction on any part of the fence surrounding the area in which the unarmed combatants are to be competing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61(D) and R.S. 4:64.

HISTORICAL NOTE: Promulgated by Department of Economic Development, Boxing and Wrestling Commission, LR 34:

§709. Safety Zone

A. At each event there shall be an area around the ring or fenced in area, extending eight feet as measured from said ring or fenced in area, which shall be partitioned from the public seating and said area shall be referred to as the "safety zone."

1. No one may enter the safety zone unless authorized by the commission.

2. All seating inside of the safety zone shall be authorized by the attending commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61(D) and R.S. 4:64.

HISTORICAL NOTE: Promulgated by Department of Economic Development, Boxing and Wrestling Commission, LR 34:

§711. Duration of Rounds

A. Except with the approval of the commission or its chairman:

1. a non-championship contest or exhibition of mixed technique events must not exceed three rounds in duration;

2. a championship mixed technique event must be five rounds in duration;

3. a period of unarmed combat in any mixed technique event must be 5 minutes in duration. A period of rest following a period of unarmed combat in a mixed technique event must be 1 minute in duration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61(D) and R.S. 4:64.

HISTORICAL NOTE: Promulgated by Department of Economic Development, Boxing and Wrestling Commission, LR 34:

§713. Weight Classes of MTE contestants; weight loss

A. Except with the approval of the commission or its commissioner, the classes for unarmed combatants competing in mixed technique events and the weights for each class are shown in the following schedule.

- Flyweight..... up to 125 lbs.
- Bantamweight..... over 125 to 135 lbs.
- Featherweight over 135 to 145 lbs.
- Lightweight over 145 to 155 lbs.
- Welterweight over 155 to 170 lbs.

- Middleweight.....over 170 to 185 lbs.
- Light Heavyweightover 185 to 205 lbs.
- Heavyweight.....over 205 to 265 lbs.
- Super Heavyweightall over 265 lbs.

B. After the weigh-in of an unarmed combatant competing in a mixed technique events:

- a. weight loss in excess of 2 pounds is not permitted for an unarmed combatant who weighed in at 145 pounds or less;
 - b. weight loss in excess of 3 pounds is not permitted for an unarmed combatant who weighed in at over 145 pounds;
3. the weight loss described in Paragraph 2 must not occur later than 2 hours after the initial weigh-in.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61(D) and R.S. 4:64.

HISTORICAL NOTE: Promulgated by Department of Economic Development, Boxing and Wrestling Commission, LR 34:

§715. Proper Attire for Unarmed Combatants

A. An unarmed combatant competing in a mixed technique event:

- 1. must wear shorts approved by the commission or the commission's representative;
- 2. may not wear shoes or any padding on his feet during the contest.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61(D) and R.S. 4:64.

HISTORICAL NOTE: Promulgated by Department of Economic Development, Boxing and Wrestling Commission, LR 34:

§717. Method of Judging

A. Each judge of a mixed technique event that is being judged shall score the contest or exhibition and determine the winner through the use of the following system.

- 1. The better unarmed combatant of a round receives 10 points and his opponent proportionately less.
- 2. If the round is even, each unarmed combatant receives 10 points.
- 3. No fraction of points may be given.
- 4. Points for each round must be awarded immediately after the end of the period of unarmed combat in the round.

B. After the end of the contest or exhibition, the announcer shall pick up the scores of the judges from the commission's desk.

C. The majority opinion is conclusive and, if there is no majority, the decision is a draw.

D. When the commission's representative has checked the scores, he shall inform the announcer of the decision. The announcer shall inform the audience of the decision over the speaker system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61(D) and R.S. 4:64.

HISTORICAL NOTE: Promulgated by Department of Economic Development, Boxing and Wrestling Commission, LR 34:

§719. Fouls

A. The following acts constitute fouls in a mixed technique event:

- 1. butting with the head;
- 2. eye gouging of any kind;
- 3. biting;
- 4. hair pulling;

- 5. fishhooking;
- 6. groin attacks of any kind;
- 7. putting a finger into any orifice or into any cut or laceration on an opponent;
- 8. small joint manipulation;
- 9. striking to the spine or the back of the head;
- 10. striking downward using the point of the elbow;
- 11. throat strikes of any kind, including, without limitation, grabbing the trachea;
- 12. clawing, pinching or twisting the flesh;
- 13. grabbing the clavicle;
- 14. kicking the head of a grounded opponent;
- 15. kneeling the head of a grounded opponent;
- 16. stomping a grounded opponent;
- 17. kicking to the kidney with the heel;
- 18. spiking an opponent to the canvas on his head or neck;
- 19. throwing an opponent out of the ring or fenced area;
- 20. holding the shorts or gloves of an opponent;
- 21. spitting at an opponent;
- 22. engaging in any unsportsmanlike conduct that causes an injury to an opponent;
- 23. holding the ropes or the fence;
- 24. using abusive language in the ring or fenced area;
- 25. attacking an opponent on or during the break;
- 26. attacking an opponent who is under the care of the referee;
- 27. attacking an opponent after the bell has sounded the end of the period of unarmed combat;
- 28. flagrantly disregarding the instructions of the referee;
- 29. timidity, including, without limitation, avoiding contact with an opponent, intentionally or consistently dropping the mouthpiece or faking an injury;
- 30. interference by the corner;
- 31. throwing in the towel during competition.

B. Fouls—Deduction of Points

1. If an unarmed combatant fouls his opponent during a mixed technique event, the referee may penalize him by deducting points from his score, whether or not the foul was intentional. The referee shall determine the number of points to be deducted in each instance and shall base his determination on the severity of the foul and its effect upon the opponent.

2. When the referee determines that it is necessary to deduct a point or points because of a foul, he shall warn the offender of the penalty to be assessed.

3. The referee shall, as soon as is practical after the foul, notify the judges and both unarmed combatants of the number of points, if any, to be deducted from the score of the offender.

4. Any point or points to be deducted for any foul must be deducted in the round in which the foul occurred and may not be deducted from the score of any subsequent round.

C. Accidental Fouls

1. If a mixed technique event is stopped because of an accidental foul, the referee shall determine whether the unarmed combatant who has been fouled can continue or not. If the unarmed combatant's chance of winning has not been seriously jeopardized as a result of the foul and if the

foul did not involve a concussive impact to the head of the unarmed combatant who has been fouled, the referee may order the contest or exhibition continued after a recuperative interval of not more than 5 minutes. Immediately after separating the unarmed combatants, the referee shall inform the commission's representative of his determination that the foul was accidental.

2. If the referee determines that a mixed technique event may not continue because of an injury suffered as the result of an accidental foul, the contest or exhibition must be declared a no contest if the foul occurs during:

- a. the first two rounds of a contest or exhibition that is scheduled for three rounds or less; or
- b. the first three rounds of a contest or exhibition that is scheduled for more than three rounds.

3. If an accidental foul renders an unarmed combatant unable to continue the contest or exhibition after:

- a. the completed second round of a contest or exhibition that is scheduled for three rounds or less; or
- b. the completed third round of a contest or exhibition that is scheduled for more than three rounds, the outcome must be determined by scoring the completed rounds and the round during which the referee stops the contest or exhibition.

4. If an injury inflicted by an accidental foul later becomes aggravated by fair blows and the referee orders the contest or exhibition stopped because of the injury, the outcome must be determined by scoring the completed rounds and the round during which the referee stops the contest or exhibition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61(D) and R.S. 4:64.

HISTORICAL NOTE: Promulgated by Department of Economic Development, Boxing and Wrestling Commission, LR 34:

§721. Results of Contests

A. A mixed technique event may end under the following results.

1. Submission by:
 - a. physical tap out;
 - b. verbal tap out.
2. Technical knockout by the referee stopping the contest.
3. Decision via the scorecards, including:
 - a. unanimous decision;
 - b. split decision;
 - c. majority decision;
 - d. draw, including:
 - i. unanimous draw;
 - ii. majority draw;
 - iii. split draw;
4. technical decision;
5. technical draw;
6. disqualification;
7. forfeit;
8. no contest.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61(D) and R.S. 4:64.

HISTORICAL NOTE: Promulgated by Department of Economic Development, Boxing and Wrestling Commission, LR 34:

§723. Referees and Judges

A. No referee may officiate a mixed technique event unless he has been duly qualified by the commission. The commission may approve referees based upon their qualifications or may require the attendance of a mandatory seminar.

B. No judge may officiate a mixed technique event unless he has been duly qualified by the commission. The commission may approve judges based upon their qualifications or may require the attendance of a mandatory seminar.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61(D) and R.S. 4:64.

HISTORICAL NOTE: Promulgated by Department of Economic Development, Boxing and Wrestling Commission, LR 34:

§725. Promoters

A. The promoter must provide one licensed physician, for each event; if the physician is called away from ringside for any reason, the event may not continue until the physician returns ringside.

B. The promoter must provide at least one licensed physician to conduct pre-fight physicals, and provide a private area for the physician to perform pre-fight examinations.

C. The promoter shall ensure that at all times an ambulance and two EMTs are present at the event; if the attending ambulance is forced to leave for any reason, including, but not limited to transporting a participant, the event shall not resume until the event is attended by another ambulance and two EMTs.

D. Only the fighter; his trainer and chief seconds shall enter the fenced off area around the ring or cage. Any other member of the contestants entourage who enters the fenced off area for any reason shall be ejected from the event.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61(D) and R.S. 4:64.

HISTORICAL NOTE: Promulgated by Department of Economic Development, Boxing and Wrestling Commission, LR 34:

§727. Equipment for Contestants

- A. Required equipment:
1. mouth guard;
 2. open finger gloves (minimum 4 oz.) with an open palm with no insert and the majority of the weight of the glove to be around the knuckles;
 3. groin protection (male only);
 4. breast protection (female).

- B. Disallowed equipment:
1. no vaseline on the body;
 2. no shoes;
 3. no shirts for male contestants;
 4. no metal zippers on shorts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61(D) and R.S. 4:64.

HISTORICAL NOTE: Promulgated by Department of Economic Development, Boxing and Wrestling Commission, LR 34:

§729. Corner Requirements

A. For each bout, the promoter shall provide a clean water bucket and a clean plastic water bottle in each corner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61(D) and R.S. 4:64.

HISTORICAL NOTE: Promulgated by Department of Economic Development, Boxing and Wrestling Commission, LR 34:

§731. Specifications: Bandaging of MT Contestant's Hands

A. In all weight classes, the bandages on each contestant's hand shall be restricted to soft gauze cloth not more than 13 yards in length and 2 inches in width, held in place by not more than 10 feet of surgeon's tape, 1 inch in width, for each hand.

B. Surgeon's adhesive tape shall be placed directly on each hand for protection near the wrist. The tape may cross the back of the hand twice and extend to cover and protect the knuckles when the hand is clenched to make a fist.

C. The bandages shall be evenly distributed across the hand.

D. Bandages and tape shall be placed on the contestant's hands in the dressing room in the presence of the inspector and in the presence of the manager or chief second of his or her opponent.

E. Under no circumstances are gloves to be placed on the hands of a contestant until the approval of the inspector is received.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61(D) and R.S. 4:64.

HISTORICAL NOTE: Promulgated by Department of Economic Development, Boxing and Wrestling Commission, LR 34:

§733. Mouth Pieces

A. All contestants are required to wear a mouthpiece during competition. The mouthpiece shall be subject to examination and approval by the attending physician.

B. The round cannot begin without the mouthpiece in place.

C. If the mouthpiece is involuntarily dislodged during competition, the referee shall call time, clean the mouthpiece and reinsert the mouthpiece at the first opportune moment, without interfering with the immediate action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61(D) and R.S. 4:64.

HISTORICAL NOTE: Promulgated by Department of Economic Development, Boxing and Wrestling Commission, LR 34:

§735. Amateur Mixed Technique Associations

A. An Amateur Mixed Techniques Association (AMTA) must provide proof to the commission that it is either a non-profit organization certified by the state of Louisiana or that it is approved as a non-profit organization under the provisions of the Internal Revenue Code.

B. An AMTA shall file with the commission rules for conducting the organization's affairs and the conduct of its members. The rules must include provisions to:

1. establish conditions for membership;
2. provide guidelines for training its members in preparation for a contest;
3. establish a minimum training period before a contest;
4. indicate which class(es) of combative sports the AMTA will conduct;
5. require that all referees and judges participating in events conducted by the AMTA are approved by the

commission; and

6. establish a set of rules for determining the amateur status of each participant in any event which the AMTA sponsors; including a method for recording the names of all mixed technique fighters in the state of Louisiana, both professional and amateur;

7. may include provisions to:

a. provide for payment of actual expenses, up to a maximum of One Hundred and No/100 for the contestants who participate in an event; and

b. allow members of other AMTAs to participate as a visiting member in an event conducted by it without the other AMTA participating in the conducted event, so long as it ascertains that the visiting member is qualified under the rules to be a contestant in the event.

C. An AMTA may not conduct or participate in any event unless it has received the commission's written approval of rules required in Subparagraph b above.

D. An AMTA may not conduct or participate in an event unless it has applied for and received approval for status as an AMTA by the commission.

E. An AMTA shall provide insurance and pay all deductibles for contestants, to cover medical, surgical and hospital care with a minimum limit of \$20,000 for injuries sustained while participating in a contest and \$50,000 to a contestant's estate if he dies of injuries suffered while participating in a contest. At least 10 calendar days before an event the AMTA shall provide to the department for each event to be conducted, a certificate of insurance showing proper coverage. The AMTA shall supply to those participating in the event the proper information for filing a medical claim.

F. An AMTA shall ensure that all contestants participating in contests it conducts are amateurs.

G. An AMTA may not allow any person who has not been a member of the AMTA for at least 30 days to participate as a contestant in any event in which the AMTA participates.

H. An AMTA conducting an event shall:

1. bear all financial responsibility for the event;
2. provide the commission with written notice of all proposed event dates, ticket prices, and participants of the main event, at least 21 days before the proposed event date and obtain written approval from the commission to promote the event prior to advertising or selling tickets;
3. provide one licensed physician, for each event; if the physician is called away from ringside for any reason, the event may not continue until the physician returns ringside;
4. provide at least one licensed physician to conduct pre-fight physicals. Provide a private area for the physician to perform pre-fight examinations;
5. insure that only referees and judges approved by the commission participate in the event;
6. assure that no alcoholic beverages or illegal drugs are in the dressing room;
7. ensure the safety of the contestants, officials, and spectators:
 - a. a sufficient number of security personnel shall be retained to maintain order;
8. ensure that the rules set forth herein below regarding equipment and gloves that apply to a particular

type of event are followed;

9. ensure that each contest is conducted as provided by the AMTA's rules approved by the commission;

10. ensure that each event has the appropriate equipment as described by the AMTA's rules approved by the department;

11. ensure that all advertising concerning an event to be conducted indicates that it is an amateur event, and includes the name of the AMTA that will conduct the event; and

12. ensure that at all times an ambulance and two EMTs are present at the event; if the attending ambulance is forced to leave for any reason, including, but not limited to transporting a participant, the event shall not resume until the event is attended by another ambulance and two EMTs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61(D) and R.S. 4:64.

HISTORICAL NOTE: Promulgated by Department of Economic Development, Boxing and Wrestling Commission, LR 34:

§737. Mixed Technique Event Exhibition Rules

A. MTE Exhibitions shall be conducted using §707. Professional Mixed Technique Rules above with the following modifications.

1. Conduct of Promotion. If you are interested in staging a mixed technique event exhibition contest you must notify the commission in writing and to be considered for approval you must:

a. submit a written list of the name, address, age, height, weight, trainer and training gym of each contestant said list to be submitted no later than two weeks prior to the event and any changes to said list to be within a reasonable time based upon the approval of the chairman;

b. submit a writing from each contestant that he or she has never engaged in a professional mixed technique event or professional mixed martial arts contest;

c. submit writing from the contestant's trainer that the contestant is skilled enough and healthy to compete and that the contestant has been training for the sport longer than 30 days;

d. submit the name of the referee(s) you intend to use; however the commission may mandate that you use a referee approved by the commission;

e. agree to abide by any other conditions which the commissioner may impose on this new activity as events are reviewed and amendments may be made;

f. agree in writing that you will observe all mixed technique event rules;

g. submit in writing a statement to the effect that the fighter is not being paid any gratuity for participating in the event, and memorialize each and every actual expense, to a maximum of \$100 that is being reimbursed to the fighter;

h. if you are not a promoter who also owns and operates his own gym you must utilize a matchmaker approved by the commission who shall arrange and approve all fights on the card; and

i. ensure that all advertising concerning the event to be conducted indicates that it is an amateur event, and the word "amateur" must be a large as any other print on the advertisement on a written or printed advertisement and must be announced in any television or radio advertisements.

B. Equipment. Exhibition contestants shall use a minimum 7 ounce open fingered gloves.

C. Acts constituting fouls in addition to those listed under §707, Professional Mixed Technique Event Rules, Subsection G, Acts Constituting Fouls:

1. illegal techniques while standing:

a. elbowing; and

b. kneeling to the head;

2. illegal techniques while on the ground:

a. any downward striking to an opponent's head while the back of that opponent's head is pinned to the mat or when the opponent has both shoulders pinned to the mat;

3. additional items:

a. if punch or kick (excluding kicks to the legs or leg sweeps) causes a knockdown:

i. the action will not continue;

ii. the standing fighter will not continue to attack;

iii. the referee will begin a 10 count and the standing fighter must go to a neutral corner during the count; and

iv. if the referee determines that the downed fighter can continue, then the fight shall resume with the fighters in a standing position;

b. in the event that the referee believes that the fighter is in trouble he is authorized to give an eight count; this shall be a standing eight while the parties are standing; or simply an eight count if they are on the ground with the position of the fighters to be maintained when the actions continues;

c. in the event that the referee feels that the two fighters in the ring are mismatched to the point where the contest is not fair, then he shall immediately stop the fight at that point. Any matchmaker or promoter who arranged that fight shall be subject to immediate suspension of their license by the attending commission member as the commission deems the mismatching of amateur fighters to present an immediate danger to the public and the fighters;

d. the referee has as his number one concern the welfare of the fighters and shall conduct himself and the fight at all times with the understanding that the fighters are amateur fighters and are not to be subjected to undue punishment; which will require stoppages much sooner than those in a professional mixed technique event. Any referee who permits an amateur fighter to absorb undue punishment or grossly fails to stop a fight in a timely manner shall be subject to immediate suspension by the attending commission member as the commission deems that unnecessary injury of amateur fighters to present an immediate danger to the public and the fighters;

e. in the event that the commission member in attendance feels that the promoter has violated any of the rules of this section concerning mixed technique exhibitions or has submitted forms or paperwork to the commission that are fraudulent, or determines that the fighters were paid any gratuity, the commission member shall at the close of the fight issue a summons to that promoter to appear before the commission at the next scheduled meeting to determine whether his license shall be suspended.

D. At each MTE Exhibition event there shall also Professional MTE bouts equaling either 25 percent of the number of bouts on the card or a minimum of two professional bouts whichever is greater; however this rule

will be inapplicable to venues with a occupancy capacity of 500 people or less, as set by the fire marshal, with the further understanding that this rule shall always apply to any outdoor event or other venue where it is impossible for the fire marshal to set the occupancy capacity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61(D) and R.S. 4:64.

HISTORICAL NOTE: Promulgated by Department of Economic Development, Boxing and Wrestling Commission, LR 34:

All interested persons are invited to submit comments, views or positions on the proposed Rule, in writing, to Alvin Topham, Chairman, Louisiana State Boxing and Wrestling Commission, 1125 Mobile St., Lake Charles, LA 70605 or by facsimile at (337) 475-4888.

Alvin Topham
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Boxing and Wrestling Standards

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The commission anticipates an increase in the regular expenses associated with the training and hiring of referees and commission oversight. The additional costs will be funded through self-generated revenue collected in the form of licenses and fees, as with current boxing and wrestling rules. These additional expenses are not anticipated to be significant.

Any other expenses incurred associated with bringing MT (Mixed Technique) ring sports under the jurisdiction of The Louisiana State Boxing and Wrestling commission, such as physician fees, ambulance and EMT costs, etc., will be borne by promoters and gyms sponsoring these events, as it is now for amateur and professional boxing and wrestling events.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

As a result of this rule change, there will be a slight increase in self-generated revenue secured from professional MT events and license fees from contestants paid to the commission. We anticipate this increase in self-generated revenues to be offset by the direct expenses involved in oversight of these events and training expenses as cited above. Accordingly, we expect the addition of this new MTE chapter to be revenue/cost neutral. These funds, as with other regulated ring sports under our jurisdiction, are deposited into the commission's account to fund commission operations. If at the fiscal year end there is determined to be an increase in funds over the budgeted expenses, the surplus then accrues to the state general fund.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Professional promoters and Amateur Mixed Technique Associations (AMTA) will fund expenses related to promoting amateur shows; however, an increase in shows and spectators will increase revenue to community centers, auditoriums, concessions, and other venues and their associated partners in towns and cities across the State of Louisiana. All contestants are required to apply for licenses and pay a nominal fee to this commission.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

By bringing the Mixed Technique ring sports under the jurisdiction of this commission, it is expected that competition

would increase and create a safe, competitive environment for amateurs to practice their sport. Adopting amateur boxing associations rules will offer extra protections and level playing fields for amateur boxing contestants. The expected increase in events would boost local economies in the form of revenues to community centers, auditoriums, concession stands and other fields associated with the promotion of public events.

Addie L Fields
Promulgator
0804#023

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Student Financial Assistance Commission
Office of Student Financial Assistance**

Scholarship/Grant Programs
(LAC 28:IV.301, 507, and 1301)

The Louisiana Student Financial Assistance Commission (LASFAC) announces its intention to amend its Scholarship/Grant rules (R.S. 17:3021-3025, R.S. 3041.10-3041.15, R.S. 17:3042.1, and R.S. 17:3048.1).

This rulemaking will revise the definition of "tuition" to include fees charged for certain compressed programs approved by the Board of Regents, clarify the deadline for submission of applications by students returning from out-of state colleges, provide deadlines for submission of documents supporting applications by students returning from out-of state colleges, and correct a citation of legal authority for the Leveraging Educational Assistance Partnership.

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972. (SG0895NI)

**Title 28
EDUCATION**

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

Chapter 3. Definitions

§301. Definitions

A. Words and terms not otherwise defined in these rules shall have the meanings ascribed to such words and terms in this Section. Where the masculine is used in these rules, it includes the feminine, and vice versa; where the singular is used, it includes the plural, and vice versa.

* * *

Tuition—the fee charged each student by a post-secondary institution to cover the student's share of the cost of instruction, including all other mandatory enrollment fees charged to all students except for the technology fee authorized by Act 1450 of the 1997 Regular Session of the Legislature:

- a. which were in effect as of January 1, 1998;
- b. any changes in the cost of instruction authorized by the legislature and implemented by the institution after that date; and
- c. for programs with alternative scheduling formats that are approved in writing by the Board of Regents after that date. Any payment for enrollment in one of these programs shall count towards the student's maximum eligibility for his award:

i. up to the equivalent of eight full time semesters of postsecondary education in full time semesters for the TOPS Opportunity, Performance and Honors Award; or

ii. up to the equivalent of two years of postsecondary education in full time semesters and summer sessions for the TOPS Tech Award.

* * *

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 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 24:2237 (December 1998), LR 25:256 (February 1999), LR 25:654 (April 1999), LR 25:1458 and 1460 (August 1999), LR 25:1794 (October 1999), LR 26:65 (January 2000), LR 26:688 (April 2000), LR 26:1262 (June 2000), LR 26:1601 (August 2000), LR 26:1993, 1999 (September 2000), LR 26:2268 (October 2000), LR 26:2752 (December 2000), LR 27:36 (January 2001), LR 27:284 (March 2001), LR 27:1219 (August 2001), LR 27:1840 (November 2001), LR 27:1875 (November 2001), LR 28:45 (January 2002), LR 28:446 (March 2002), LR 28:772 (April 2002), LR 28:2330, 2331 (November 2002), LR 29:555 (April 2003), LR 29:879 (June 2003), LR 30:1159 (June 2004), LR 30:2015 (September 2004), LR 31:36 (January 2005), LR 31:3112 (December 2005), LR 33:86 (January 2007), LR 33:439 (March 2007), LR 33:1339 (July 2007), LR 33:2612 (December 2007), LR 34:234 (February 2008), LR 34:

Chapter 5. Applications, Federal Grant Aid and ACT Test

§507. Final Deadline for Submitting Documentation of Eligibility

A. - B.2. ...

C. Returning Students

1 - 2. ...

3.a. Returning students, who enroll in an eligible college or university in academic year (college) 2005-2006 or academic year (college) 2006-2007, must submit an application to return from an out-of-state college no later than July 1 immediately following the academic year (college) the student enrolls as a full-time student in an eligible college or university and must submit any supporting documentation required by the application no later than April 15 following the July 1 deadline.

b. Returning students, who enroll in an eligible college or university in the fall semester of 2007 or later, must submit an application to return from an out-of-state college no later than July 1 immediately following the academic year (college) the student enrolls as a full-time student in an eligible college or university and must submit any supporting documentation required by the application no later than January 15 following the July 1 deadline.

c. Examples

i. A returning student who enrolled in an eligible college or university in the fall semester of 2005 must submit the application to return from an out-of-state college no later than July 1, 2006, and any required supporting documentation such as college transcripts no later than April 15, 2007.

ii. A returning student who enrolled in an eligible college or university in the spring semester of 2007 must submit the application to return from an out-of-state college no later than July 1, 2007, and any required supporting documentation such as college transcripts no later than April 15, 2008.

iii. A returning student who enrolled in an eligible college or university in the fall semester of 2007 must submit the application to return from an out-of-state college no later than July 1, 2008, and any required supporting documentation such as college transcripts no later than January 15, 2009.

iv. A returning student who enrolled in an eligible college or university in the spring semester of 2008 must submit the application to return from an out-of-state college no later than July 1, 2008, and any required supporting documentation such as college transcripts no later than January 15, 2009.

v. A returning student who enrolls in an eligible college or university in the fall semester of 2009 must submit the application to return from an out-of-state college no later than July 1, 2010, and any required supporting documentation such as college transcripts no later than January 15, 2011.

4.a. Beginning with the 2007-2008 academic year (college), all documentation and certifications necessary to establish a returning student's initial eligibility including, but not limited to, high school and/or college transcripts and certifications, copies of student aid reports, ACT and/or SAT scores, residency affidavits, proof of citizenship or permanent residency status and other documents that may be utilized in determining eligibility, must be received by LASFAC no later than January 15 immediately following the deadline for receipt of the student's FAFSA or on-line application.

b. Examples

i. If a returning student enrolls full time in an eligible Louisiana college or university for the fall semester of 2007, his deadline to file the FAFSA or on-line application is July 1, 2008. If his initial FAFSA or on-line application is received no later than July 1, 2008, and if all the necessary supporting documentation relevant to establishing eligibility is in LASFAC's possession by January 15, 2009, the student will receive his TOPS award (reduced by the number of semesters/terms he enrolled out-of-state) retroactively beginning the fall semester of 2007.

ii. If a returning student enrolls full time in an eligible Louisiana college or university for the spring semester of 2008, his deadline to file the FAFSA or on-line application is July 1, 2008. If his initial FAFSA or on-line application is received no later than July 1, 2008, and if all the necessary supporting documentation relevant to establishing eligibility is in LASFAC's possession by January 15, 2009, the student will receive his TOPS award (reduced by the number of semesters/terms he enrolled out-of-state) retroactively beginning the spring semester of 2008.

iii. If a returning student enrolls full time in an eligible Louisiana college or university for the spring semester of 2008, his deadline to file the FAFSA or on-line application is July 1, 2008. If his initial FAFSA or on-line application is received after July 1, 2008, but no more than 120 days later, and if all the necessary supporting documentation relevant to establishing eligibility is in LASFAC's possession by January 15, 2009, the student will receive his TOPS award (reduced by the number of semesters/terms he enrolled out-of-state and further reduced by one additional semester if 1 to 60 days late or by two

additional semesters if 61 to 120 days late) retroactively beginning the spring semester of 2008.

D.1. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, 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 24:635 (April 1998), amended LR 24:1901 (October 1998), repromulgated LR 27:1847 (November 2001), amended LR 28:447 (March 2002), LR 30:1161 (June 2004), LR 30:1471 (July 2004), LR 30:2019 (September 2004), LR 32:2238 (December 2006), LR 33:2357 (November 2007), LR 34:

Chapter 13. Leveraging Educational Assistance Partnership (LEAP)

§1301. General Provisions

A. - A.2. ...

a. R.S. 17: 3031

A.2.b -F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:641 (April 1998), amended LR 24:1910 (October 1998), LR 25:1458 (August 1999), repromulgated LR 27:1860 (November 2001), amended LR 28:2332 (November 2002), LR 32:2239 (December 2006), LR 33:440 (March 2007), LR 34:240 (February 2008), LR 34:

Interested persons may submit written comments on the proposed changes (SG0895NI) until 4:30 p.m., June 9, 2008, to Melanie Amrhein, Executive Director, Office of Student Financial Assistance, P.O. Box 91202, Baton Rouge, LA 70821-9202.

George Badge Eldredge
General Counsel

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Scholarship/Grant Programs

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Overall, the proposed changes will not result in any increase or decrease in the expenditure of funds. One portion of the change allows schools to bill TOPS for students in programs that use an alternative scheduling format. Generally, these programs are accelerated to allow completion of an academic or technical program in a reduced amount of time but also at a higher cost. The proposed change allows schools to bill TOPS for these programs at the higher rate, but limits payments in these cases to the current TOPS maximum limit. Therefore, some costs may be moved from one fiscal year to another resulting in a cost increase in one year and a decrease in the subsequent year. The net effect is no increase.

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)

The TOPS program helps students obtain post-secondary education. The higher level of education or technical training for students will have a positive impact on their earning potential and make them more marketable in the job market,

thus eligible for higher paying jobs. This will provide Louisiana employers a better-educated workforce and may also attract out-of-state employers to Louisiana thus providing additional better paying jobs.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The TOPS program affected by these changes allows students to seek post-secondary education. Any increase in the number of students attending post-secondary education will result in an increase in the number of educated/trained workers in the state and that will have a positive impact on competition and employment.

George Badge Eldredge
General Counsel
0805#004

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Tuition Trust Authority
Office of Student Financial Assistance**

**START Savings Program
(LAC 28:VI.107, 307, and 315)**

The Louisiana Tuition Trust Authority announces its intention to amend its START Savings Program rules (R.S. 17:3091 et seq.).

As required by R.S. 17:3093.D(1)(f), this rulemaking will provide the determination of the interest rates paid and approved by the state treasurer for deposits in START accounts invested in fixed earnings and for the Savings Enhancements Fund for the calendar year ending December 31, 2007.

This rulemaking will redesignate the maximum of deposits in an account for which Earnings Enhancements will be paid from "fully funded account" to earnings enhancement cap."

This rulemaking will redesignate references to the "earnings enhancements fund" as the "saving enhancement fund."

This proposed Rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972. (ST0894NI)

Title 28

EDUCATION

Part VI. Student Financial Assistance—Higher Education Savings

**Chapter 1. General Provisions
Subchapter A. Tuition Trust Authority**

§107. Applicable Definitions

A. Words and terms not otherwise defined in these rules shall have the meanings ascribed to such words and terms in this Section. Where the masculine is used in these rules, it includes the feminine, and vice versa; where the singular is used, it includes the plural, and vice versa.

Earnings Enhancement Cap—the maximum of deposits in an account for which Earnings Enhancements will be paid. The Earnings Enhancement Cap is reached when an account has a current value that is equal to or exceeds five times the annual qualified higher education expenses at the highest cost Louisiana public college or university, projected to the scheduled date of first enrollment. The projected qualified higher education expenses at each eligible

educational institution shall be updated by the administering agency. On the date of the beneficiary's first enrollment in an eligible educational institution, the Earnings Enhancement Cap will be fixed at five times the annual qualified higher education expenses at the highest cost Louisiana public college or university, for the academic year of enrollment or the projected amount, whichever is greater.

* * *

Scheduled Date of First-Enrollment, (for a dependent beneficiary)—the month and year in which the beneficiary turns 18 years of age. For an independent student over the age of 18, the scheduled date of first-enrollment is the date the account is opened. This date is used to determine eligibility for EEs. See the term *earnings enhancement cap*.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:712 (June 1997), amended LR 24:1268 (July 1998), LR 25:1794 (October 1999), LR 26:2260 (October 2000), LR 27:37 (January 2001), LR 27:1222 (August 2001), LR 27:1876 (November 2001), LR 28:450 (March 2002), LR 28:777 (April 2002), LR 28:2334 (November 2002), LR 29:556 (April 2003), LR 30:786 (April 2004), LR 30:1169 (June 2004), LR 30:2302 (October 2004), LR 31:639 (March 2005), LR 32:1433 (August 2006), LR 32:2240 (December 2006), LR 33:443 (March 2007), LR 34:

Chapter 3. Education Savings Account

§307. Allocation of Earnings Enhancements

A. - F. ...

G. Restrictions on allocation of earnings enhancements to education savings accounts. The allocation of earnings enhancements is limited to education savings accounts which:

1. have not reached the earnings enhancement cap (see §107); and

G.2 - J.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:715 (June 1997), amended LR 24:1271 (July 1998), LR 25:1794 (October 1999), LR 26:1263 (June 2000), LR 26:2263 (October 2000), LR 27:37 (January 2001), LR 27:1222 (August 2001), LR 27:1880 (November 2001), LR 28:779 (April 2002), LR 30:788 (April 2004), LR 30:2302 (October 2004), LR 34:

§315. Miscellaneous Provisions

A. - B.5. ...

6. For the year ending December 31, 2001, the Savings Enhancement Fund earned an interest rate of 6.38 percent.

7. For the year ending December 31, 2002, the Louisiana Education Tuition and Savings Fund earned an interest rate of 5.82 percent.

8. For the year ending December 31, 2002, the Savings Enhancement Fund earned an interest rate of 5.91 percent.

9. For the year ending December 31, 2003, the Louisiana Education Tuition and Savings Fund earned an interest rate of 5.33 percent.

10. For the year ending December 31, 2003, the Savings Enhancement Fund earned an interest rate of 5.17 percent.

11. For the year ending December 31, 2004, the Louisiana Education Tuition and Savings Fund earned an interest rate of 4.72 percent.

12. For the year ending December 31, 2004, the Savings Enhancement Fund earned an interest rate of 5.12 percent.

13. For the year ending December 31, 2005, the Louisiana Education Tuition and Savings Fund earned an interest rate of 3.64 percent.

14. For the year ending December 31, 2005, the Savings Enhancement Fund earned an interest rate of 4.92 percent.

15. For the year ending December 31, 2006, the Louisiana Education Tuition and Savings Fund earned an interest rate of 5.11 percent.

16. For the year ending December 31, 2006, the Savings Enhancement Fund earned an interest rate of 4.67 percent.

17. For the year ending December 31, 2007, the Louisiana Education Tuition and Savings Fund earned an interest rate of 5.28 percent.

18. For the year ending December 31, 2007, the Savings Enhancement Fund earned an interest rate of 5.25 percent.

C. - P.1. ...

2. If the change in school results in a change in the account's earnings enhancement cap or maximum allowable account balance, the account owner will be notified.

Q. - S.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:718 (June 1997), amended LR 24:1274 (July 1998), LR 26:1263 (June 2000), repromulgated LR 26:2267 (October 2000), amended LR 27:1221 (August 2001), LR 27:1884 (November 2001), LR 28:1761 (August 2002), LR 28:2335 (November 2002), LR 29:2038 (October 2003), repromulgated LR 29:2374 (November 2003), amended LR 30:791 (April 2004), LR 30:1472 (July 2004), LR 31:2216 (September 2005), LR 32:1434 (August 2006), LR 32:2240 (December 2006), LR 33:2359 (November 2007), LR 34:

Interested persons may submit written comments on the proposed changes (ST0894NI) until 4:30 p.m., June 9, 2008, to Melanie Amrhein, Executive Director, Office of Student Financial Assistance, P.O. Box 91202, Baton Rouge, LA 70821-9202.

George Badge Eldredge
General Counsel

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: START Savings Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no estimated implementation costs or savings to state or local governmental units as a result of these changes.

This amendment reflects the actual earnings realized by START account owners who invested in the Louisiana Principal Protection investment option and the actual earnings realized on the investment of Earnings Enhancements. This increase in START funds belongs to the account owner (it is not state general fund money), and no expenditure of state general funds is required. No cost to the state will result from this change.

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)

These changes adopt the actual interest rates for deposits made to the START Louisiana Principal Protection investment option and earnings enhancements for the year ending December 31, 2006.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no anticipated effects on competition and employment resulting from these measures.

George Eldredge
General Counsel
0804#003

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Environmental Quality
Office of the Secretary
Legal Affairs Division**

2007 Incorporation by Reference for Air Quality
(LAC 33:III.507, 2160, 3003,
5116, 5122, 5311, and 5901)(AQ293ft)

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 Air regulations, LAC 33:III.507, 2160, 3003, 5116, 5122, 5311, and 5901 (Log #AQ293ft).

This proposed Rule is identical to federal regulations found in 40 CFR Parts 51, Appendix M, 60, 61, 63, 68, and 70.6(a) (July 1, 2007); 72 FR 2930-2961 (1/23/07), 38864-38917 (7/16/07), 73180-73211 (12/26/07), 73611-73625 (12/28/07), and 74088-74116 (12/28/07); and 73 FR 226-265 (1/2/08), 1738-1768 (1/9/08), 1916-1953 (1/10/08), 3568-3614 (1/18/08), 15923-15930 (3/26/08), and 17252-17257 (4/1/08), which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3550 or Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the proposed Rule. This Rule will be promulgated in accordance with the procedures in R.S. 49:953(F)(3) and (4).

The proposed Rule incorporates by reference (IBR) into the Air regulations, LAC 33:Part III, the following federal regulations in the July 1, 2007, edition of the Code of Federal Regulations (CFR): 40 CFR Part 51, Appendix M, Capture Efficiency Test Procedures; 40 CFR Part 60,

Standards of Performance for New Stationary Sources, including two new subparts; 40 CFR Part 61, National Emission Standards for Hazardous Air Pollutants (NESHAP); 40 CFR Part 63, NESHAP for Source Categories; 40 CFR Part 68, Chemical Accident Prevention and Minimization of Consequences; and 40 CFR 70.6(a), Part 70 Operating Permits Program. Also incorporated are subsequent revisions to 40 CFR Part 63 promulgated in the *Federal Register*. Any exception to the IBR is explicitly listed in the regulations. In order for Louisiana to maintain equivalency with federal regulations, the most current Code of Federal Regulations must be adopted into the LAC. This rulemaking is necessary to maintain delegation authority granted to Louisiana by the Environmental Protection Agency. The basis and rationale for this rule are to mirror the federal regulations as they apply to Louisiana's affected sources. This proposed 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 III. Air

Chapter 5. Permit Procedures

§507. Part 70 Operating Permits Program

A. - B.1. ...

2. No Part 70 source may operate after the time that the owner or operator of such source is required to submit a permit application under Subsection C of this Section, unless an application has been submitted by the submittal deadline and such application provides information addressing all applicable sections of the application form and has been certified as complete in accordance with LAC 33:III.517.B.1. No Part 70 source may operate after the deadline provided for supplying additional information requested by the permitting authority under LAC 33:III.519, unless such additional information has been submitted within the time specified by the permitting authority. Permits issued to the Part 70 source under this Section shall include the elements required by 40 CFR 70.6. The department hereby adopts and incorporates by reference the provisions of 40 CFR 70.6(a), July 1, 2007. Upon issuance of the permit, the Part 70 source shall be operated in compliance with all terms and conditions of the permit. Noncompliance with any federally applicable term or condition of the permit shall constitute a violation of the Clean Air Act and shall be grounds for enforcement action; for permit termination, revocation and reissuance, or revision; or for denial of a permit renewal application.

C. - J.5. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), LR 20:1375 (December 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2447 (November 2000), LR 27:2229 (December 2001), LR 28:994 (May 2002), LR 29:698

(May 2003), LR 30:1008 (May 2004), amended by the Office of Environmental Assessment, LR 31:1061 (May 2005), LR 31:1568 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2437 (October 2005), LR 32:808 (May 2006), LR 33:1619 (August 2007), LR 33:2083 (October 2007), LR 33:2630 (December 2007), LR 34:

Chapter 21. Control of Emission of Organic Compounds

Subchapter N. Method 43—Capture Efficiency Test Procedures

NOTE: This Subchapter was moved and renumbered from Chapter 61 (December 1996).

§2160. Procedures

A. Except as provided in Subsection C of this Section, the regulations at 40 CFR Part 51, Appendix M, July 1, 2007, are hereby incorporated by reference.

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

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:653 (July 1991), amended LR 22:1212 (December 1996), LR 23:1680 (December 1997), LR 24:1286 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:1224 (August 2001), LR 29:698 (May 2003), LR 30:1009 (May 2004), amended by the Office of Environmental Assessment, LR 31:1568 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:809 (May 2006), LR 33:1620 (August 2007), LR 34:

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

Subchapter A. Incorporation by Reference

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

A. Except for 40 CFR Part 60, Subpart AAA, and as modified in this Section, Standards of Performance for New Stationary Sources, published in the *Code of Federal Regulations* at 40 CFR Part 60, July 1, 2007, are hereby incorporated by reference as they apply to the state of Louisiana.

B. - C. ...

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

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

Chapter 51. Comprehensive Toxic Air Pollutant Emission Control Program

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

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

A. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants, published in the *Code of Federal Regulations* at 40 CFR Part 61, July 1, 2007, and specifically listed in the following table, are hereby incorporated by reference as they apply to sources in the state of Louisiana.

40 CFR Part 61	Subpart/Appendix Heading

[See Prior Text in Subpart A – Appendix C]	

B. - C. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:61 (January 1997), amended LR 23:1658 (December 1997), LR 24:1278 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1464 (August 1999), LR 25:1797 (October 1999), LR 26:2271 (October 2000), LR 27:2230 (December 2001), LR 28:995 (May 2002), LR 28:2179 (October 2002), LR 29:699 (May 2003), LR 30:1009 (May 2004), amended by the Office of Environmental Assessment, LR 31:1569 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2448 (October 2005), LR 32:809 (May 2006), LR 33:1620 (August 2007), LR 33:2094 (October 2007), LR 34:

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

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

A. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants for Source Categories, published in the *Code of Federal Regulations* at 40 CFR Part 63, July 1, 2007, are hereby incorporated by reference as they apply to major sources in the state of Louisiana. Also incorporated by reference are revisions to 40 CFR Part 63, Subpart ZZZZ as promulgated on January 18, 2008, in the *Federal Register*, 73 FR 3568-3614, applicable to major sources.

B. - C.3. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:61 (January 1997),

amended LR 23:1659 (December 1997), LR 24:1278 (July 1998), LR 24:2240 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1464 (August 1999), LR 25:1798 (October 1999), LR 26:690 (April 2000), LR 26:2271 (October 2000), LR 27:2230 (December 2001), LR 28:995 (May 2002), LR 28:2180 (October 2002), LR 29:699 (May 2003), LR 29:1474 (August 2003), LR 30:1010 (May 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2449 (October 2005), LR 31:3115 (December 2005), LR 32:810 (May 2006), LR 33:1620 (August 2007), LR 33:2095 (October 2007), LR 33:2677 (December 2007), LR 34:

Chapter 53. Area Sources of Toxic Air Pollutants

Subchapter B. Incorporation by Reference of 40 CFR

Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as It Applies to Area Sources

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

A. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants for Source Categories, published in the *Code of Federal Regulations* at 40 CFR Part 63, July 1, 2007, are hereby incorporated by reference as they apply to area sources in the state of Louisiana. Also incorporated by reference are the revisions to 40 CFR Part 63, Subpart M as promulgated on April 1, 2008, in the *Federal Register*, 73 FR 17252-17257; Subpart WWWW as promulgated on December 28, 2007, in the *Federal Register*, 72 FR 73611-73625; Subpart YYYYY as promulgated on December 28, 2007, in the *Federal Register*, 72 FR 74088-74116; Subpart ZZZZ as promulgated on January 2, 2008, in the *Federal Register*, 73 FR 226-265; Subparts BBBB-CCCC as promulgated on January 10, 2008, in the *Federal Register*, 73 FR 1916-1953; Subparts DDDDD-GGGGG as promulgated on January 23, 2007, in the *Federal Register*, 72 FR 2930-2961; Subpart HHHHH as promulgated on January 9, 2008, in the *Federal Register*, 73 FR 1738-1768; Subparts LLLLL-QQQQQ as promulgated on July 16, 2007, in the *Federal Register*, 72 FR 38864-38917; Subparts RRRRR-TTTTT as promulgated on December 26, 2007, in the *Federal Register*, 72 FR 73180-73211; and amendments to Subparts LLLLL-QQQQQ as promulgated on March 26, 2008, in the *Federal Register*, 73 FR 15923-15930, applicable to area sources.

40 CFR Part 63	Subpart/Appendix Heading - Repealed
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B. Copies of documents incorporated by reference in this Chapter may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20242 or their website, www.gpoaccess.gov/cfr/index.html, from the Department of Environmental Quality, Office of Environmental Assessment, or from a public library.

C. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:63 (January 1997), amended LR 23:1660 (December 1997), LR 24:1279 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1464 (August 1999), LR

27:2230 (December 2001), LR 28:995 (May 2002), LR 28:2180 (October 2002), LR 29:699 (May 2003), LR 30:1010 (May 2004), amended by the Office of Environmental Assessment, LR 31:1569 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2451 (October 2005), LR 32:810 (May 2006), LR 33:1620 (August 2007), LR 33:2096 (October 2007), LR 34:

Chapter 59. Chemical Accident Prevention and Minimization of Consequences

Subchapter A. General Provisions

§5901. Incorporation by Reference of Federal Regulations

A. Except as provided in Subsection C of this Section, the department incorporates by reference 40 CFR Part 68, July 1, 2007.

B. - C.6. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:421 (April 1994), amended LR 22:1124 (November 1996), repromulgated LR 22:1212 (December 1996), amended LR 24:652 (April 1998), LR 25:425 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:70 (January 2000), LR 26:2272 (October 2000), LR 28:463 (March 2002), LR 29:699 (May 2003), LR 30:1010 (May 2004), amended by the Office of Environmental Assessment, LR 30:2463 (November 2004), LR 31:1570 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:810 (May 2006), LR 33:1621 (August 2007), LR 34:

Family Impact Statement

This proposed Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

A public hearing will be held on June 24, 2008, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Parking in the Galvez Garage is free with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ293ft. Such comments must be received no later than June 24, 2008, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3582 or by e-mail to judith.schuerman@la.gov. The comment period for this rule ends on the same date as the public hearing. Copies of this proposed regulation 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 AQ293ft. This regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

This proposed regulation is 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,

Herman Robinson, CPM
Executive Counsel

0804#012

NOTICE OF INTENT

Department of Environmental Quality Office of the Secretary Legal Affairs Division

Electronic Documents and Signatures
(LAC 33:I.2101, 2103, 2105, and 2107)(OS079)

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 adopt the Office of the Secretary regulations, LAC 33:I.2101, 2103, 2105, and 2107 (Log #OS079).

This Rule will establish procedures for the use of electronic documents and electronic signatures associated with documents that are required for compliance with the environmental regulations and are submitted to and processed by the Department of Environmental Quality. Electronic submittal of documents will be a voluntary process offered to the regulated community. The federal Cross-Media Electronic Reporting Rule (CROMERR) sets standards for EPA-delegated programs to receive electronic documents and electronic signatures. The federal rule was promulgated on October 13, 2005, and was published at 70 FR 59848. CROMERR standards must be established by the states to provide security and validation for documents and those submitting the documents for compliance purposes to the department. The department is given authority in R.S. 30:2043(D) and (E) to regulate the use of electronic documents and electronic signatures. This Rule provides the process required for acceptance of these documents as mandated by the statutes and in order to be in compliance with CROMERR. The basis and rationale for this Rule are to comply with R.S. 30:2043(D) and (E) and the federal CROMERR application process. This proposed 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 1. Departmental Administrative Procedures

Chapter 21. Electronic Submittals and Electronic Signatures

§2101. Purpose

A. Pursuant to R.S. 30:2043, electronic documents will be accepted by the department in satisfaction of the requirements of department regulations, notwithstanding any other department regulation to the contrary.

B. This Chapter provides for the submittal of electronic documents and electronic signatures to the department as original documents to meet requirements set forth in department regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2043 and 9:2601.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 34:

§2103. Definitions

A. For all purposes of this Chapter, the terms defined in this Section shall have the following meanings, unless the context of use clearly indicates otherwise.

Department—the Louisiana Department of Environmental Quality.

Electronic Document—any document in electronic, magnetic, optical, or other format, except an audio recording, used to create, transfer, approve, or store the document for subsequent retrieval. This may include data, text, codes, computer programs, software, or databases.

Electronic Document Receiving System—a set of apparatus, procedures, software, and/or records used to receive electronic documents.

Electronic Signature—any information in digital form that is included in or logically associated with an electronic document for the purpose of expressing the same meaning and intention as would a handwritten signature if affixed to an equivalent paper document with the same reference to the same content. An electronic document bears or has on it an *electronic signature* when it includes or has logically associated with it such information.

Subscriber—a person who has submitted a subscriber agreement to the department and has received authorization from the department to submit electronic documents using one of the department's electronic document receiving systems.

Subscriber Agreement—a document drafted by the department and signed with a handwritten wet ink signature by a *person* as defined in R.S. 30:2004, or with respect to an electronic signature device that the person will use to create his or her electronic signature, and whereon the person acknowledges the obligations connected with preventing compromise of the electronic signature device.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2043 and 9:2601.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 34:

§2105. Procedures

A. Any person may submit an electronic document to the department, in lieu of a paper document, provided that:

1. the person has executed the proper subscriber agreement in accordance with department instructions;

2. the secretary has first published a notice on the department's website announcing that the department is prepared to receive, in electronic form, documents submitted to satisfy the requirements of one or more specific programs;

3. the person transmits the electronic document to an electronic document receiving system designated by the department for the receipt of such submissions, complying with the system's requirements for submission; and

4. the electronic document bears valid electronic signatures at all locations where the signatory would be required to sign the paper document for which the electronic document substitutes.

B. Each subscriber agreement shall include one or more handwritten wet ink signatures, receive approval from the

department, and be retained on file with the department while the subscriber agreement is active and for an additional five years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2043 and 9:2601.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 34:

§2107. Enforcement

A. A person who submits an electronic document and fails to comply with the provisions of this Chapter is subject to penalties and remedies for failure to comply with department reporting requirements.

B. When an electronic document bears an electronic signature, the electronic signature legally binds, obligates, and makes the signatory responsible, to the same extent as the signatory's handwritten signature would on a paper document.

C. Nothing in this Chapter limits the use of an electronic document or information derived from electronic documents as evidence in enforcement or other proceedings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2043 and 9:2601.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 34:

Family Impact Statement

This proposed Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

A public hearing will be held on June 24, 2008, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Parking in the Galvez Garage is free with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by OS079. Such comments must be received no later than July 1, 2008, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3582 or by e-mail to judith.schuerman@la.gov. Copies of this proposed regulation 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 OS079. This regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

This proposed regulation is 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; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Herman Robinson, CPM
Executive Counsel

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Electronic Documents and Signatures

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The electronic submittal of documents to the department that is provided for in this proposed rule will be voluntary. The computer program was developed as a small task of a larger enhancement to the department's database system with funding acquired from an EPA grant of \$498,250.00. Therefore, no additional expenditure of state money will be used for the development of the electronic submittal program. Once the program is in place and operational it will allow alternatives for submittal of documents that will reduce the handling of paperwork and ultimately decrease staff workload. This proposed rule will allow local governmental staff to submit compliance documents electronically, which will decrease their expenditures for postage, document preparation, and staff handling.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no change in revenue collections for state or local governments.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This program is voluntary, but those in the regulated community who choose to use the process could see a savings as a result of the proposed action. Paperwork and document preparation costs are greatly reduced when submitting documents electronically.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no affect on competition or employment.

Herman Robinson, CPM
Executive Counsel
0804#026

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality Office of the Secretary Legal Affairs Division

Lyondell Delisting Petition
(LAC 33:V.4999)(HW099P)

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 Hazardous Waste regulations, LAC 33:V.4999. Appendix E (Log #HW099P).

Lyondell Chemical Company is petitioning to exclude from the hazardous waste regulations (delist) the company's incinerator direct contact cooling wastewater and fire suppression automatic sprinkler ("deluge") system wastewater. The incinerator design uses direct contact cooling water to quench and scrub hot combustion gases resulting from the destruction of the listed hazardous waste. This primary cooling wastewater is blown down and pH-

adjusted before being discharged at an LPDES-permitted outfall. Also, when the normal cooling water system fails, wastewater may be generated from the activation of the fire suppression automatic sprinkler ("deluge") backup system for the incinerator. The cooling wastewater effluent is currently being discharged after treatment under the facility's LPDES permit. After delisting, this effluent will continue to be discharged under the facility's LPDES permit. Routine operational and regulatory costs for Lyondell will not change. Lyondell is seeking agency approval to delist, or exclude, the wastewater from the definition of "derived from" hazardous waste to reduce its potential liability resulting from an unplanned, non-recurring cooling system release (spill or leak) or catastrophic event (fire).

The delisting program is regulated by LAC 33:V.105, which includes a formal rulemaking process. Applicants who wish to remove a waste from the list of hazardous wastes must submit a petition and satisfy all requirements of LAC 33:V.105. The department has reviewed Lyondell's petition and found that it satisfies the delisting requirements in LAC 33:V.105.M. The department used the Delisting Risk Assessment Software (DRAS) in the evaluation of the impact of the petitioned waste on human health and the environment. The department's proposed action to grant the petition is based on an evaluation of waste-specific information provided by the petitioner. Based on the information submitted by Lyondell, the results of the analytical data, and the results of the DRAS, the department has determined that the nature of this material does not warrant retaining the material as a hazardous waste.

Also included in this Rule is a reorganization of Table 1 in LAC 33:V.4999.Appendix E, such that the entries are listed in alphabetical order by facility name. Another clarification made is that facilities granted one-time exclusions, as opposed to conditional exclusions, are moved from Table 1 to Table 2. The basis and rationale for this Rule are to grant the petition on an evaluation of waste-specific information provided by the petitioner. This proposed 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 V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental Quality—Hazardous Waste

Chapter 49. Lists of Hazardous Wastes

§4999. Appendices—Appendix A, B, C, D, and E

Appendix A. - D. ...

Appendix E. Wastes Excluded under LAC 33:V.105.M

A. Each facility granted a conditional exclusion must comply with the specific conditions for the waste exclusion as listed in Table 1 of this Appendix. Each facility granted a one-time exclusion is listed in Table 2 of this Appendix. Each waste exclusion listed in Table 1 shall begin with a waste description and include details for the following conditions:

A.1. - B.3.b. ...

Table 1 - Wastes Excluded
BFI Waste Systems of Louisiana LLC, Colonial Landfill, Sorrento, LA
* * *
[see prior text]

Table 1 - Wastes Excluded
DuPont Dow Elastomers LLC, LaPlace, LA
* * *
[see prior text]

Table 1 - Wastes Excluded
Lyondell Chemical Company, Lake Charles, LA
<p>Incinerator direct contact cooling wastewater and fire suppression automatic sprinkler ("deluge") system wastewater are generated at a maximum annual generation rate of 800,000 cubic yards (162 million gallons) per year. Lyondell's wastestream includes the United States Environmental Protection Agency (USEPA) hazardous waste codes D001, D019, D021, D030, F002, F003, K027, K112-114, U037, U221, and U223. The constituents of concern for these waste codes are listed in LAC 33:V.4901. This exclusion applies only to incinerator direct contact cooling wastewater and fire suppression automatic sprinkler ("deluge") system wastewater at the Lake Charles, LA facility. The cooling wastewater effluent is currently being discharged after treatment under the facility's LPDES permit. After delisting, this effluent will continue to be discharged under the facility's LPDES permit.</p>
<p>(1). Testing Sample collection and analyses, including quality control (QC) procedures, must be performed according to methods described in <i>Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, EPA Publication SW-846</i>, as incorporated by reference in LAC 33:V.110.</p>
<p>(1)(A). Inorganic Testing During the first 12 consecutive months of this exclusion, Lyondell must collect and analyze one monthly grab water sample from the fire water pond and one monthly grab water sample from the incinerator blowdown stream. These two monthly samples must be analyzed for the constituents listed in condition (3)(A) prior to disposal of the source water. Lyondell must report to the department the unit operating conditions and analytical data (reported in milligrams per liter), for arsenic, barium, chromium, lead, nickel, vanadium, and zinc, including quality control information. If the department and Lyondell concur that the analytical results obtained during the 12 monthly testing periods have been significantly below the delisting levels in condition (3)(A), Lyondell may replace the testing required in condition (1)(A) with the testing required in condition (1)(B).</p>
<p>(1)(B). Subsequent Inorganic Testing After concurrence by the department, Lyondell may substitute the following testing conditions for those in condition (1)(A). Lyondell must continue to analyze quarterly grab water samples from the fire water pond and the incinerator blowdown stream. Lyondell must report to the department the unit operating conditions and analytical data (reported in milligrams per liter), for arsenic, barium, chromium, lead, nickel, vanadium, and zinc, including quality control information. Grab water samples from the fire water pond and the incinerator blowdown stream must be taken during the first month of each quarterly period. These quarterly samples must be analyzed for the constituents listed in condition (3)(A) prior to disposal of the source water. If delisting levels for any constituents listed in condition (3)(A) are exceeded in any quarterly sample, Lyondell must re-institute testing as required in condition (1)(A).</p>
<p>(1)(C). Organic Testing During the first 12 consecutive months of this exclusion, Lyondell must collect and analyze one monthly grab water sample from the fire water pond and one monthly grab water sample from the incinerator blowdown stream. These two monthly samples must be analyzed for the constituents listed in condition (3)(B) prior to disposal of the source water. Lyondell must report to the department the unit operating conditions and analytical data (reported in milligrams per liter), for 2,4-dinitrotoluene, bromoform, chloroform, and hexachlorobenzene, including quality control information. If the department and Lyondell concur that the analytical results obtained during the 12 monthly testing periods have been significantly below the delisting levels in condition (3)(B), Lyondell may replace the testing required in condition (1)(C) with the testing required in condition (1)(D).</p>

Table 1 - Wastes Excluded
Lyondell Chemical Company, Lake Charles, LA
(1)(D). Subsequent Organic Testing After concurrence by the department, Lyondell may substitute the following testing conditions for those in condition (1)(C). Lyondell must continue to analyze quarterly grab water samples from the fire water pond and the incinerator blowdown stream. Lyondell must report to the department the unit operating conditions and analytical data (reported in milligrams per liter), for 2,4-dinitrotoluene, bromoform, chloroform, and hexachlorobenzene, including quality control information. Grab water samples from the fire water pond and the incinerator blowdown stream must be taken during the first month of each quarterly period. These quarterly samples must be analyzed for the constituents listed in condition (3)(B) prior to disposal of the source water. If delisting levels for any constituents listed in condition (3)(B) are exceeded in any quarterly sample, Lyondell must re-institute testing as required in condition (1)(C).
(2). Waste Holding and Handling Lyondell must treat water in the fire water pond and the incinerator blowdown stream as hazardous wastes until the verification testing is completed, as specified in conditions (1)(A) - (1)(D), and the wastewater has satisfied the delisting criteria, as specified in condition (3). If the levels of constituents in the samples from the fire water pond and the incinerator blowdown stream are below all of the applicable levels set forth in condition (3), then the incinerator direct contact cooling wastewater and the fire suppression automatic sprinkler ("deluge") system wastewater thereby become nonhazardous. If hazardous constituent levels in any monthly grab sample equal or exceed any of the delisting levels set in condition (3), the wastewater must be managed and disposed of in accordance with Subtitle C of RCRA until the wastewater meets the delisting levels. Lyondell must repeat the analyses for the constituents listed in conditions (3)(A) and (3)(B) prior to disposal.
(3). Delisting Levels Concentrations in conditions (3)(A) and (3)(B) must be measured in the extract from the samples by the method specified in LAC 33:V.4903.E. All concentrations in the wastewater must be less than the following levels (all units are milligrams per liter).
(3)(A). Inorganic Constituents (all units are milligrams per liter) arsenic—0.5; barium—50.0; chromium—1.0; lead—1.0; nickel—10.0; vanadium—15; and zinc—200.
(3)(B). Organic Constituents (all units are milligrams per liter) 2,4-dinitrotoluene—0.02; bromoform—10.0, chloroform—0.14; hexachlorobenzene—0.13.
(4). Changes in Operating Conditions If Lyondell significantly changes the operating conditions specified in the petition, Lyondell must notify the department in writing. Following receipt of written approval by the department, Lyondell must re-institute the testing required in conditions (1)(A) and (1)(C) for a minimum of four consecutive months. Lyondell must report unit operating conditions and test data required by conditions (1)(A) and (1)(C), including quality control data, obtained during this period no later than 60 days after the changes take place. Following written notification by the department, Lyondell may replace testing conditions (1)(A) and (1)(C) with (1)(B) and (1)(D). Lyondell must fulfill all other requirements in condition (1).

Table 1 - Wastes Excluded
Marathon Oil Co., Garyville, LA
* * *
[see prior text]

Table 1 - Wastes Excluded
Motiva Enterprises LLC, Norco, LA
* * *
[see prior text]

Table 1 - Wastes Excluded
Syngenta Crop Protection, Inc., St. Gabriel, LA
* * *
[see prior text]

Table 2 - One-Time Wastes Excluded
Murphy Exploration and Production Company, Amelia, LA
Hazardous waste incinerator ash was generated by the combustion of hazardous wastes and nonhazardous wastes in a rotary kiln incinerator at Marine Shale Processors in Amelia, LA. In 1986 and 1987, this ash was used as fill material for the Rim Tide barge slip area at Murphy Exploration and Production Company (Murphy) in Amelia, Louisiana. For the purpose of this exclusion, ash used as fill material by Murphy includes all hazardous waste codes listed in LAC 33:V.4901. This is a one-time exclusion for a maximum volume of 6,200 cubic yards of ash subsequent to its excavation from the Rim Tide barge slip area at Murphy for the purpose of transportation and disposal in a Subtitle D landfill after June 20, 2007.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, LR 20:1000 (September 1994), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 21:944 (September 1995), LR 22:830 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:952 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2397 (December 1999), LR 26:2509 (November 2000), LR 29:1084 (July 2003), repromulgated LR 29:1475 (August 2003), amended by the Office of Environmental Assessment, LR 30:2464 (November 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 33:445 (March 2007), LR 33:825 (May 2007), LR 33:1016 (June 2007), LR 34:73 (January 2008), LR 34:

Family Impact Statement

This proposed Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

A public hearing will be held on June 24, 2008, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Parking in the Galvez Garage is free with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by HW099P. Such comments must be received no later than July 1, 2008, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3582 or by e-mail to judith.schuerman@la.gov. Copies of this proposed regulation 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 HW099P. This regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

This proposed regulation is 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; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Herman Robinson, CPM
Executive Counsel

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Lyondell Delisting Petition

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

No costs to state governmental units or local governmental units are expected due to implementation of this proposed change. Similarly, no savings to state or local governmental units is anticipated.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No effect on revenue collections of state or local governmental units is anticipated.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Only Lyondell will be directly affected, and then only if a system failure or catastrophic event generates wastewater that otherwise would be classified as "derived from" hazardous waste. The proposed action will provide Lyondell a reduction in workload, paperwork, recordkeeping, and discharge/disposal costs associated with such an event, including potential liability. A past occurrence resulted in additional costs of \$501,139 for Lyondell.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition and/or employment is anticipated.

Herman Robinson, CPM
Executive Counsel
0805#025

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Board of Architectural Examiners**

Examination and Practical Experience
(LAC 46:I.701 and 1107)

Under the authority of R.S. 37:144(C) and in accordance with the provisions of R.S. 49:951 et seq., the Board of Architectural Examiners ("board") gives notice that rulemaking procedures have been initiated for the amendment of LAC 46:I.701 and the adoption of LAC 46:I.1107. Since the late 1980's, the board has required the completion of the Intern Development Program ("IDP") administered by the National Council of Architectural Registration Boards as a condition for taking the Architectural Registration Examination ("ARE"). The amendment to LAC 46:I.701 will for the first time allow a candidate to take the ARE upon enrollment in IDP. The adoption of LAC 46:I.1107 will require the satisfactory completion of IDP prior to initial licensure.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part I. Architects

Chapter 7. Application for Examination

**§701. Making Application for Architectural
Registration Examination**

A. - B. ...

C. For the purpose of qualifying for the examination, the applicant shall:

1. be of good moral character;
2. have paid his debt to society if he has ever been convicted of a felony;
3. be the holder of a professional degree from a school whose curriculum has been accredited by the National Architectural Accrediting Board; and
4. be enrolled in the Intern Development Program administered by the National Council of Architectural Registration Boards.

AUTHORITY NOTE: Promulgated and amended in accordance with R.S. 37:144-45.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners, LR 29:562 (April 2003), amended LR 34:

Chapter 11. Certificates

§1107. Practical Experience

A. To obtain an initial license to practice architecture in Louisiana, an applicant must present satisfactory evidence to the board of either practical experience of training or experience in the field of architecture. This experience may be demonstrated only by:

1. satisfactory completion of the training requirements delineated by the National Council of Registration Boards in the Intern Development Program; or
2. a certificate record certified by the National Council of Registration Boards that the applicant is currently registered to practice architecture in another state.

AUTHORITY NOTE: Promulgated and amended in accordance with R.S. 37:144-45.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners, LR 34:

Family Impact Statement

The proposed Rule of the Louisiana State Board of Architectural Examiners should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically, there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. a family's earnings and budget;
5. the behavior and personal responsibility of children; or
6. the family's ability or that of the local government to perform the function as contained in the proposed Rule.

Interested persons may submit written comments on this proposed Rule to Mary "Teeny" Simmons, Executive Director, Board of Architectural Examiners, 9625 Fenway Ave., Suite B, Baton Rouge, LA 70809.

Mary "Teeny" Simmons
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Examination and Practical Experience

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no estimated costs (savings) to state or local governmental units associated with this proposed rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule may result in a small increase in the number of newly licensed architects in this state, and therefore may slightly increase initial and renewal licensing fees paid to the Board of Architectural Examiners. However, since it is unknown how many candidates will attempt to become licensed at a date earlier than presently allowed and how many will be successful in that attempt, any increase in revenue collections is impossible to estimate.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule may be of economic benefit to those candidates who choose to take the architectural registration examination and become licensed as architects at a date earlier than presently allowed. The amount of this benefit is impossible to estimate, since it is unknown how many candidates will attempt to avail themselves of this opportunity and how many will succeed.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule may have some effect upon competition or employment, since it may result in a small increase in the number of newly licensed architects in this state. However, the market is presently favorable for architectural work, and there are ample employment opportunities for newly licensed architects. Although the exact effect is impossible to estimate, it is anticipated that any effect upon competition or employment will be minimal.

Mary "Teeny" Simmons
Executive Director
0804#024

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

Judy Dupuy
Executive Director

NOTICE OF INTENT

**Office of the Governor
Commission on Law Enforcement and
Administration of Criminal Justice**

Peace Officer Training
(LAC 22:III.4709 and 4731)

In accordance with the provision of R.S. 40:2401 et seq., the Peace Officer Standards and Training Act, and R.S. 40:950 et seq., the Administrative Procedure Act, the Peace Officer Standards and Training Council hereby gives notice of its intent to promulgate rules and regulations relative to the training of peace officers.

Title 22

**CORRECTIONS, CRIMINAL JUSTICE AND
LAW ENFORCEMENT**

**Part III. Commission on Law Enforcement and
Administration of Criminal Justice**

Subpart 4. Peace Officers

Chapter 47. Standards and Training

§4709. Interruption of Full-Time Service

A. - A.2. ...

B. Any officer hired after January, 1986, who interrupts his full-time law enforcement service for a period not to exceed five years, must qualify with his/her firearms to reinstate their certification. If the officer fails to requalify, then the officer must attend a full 40 hour training course with firearms and successfully requalify to reinstate their

certification. If the officer had interrupted his full time service for a period of five years, then the officer must meet the requirements for "refreshers" outlined in §4709.A.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 13:434 (August 1987), amended LR 25:664 (April 1999), LR 31:3159 (December 2005), LR 34:

§4731. Revocation of Certification

A. - C. ...

D. Any hearings conducted by the council shall be conducted according to guidelines established by the council.

E. Any peace officer whose certification has been revoked by the council may file an appeal under the provisions of the Administrative Procedure Act under R.S. 49:964.

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 25:665 (April 1999), amended LR 34:

Interested persons may submit written comments on this proposed rule no later than August 6, 2008, at 5 p.m. to Bob Wertz, Peace Officer Standards and Training Council, Louisiana Commission on Law Enforcement, 1885 Wooddale Boulevard, Room 1230, Baton Rouge, LA 70806.

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Peace Officer Training**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of the proposed rule will potentially result in a decrease in expenditures for state and local government units because the proposal will clarify the break in service time in which a peace officer must requalify and may result in a reduction in training costs. The exact amount of savings cannot be quantified at this time.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of the proposed rule 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 revenues of the POST accredited training academies, which provide the training, may be negatively impacted. To the extent that officers are no longer required to attend "refreshers" courses, revenues generated by training academies will be reduced.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment as a result of this rule change.

Judy Dupuy
Executive Director
0805#062

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor Office of Elderly Affairs

State Plan on Aging (LAC 4:VII.1301-1305)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Governor's Office of Elderly Affairs (GOEA) intends to amend LAC 4:VII.1301-1305.

The purpose of this amended Rule is to acknowledge that the Office of Elderly Affairs will develop a State Plan that will be submitted to the U.S. Department of Health and Human Services, Administration on Aging to receive grants from its allotment under Title III of the Older Americans Act of 1965 as amended (the Act). Title III authorizes formula grants to state agencies on aging to assist states and local communities to develop comprehensive and coordinated systems for the delivery of services to older persons.

Title 4

ADMINISTRATION

Part VII. Governor's Office

Chapter 13. State Plan on Aging

§1301. State Plan on Aging

A. To receive funding from the Older Americans Act the State Agency on Aging must have an approved State Plan on Aging. This plan must be on file with the Administration on Aging and be available for public review. At the minimum, the plan must include:

1. identification by the state of the sole state agency that has been designated to develop and administer the plan;
2. statewide program objectives to implement the requirements under Title III of the Act and any objectives established by the commissioner through the rulemaking process;
3. a resource allocation plan indicating the proposed use of all Title III funds administered by the state agency and the distribution of Title III funds to each planning and service area;
4. identification of the geographic boundaries of each planning and service area and of area agencies on aging;
5. prior federal fiscal year information related to low income minority and rural older individuals;
6. all assurances and provisions as outlined in the Older Americans Act and regulations, as well as the following assurances:
 - a. reference is given to older persons in greatest social or economic need in the provision of services under the plan;
 - b. procedures exist to ensure that all services under this part are provided without use of any means tests;
 - c. all services provided under Title III meet any existing state and local licensing, health and safety requirements for the provisions of those services;
 - d. older persons are provided opportunities to voluntarily contribute to the cost of services;
 - e. other such assurances as are needed for compliance with the Act, regulations, other applicable federal law, state statutes, and/or state policy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:932(8).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 11:342 (April 1985), amended LR 12:366 (June 1986), LR 12:511 (August 1986), LR 13:569 (October 1987), LR 17:1207 (December 1991), LR 19:1317 (October 1993), LR 23:1146 (September 1997), LR 26:1610 (August 2000), LR 30:1695 (August 2004), LR 34:

§1303. Development of the State Plan

A. The state agency will develop a state plan according to the following:

1. elect to utilize a one, two, three, or four-year format for the state plan;
2. develop a data profile on the older Louisianan from available census data;
3. conduct statewide needs assessment activities including, but not limited to, public hearings;
4. assurances for state and area agencies on aging as set forth by the Older Americans Act;
5. goals and objectives;
6. publicize public hearing(s) giving dates, times, locations to public officials and other interested parties for their participation;
7. conduct public hearings and incorporate written and verbal comments into the revised plan, as appropriate;
8. submit final revised plan for approval by the governor;
9. submit approved plan from the governor to the Administration on Aging Regional Office for approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:932(8).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 11:342 (April 1985), amended LR 12:366 (June 1986), LR 12:511 (August 1986), LR 13:569 (October 1987), LR 15:263 (April 1989), LR 17:1207 (December 1991), LR 19:1317 (October 1993), LR 23:1146 (September 1997), LR 26:1611 (August 2000), LR 30:1696 (August 2004), LR 34:

§1305. Intrastate Funding Formula

A. Intrastate Funding Formula

1. The following is a descriptive summary of the current Intrastate Funding Formula's assumptions and goals, and the application of the definitions of greatest economic or social need and a demonstration of the allocation of funds, pursuant to the formula, to each PSA.

2. Descriptive Statement

a. The current intrastate funding formula for the distribution of Older Americans Act Title III funds in Louisiana provides for a base allocation by parish. The following factors are considered in the distribution of funds remaining after base allocations are made: population aged 60 and over; population aged 60 and over below the Bureau of the Census poverty threshold; population aged 75 and over; and land area in square miles. Each of these factors is derived by dividing the planning and service area total by the state total.

b. Population aged 60 and over, and land area in square miles is assigned weights of one each. Population aged 60 and over below the Bureau of the Census poverty threshold is assigned a weight of nine-tenths. Population aged 75 and over is assigned a weight of one-tenth. The sum of these four factors is three.

c. Those elderly in greatest economic need are defined as persons aged 60 and older whose incomes are at

or below the poverty threshold established by the Bureau of the Census. Those elderly in greatest social need are defined as persons aged 60 and over who have needs based on noneconomic factors such as social isolation caused by living in remote areas, or who are especially vulnerable due to the heightened possibility of frailty among elderly aged 75 and older. Other social needs are those, which restrict an elderly individual's ability to perform normal daily tasks, or which restrict his or her ability to live independently; they can be caused by racial or ethnic status or language barriers. The intra-state funding formula accounts for these individuals by not allocating funds solely on the basis of population. The land area in square miles factor is included to compensate area agencies serving predominantly rural areas for the special problems encountered by sparse populations who may be spread over large geographical areas. The four funding factors combine to meet the special needs of socially and economically needy elderly, urban elderly and rural elderly.

d. The base funding allocation of \$12,000 per parish is established on the assumption that this amount represents a minimum allocation for the administration of Older Americans Act programs. There is an increasing need to provide a continuum of care for the very old (aged 75 and older) as this segment of the population gets larger each year. Funding limitations dictate that this group is given special emphasis.

3. Numerical Statement of the Intrastate Funding Formula

- a. Base Allocation per PSA: \$12,000 per parish
- b. Formula Allocation per PSA

Factors	Weight
i. <u>PSA 60+Population</u> State 60+Population	1.0
ii. <u>PSA 60+Population below Poverty Threshold</u> State 60+Population below Poverty Threshold	0.9
iii. <u>PSA Land Mass in Square Miles</u> State Land Mass in Square Miles	1.0
iv. <u>PSA 75+Population</u> State 75+Population	<u>0.1</u>
v. Sum	3.0

4. PSA FORMULA = $\frac{(i) X 1 + (ii) X 0.9 + (iii) X 1 + (iv) X 0.1}{3}$

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:932(8)

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 11:342 (April 1985), amended LR 12:366 (June 1986), LR 12:511 (August 1986), LR 13:569 (October 1987), LR 17:1207 (December 1991), LR 19:1317 (October 1993), LR 23:1146 (September 1997), LR 26:1611 (August 2000), LR 30:1695 (August 2004), LR 34:

Family Impact Statement

1. The Effect of This Rule on the Stability of the Family. This Rule does not affect the stability of the family.
2. The Effect of This Rule on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. This Rule does not deal with the education or supervision of children and will not make an impact of families with children.
3. The Effect of This Rule on the Functioning of the Family. This Rule does not effect the functioning of the family.

4. The Effect of This Rule on the Behavior and Personal Responsibility of Children. This Rule does not deal with children and will not have any impact.

5. The Effect of This Rule on the Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rule. N/A.

Interested person should submit written comments on the proposed Rule to Margaret McGarity, Office of Elderly Affairs through the close of business on May 30, 2008, at 412 North Fourth Street, Third Floor, Baton Rouge, LA 70802.

Ronald Blereau
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: State Plan on Aging**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The only cost of implementation is the minimal cost of printing the plan and publishing the rulemaking. No saving to the state is anticipated, and there are no anticipated costs or savings to local governmental units. The Older American's Act requires that state units on aging to submit a new State Plan at least every four years. This plan is approved by the Administration on Aging before funding is released to the state unit on aging.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule 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)

This proposed rule outlines the requirements of the state agency in fulfilling its mission as prescribed in the Older American's Act. There will be no additional costs to the Governor's Office of Elderly Affairs contractors and subcontractors, including area agencies on aging, parish councils on aging and other service providers, or the elderly residents of the state. This proposed rule will not make any changes in the economic benefits to the elderly.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule is not anticipated to have any effect on competition or employment in the public or private sectors.

Ronald Blereau
Assistant Director
0805#064

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Real Estate Commission**

Prohibitions in Real Estate Schools, Real Estate Education Vendors, and Instructors (LAC 46:LXVII.5319)

Under the authority of the Louisiana Real Estate License Law, R.S. 37:1430 et seq., and in accordance with the provisions of the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Louisiana Real Estate Commission has initiated procedures to amend

LAC 46:LXVII.Real Estate, Chapter 53, Section 5319. The purpose of the amendment is to remove the prohibition in Chapter 53, Subsection 5319.B that restricts real estate pre-licensing school promotions on websites and online/distance education courses, as there is no similar restriction imposed on continuing education vendors.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXVII. Real Estate

Subpart 1. Real Estate

Chapter 53. Real Estate Schools; Real Estate Education Vendors; Instructors

§5319. Prohibitions

A. ...

B. It shall be prohibited for any real estate brokerage firm to operate a real estate school under the same legal entity as the real estate brokerage firm.

C. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:54 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1457 (August 2006), LR 34:

Family Impact Statement

In accordance with R.S. 49:953(A)(1)(a)(viii) and 972, the following Family Impact Statement is submitted with the Notice of Intent for publication in the May 20, 2008, *Louisiana Register*: The proposed Rule has no known impact on family, formation, stability, or autonomy.

Interested parties are invited to submit written comments on the proposed regulations through June 20, 2008, at 4:30 p.m. Submit written comments to Stephanie Boudreaux, Public Information Officer, Louisiana Real Estate Commission, P.O. Box 14785, Baton Rouge, LA 70898-4785

Julius C. Willie
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Prohibitions in Real Estate Schools, Real Estate Education Vendors, and Instructors

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no estimated implementation costs (savings) to state or local governmental units associated with the repeal of Chapter 53.5319.B. The intent of the rule is to remove the prohibition that restricts real estate pre-licensing school promotions on websites and online/distance education courses, as there is no similar restriction imposed on continuing education vendors.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The repeal of Chapter 53.5319.B will not impact revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs to directly affected persons or non-governmental groups associated with the repeal of Chapter 53.5319.B. Louisiana real estate schools may recognize an

economic benefit from the ability to distribute promotional information on their Websites and online/distance education courses.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Julius C. Willie
Executive Director
0805#011

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Physical Therapy Examiners**

Licensure, Certification, and Practice
(LAC 46:LIV.121, 127, 155, 167-173,
303-311, 315, 321, 323, 327)

Notice is hereby given, in accordance with R.S. 49:950 et seq., and the Administrative Procedure Act, that the Louisiana State Board of Physical Therapy Examiners (Board), pursuant to the authority vested in the board by R.S. 2401.2A(3) and the provisions of the Administrative Procedures Act, hereby amends its existing rules as set forth below.

The Louisiana State Board of Physical Therapy Examiners is proposing rule amendments to clarify the application of the Physical Therapy Practice Act. The intent of the amendments is to clarify and enhance rules applicable to the supervision of Physical Therapy Assistants and other support personnel and to provide effective documentation of such supervision. Additionally, the proposed Rule will reduce the potential for noncompliance with the Practice Act, thusly decreasing any potential expenses for disciplinary actions or loss of income as a result of disciplinary actions. Licensees and employers may incur a small indeterminable increase in costs for documenting supervision conferences in patient records as a result of the proposed Rule.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LIV. Physical Therapy Examiners

Subpart 1. Licensing and Certification

Chapter 1. Physical Therapists and Physical Therapist Assistants

Subchapter D. Licensure by Reciprocity

§121. Qualifications for Licensure by Reciprocity

A. ...

B. A foreign Physical Therapy graduate who meets the requirements of Subsections 115.A and 121.A and who has practiced as a licensed physical therapist in another state for at least one year, may, with acceptable documentation of clinical experience, be eligible for licensure by reciprocity as a physical therapist at the discretion of the board. Licensure under this Subsection waives the period of supervised clinical practice set forth in Paragraph 115.A.3 of these rules.

C. To be eligible for licensure under Subsections A and B, all applicants shall have met the continuing education requirements contained in the Practice Act and/or the board rules within the 12 months preceding their application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:745 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:387 (May 1989), LR 17:663 (July 1991), LR 19:208 (February 1993), LR 34:

Subchapter E. Application

§127. Additional Requirements for Foreign Graduates

A. ...

B. As a condition to the board's consideration of a foreign graduate application, the board must receive a comprehensive credential evaluation certificate, based upon the Credentialing Coursework Tool, from an approved credentialing agency which includes, but is not limited to, the Foreign Credentialing Commission on Physical Therapy (FCCPT).

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:745 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:387 (May 1989), LR 19:208 (February 1993), LR 26:1444 (July 2000), LR 34:

Subchapter G. Temporary Permit

§155. Permit Pending Re-Examination; Examination Limit; Additional Requirements

A. An applicant who possesses all of the qualifications for licensure prescribed by §107 of this Chapter, except for Paragraphs 107.A.5 and 107.B.5, who has once failed the licensing examination, and who has applied to the board for re-examination within 10 days of receipt of written notice of failure and completed all requirements for re-examination shall be issued a new temporary permit to be effective for no more than 60 days.

B. If an applicant has failed to achieve a passing score on the required examination after three attempts, the applicant may again be examined only upon the board's approval, which approval may be conditioned upon the prior successful completion by the applicant of any additional education or clinical training prescribed by the board.

C. A physical therapist or physical therapist assistant holding a temporary permit issued under this Section may practice physical therapy only with continuous supervision as defined in Subsection 305.A.

D. A temporary permit issued under this Section shall expire upon the earliest of:

1. the expiration of the time period for which the permit was issued;
2. actual receipt by the permit holder of notice from the board that he has failed to achieve a passing score on the licensing examination;
3. the licensee's failure to claim notice of his failure, which was mailed to the licensee by certified mail, return receipt requested, within the time allowed after being notified by the United States Postal Service; or
4. failure of a permit holder to appear for and take the licensing examination within the 60 day permit period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3) and Act 731 of 1992.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:747 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:388 (May 1989), LR 17:664 (July 1991), LR 19:208 (February 1993), LR 26:1446 (July 2000), LR 34:

Subchapter H. License and Permit Issuance, Termination, Renewal and Reinstatement

§167. Reinstatement of License

A. - C.2. ...

D. To be eligible for license reinstatement under this Section, all applicants shall have met the continuing education requirements contained in the rules within the 12 months preceding their application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:748 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:388 (May 1989), LR 28:1979 (September 2002), LR 34:

Subchapter I. Continuing Education

§169. Requirements

A. Unless exempted under §173, licensees shall successfully complete, document and report to the board at least 1.2 units, or 12 hours of acceptable continuing education credit during each calendar year.

B. - B.3.f. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3) and Act 731 of 1992.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:388 (May 1989), amended LR 17:664 (July 1991), LR 19:208 (February 1993), LR 21:394 (April 1995), LR 21:1243 (November 1995), LR 26:1446 (July 2000), LR 28:1980 (September 2002), LR 34:

§171. Report Requirements

A. It is the responsibility of each licensee to assure that his continuing education hours are timely reported to the board.

B. The reporting of continuing education hours by course sponsors or licensees shall be made only on forms approved and available by the board. Forms filed by course sponsors or licensees shall be legibly printed or typewritten, and shall be completed and signed by the course sponsor or licensee.

C. Continuing education reporting forms shall be filed with the board no later than December 31 of each year.

D.1. The filing date of continuing education reporting forms, if mailed and properly addressed to the board with sufficient postage, shall be the earliest of:

- a. the legible date of the United States Postal Service postmark; or
- b. an official receipt or certificate from the United States Postal Service made at the time of mailing which indicates the date thereof; or
- c. the date of actual receipt by the board.

2. Legal holidays and days on which the office of the board is officially closed shall not extend the filing deadline specified in Subsection C hereof.

E. Original continuing education documentation, including, but not limited to, certificates of participation, signed by course instructors verifying course attendance and

completion, and official college coursework transcripts shall be retained by course sponsors and licensees for a period of three years. Upon request, course sponsors and licensees shall supply the board with such documentation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 17:665 (July 1991), amended LR 19:208 (February 1993), LR 34:

§173. Exemptions

A. Physical therapists or physical therapist assistants licensed in Louisiana are exempt from the Subchapter I continuing education requirements during the calendar year in which they graduate from a program accredited pursuant to the Practice Act.

B. Upon approval by the board of a request made in compliance with Subsection C, the board may extend the period for compliance or exempt the following from compliance with the Subchapter I continuing education requirements:

1. licensees on extended active military service for a period in excess of three months during the applicable reporting period; or

2. licensees who are unable to fulfill the requirement because of illness or other personal hardship.

C. Written requests for an exemption under Subsection B, including supporting documentation, must be received by the board at least 90 days prior to the end of the calendar year for which the exemption is sought, or immediately after the licensee becomes aware of the facts or circumstances upon which the exemption is sought, whichever is later.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3) and Act 731 of 1992.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 17:665 (July 1991), amended LR 19:208 (February 1993), LR 21:394 (April 1995), LR 34:

Subpart 2. Practice

Chapter 3. Practice

Subchapter A. General Provisions

§303. Definitions

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

* * *

Nursing Home—place of residence and not a health care facility.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Services, Board of Physical Therapy Examiners, LR 13:748 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 19:208 (February 1993), LR 21:394 (April 1995), LR 24:39 (January 1998), LR 34:

§305. Special Definition: Practice of Physical Therapy

A. As used in the definition of *practice of physical therapy* set forth in the Physical Therapy Practice Act, and as used in this Chapter, the following terms shall have their meanings specified.

Consultative Services—providing information, advice, or recommendations with respect to physical therapy, but does not include the administration of physical therapy

treatment, and therefore, can be performed without referral or prescription.

Continuous Supervision—responsible, continuous, on-the-premises observation and supervision by a licensed physical therapist of the procedures, functions and practice rendered by a physical therapy technician; student; physical therapist assistant permittee pending licensure by examination or re-examination; and physical therapist temporary permittee who has once failed the licensing examination.

On Premises—that the supervising physical therapist is personally present in the treating facility and immediately available to the treatment area.

Passive Manipulation—manipulation or movement of muscular or joints other than by the spontaneous function of the body or active effort on the part of the patient.

Periodic Supervision—as related to:

a. *temporary permit* holders who are graduates of APTA accredited programs, shall mean:

i. daily face to face or phone communication between the supervising physical therapist and permit holders; and

ii. on premises observation of patient care in each of the permittees' practice locations, a minimum of two hours per day with a minimum total of 10 hours per week;

b. foreign physical therapy graduates, holding a temporary permit, shall mean daily face to face communication and on premises observation of patient care in each of the permittees' practice settings for at least 1/2 of the hours worked each day until the permittee passes the licensing exam. After passing the examination, the permittee shall require on premises observation of patient care in each practice setting a minimum of one hour per day with a minimum total of five hours per week. If the permittee fails the examination on his first attempt, he shall require continuous supervision;

c. licensed physical therapist assistants and physical therapist assistant permittees pending approval of licensure by reciprocity shall vary according to the treatment facility as outlined in §321.

Physical Therapy Evaluation—the evaluation of a patient by the use of physical and mental findings, objective tests and measurements, patient history, and their interpretation, to determine musculoskeletal and biomechanical limitations, to determine his suitability for and the potential efficacy of physical therapy and the establishment or modification of treatment goals and a physical therapy treatment program.

Physical Therapy Supportive Personnel—

a. *Physical Therapy Technician*—a worker not licensed by this board who functions in a physical therapy clinic, department or business and assists with preparation of the patients for treatment and with limited patient care;

b. *Physical Therapist Assistant*—a person licensed by the board who is a graduate of an associate degree program in physical therapist assisting accredited by the Commission on Accreditation of Physical Therapy Education (CAPTE) or was granted licensure pursuant to R.S. 37:2403.D;

c. the level of responsibility assigned to physical therapy supportive personnel is at the discretion of the physical therapist, who is ultimately responsible for the care

provided by these individuals. Supportive personnel may perform only those functions for which they have documented training and skills. The prohibitions for physical therapy supportive personnel shall include, but not be limited to, interpretation of referrals; performance of evaluations; initiation or adjustment of treatment programs; assumption of the responsibility for planning patient care; or any other matters as determined by the board. The physical therapist shall only delegate portions of the treatment session to a technician only after the therapist has assessed the patient's status.

Preventative Services—the use of physical therapy knowledge and skills by a physical therapist to provide education or activities in a wellness setting for the purpose of injury prevention, reduction of stress and/or the promotion of fitness, but does not include the administrations of physical therapy treatment and, therefore, can be performed without referral or prescription.

Topical Agents/Aerosols—topical medications or aerosols used in wound care which are obtained over the counter or by physician prescription or order.

Wound Care and Debridement—a physical therapist, physical therapist permittee or student physical therapist may perform wound debridement and wound management that includes, but is not limited to, sharps debridement, debridement with other agents, dry dressings, wet dressings, topical agents including enzymes, and hydrotherapy. A physical therapist assistant, physical therapist assistant permittee or student physical therapist assistant shall not perform sharps debridement. The board's licensees and permittees, as well as students and supportive personnel, shall comply with the supervision requirements set forth in §321.

Written Treatment Plan or Program—written statements made by a physical therapist that specify the measurable goals, specific treatment to be used, and proposed duration and frequency of treatment. The written treatment plan or program is an integral component of a physical therapy evaluation, however, the written treatment plan or program must be completed by the physical therapist prior to delegation of appropriate treatment of a physical therapist assistant.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2(A)3.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:748 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 17:666 (July 1991), LR 19:208 (February 1993), LR 21:1243 (November 1995), LR 24:40 (January 1998), LR 26:1447 (July 2000), LR 28:1980 (September 2002), LR 34:

Subchapter B. Prohibitions

§307. Unauthorized Practice

A. ...

B. A physical therapist shall exercise sound professional judgment based upon his knowledge, skill, education, training, and experience, and shall perform only those procedures for which he is competent. If diagnostically or otherwise the physical therapist becomes aware of findings and/or the need for treatment which are outside the scope of the physical therapist's knowledge, experience, or expertise,

the physical therapist shall notify the patient/client and refer the patient/client to an appropriate practitioner.

C. A physical therapist shall use the letters "P.T." in connection with his name or place of business to denote licensure. A physical therapist assistant shall use the letters "P.T.A." in connection with his name to denote licensure. No person shall hold himself out to the public, an individual patient, a physician, dentist or podiatrist, or to any insurer or indemnity company or association or governmental authority as a physical therapist, physiotherapist or physical therapist assistant, nor shall any person directly or indirectly identify or designate himself as a physical therapist, physiotherapist, registered physical therapist, licensed physical therapist, physical therapist assistant, or licensed physical therapist assistant, nor use in connection with his name the letters, P.T., L.P.T., R.P.T., or P.T.A., or any other words, letters, abbreviations, insignias, or sign tending to indicate or imply that the person constitutes physical therapy, unless such person possesses a current license or temporary permit duly issued by the board.

D. A physical therapy student who is pursuing a course of study leading to a degree as a physical therapist in a professional education program approved by the board as is satisfying supervised clinical education requirements related to his physical therapy education shall use the letters "S.P.T." in connection with his name while participating in this program. A physical therapist assistant student who is pursuing a course of study leading to a degree as a physical therapist assistant in a professional education program approved by the board and is satisfying supervised clinical education requirements related to his physical therapist assisting education shall use the letters "S.P.T.A." in connection with his name while participating in this program.

E. A licensed physical therapist is authorized to engage in the practice of physical therapy as set forth in the Physical Therapy Practice Act and the board's rules which includes, but is not limited to, the performance of physical therapy evaluations, consultative services, wound care and debridement, the storage and administration of aerosol and topical agents, the performance of passive manipulation, and preventative services all as more fully defined in §305.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2(A)3.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:749 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 21:395 (April 1995), LR 24:40 (January 1998), LR 26:1447 (July 2000), LR 34:

§309. Exemptions

A. The prohibitions of §307 of this Chapter shall not apply to a person employed by any department, agency, or bureau of the United States Government when acting within the course and scope of such employment, nor shall they prohibit a person from acting under and within the scope of a license issued by an agency of the state of Louisiana.

B. A student shall be exempt from licensure when pursuing a course of study leading to a degree in physical therapy or physical therapist assisting in a professional education program approved by the board and is satisfying supervised clinical education requirements related to his education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2(A)3.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:749 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 24:40 (January 1998), LR 34:

§311. Prohibitions: Licensed or Temporary Permit Physical Therapists

A. A physical therapist shall not:

1. - 3. ...

4. undertake to concurrently supervise more than three physical therapy technicians and/or physical therapist assistants, so that the ratio of supportive personnel to supervising licensed physical therapists is not in excess of three-to-one.

B. A physical therapist shall not abuse or exploit the physical therapy provider/patient or client relationship, or his relationship with peers or subordinates for any purpose, including for the purpose of securing personal compensation, gratification, or gain or benefit of any kind or type, any or all of which are unrelated to the provision of physical therapy services, including engaging in inappropriate sexual or inappropriately intimate conduct, which shall include, but not be limited to:

1. engaging in or soliciting a sexual or inappropriately intimate relationship, whether consensual or non-consensual, while a physical therapist or physical therapist assistant/patient or client relationship exists. Termination of the physical therapist/patient or client relationship does not eliminate the possibility that a sexual or inappropriately intimate relationship may exploit the vulnerability of the former patient/client;

2. making sexual advances, requesting or offering sexual favors or engaging in any other verbal conduct or physical contact of a sexual or inappropriately intimate nature with patients or clients; or

3. intentionally viewing a completely or partially disrobed patient in the course of treatment, if such viewing is not reasonably related to patient diagnosis or treatment under current practice standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3) and Act 731 of 1992.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Services, Board of Physical Therapy Examiners, LR 13:749 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 17:667 (July 1991), LR 19:208 (February 1993), LR 21:1243 (November 1995), LR 34:

Subchapter C. Supervised Practice

§315. Scope of Chapter

A. ...

B. Before working in a school or home health setting, a physical therapist assistant shall have one year of supervised work experience.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3) and Act 731 of 1992.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Services, Board of Physical Therapy Examiners, LR 13:749 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 19:208 (February 1993), LR 34:

§321. Supervision Requirements

A. Licensed Physical Therapist Assistant

1. The level of responsibility assigned to the physical therapist assistant pursuant to §321.A is at the discretion of the physical therapist who is ultimately responsible for the care provided by this individual.

2. In acute care facilities, rehabilitation facilities, skilled nursing facilities and out-patient facilities, the supervising physical therapist shall:

a. perform an evaluation and set up a written treatment plan on each patient prior to implementation of treatment;

b. treat and reassess the patient and document on at least every sixth treatment day, but not less than once per month;

c. treat and assess the patient at discharge and write a discharge summary;

d. be on premises weekly (any seven consecutive days) for at least one-half of the physical therapy treatment hours in which the physical therapist assistant is rendering physical therapy treatment;

e. be readily accessible by beeper or phone and available to the patient by the next scheduled treatment session upon request of the patient or physical therapist assistant.

3. In school and home health settings, the supervising physical therapist shall:

a. perform an evaluation and set up a written treatment plan on each patient prior to implementation of treatment;

b. treat and reassess the patient and document on at least every sixth treatment day but not less than once per month;

c. treat and assess the patient at discharge and write a discharge summary;

d. conduct, once weekly and document, a face to face patient care conference with each physical therapist assistant to review progress and modification of treatment programs for all patients;

e. be readily accessible by beeper or phone and available to the patient by the next scheduled treatment session upon request of the patient or physical therapist assistant.

4. In client preventative services rendered by a licensed physical therapist assistant, the supervising physical therapist:

a. shall perform an initial screening to determine if an individual qualifies for preventative services and document;

b. shall provide education or activities in a wellness setting through the establishment of a program for the purpose of injury prevention, reduction of stress and/or the promotion of fitness;

c. shall be readily accessible by beeper or mobile phone;

d. shall conduct and document a face to face conference with the physical therapist assistant regarding each client at least every 30 days commencing with the initiation of the preventative services for that client; and

e. may delegate only those functions to a physical therapist assistant for which he has documented training and skills.

B. - B.3. ...

C. Physical Therapy Technician

1. The level of responsibility assigned to a physical therapy technician is at the discretion of the physical therapist who is ultimately responsible for the care provided by the supervised individual(s).

2. In all practice settings, during the provision of physical therapy services, the supervising physical therapist shall provide continuous, in-person supervision of the physical therapy technician.

3. A physical therapy technician may assist a physical therapist assistant only with those aspects of patient treatment which have been assigned to the physical therapy technician by a physical therapist.

4. To ensure the safety and welfare of a patient during ambulation, transfers, or functional activities, the physical therapist assistant may utilize one or more physical therapy technicians for physical assistance.

5. The supervising physical therapist shall provide continuous, in-person supervision of client preventative services rendered by a physical therapy technician as follows:

a. perform and document an initial screening to determine if an individual qualifies for preventative services;

b. establish a wellness program, including education and activities, to promote injury prevention, reduction of stress and/or fitness;

c. delegate only those functions to a physical therapy technician for which the physical therapist has documented the training and skills of the physical therapy technician;

d. be available to the technician for direct and immediate verbal clarification.

D. Student. The supervising physical therapist shall provide continuous, on-premises supervision of a physical therapy or physical therapist assistant student in all practice settings.

E. Supervision Ratio. In any day, a supervising physical therapist shall not provide supervision for more than five individuals, nor exceed the following limitations as to supervised personnel:

1. more than three physical therapist assistants and/or technicians;

2. more than two permittees; or

3. more than five students.

F. Unavailability of Supervising Physical Therapist of Record for Permittees and Students. If, for any reason, a supervising physical therapist of record cannot fulfill his supervisory obligations:

1. for less than one week, a licensed physical therapist in good standing may supervise in his stead. In such case, the substitute physical therapist is not required to be approved by the board; however, the board approved supervisor, the substitute supervisor, as well as the supervised individual(s), shall be responsible for the care provided by those supervised;

2. for one week or more, the supervising physical therapist shall send written notification to the board for

approval of a new supervising physical therapist during his period of absence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2(A)3.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:750 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:388 (May 1989), LR 19:208 (February 1993), LR 24:41 (January 1998), LR 26:1447 (July 2000), LR 28:1980 (September 2002), LR 34:

§323. Documentation Standards

A. A written record of physical therapy provided shall be kept on each patient or client served. A complete record shall include written documentation of prescription or referral, initial evaluation, treatment provided, P.T./P.T.A. conferences, progress notes, reassessment, and patient status at discharge.

1. - 2. ...

3. Progress note is the written documentation of the patient's subjective status, changes in objective findings, and progression or regression toward established goals. A progress note shall be written and signed by the attending physical therapist or physical therapist assistant and shall not be written or signed by a physical therapy technician. A progress note shall be written a minimum of once per week, or if the patient is seen less frequently, then at every visit.

4. - 5. ...

6. P.T./P.T.A. conference is the written documentation of the face-to-face conference held to discuss the status of the patient seen in the home health or school settings.

7. Discharge Summary is the written documentation of the reasons for discontinuation of care, degree of goal achievement and a discharge plan which shall be written and signed by the attending physical therapist. A discharge summary shall not be written or signed by a physical therapist assistant or other supportive personnel. A discharge summary shall be written at the termination of physical therapy care.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:750 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:389 (May 1989), LR 21:395 (April 1995), LR 26:1447 (July 2000), LR 28:1981 (September 2002), LR 34:

Subchapter D. Disciplinary Proceedings

§327. Definitions

A. - D. ...

E. As used in R.S. 37: 2413.A.7 of the Physical Therapy Practice Act, the term *unprofessional conduct* means:

1. departure from, or failure to conform to, the minimal standards of acceptable and prevailing physical therapy practice in the state of Louisiana, regardless of whether actual injury to a patient results therefrom, including, but not limited to:

a. failure to use sound professional judgment;

b. performing procedures for which the physical therapist is not competent; or

c. failure to inform and refer the patient/client to an appropriate practitioner, when the physical therapist becomes aware of findings and/or the need for treatment

which are outside the scope of the physical therapist's competence;

2. - 5. ...

6. abuse or exploitation of the physical therapy provider/patient or client relationship for the purpose of securing personal compensation, gratification, or gain or benefit of any kind or type, any or all of which are unrelated to the provision of physical therapy services, including engaging in inappropriate sexual or inappropriately intimate conduct, which shall include, but not be limited to:

a. engaging in or soliciting a sexual or inappropriately intimate relationship, whether consensual or non-consensual, while a physical therapist or physical therapist assistant/patient or client relationship exists;

b. making sexual or inappropriately intimate advances, requesting or offering sexual favors or engaging in any other verbal conduct or physical contact of a sexual or inappropriately intimate nature with patients or clients; or

c. intentionally viewing a completely or partially disrobed patient in the course of treatment if such viewing is not reasonably related to patient diagnosis or treatment under current practice standards;

E.7 - F.1 ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3) and Act 31 of 1992.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:389 (May 1989), amended LR 19:208 (February 1993), LR 28:1981 (September 2002), LR 34:

Family Impact Statement

In accordance with the requirements of R.S. 49:972, the Board of Physical Therapy Examiners issues the following Family Impact Statement regarding the above proposed Rule.

1. There is no effect on the stability of the family.
2. There is no effect on the authority and rights of parents regarding the education and supervision of their children.
3. There is no effect on the functioning of the family.
4. There is no effect on family earnings and family budget.
5. There is no effect on the behavior and personal responsibility of children.
6. There is no effect on the ability of the family or a local government to perform the function as contained in the proposed Rule.

Pursuant to the Administrative Procedure Act, if oral presentation or argument is requested by the requisite number of persons or the proper entities, then a public hearing on these matters will be held on June 25, 2008, at 6 p.m. at the office of the Board of Physical Therapy Examiners, 104 Fairlane Drive, Lafayette, LA 70507. Please contact the board office at (337) 262-1043 extension 102 to confirm whether or not the public hearing will be conducted.

Written comments concerning the proposed Rules may be directed to this address and to the attention of Cheryl Gaudin, Executive Director. Such comments should be submitted no later than the close of business at 4:30 p.m. on Wednesday, June 17, 2008.

Cheryl Gaudin
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Licensure, Certification, and Practice

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The Board will incur an implementation cost for publication and mailing the revised Practice Act, Rules and Regulations booklet. The cost involves reprinting of the booklet to incorporate the new amendments which are being promulgated. The new booklets, as amended, will be provided to the Board's licensees and other interested parties. It is anticipated that \$6,730 in printing costs, \$3,950 in mailing costs, and \$3,500 in personal and professional services will be incurred with the publishing of the proposed rules FY 08. The Board has sufficient self-generated funds available to implement the proposed rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is not anticipated that the proposed rule amendment will have any effect on the board's revenue collection.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

It is anticipated the proposed rule revisions will clarify the application of the PT Practice Act. The intent of the amendment is to clarify and enhance rules applicable to the supervision of PTA's and other support personnel and to provide effective documentation of such supervision. Additionally, the proposed rules will reduce the potential for noncompliance with the Practice Act, thusly decreasing any potential expenses for disciplinary actions or loss of income as a result of disciplinary actions. Licensees and employer may incur a small indeterminable increase in costs for documenting supervision conferences in patient records as a result of the proposed rules.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition and employment is anticipated.

Cheryl Gaudin
Executive Director
0805#010

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Disproportionate Share Hospital Payments
Distinct Part Psychiatric Unit Expansions and
Mental Health Emergency Room Extensions
(LAC 50:V.2709 and 2711)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt LAC 50:V.2709 and 2711 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

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

an Emergency Rule which repealed and replaced all of the Rules governing disproportionate share hospital payment methodologies (*Louisiana Register*, Volume 33, Number 10). In compliance with Act 18 of the 2007 Regular Session of the Louisiana Legislature, the department amended the October 20, 2007, Emergency Rule to: 1) adopt provisions for the reimbursement of uncompensated care costs for psychiatric services provided by non-state acute care hospitals that expand their distinct part psychiatric units and enter into an agreement with OMH (*Louisiana Register*, Volume 34, Number 1); 2) establish provisions for DSH payments to non-state acute care hospitals that enroll a new distinct part psychiatric unit and enter into an agreement with OMH (*Louisiana Register*, Volume 34, Number 3); and adopt provisions for the reimbursement of uncompensated care costs for psychiatric services provided by non-state acute care hospitals that establish a Mental Health Emergency Room Extension (MHERE) and enter into an agreement with the Office of Mental Health (*Louisiana Register*, Volume 34, Number 4).

The department subsequently promulgated a Notice of Intent (*Louisiana Register*, Volume 34, Number 1) and a final Rule to establish the provisions governing DSH payments in LAC 50:V.Chapters 25 and 27 (*Louisiana Register*, Volume 34, Number 4). The department now proposes to amend the April 20, 2008, final Rule governing DSH payments to continue the provisions of the March 3, 2008 and April 7, 2008, Emergency Rules.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability or autonomy as described in R.S. 49:972 by increasing access to much needed psychiatric services.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Medical Assistance Program—Hospital Services

Subpart 3. Disproportionate Share Hospital Payments

Chapter 27. Qualifying Hospitals

§2709. Distinct Part Psychiatric Unit Expansions

A. Effective for dates of service on or after January 1, 2008, Medicaid enrolled non-state, acute care hospitals that expand their distinct part psychiatric unit beds and sign an addendum to the Provider Enrollment form (PE-50) by March 1, 2008 with the Department of Health and Hospitals, Office of Mental Health, shall be reimbursed for their net uncompensated care costs for services provided to adult patients, age 18 and over, who occupy the additional beds.

B. Effective for dates of service on or after March 3, 2008, Medicaid enrolled non-state, acute care hospitals that enroll a new distinct part psychiatric unit and sign an addendum to the Provider Enrollment form (PE-50) by April 3, 2008 with the Department of Health and Hospitals, Office of Mental Health, shall be reimbursed for their net uncompensated care costs for services provided to adult patients, age 18 and over, who occupy the additional beds.

C. The net uncompensated care cost is the Medicaid shortfall plus the cost of treating the uninsured.

D. The amount appropriated for this pool in SFY 2008 is \$7,000,000. If the net uncompensated care costs of all hospitals qualifying for this payment exceeds \$7,000,000, payment will be the lesser of each qualifying hospital's net uncompensated care costs or its pro rata share of the pool calculated by dividing its net uncompensated care costs by the total of the net uncompensated care costs for all hospitals qualifying for this payment and multiplying by \$7,000,000.

E. Qualifying hospitals must submit costs and patient specific data in a format specified by the department.

1. Cost and lengths of stay will be reviewed for reasonableness before payments are made.

F. Payments shall be made on a quarterly basis.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§2711. Mental Health Emergency Room Extensions

A. Effective for dates of service on or after April 7, 2008, Medicaid-enrolled non-state, acute care hospitals that establish a Mental Health Emergency Room Extension (MHERE) and sign an addendum to the Provider Enrollment form (PE-50) by June 1, 2008 with the Department of Health and Hospitals, Office of Mental Health, shall be reimbursed for their net uncompensated care costs for psychiatric services rendered to patients.

1. The net uncompensated care cost is the Medicaid shortfall plus the cost of treating the uninsured.

B. Qualifying non-state, acute care hospitals must:

1. be located in a region of the state that does not currently have an MHERE; and

2. not receive funding for their MHERE from another source.

C. The amount appropriated for this pool in SFY 2008 is \$3,500,000. If the net uncompensated care costs of all hospitals qualifying for this payment exceeds \$3,500,000, payment will be each qualifying hospital's pro rata share of the pool calculated by dividing its net uncompensated care costs by the total of the net uncompensated care costs for all hospitals qualifying for this payment multiplied by \$3,500,000.

D. Qualifying hospitals must submit costs and patient data in a format specified by the department.

E. Payments shall be made on a quarterly basis.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

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

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, June 24, 2008 at 9:30 a.m. in Room 118, Bienville

Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested individuals will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Alan Levine
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Disproportionate Share Hospital
Payments—Distinct Part Psychiatric Unit Expansions
and—Mental Health Emergency Room Extensions**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will result in an estimated increase in expenses to the state of \$2,963,304 for FY 07-08, \$6,142,920 for FY 08-09 and \$6,327,208 FY 09-10. Expenditures in the out years are subject to appropriation. It is anticipated that \$408 (\$204 SGF and \$204 FED) will be expended in FY 07-08 for the state's administrative expense for promulgation of this proposed rule and the final rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$7,537,104 for FY 07-08, \$15,487,080 for FY 08-09, and \$15,951,692 for FY 09-10. It is anticipated that \$204 will be expended in FY 07-08 for the federal administrative expenses for promulgation of this proposed rule and the final rule.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

This rule, which continues the provisions of the March 3, 2008 and April 7, 2008 Emergency Rules, adopts provisions for Disproportionate Share Hospital (DSH) payments to non-state acute care hospitals that enter into an agreement with the Office of Mental Health and: 1) expand existing, or enroll new, distinct part psychiatric units [\$7,000,000 increase]; or 2) establish a Mental Health Emergency Room Extension (MHERE) [\$3,500,000 increase]. It is anticipated that implementation of this proposed rule will increase program expenditures in the Medicaid Program by approximately \$10,500,000 for FY 07-08, \$21,630,000 for FY 08-09, and \$22,278,900 for FY 09-10. Expenditures in the out years are subject to appropriation.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

It is anticipated that the implementation of this rule will not have an effect on competition and employment.

Jerry Phillips
Medicaid Director
0805#052

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Office for Citizens with Developmental Disabilities
and the Office of Aging and Adult Services**

Home and Community Based Services Waivers
Termination of Services for Displaced Recipients
(LAC 50:XXI.301)

The Department of Health and Hospitals, Office for Citizens with Developmental Disabilities and the Office of Aging and Adult Services proposes to adopt LAC 50:XXI.301 as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is being promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions governing eligibility for home and community-based services waivers (*Louisiana Register*, Volume 24, Number 3). The Office for Citizens with Developmental Disabilities and the Division of Long Term Supports and Services promulgated an Emergency Rule to adopt provisions governing the termination of services and limited retention of waiver opportunities for waiver recipients displaced by Hurricanes Katrina and Rita (*Louisiana Register*, Volume 32, Number 4). The department now proposes to revise the April 20, 2006, Emergency Rule to further clarify these provisions for future declared disasters that may cause recipients to be displaced.

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 a positive impact on family functioning, stability, or autonomy as described in R.S. 49:972 by allowing displaced recipients to return to Louisiana and have preferential assignment to available waiver opportunities.

Title 50

**PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XXI. Home and Community Based Services
Waivers**

Subpart 1. General Provisions

Chapter 3. Eligibility

**§301. Termination of Coverage for Displaced
Recipients**

A. Effective July 1, 2006, waiver recipients who have been displaced by declared disasters, such as Hurricanes Katrina or Rita, and are currently residing in other states will no longer be able to receive waiver services under the Louisiana Medicaid Program.

B. This termination of coverage is applicable to recipients receiving services in home and community-based waivers.

C. If the individual returns to live in Louisiana within two years of the date of the declared disaster, he/she must

contact the department to report his/her address and to request that waiver services be restarted.

D. The individual's name will be placed on a preferred registry with other disaster evacuees who have returned to live in Louisiana and requested that their waiver services be restarted.

E. Waiver opportunities shall be offered to individuals on the preferred registry on a first-come, first-serve basis.

1. The first available waiver opportunity shall be offered to an individual on this registry based on the date that the request to restart services was received.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities and the Office of Aging and Adult Services, LR 34:

Implementation of this Rule is contingent upon approval by the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Hugh Eley, Office of Aging and Adult Services, P.O. Box 2031, Baton Rouge, LA 70821-2031. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, June 24, 2008 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested individuals will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Alan Levine
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Home and Community Based Services Waivers—Termination of Services for Displaced Recipients

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will have no programmatic fiscal impact to the state other than cost of promulgation for FY 07-08. It is anticipated that \$272 (\$136 SGF and \$136 FED) will be expended in FY 07-08 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will not affect federal revenue collections other than the federal share of the promulgation costs for FY 07-08. It is anticipated that \$136 will be expended in FY 07-08 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule, which continues the provisions of the April 20, 2006 Emergency Rule, proposes to adopt provisions governing the termination of services and limited retention of waiver opportunities for waiver recipients displaced by declared

disasters, such as Hurricanes Katrina and Rita (approximately 65 recipients may lose waiver slots). It is anticipated that implementation of this proposed rule will not have estimable cost or economic benefits for directly affected persons or non-governmental groups in FY 07-08, FY 08-09 and FY 09-10.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Jerry Phillips
Medicaid Director
0805#053

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Medicaid Eligibility Family Opportunity Act Medicaid Program (LAC 50:III.2303 and 10305)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt LAC 50:III.2303 and 10305 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Family Opportunity Act, signed into law by Congress as part of the Deficit Reduction Act of 2005, contains provisions which allow states to offer a Medicaid buy-in program for children with disabilities. This optional Medicaid coverage is available to families with income above the financial standards for Supplemental Security Income (SSI) but not more than 300 percent of the federal poverty level.

In compliance with the directives of the Family Opportunity Act, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgated an Emergency Rule to implement a Medicaid buy-in program, known as the Family Opportunity Act Medicaid Program, to provide health care coverage to children with disabilities who are not eligible for SSI disability benefits due to excess income or resources (*Louisiana Register*, Volume 33, Number 10). The October 20, 2007, Emergency Rule was amended to clarify the program's income limits and to revise the provisions governing premium payments to incorporate a sliding fee scale as recommended by the Centers for Medicare and Medicaid Services (*Louisiana Register*, Volume 34, Number 5). This proposed Rule is being promulgated to continue the provisions of the May 20, 2008, Emergency Rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 by providing health care coverage to children with disabilities who are not eligible for SSI disability benefits due to excess income or resources.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part III. Eligibility

Subpart 3. Eligibility Groups and Factors

Chapter 23. Eligibility Groups and Programs
§2303. Family Opportunity Act Medicaid Program

A. The Family Opportunity Act, signed into law by Congress as part of the Deficit Reduction Act of 2005, allows states to offer a Medicaid buy-in program to families with income up to 300 percent of the Federal Poverty Level (FPL) for children with disabilities who are not eligible for Supplemental Security Income (SSI) disability benefits due to excess income or resources. The department hereby implements a Medicaid buy-in program called the Family Opportunity Act Medicaid Program to provide Medicaid coverage to children with disabilities.

B. Eligibility Requirements. Children born on or after October 1, 1995 and who meet the following requirements may receive health care coverage through the Family Opportunity Act Medicaid Program.

1. The child must have a disability which meets the Social Security Administration's childhood disability criteria.

2. Gross family income must not be more than 300 percent of the federal poverty level (FPL) using the income methodologies of the SSI program.

a. For the purpose of determining family income, the family unit shall consist of the following members:

- i. child(ren) with disabilities;
- ii. natural or legal parent(s); and
- iii. siblings under age 19.

b. Step-parents and step-siblings are excluded from the income determination.

3. The child may be uninsured or underinsured.

a. Parents are required to enroll in available employer-sponsored health plans when the employer contributes at least 50 percent of the annual premium costs. Participation in such employer-sponsored health plans is a condition of continuing Medicaid coverage.

C. Children determined eligible under the Family Opportunity Act Medicaid Program shall receive coverage of medically necessary health care services provided under the Medicaid State Plan.

D. Premium Payments. Families with gross income above 200 percent, but not more than 300 percent of the FPL, are required to pay premiums for Medicaid coverage. Families with gross income up to 200 percent of the FPL are not required to pay premiums for Medicaid coverage.

1. The amounts paid for premiums for Medicaid-required family coverage and other cost-sharing may not exceed 5 percent of a family's income for families with income up to 200 percent of the FPL and 7.5 percent of a family's income for families with income above 200 percent of the FPL.

2. For families with gross income above 200 percent but not more than 300 percent of the FPL, the premium amount for Medicaid is determined by whether the natural or legal parent(s) living in the household is paying for other creditable health insurance that covers the child(ren) with disabilities.

a. Families who have other creditable health insurance that provides coverage to the child(ren) with disabilities will pay a family Medicaid premium on a sliding scale as follows:

i. \$12 per month for families with income above 200 percent and up to 250 percent of the FPL;

ii. \$15 per month for families with income above 250 percent, but not more than 300 percent of the FPL.

b. Families who do not have other creditable health insurance that provides coverage to the child(ren) with disabilities will pay a family Medicaid premium on a sliding scale as follows:

i. no premium is required for families with income from 0 percent and up to 200 percent of the FPL;

ii. \$30 per month for families with income above 200 percent and up to 250 percent of the FPL;

iii. \$35 per month for families with income above 250 percent, but not more than 300 percent of the FPL.

3. The first premium is due the month following the month that eligibility is established. Prepayment of premiums is not required. A child's eligibility for medical assistance will not terminate on the basis of failure to pay a premium until the failure to pay continues for at least 60 days from the date on which the premium was past due.

4. The premium may be waived in any case where it is determined that requiring a payment would create an undue hardship for the family. Undue hardships exist when a family:

a. is homeless or displaced due to a flood, fire, or natural disaster;

b. resides in an area where there is a presidential-declared emergency in effect;

c. presents a current notice of eviction or foreclosure; or

d. has other reasons as determined by the department.

5. Families whose eligibility has been terminated for non-payment of premiums must pay any outstanding premium balances for Medicaid-covered months before eligibility can be re-established, unless:

a. the liability has been canceled by the Bureau of Appeals or the Medicaid Recovery Unit; or

b. there has been a lapse in Medicaid coverage of at least 12 months.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

Subpart 5. Financial Eligibility

Chapter 103. Income

§10305. Income Disregards

A. For recipients in the Family Opportunity Act Medicaid Program, an income disregard of \$85 will be applied to total gross (earned and unearned) family income and then half of the remaining income will be disregarded.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, June 24, 2008 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Alan Levine
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Medicaid Eligibility—Family
Opportunity Act Medicaid Program**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
It is anticipated that the implementation of this proposed rule will result in an estimated increase in expenses to the state of \$220,675 for FY 07-08, \$2,709,904 for FY 08-09, and \$3,427,365 for FY 09-10. It is anticipated that \$544 (\$272 SGF and \$272 FED) will be expended in FY 07-08 for the state's administrative expense for promulgation of this proposed rule and the final rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$560,887 for FY 07-08, \$6,832,012 for FY 08-09, and \$8,640,822 for FY 09-10. It is anticipated that \$272 will be collected in FY 07-08 for the federal administrative expenses for promulgation of this proposed rule and the final rule. In addition, it is anticipated that this proposed rule will increase state revenue collections from the participant's premium payments by approximately \$24,242 in FY 07-08, \$245,928 in FY 08-09 and \$339,158 for FY 09-10.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
This rule, which continues the provisions of the May 20, 2008 emergency rule, proposes to implement a Medicaid buy-in program, known as the Family Opportunity Act Medicaid Program, to provide coverage to children with disabilities who are not eligible for Supplemental Security Income (SSI) disability benefits due to excess income or resources. It is anticipated that implementation of this proposed rule will increase expenditures in the Medicaid Program by approximately \$781,018 for FY 07-08, \$9,541,916 for FY 08-09 and \$12,068,187 for FY 09-10.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
It is anticipated that the implementation of this rule will have no effect on competition and employment.

Jerry Phillips
Medicaid Director
0805#054

Robert E. Hosse
Staff Director
Legislative Fiscal Office

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

Professional Services Program—Physician Services
Reimbursement Methodology
(LAC 50:IX.15103)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt LAC 50:IX.15103 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reimburses professional services in accordance with an established fee schedule for Current Procedural Terminology (CPT) codes and Healthcare Common Procedure Coding System (HCPCS) codes. Act 18 of the 2007 Regular Session of the Louisiana Legislature authorized expenditures to the Medical Vendor Program to adjust the Medicaid reimbursement rates paid for physician services. In compliance with Act 18, the bureau promulgated an Emergency Rule to amend the provisions contained in the December 20, 2003 and April 20, 2005 Rules governing the reimbursement methodology for physician services. In addition, the bureau repealed the provisions contained in the following Rules governing the reimbursement methodology for physician services: December 20, 2000; May 20, 2001; August 20, 2002; and February 20, 2007 (*Louisiana Register*, Volume 33, Number 10). The bureau promulgated an Emergency Rule to amend the October 15, 2007, Emergency Rule to adjust the reimbursement rates paid for selected physician services to the 2008 Louisiana Medicare Region 99 rates (*Louisiana Register*, Volume 34, Number 1). This proposed Rule is being promulgated to continue the provisions of the January 1, 2008, Emergency Rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability, or autonomy as described in R.S. 49:972

**Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part IX. Professional Services Program
Subpart 15. Reimbursement
§15103. Physician Services**

A. Effective for dates of service on or after October 15, 2007, the reimbursement for selected physician services shall be 90 percent of the 2007 Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount, unless otherwise stipulated.

1. The reimbursement shall remain the same for those services that are currently being reimbursed at a rate that is

between 90 percent and 120 percent of the 2007 Louisiana Medicare Region 99 allowable.

2. For those services that are currently reimbursed at a rate above 120 percent of the 2007 Louisiana Medicare Region 99 allowable, effective for dates of service on or after October 15, 2007, the reimbursement for these services shall be reduced to 120 percent of the 2007 Louisiana Medicare Region 99 allowable.

B. Effective for dates of service on or after January 1, 2008, the reimbursement for selected physician services shall be 90 percent of the 2008 Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount, unless otherwise stipulated.

1. The reimbursement shall remain the same for those services that are currently being reimbursed at a rate that is between 90 percent and 120 percent of the 2008 Louisiana Medicare Region 99 allowable.

2. For those services that are currently reimbursed at a rate above 120 percent of the 2008 Louisiana Medicare Region 99 allowable, effective for dates of service on or after January 1, 2008, the reimbursement for these services shall be reduced to 120 percent of the 2008 Louisiana Medicare Region 99 allowable.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

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

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, June 24, 2008 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Alan Levine
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Professional Services Program—Physician Services Reimbursement Methodology

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in an estimated increase in expenses to the state of \$17,663,158 for FY 07-08, \$31,386,721 for FY 08-09, and \$32,328,322 for FY 09-10. It is anticipated that \$340 (\$170 SGF and \$170 FED) will be expended in FY 07-08 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$44,927,502 for FY 07-08, \$79,129,901 for FY 08-09, and \$81,503,799 for FY 09-10. It is anticipated that \$170 will be expended in FY 07-08 for the federal administrative expenses for promulgation of this proposed rule and final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule, which continues the provisions of the October 15, 2007 and January 1, 2008 emergency rules, proposes to adjust the reimbursement rates paid for selected physician services to the 2007 and 2008 Louisiana Medicare Region 99 rates, respectively. It is anticipated that implementation of this proposed rule will increase certain physician expenditures in the Medicaid Program by approximately \$62,590,320 for FY 07-08, \$110,516,622 for FY 08-09 and \$113,832,121 for FY 09-10.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this rule will have no effect on competition and employment.

Jerry Phillips
Medicaid Director
0805#055

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections Corrections Services

Offender Payment for Electronic Monitoring (LAC 22:I.407)

In accordance with the provisions of R.S. 15:560.4(B), (C) and (D) the Department of Public Safety and Corrections, Corrections Services, hereby gives notice of its intent to promulgate the contents of LAC 22:I.407, Offender Payment for Electronic Monitoring.

The purpose of the aforementioned regulation is to establish the secretary's policy regarding a sex offender's ability to pay for electronic monitoring.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part I. Corrections

Chapter 4. Division of Probation and Parole

§407. Offender Payment for Electronic Monitoring

A. Purpose. To establish the secretary's policy regarding a sex offender's ability to pay for electronic monitoring.

B. Applicability. chief of operations, undersecretary, assistant secretary, wardens and the Director of Probation and Parole. Each unit head is responsible for ensuring that appropriate unit written policy and procedures are in place to comply with the provisions of this regulation.

C. Policy

1. It is the secretary's policy to provide for close control and/or tracking of sex offender movement and to utilize electronic monitoring to achieve this within resource limits.

D. Definitions

1. **Child Sexual Predator:** A person who has been convicted of a sex offense as defined in R.S. 15:541(14) and who is likely to engage in additional sex offenses against children because he has a mental abnormality or condition which can be verified or because he has a history of committing crimes, wrongs or acts involving sexually assaultive behavior or acts which indicate a lustful disposition toward children based upon a determination made by a Louisiana Sex Offender Assessment Panel.

2. **Sex Offender:** An inmate committed to the custody of the Department of Public Safety and Corrections for a crime enumerated in R.S. 15:541(14.1). A conviction for any offense provided for in this definition includes a conviction for the offense under the laws of another state, or military, territorial, foreign, tribal, or federal law equivalent to such offense. An individual convicted of the attempt of any of the defined sex offenses shall be considered a sex offender for the purpose of this regulation.

3. **Sexually Violent Predator:** A person who has been convicted of a sex offense as defined in R.S. 15:541(14.1) and who has a mental abnormality or anti-social personality disorder which makes the person likely to engage in predatory sexually violent offenses based upon a determination made by a Louisiana Sex Offender Assessment Panel.

E. Procedures

1. Sex offenders shall be placed on electronic monitoring based on the following levels of priority:

a. sex offenders with victims under the age of 13 years pursuant to R.S. 14:43.1(C), 14:43.2(C), 14:43.3(C), 14:78.1(D), 14:81.1(E) and 14:81.2(E);

b. child sexual predators and sexually violent predators based upon a determination made by a Louisiana Sex Offender Assessment Panel. Pursuant to the provisions of R.S. 15:560.4, these sex offenders shall be required to be electronically monitored utilizing electronic location tracking;

c. sex offenders under supervision by the Division of Probation and Parole who pose a high level of risk due to indicators such as past and present criminal behavior/arrests, citizen complaints/reports, officer observation and/or other related risk indicators.

2. Each sex offender being electronically monitored shall pay the cost of such monitoring. The cost attributable to the monitoring of a sex offender who has been determined unable to pay shall be borne by the department if, and only to the degree that such funds are made available by appropriation of state funds or from any other source.

a. A sliding scale of payment may be imposed if the offender is unable to pay all (or any portion) of such costs. The Division of Probation and Parole shall determine the offender's ability to pay by considering income to include all earned and unearned income (i.e., benefits, such as unemployment, disability, retirement, real estate) and all assets and basic living expenses and care of dependents, excluding mandated judgments. Factors to be considered may also include public assistance, such as food stamps, Temporary Assistance for Needy Families, Medicaid, public housing and earnings of less than 200 percent of the Federal Poverty Guideline;

b. Whenever the sex offender cannot fully pay the costs, the determination of ability to pay and amount of payment will be made by the supervising officer with the approval of his supervisor or the district administrator or designee.

c. Failure to comply with established payment responsibilities when it is determined the sex offender had sufficient income shall be deemed a major violation and dealt with according to the Division of Probation and Parole's policies and procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:560.4(B), (C), and (D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 34:

Family Impact Statement

The proposed Rules have no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

Written comments may be addressed to Melissa Callahan, Deputy Assistant Secretary, Department of Public Safety and Corrections, P.O. Box 94304, Baton Rouge, LA 70804, until 4:30 p.m. on June 9, 2008.

James M. Le Blanc
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Offender Payment for Electronic Monitoring

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The cumulative estimated cost to the state for implementation of the Offender Payment for Electronic Monitoring for tracking sex offender movement is approximately \$11.6 million for three fiscal years, assuming costs for 2 months implementation in FY 07-08. Based upon information provided by the Division of Probation and Parole, the total projected fiscal impact for FY 07-08 for 642 offenders is \$1,819,706; for FY 08-09 \$4,839,866; and for FY 09-10 \$4,909,910. Projected FY 07-08 costs include the following assumptions—funding for 41 Probation and Parole staff and associated recurring and start-up expenditures; the cost per offender per day is \$10 for active GPS electronic monitoring; that 30% of the 2,140 sex offenders under supervision, or 642 offenders are sexual predators that will be impacted; that 50% of the 642 offenders would have sufficient funds to pay for the cost of their supervision; and that 100 new cases will be added per year, or 30 additional sexual predators; and 1 additional probation and parole officer will be added per year for the additional sexual predators.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Self-generated revenues for electronic monitoring fees would be collected at \$10 per offender per day for 50% of 642 offenders that are projected to be impacted for two months in FY 07-08 (321 offenders times 61 days times \$10 per offender per day equals \$195,810); 50% of 672 offenders for 12 months in FY 08-09 (336 offenders times 365 days times \$10 per offender per day equals \$1,226,400); and 50% of 702 offenders for 12 months in FY 09-10 (351 offenders times 365 days times \$10 per offender per day equals \$1,281,150).

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There is an indeterminable amount of estimated costs and/or economic benefits to directly affected persons or non-governmental groups. However, the proposed plan will protect the public safety by establishing a policy for close control and/or tracking of sex offender movement and to utilize electronic monitoring to achieve this within resource limits.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

B.E. "Trey" Boudreaux, III
Undersecretary
0804#029

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Corrections Services**

**Sex Offender Assessment Panels
(LAC 22:I.109)**

In accordance with the provisions of R.S. 15:560.3(B) the Department of Public Safety and Corrections, Corrections Services, hereby gives notice of its intent to promulgate the contents of LAC 22:I.109, Louisiana Sex Offender Assessment Panels pursuant to legislative intent and the provisions of Act 186 of the 2006 Regular Session and Act 126 of the 2007 Regular Session.

Title 22

**CORRECTIONS, CRIMINAL JUSTICE AND LAW
ENFORCEMENT**

Part I. Corrections

Chapter 1. Secretary's Office

§109. Louisiana Sex Offender Assessment Panels

A. Purpose. To establish the secretary's policy relative to the formation of the Louisiana Sex Offender Assessment Panels pursuant to legislative intent and the provisions of Act 186 of the 2006 Regular Session and Act 126 of the 2007 Regular Session. The provisions of this regulation shall apply to all sex offenders as defined in R.S. 15:541(14.1) who are convicted or who are released by any means from the department's custody on or after August 15, 2006.

B. Applicability: deputy secretary, chief of operations, undersecretary, assistant secretary, wardens, Director of the Division of Probation and Parole, Chairman of the Board of Pardons, Chairman of the Board of Parole and local jail administrators. Each unit head is responsible for ensuring that appropriate unit written policy and procedures are in place to comply with the provisions of this regulation.

C. Policy. To constitute the department's policy regarding Louisiana Sex Offender Assessment Panels pursuant to legislative intent.

D. Definitions

Child Sexual Predator—a person determined by a Louisiana Sex Offender Assessment Panel who has been convicted of a sex offense as defined in R.S. 15:541(14.1) and who is likely to engage in additional sex offenses against children because he has a mental abnormality or condition which can be verified by a psychiatrist or psychologist, or

because he has a history of committing crimes, wrongs, or acts involving sexually assaultive behavior or acts which indicate a lustful disposition toward children.

Mental Abnormality—a congenital or acquired condition of a person that affects the emotional or volitional capacity of the person in a manner that predisposes that person to the commission of criminal sexual acts to a degree that makes the person a menace to the health and safety of others. Nothing in this definition is intended to supersede or apply to the definitions found in R.S. 14:10 or 14 in reference to criminal intent or insanity.

Sexually Violent Predator—a person who has been convicted of a sex offense as defined in R.S. 15:541(14.1) and who has a mental abnormality or anti-social personality disorder that makes the person likely to engage in predatory sexually violent offenses as determined by a Louisiana Sex Offender Assessment Panel.

E. Panel Composition and Guidelines

1. Pursuant to the provisions of R.S. 15:560.2, the secretary is hereby authorized to create not more than three Louisiana Sex Offender Assessment Panels. An employee of the Office of Adult Services shall be designated by the secretary to serve as coordinator for the panels. Each panel shall consist of three members as follows:

a. one member shall be a psychologist licensed by the Louisiana State Board of Examiners of Psychologists who has been engaged in the practice of clinical or counseling psychology for not less than three consecutive years or a psychiatrist in the employ or under contract to the department whose credentials and experience are not incompatible with the evaluation of the potential threat to public safety that may be posed by a child sexual predator or a sexually violent predator;

b. one member shall be the secretary or designee who shall be chairman;

c. one member shall be the warden, or in his absence the deputy warden, of the institution where the offender is incarcerated or a probation and parole officer with a minimum of 10 years experience, or a retired law enforcement officer with at least five years of experience in investigating sex offenses.

2. A majority of the members of a panel shall constitute a quorum. All official actions of a panel shall require an affirmative vote of a majority of the members of the panel.

3. Each panel shall meet at least once quarterly and upon the call of the chairman or upon the request of any two members.

4. Notwithstanding the provisions of R.S. 15:574.12, each panel shall review presentence reports, prison records, medical and psychological records, information and data gathered by the staffs of the Board of Pardons and the Board of Parole, information provided by the sex offender (which may include a personal interview), the district attorney or the assistant district attorney from the judicial district which prosecuted the sex offender and any other information obtained by the boards or the department.

5. Each panel shall have the duty to evaluate every offender who has been convicted of a sex offense as defined in R.S. 15:541(14.1) and who is to be released from the custody of the department, by any means, to determine if he

is a child sexual predator or a sexually violent predator in accordance with the provisions of R.S. 15:560.1.

6. Each panel shall meet and evaluate every sex offender as defined by this regulation at least six months prior to the release date of the sex offender.

7. Any decision by a panel may be appealed in accordance with Department Regulation No. B-05-005 "Administrative Remedy Procedure."

8. A panel's review will be conducted via file review utilizing the information contained in Paragraph E.4. Telephone or video conferencing may be conducted at the discretion of the panel.

9. Panel decisions will be recorded by individual vote and official results shall be maintained on a docket sheet results form.

10. Recommendations made by individuals other than those employed by the department or the local jail facility where the inmate is housed shall be made in writing.

11. Pursuant to R.S. 15:560.3 A.(1), (2), and (3), upon a determination by a panel that a sex offender is a child sexual predator or a sexually violent predator, the sex offender shall be:

a. required to register as a sex offender in accordance with the provisions of R.S. 15:542 et seq., for the duration of his natural life;

b. required to provide community notification in accordance with the provisions of R.S. 15:542 et seq., for the duration of his natural life;

c. required to be electronically monitored pursuant to the provisions of R.S. 15:560.4.

F. Electronic Monitoring of Child Sexual Predators or Sexually Violent Predators

1. Each sex offender determined to be a child sexual predator or a sexually violent predator pursuant to the provisions of this regulation shall be required to be electronically monitored in a fashion that provides for electronic location tracking.

2. Unless it is determined pursuant to Department Regulation No. C-07-004 "Offender Payment for Electronic Monitoring" that a sex offender is unable to pay all or any portion of the costs for electronic monitoring, each sex offender to be electronically monitored shall pay the cost of such monitoring.

3. The costs attributable to the electronic monitoring of an offender who has been determined unable to pay shall be borne by the department if, and only to the degree that sufficient funds are made available for such purpose whether by appropriation of state funds or from any other source.

4. Only in the case that a sex offender determined to be a child sexual predator or a sexual violent predator is unable to pay his own electronic monitoring costs, and there are no funds available to the department to pay for such monitoring, may the requirements of electronic monitoring be waived.

G. Notification of Release

1. In accordance with R.S. 40:2528, Public Safety Services shall promulgate rules and regulations regarding the department's notification to the Office of State Police when a child sexual predator or sexually violent predator has been released from imprisonment. State police shall then send out an alert by means of a predator alert system to local law enforcement officials to inform them of such releases.

H. Rights of Action

1. Any employee who participates in the sex offender review process pursuant to this regulation shall be immune from civil or criminal liability when the actions taken are in good faith in a reasonable manner in accordance with generally accepted medical or other professional practices.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:560.3(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 34:

Family Impact Statement

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

Written comments may be address to Melissa Callahan, Deputy Assistant Secretary, Department of Public Safety and Corrections, P.O. Box 94304, Baton Rouge, LA 70804, until 4:30 p.m. on June 9, 2008.

James M. Le Blanc
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Louisiana Sex Offender Assessment Panels

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The annual recurring estimated cost to the state for implementation of the Louisiana Sex Offender Assessment Panel is approximately \$200,000. This law provides that the panel shall meet at least quarterly and that the sex offender assessment panel consist of three members, who are employees of the department selected by the secretary of the department. One member will be a licensed psychologist employed by the DPS&C. One member will be the secretary of the DPS&C who will serve as chairman. One member will be the warden of the institution where the offender is incarcerated. Assuming the Psychologist works approximately 2 days each quarter at \$150/hour (\$10,000), two full-time social workers are hired at \$60,000 each or a total of \$120,000, and allocating \$55,000 for other professional or legal services for the three member panel, it would cost approximately \$185,000 for professional services. Also, assuming the social workers would be traveling approximately twice a week for 50 weeks, \$15,000 has been estimated for travel. FY 2007-08 costs assume implementation for 2 months.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no effect on revenue collections of state or governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There is no estimated effect on costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

B.E. "Trey" Boudreaux, III
Undersecretary
0804#031

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Informal Disciplinary Proceedings (LAC 55:VI.1102)

In accordance with the provisions of Act 12 of the 2005 First Extraordinary Session, R.S. 40:1730:22(C) and (D), and R.S. 40:1730.34(B) relative to the authority of the Louisiana State Uniform Construction Code Council to promulgate and enforce rules, the Louisiana State Uniform Construction Code Council hereby proposes to enact a new rule under Chapter 11 to revise the informal disciplinary procedures against those building code enforcement officers and third party providers holding a certificate of registration.

Title 55

PUBLIC SAFETY

Part VI. Uniform Construction Code

Chapter 11. Disciplinary Proceedings

§1102. Informal Proceedings

A. Notice. If the council receives written information indicating that a person holding a Certificate of Registration (registrant) is violating or has violated any provision of R.S. 40:1730.21 et seq., or this Part, the council, after an informal investigation, by the council administrator or his/her designee, shall notify the registrant, in writing, of the findings of the informal investigation by the council administrator. The council administrator is authorized to conduct the informal investigation by telephone or site visit as deemed necessary by the council administrator. Furthermore, for complaints involving an immediate safety threat or dangerous condition, the council administrator shall notify, in writing, the local building official of the complaint. After presentation of a report by the council administrator, the council may, in writing, order the registrant to immediately cease the conduct or violation.

B. Response. The registrant after written informal notice from the council, shall respond in writing to the council's informal notice within 21 days of receipt by providing the council with a written statement containing any information related to the allegations of the informal notice which would show compliance with all requirements for retention or renewal of his/her certificate of registration. In lieu of providing a written statement, the registrant may request, in writing to the council administrator, an informal conference with the council chair, code enforcement advisory committee chair, council administrator, and legal counsel. In the event that a resolution to the matter is not accomplished during the informal procedures, the council administrator shall forward a report to the council for initiation of the formal procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) & (D) and 40:1730.34(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:293 (February 2007), amended LR 34:

Family Impact Statement

The Effect of This Rule on the Stability of the Family. This Rule will have no effect on the stability of the family.

The Effect of This Rule on the Authority and Rights of Parents Regarding the Education and Supervision of Their

Children. This Rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

The Effect of This Rule on the Functioning of the Family. This Rule will have no effect on the functioning of the family.

The Effect of This Rule on Family Earnings and Family Budget. This Rule will have no effect on family earning and family budget.

The Effect of This Rule on the Behavior and Personal Responsibility of Children. This Rule will have no effect on the behavior and personal responsibility of children.

The Effect of This Rule on the Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rules. This Rule will have no effect on the ability of the family or local government to perform the function as contained in the proposed Rule.

Interested persons may submit written comments or requests for public hearing on this proposed Rule change to Paeton Burkett, Attorney, Louisiana State Uniform Construction Code Council, at 7979 Independence Boulevard, Suite 106, Baton Rouge, LA 70806. Comments will be accepted through close of business June 10, 2008.

Jill Boudreaux
Undersecretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Informal Disciplinary Proceedings**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no anticipated implementation costs or savings to local governmental units. The proposed rule merely revises the informal disciplinary process against those building code enforcement officers holding a certificate of registration with the Louisiana State Uniform Construction Code Council.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Proposed rule change will not have an impact on local governmental units that are currently providing code enforcement. The rule is merely an internal operating guideline for the Uniform Construction Code.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Building code enforcement officers holding a certificate of registration with the Uniform Construction Code Council could be impacted in that this rule modifies the disciplinary procedure impacting those registrants. The extent of impact will be minor and no additional paperwork will be incurred as a result of the proposed rule change.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no impact upon competition and employment as the proposed rule merely changes the informal disciplinary process.

Jill Boudreaux
Undersecretary
0805#067

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue Office of Alcohol and Tobacco Control

Caterer's Permits (LAC 55:VII.325)

Under the authority of R.S. 26:71.1, 271.3 and/or 793, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Office of Alcohol and Tobacco Control, proposes to amend LAC 55:VII.325 relative to permit holders eligible to apply for and obtain Caterer's Permits.

This proposed amendment to the above-referenced Rule is offered under authority delegated by and at the direction of the Louisiana Legislature in its amendment and re-enactment of R.S. 26:793 to promulgate rules relative to issuance of Caterer's Permits.

Title 55

PUBLIC SAFETY

Part VII. Alcohol and Tobacco Control

Chapter 3. Liquor Credit Regulations

§325. Caterer's Permits

A. The Office of Alcohol and Tobacco Control may issue a Class A—Caterer's permit to persons who meet the qualifications and criteria of either Paragraph 1 or 2 below.

1. Holders of any Class A, B or C liquor or beer retail permit will be allowed to sell and serve alcoholic beverages, on a temporary basis, limited to three days in duration, at events other than on the premises for which the holder's regular permit is issued.

a. This holder of a Class A—Caterer's permit must use the permit in conjunction with their A, B or C liquor and/or beer permit and shall expire at the same time as the regular A, B or C permit.

b. If the regular Class A, B or C permit ceases to be valid for cause, the caterer's permit ceases to be valid.

2. Class B liquor or beer retail permit holders shall be subject to the following terms and/or conditions.

a. Class A—Caterer's permits shall only be issued to holders of a Class B liquor and/or beer retail permit whose primary purpose is the sale of alcoholic beverages.

b. Class B liquor or beer retail permit holders who applied for and obtained a Class A—Caterer's permit prior to August 20, 2008, shall not be subject to Subparagraph a above.

3. Persons who do not otherwise qualify for a retail dealer permit pursuant to the provisions of R.S. 26:71.1 or R.S. 26:271.2, but who operate a facility with a fully equipped kitchen where food is prepared for the purpose of catering functions, will be allowed to obtain a Class A—Caterer's permit under the following conditions.

a. This holder of a Class A—Caterer's permit must derive 70 percent of their gross annual revenue from the sale of food or food-related product, and 40 percent of the gross revenue per event must be derived from the sale of food or food-related product.

b. This holder of a Class A—Caterer's permit must maintain separate sales figures for alcoholic beverages.

c. Class A—Caterer's permits shall not be used in lieu of Special Event permits.

B.1. An application for a Class A—Caterer's permit shall be made on forms prescribed by the Commissioner of the Office of Alcohol and Tobacco Control.

2. A Class A—Caterer must display the permit on the premises of the event being catered.

3. A Class A—Caterer must only cater events in an area in which the sale of alcoholic beverages has been authorized by local option election and with permission from the local governing authority.

4. A Class A—Caterer must provide the Office of Alcohol and Tobacco Control with written notice of the date, time, and place of each catered event at least one week prior to the date of the event.

5. All alcoholic beverages at a catered event must be dispensed by the holder of the Class A—Caterer's permit or his employee, agent, or servant.

6. Class A—Caterers must comply with the provisions of the Responsible Vendor Program of R.S. 26:931 et seq.

7. The cost of the Class A—Caterer's permit is \$200 per year or any portion thereof; costs shall not be prorated.

8. Class A—Caterer permits shall be renewed annually in accordance with the provisions relative to all other retail permits, specifically R.S. 26:88 and 285 and LAC 55:VII.321.

C. Holders of a caterer's permit must specifically comply with provisions of R.S. 26:90, 26:91, 26:286 and 26:287 in addition to other provisions not exempted; however, exceptions are: when the holder of caterer's permit calls upon an industry member to serve an event; at events other than upon the premises for which the holder's regular permit is issued, the industry member must charge the holder of the caterer's permit for all equipment used and services rendered in an amount at least equal to that listed as follows:

1. labor—at a rate equal to that required as a minimum wage under the Federal Wage and Hour Act;

2. self contained electric units in which the beer container is refrigerated with the unit—\$25 per day;

3. electric unit in which the beer container sits outside the cooling unit—\$25 per day;

4. picnic pumps—\$10 per day or may be sold to the permit holder in accordance with Paragraph 9 below;

5. tubs—\$10 per day or may be sold to the permit holder in accordance with Paragraph 9 below;

6. cold plates—\$25 per day;

7. trucks designed to handle packaged beer without refrigeration—\$30 per day;

8. refrigerated trucks designed to handle packaged or draught beer or mobile units such as trailers or other vehicles designed to handle package or draught beer—\$100 per day;

9. cups, ice, additional CO₂ gas, gas picnic pumps, tubs and similar supplies and equipment—cost to industry member;

10. alcoholic beverages—at the price available to all other retail dealers in alcoholic beverages;

11. stages, including labor to erect—\$200 per day; and

12. tents, including labor to erect:

a. 12' x 12' or smaller—\$30 per day;

b. larger than 12' x 12'—\$50 per day.

D. Any violation of these regulations or causes enumerated in Title 26 of the Louisiana Revised Statutes shall subject the retailer to revocation, suspension, or withholding of his alcoholic beverage permits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:71.1, 271.3 and/or 793.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Alcoholic Beverage Control, LR 19:904 (July 1993), amended by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 26:2631 (November 2000), LR 34:

Family Impact Statement

1. The Effect on the Stability of the Family. Implementation of this proposed amendment will have no effect on the stability of the family.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. Implementation of this proposed amendment will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect on the Functioning of the Family. Implementation of this proposed amendment will have no effect on the functioning of the family.

4. The Effect on Family Earnings and Budget. Implementation of this proposed amendment will have no effect on family earnings and budget.

5. The Effect on Behavior and Personal Responsibility of Children. Implementation of this proposed amendment will have no effect on behavior and responsibility of children.

6. The Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rule. Implementation of this proposed amendment will have no effect on the ability of the family or local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Commissioner Murphy J. Painter, Office of Alcohol and Tobacco Control, 8585 Archives Avenue, Suite 220, Baton Rouge, LA 70809; P.O. Box 66404, Baton Rouge, LA 70896-6404; or via facsimile to (225) 925-3975. All comments must be submitted by 4:30 p.m. on Friday, June 20, 2008. A public hearing will be held on Friday, June 27, 2008 at 3:30 p.m. in the Office of Alcohol and Tobacco Control Hearing Room at 8549 United Plaza Boulevard, Second Floor, Baton Rouge, LA.

Murphy J. Painter
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Caterer's Permits

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Promulgation of this amendment will not result in any costs to state or local governmental units, nor is it likely to result in any savings to any such units; rather, this proposed rule seeks to codify and/or clarify policy that is already in place relative to parties eligible to obtain Class-A Caterer's permits. This proposed amendment adds holders of the newly-created Class-C retail alcoholic beverage permit to those eligible to apply for and receive a Class-A Caterer's permit. This proposed rule further provides that only bona fide Class-B package stores are eligible for Class-A caterer's permits.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Promulgation of this proposed rule will not affect revenue collections of state or local governmental units whatsoever.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Promulgation of this proposed rule will not result in any costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Promulgation of this proposed rule should have no impact on competition among holders of Class-A, B and C retail alcoholic beverage permits.

Murphy J. Painter
Commissioner
0805#073

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue Office of Alcohol and Tobacco Control

Regulation Number XI—Fairs, Festivals and Special Events (LAC 55:VII.323)

Under the authority of R.S. 26:793, and in accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., the Department of Revenue, Office of Alcohol and Tobacco Control, proposes to promulgate LAC 55:VII.323 relative to issuance of three-day Special Event Permits to non-profit and for profit organizations and furnishing of tents and/or staging therefor.

This proposed Rule is being promulgated with authority delegated by and at the direction of the Louisiana Legislature in its amendment and re-enactment of R.S. 26:793 to promulgate rules relative to issuance of three-day Special Event Permits to organizations authorizing temporary sales and/or service of alcoholic beverages to the public.

Title 55

PUBLIC SAFETY

Part VII. Alcohol and Tobacco Control

Chapter 3. Liquor Credit Regulations

§323. Regulation Number XI—Fairs, Festivals and Special Events

A. For purposes of this regulation, special events are defined as events, held at any location, where alcoholic beverages are served as an incidental part of the event for payment rendered or are supplied as a part of a general admission or other type fee.

B. For such events, this office will issue a special temporary retail alcoholic beverage permit. These permits will be for a maximum duration of three consecutive days only, and no more than 12 such permits shall be issued to any one person within a single calendar year.

1. There shall be three types of temporary alcoholic beverage permits—Type A, Type B and Type C.

a. Type A permits will be issued only to non-profit organizations with tax exempt status under the United States Internal Revenue Code, Sections 501(c)(3) and 501(c)(8). To qualify for this permit, applicants must submit written proof of their tax exempt status, a copy of a local permit or letter from the local governing authority granting their permission to sell alcoholic beverages, a valid lease, contract or written permission of the owner of the property upon which the

event is to be held if the property is not owned by the applicant and a completed, notarized application form. Type A permits shall be issued without charge by the Office of Alcohol and Tobacco Control.

b. Type B permits will be issued only to non-profit organizations which are able to provide some type of written proof of their non-profit status, but are unable to show written proof of their tax exempt status under the Internal Revenue Code sections cited above. To qualify for this permit, applicants must submit the same documentation as for Type A permits, substituting the written proof of non-profit status for the written proof of tax exempt status. Applicants for Type B permits will be assessed a \$10 handling fee to cover the cost of processing the application.

c. Type C permits will be issued to persons holding limited events where alcoholic beverages are sold or supplied as part of a general admission or other type fee, but who do not meet the requirements for Type A or Type B temporary permits. To qualify for a Type C temporary permit, applicants must meet the qualifications required of permit holders under R.S. 26:80 and R.S. 26:280 and must submit a copy of a local permit or letter from the local governing authority granting their permission to sell alcoholic beverages, a valid lease or contract with the owner of the property on which the event is to be held if it is not owned by the applicant and a completed, notarized application form. A \$100 fee will be assessed to cover the cost of handling the Type C permit application.

2. Class A—Caterer's permits shall not be utilized in lieu of Special Event permits.

C. The holders of temporary special event permits may return unused product at the conclusion of the event for cash or credit refund.

D. The provisions of R.S. 26:90 and 26:286 shall apply to all special events for which temporary permits are issued under this regulation, and violations are punishable as provided for under the provisions of Title 26 of the Revised Statutes. The provisions of R.S. 26:81 and 26:281 shall not apply to special event permits.

E. The provisions of R.S. 26:287(9) and Regulation IX dealing with unfair business practices shall not apply to the holders of Type A and Type B special event permits, except as provided in Subsection F below, but shall fully apply to the holders of Type C special event permits.

F.1. When the holder of a special event permit of any type calls upon an industry member to service an event, the industry member must charge the permit holder for all equipment used and services rendered in an amount at least equal to that listed as follows:

- a. labor—at a rate equal to that required as a minimum wage under the Federal Wage and Hour Law;
- b. self contained electric units in which the beer container is refrigerated within the unit—\$25 per day;
- c. electric unit in which the beer container sits outside the cooling unit—\$25 per day;
- d. picnic pumps—\$10 per day or may be sold to the permit holder in accordance with Subsection j below;
- e. tubs—\$10 per day or may be sold to the permit holder in accordance with subsection j. below;
- f. cold plates—\$25 per day;

g. trucks designed to handle packaged beer without refrigeration—\$30 per day;

h. refrigerated trucks or mobile units such as trailers or other vehicles designed to handle package or draught beer—\$100 per day;

i. cups, ice, additional CO₂ gas, gas picnic pumps, tubs and similar supplies and equipment—cost to industry member;

j. alcoholic beverages—at the price available to all other retail dealers in alcoholic beverage;

k. stages, including labor to erect—\$200 per day; and

l. tents, including labor to erect:

i. 12' x 12' or smaller—\$30 per day;

ii. larger than 12' x 12'—\$50 per day.

2. Equipment such as that listed above may not be furnished to regular licensed retail dealers unless the dealer acquires a temporary special event permit. Equipment may not be provided by a wholesaler for functions where no permit is issued but beer is acquired from a retail dealer, such as private parties or receptions.

AUTHORITY NOTE: Promulgated in accordance with La. R.S. 26:793.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Alcoholic Beverage Control, LR 17:606 (June 1991), amended LR 34:

Family Impact Statement

1. The Effect on the Stability of the Family. Implementation of this 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. Implementation of this 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. Implementation of this proposed Rule will have no effect on the functioning of the family.

4. The Effect on Family Earnings and Budget. Implementation of this proposed Rule will have no effect on family earnings and budget.

5. The Effect on Behavior and Personal Responsibility of Children. Implementation of this proposed Rule will have no effect on behavior and responsibility of children.

6. The Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rule. Implementation of this proposed Rule will have no effect on the ability of the family or local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Commissioner Murphy J. Painter, Office of Alcohol and Tobacco Control, 8585 Archives Avenue, Suite 220, Baton Rouge, Louisiana 70809; P.O. Box 66404, Baton Rouge, Louisiana 70896-6404; or via facsimile to (225) 925-3975. All comments must be submitted by 4:30 p.m. on Friday, June 20, 2008. A public hearing will be held on Friday, June 20, 2008 at 3 p.m. in the Office of Alcohol and Tobacco Control Hearing Room at 8585 Archives Avenue, Second Floor in Baton Rouge, Louisiana.

Murphy J. Painter
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Regulation Number XI
Fairs, Festivals and Special Events**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Promulgation of this rule will not result in any costs to state or local governmental units, nor is it likely to result in any savings to any such units; rather, this rule seeks to codify and/or clarify policy that is already in place relative to parties eligible to obtain Type A and/or B Special Event Permits.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Promulgation of this rule will not affect revenue collections of state or local governmental units whatsoever.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Promulgation of this rule will not result in any costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Promulgation of this rule should have no impact on competition among bona fide non-profit organizations, but should prevent bona fide non-profit organizations from having to compete with for-profit organizations. Promulgation of this rule should have no impact on employment, as holders of Type A, B and C Special Event Permits are subject to the same rules and/or regulations relative to employment of persons to assist in the sale and/or service of alcoholic beverages.

Murphy J. Painter
Commissioner
0805#072

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Revenue
Policy Services Division**

Income and Franchise Tax (LAC 61:I.1911)

Under the authority of R.S. 47:6016, R.S. 47:287.785, and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to adopt LAC 61.I.1911.

This Notice of Intent was originally published in the February 2008, issue of the *Louisiana Register*. However, R.S. 47:6016 was amended in the 2008 Second Extraordinary Session, which occurred before this proposed Rule could become final. Therefore, this notice has been revised to reflect the amendments to R.S. 47:6016.

Title 61

REVENUE AND TAXATION

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

**Chapter 19. Miscellaneous Tax Exemptions, Credits
and Deductions**

§1911. Louisiana New Markets Tax Credit

A. Application Process for New Markets Tax Credits

1. A taxpayer may apply for Louisiana New Markets Tax Credits by submitting a Private Letter Ruling request to the Department of Revenue, Policy Services Division.

2. If a taxpayer is entitled to the credit, a ruling and a Tax Credit Summary Sheet will be issued to the taxpayer.

a. The Tax Credit Summary Sheet will include:

- i. the Private Letter Ruling number;
- ii. the investor and entity type;
- iii. if the entity is an LLC or partnership, the investor's membership interest;
- iv. the amount invested;
- v. the amount intended to be invested;
- vi. the amount of credits;
- vii. the initial credit allowance date;
- viii. the anniversary dates;
- ix. name of the community development entity;
- x. name of the qualified low-income business, if available; and
- xi. number of credit allowance dates.

b. The Tax Credit Summary Sheet will also include a section that must be updated each time the credit is transferred. This section will include:

- i. the original investor;
- ii. the transferor;
- iii. the transferee;
- iv. all applicable Louisiana tax identification numbers;
- v. the amount of credits previously claimed or sold by transferor and/or investor;
- vi. the transferor's original tax credit balance;
- vii. the transferor's tax credit balance after transfer;
- viii. the amount being transferred;
- ix. nature of transfer, currently available credits or future credits;
- x. if currently available credits, from which credit allowance date; and
- xi. purchase amount.

3. A Louisiana taxpayer that earned the credit must attach the Tax Credit Summary Sheet to their income or franchise tax return to claim the credit.

4. A Louisiana taxpayer that purchases the credit must attach the New Markets Transfer Form, issued by the transferor, to their return to claim the credit. The New Markets Transfer Form is available from the department's website, www.revenue.louisiana.gov.

B. Claiming the New Markets Tax Credit

1. New Markets Tax Credits earned by a taxpayer or received by taxpayer by flow-through from a partnership or LLC may be applied as follows.

- a. Credits may be applied to the tax year in which the credit allowance date occurred.
- b. Credits may not be applied to penalties and interest.
- c. Prior year returns that include the credit allowance date may be amended to apply credits.
- d. Credits may be applied against taxes paid in a prior year and the taxes paid may be refunded. However, the New Markets Tax Credit is nonrefundable and credits in excess of the tax paid in a prior year can only be carried forward in accordance with R.S. 47:6016(D).

e. Credits from qualified equity investments made on or after April 1, 2008, cannot be claimed on any return or prior year return that was due before 2009.

2. New Markets Tax Credits transferred by sale to a taxpayer may be applied as follows.

a. Credits may be applied to a prior year's outstanding tax liability, including penalties and interest, as provided by R.S. 47:1675(H)(1)(c).

b. A taxpayer that purchases the credits may not amend their prior year returns to claim credits where no liability is currently outstanding and therefore trigger a refund.

c. Credits purchased from qualified equity investments made on or after April 1, 2008, cannot be claimed on any return or prior year return that was due before 2009.

C. Limitations on the New Markets Tax Credit

1. New Markets Tax Credits from qualified equity investments issued prior to July 1, 2007, are subject to an annual \$5,000,000 cap applicable to the total New Markets Tax Credits issued for the year. Once the cap is reached, no other credits will be granted that year.

2. New Markets Tax Credits from qualified equity investments issued after July 1, 2007, but before April 1, 2008, are subject to a \$50,000,000 cap on the entire New Markets Credit program.

3. New Markets Tax Credits from qualified equity investments issued after April 1, 2008, shall be allowed as follows:

a. during the period beginning April 1, 2008, and ending December 31, 2008, \$25,000,000;

b. during the period beginning January 1, 2009, and ending December 31, 2009, \$12,500,000 plus any unissued credits from the prior period;

c. during the period beginning January 1, 2010, and ending December 31, 2010, \$12,500,000 plus any unissued credits from the prior periods; and

d. during periods beginning January 1, 2011 and after, credits shall be limited to only unused credits from prior years.

D. Additional Requirements and Limitations for Credits Issued after April 1, 2008, Pursuant to Act 4 of the 2008 Second Extraordinary Session.

1. Private Letter Ruling requests for credits must include in the statements of facts:

a. the name of the original investor;

b. a detailed description and the location of the qualified low-income business;

c. the total amount of the qualified equity investment; and

d. the total amount of Louisiana New Markets Tax Credits earned.

2. To be issued credits on qualified low-income investments that exceed \$5 million, the Department of Economic Development must certify that the qualified low-income investment was made to a business in a targeted industry. Private Letter Ruling requests for credits from qualified low-income investments exceeding \$5 million will be accepted by the department without certification from the Department of Economic Development if the taxpayer asserts in the statement of facts that the certification has been requested. However, the Private Letter Ruling will not be issued to the taxpayer until the department receives a copy of the certification letter from the Department of Economic Development.

E. New Markets Tax Credits Transfer Process

1. Any New Markets Tax Credits not previously claimed by a taxpayer against their income or franchise tax may be transferred or sold.

2. The original investor that is transferring credits must send an updated Tax Credit Summary Sheet separately to the Department of Revenue within 30 days of the sale. The original investor should also include a New Markets Transfer Form with closing documents to the transferee.

3. The transferee must submit the New Markets Transfer Form with their income or franchise tax return to claim the credits.

4. Any transferor, other than the original investor, should use a New Markets Transfer Form to transfer credits to another Louisiana taxpayer and send a copy of the form to the department within 30 days of the sale.

AUTHORITY NOTE: Promulgated in accordance with R.S.47:6016, R.S.47:287.785, and R.S.47:1511.

HISTORICAL NOTE: Adopted by the Department of Revenue, LR 34:

Family Impact Statement

This Family Impact Statement is provided as required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature.

1. Implementation of this proposed Rule will have no effect on the stability of the family.

2. Implementation of this proposed Rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. Implementation of this proposed Rule will have no effect on the functioning of the family.

4. Implementation of this proposed Rule will have no effect on the behavior and personal responsibility of children.

5. Implementation of this proposed Rule will have no effect on the ability of the family or a local government to perform this function.

Interested persons may submit written data, views, arguments, or comments regarding this proposed Rule to Michael D. Pearson, Director, Policy Services Division, by mail to P.O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to (225) 219-2759. All comments must be received no later than 5 p.m., Monday, July 23, 2008. A public hearing will be held on Tuesday, July 24, 2008, at 10:30 a.m. in the River Room, on the seventh floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA 70802.

Cynthia Bridges
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: **Income and Franchise Tax**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will have no implementation costs to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Act 4 of the 2008 2nd Extraordinary Session added another \$50 million in aggregate tax credit over the life of the New

Markets Tax Credit program, but restricted the amounts to the following each calendar year: \$25 million through 2008, \$12.5 million during 2009, and \$12.5 million during 2010. However, current law provides that credits issued can only be taken against tax liabilities in the following percentages over three years: 40% 1st year, 40% 2nd year, and 20% the 3rd year. Thus, state general fund revenues will decline by approximately the following amounts due to tax credits granted by Act 4 and the proposed rule change: Fiscal Year 2008-09 (\$10 million), Fiscal Year 2009-10 (\$15 million), Fiscal Year 2010-11 (\$15 million), Fiscal Year 2011-12 (\$7.5 million) and Fiscal Year 2012-13 (\$2.5 million). The proposed rule change will have no effect on revenue collections of local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The New Markets Tax Credit program exists to create investment into urban and rural low-income areas to help finance community development projects, stimulate economic growth and create jobs. As such, companies operating in these areas within the program requirements will receive a subsidy in the form of a tax credit.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Other projects competing for economic resources with projects participating in the program may be adversely affected or face higher costs than otherwise. Companies with participating projects will employ individuals. However, the aggregate level of economy wide employment is not likely to be materially affected.

Cynthia Bridges
Secretary
0805#063

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Social Services
Office of the Secretary
Bureau of Licensing**

Child Residential Regulations (LAC 67:I.Subpart 2)

The Department of Social Services, Office of the Secretary, Bureau of Residential Licensing proposes to amend the Louisiana Administrative Code, Title 67, Part I, Subpart 2, Residential Licensing. This Rule is mandated by R.S. 46:1401 et seq.

As noted in the Rule published in the December 2007 issue of the *Louisiana Register*, LAC 48.I.Chapters 53, 57, 61, 62, 71, and 79 were moved to LAC 67.I and III and renumbered as follows:

Previous Placement	Current Placement
Title 48	Title 67
Part I	Part I
Chapter 57	Chapter 11
Chapter 61	Chapter 13
Chapter 62	Chapter 15
Chapter 71	Chapter 17
Chapter 79	Chapter 19
	Part III
Chapter 53	Chapter 73

Additional renumbering of the chapters within Title 67, Part I, Subpart 2, Residential Licensing is necessary to better organize this portion of the code. The following changes are being proposed.

Current Chapters Effected by December 2007 Rule	Proposed Chapters
Title 67	Title 67
Part I	Part I
	Chapter 9. Administration
Chapter 11. Emergency Shelters	Chapter 11. Child Residential Care
Chapter 13. Foster Care	Chapter 13. Emergency Shelter Program
Chapter 15. Transitional Living	Unchanged
Chapter 17. Maternity Home	Unchanged
Chapter 19. Child Residential Care	Chapter 19. Specialized Intensive Program
	Chapter 21. Infant/Parenting Program
	Chapter 23. Therapeutic Wilderness Program

Chapter 9, Administration, would be adopted to promulgate general information concerning the licensing process, core standards, appeals process, and definitions. Chapter 19, Child Residential Care, would be divided into four separate chapters; Chapter 11. Child Residential Care, Chapter 19. Specialized Intensive Program, Chapter 21. Infant/Parenting Program, and Chapter 23. Therapeutic Wilderness Program. Chapter 19 would also incorporate the information in Chapter 13 Foster Care. Chapters 15 and 17 would not be amended.

The regulations in LAC 67:I.Subpart 2 are being amended to supersede any previous regulations heretofore published.

Title 67

SOCIAL SERVICES

Part I. Office of the Secretary

Subpart 2. Residential Licensing

Chapter 9. Administration

§901. Applicability and Penalties/Enforcement

A. Applicability

1. Any provider or person engaged in providing temporary care for children who are not related to the operators within Louisiana is required to be licensed as a child care facility in Louisiana. Child care facility includes community homes, group homes, emergency shelters, and residential homes and modular programs, including infant/parenting, specialized providers, and therapeutic wilderness.

2. A child care facility that is operated in conjunction with other program types which require a license shall obtain a license for each of the programs.

B. Penalties/Enforcement

1. The Child Care Facilities and Child-Placing Agencies Licensing Act, R.S. 46:1401 et seq., the department's authority regarding licensing, provides for penalties and means of enforcement as follows.

a. Whoever operates as a child care facility as defined herein without a valid license shall be fined not less than \$75 nor more than \$250 for each day of such offense.

b. If any child care facility operates without a valid license issued by the department, the department may file

suit in the district court in the parish in which the facility is located for injunctive relief, including a temporary restraining order, to restrain the institution, society, provider, corporation, person or persons, or any other group operating the facility from continuing the violation.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 34:

§903. Licensing Process

A. Application for a License

1. Prior to beginning operation, the child care facility shall obtain an application from the Bureau of Residential Licensing within the Department of Social Services and shall submit the required documents, application fee and application.

2. An applicant provider shall provide to the bureau the required documents and licensure fee as stated on the application and have an on-site visit by licensing staff.

3. Fees are based on program type and licensed capacity.

Type of Program	Fee for 0 to 3 Children	Fee for 4 to 6 Children	Fee for 7 to 15 Children	Fee for 16 or More Children
Child Residential		\$400	\$500	\$600
Specialized Intensive		\$400	\$500	\$600
Therapeutic Wilderness		\$400	\$500	\$600
Emergency Shelter	\$100		\$200	\$300
Infant/Parenting	\$50 for any capacity			

a. An applicant provider shall be inspected and determined to be in compliance with all regulations prior to receiving a license for a new operation. The license is non-transferable to another person or location. A provider who fails to be in compliance with all regulations may have its application denied.

4. When a facility changes location, it is considered a new operation and a new application and fee for licensure shall be submitted. All requirements for new facilities including approvals of other jurisdictional bodies (including but not limited to state fire and health, local zoning or permit authorities, etc.) shall be in compliance for the new location. The application and fee for the new location must be submitted at least 30 days prior to the change of location. An exception may be approved in the event of emergencies such as a hurricane which necessitates re-location providing the facility complies with all applicable standards in Paragraph 1107.A.8.

5. A change in ownership requires a new application and only the licensure fee which is to be submitted within three business days after the change. Approvals of other jurisdictional agencies shall be current. Documentation is required from the previous owner confirming the change of ownership, (i.e., letter from previous owner, copy of bill of sale or a lease agreement.)

6. If a licensee or applicant or an affiliate of a licensee or applicant has had a previous license revoked, refused or denied, upon reapplication, the applicant shall provide written evidence that the reason for such revocation, refusal

or denial no longer exists prior to reapplication. Submission of such evidence does not ensure issuance of a new license.

B. License

1. The license, as defined herein, must be conspicuously displayed at the facility. The most recent annual survey and follow-up survey, if any must be made available for inspection to any person requesting them.

C. License Renewal

1. The provider shall submit at least 60 days prior to its license expiration date a renewal form and the required documentation and renewal fee listed on the renewal form.

2. The minimum requirements for license renewal are:

a. the child care facility's submittal of the renewal form, required documentation, and renewal fee;

b. an annual survey showing the facility is in substantial compliance with these regulations and there is no threat to the health, safety or well-being of children in care;

c. current approval from state fire and health officials;

d. proof of all required current insurance in force at all times, including a comprehensive general liability insurance policy and including automobile coverage of employees who provide transportation for children in the course and scope of their employment;

e. proof of current accreditation for facilities in deemed status.

3. A license is issued for a one-year term. The month of issuance of the initial license becomes the anniversary month for renewals.

D. Licensing Survey

1. A licensing survey is to determine the degree of a provider's compliance with this rule as determined by the rating system described at §903.F.

2. A provider will receive a licensing survey annually which may occur three months prior to or after the anniversary date when it is due for license renewal.

3. The bureau may schedule a licensing survey more frequently as it deems necessary based on the child-residential provider's performance and/or in response to investigation of complaints regarding the provider. The provider under review will develop a Quality Improvement Plan with timelines for completion when it is found not to be in compliance with these regulations and/or in response to an investigation of a complaint. If the provider serves children in state custody, the Bureau of Licensing field staff will notify the Office of Community Services and Office of Juvenile Services of the quality improvement plan and the provider's licensing status.

E. Deeming through Accreditation

1. Licensing reviewers may accept certain non-mandatory sections of standards as being deemed to be in compliance in provider programs that have a current accreditation from a DSS-approved accrediting body which periodically inspects the facility for compliance with a standard which is as stringent or more stringent than the deemed standard and when the accredited facility has had no substantial licensing violations during the past three years that affect the health, safety, morals, or welfare of children served by the accredited program. Deeming is available only to programs that have received prior written approval for deeming from the Bureau of Residential Licensing.

a. Critical and significant regulations may be deemed when the accrediting agency's own requirements are equal to or more stringent than those of DSS and the accrediting agency conducts periodic on-site inspection to ensure compliance with those regulations.

b. Mandatory regulations are not deemed.

c. Deemed standards do not require annual review by the DSS Licensing reviewer. Deemed standards may be counted as being in compliance, when appropriate accrediting exists and the facility's three-year history shows substantial compliance.

d. The Bureau of Residential Licensing will obtain a copy of a confirmation letter from the approved accrediting provider that the provider is fully accredited and in good standing. The provider will provide to the Bureau of Residential Licensing a copy of any reports/self-assessments it prepares and submits to its accrediting body in preparation for the accreditation review.

e. The Bureau of Residential Licensing retains the right to conduct a full review of anything it has concerns about which may become known during a review or at any other time.

f. Deemed status is valid for up to two years and shall be reviewed by the Bureau of Residential Licensing through a full inspection at the end of the deeming period.

g. If there are licensing violations in deemed or non-deemed sections that affect the health, safety, morals or welfare of the children served, the facility will be removed from deemed status and a full license study shall be conducted.

F. Regulations

1. The non-mandatory standards within this rule are rated on-site using the rating indicators provided with each standard. The rating of a standard follows a review of any information and/or documents identified as evidence for compliance in conjunction with any interpretation provided with the standard. These elements are identified by the annotation following each standard.

2. The compliance rating scale for an individual standard is usually made up of a graduated scale of four choices with ratings of 1 to 4, although a few standards will be rated with fewer rating options. Standards are rated on the degree of implementation of the standard by the provider, i.e., 1 is full implementation and 2 is substantial implementation, both of which equal compliance with the standard while 3 is partial implementation and 4 is unsatisfactory implementation, both of which equal non-compliance with the standard. The licensing specialist uses a combination of knowledge of this rule, professional judgment and experience, and the information provided by the provider under review to assign a rating for the degree of implementation of an individual standard from the scale provided for the standard. In addition to the numerical rating, the licensing specialist will provide a written basis for any rating of 2, 3 or 4 in the comment space provided below the standard in order for the provider to narrowly focus its efforts for improvement.

3. A formal Quality Improvement Plan will be required of a provider found with standards rated at the 3 and 4 level. During the process of review the provider will have an opportunity to supplement its information for some standards rated at less than 1 during a minimum period of

two business days from the start of the survey up to the conclusion of the licensing survey. This provision provides fairness in the legally required unannounced review process by allowing a provider a brief grace period to provide information that may be in existence but unavailable at the initiation of the licensing survey and/or when the standard is rated. The general rule on supplementation is that documentation may be provided to show that the provider has met the standard. An example would be that it is permissible to obtain documentation of a treatment plan that was previously developed for a child in order to improve a rating on a standard about treatment plans. However, it would not be acceptable to create a treatment plan for the child's record in order to comply with the standard on treatment plans. The interpretation given with a standard provides guidance on what is acceptable supplementation.

4. An over-sample of 10 to 20 records is selected to allow for a sufficient number of records for reading to minimize the effect of not-applicable situations. Some records pulled for the sample will not be usable if they have not been open long enough to meet the time periods generally required in the standards. A sample of records open for twelve to eighteen months preceding the survey should be current enough to meet the requirements of the rule and also have enough time open to be rated generally on most of the standards. A statistically sound sample is drawn according to size of the provider and the universe of records available for consideration. The general rule is that at least 20 cases should be read in order to obtain an accurate picture of the provider's work. If the provider has a licensed capacity of less than 30 children, a 100 percent record review of whatever size shall be done. A personnel record sample should include at least ten records or all records if the provider has 10 or fewer personnel in direct care worker and/or supervisor positions. Other standards will be rated using samples pulled focusing on specific areas. A reading sample should be identified as early in the survey process as possible as the provider being surveyed shall be provided a 24-hour period from the identification of the sample to locate and assemble the records or other documents for review. The random sample of names of provider staff required for reviewing material such as training records should also be identified as early as possible to aid the provider in locating the information on a timely basis.

5. Some standards will be rated following a sample reading of records. The goal of the sample reading is to provide a snapshot in time of the provider's practice. The evidence of compliance statement advises in italics when a record review is involved in the rating of a standard. Each standard is rated on the degree of implementation of the standard by the provider, i.e., 1 is full implementation and 2 is substantial implementation, both of which equal compliance with the standard while 3 is partial implementation and 4 is unsatisfactory implementation, both of which equal non-compliance with the standard. The licensing specialist uses a combination of knowledge of this rule, professional judgment and experience, and the information provided by the provider under review, to assign a rating for the degree of implementation of an individual standard from the scale provided for the standard.

6. Some standards are noted with cumulative record review. Once the sample cases are read, a single rating is

determined for each specific standard by averaging all the rates for the particular standard which were determined from the cases read. For a specific standard, the number of ratings at a 1 or a 2 level will be divided by the total number of ratings completed from the cases read for that standard in order to determine a percentage. The percentage determines the rating level for the entire specific standard.

a. 90 percent or more of ratings on a standard at a level of 1 or 2 will result in a rating of 1 on that standard for a provider.

b. 80-89 percent of the ratings on a standard at a level of 1 or 2 will result in a rating of 2 on that standard for a provider.

c. 70-79 percent of the ratings on a standard at a level of 1 or 2 will result in a rating of 3 on that standard for providers.

d. Less than 70 percent of the ratings being at a level of 1 or 2 will result in a rating of 4 on that standard for the provider.

7. This rating system uses a compact number of standards aimed at sound provider operation, fundamental safety of children served, preservation of client rights, and basic service practice most likely to result in a good outcome. To determine the providers overall standing on the total regulations, weighted standards provide integrity in a rating system using a smaller number of standards. Each standard's weight is designated as M for mandatory, C for critical, or S for significant.

a. Mandatory standards require a rating of a 1-full compliance or a 2-substantial compliance on at least 95 percent of the standards in the mandatory grouping applicable to a provider.

b. Critical standards require a rating of a 1-full compliance or a 2-substantial compliance on at least 90 percent of the standards in the critical grouping applicable to a provider.

c. Significant standards require a rating of 1-full compliance or a 2-substantial compliance on at least 80 percent of the standards in the significant grouping applicable to a provider.

8. When determining how many standards are required to meet a level, only the whole number will be used and any part less than a whole number will be dropped for simplifying this part of the process. A provider achieving percentage levels as noted previously for the standards applicable to it under this rule meets the condition for licensing.

G. Denial, Revocation, or Non-Renewal of a License

1. Even if a facility is otherwise in substantial compliance with these regulations, an application for a license may be denied, revoked or not renewed for any of the following reasons:

a. the owner, director, officer, board of directors member, or any person designated to manage or supervise the provider has been convicted of or pled guilty or nolo contendere to any felony, any offense of a violent or sexual nature, or any offense involving a juvenile victim. A copy of a criminal record check performed by the Louisiana State Police or other law enforcement provider, or by the FBI, or a copy of court records in which a conviction or plea occurred, indicating the existence of such a plea or conviction shall

create a rebuttals presumption that such a conviction or plea exists;

b. a provider, after being notified that an officer, director, board of directors member, manager, supervisor or any employee has been convicted of or pled nolo contendere to any offense referenced above, allows such officer, director, or employee to remain employed, or to fill an office of profit or trust with the provider. A copy of a criminal record check performed by the Louisiana State Police or other law enforcement provider, or by the FBI, or a copy of court records in which a conviction or plea occurred, indicating the existence of such a plea or conviction shall create a rebuttable presumption that such a conviction or plea exists;

c. cruelty or indifference to the welfare of the children in care;

d. disapproval from any agency whose approval is required for licensure;

e. nonpayment of licensure fees timely or failure to submit a licensure application timely;

f. any validated instance of child abuse, corporal punishment, physical punishment, or cruel, severe or unusual punishment if the owner is responsible or if the staff member who is responsible remains in the employment of the licensee or if the owner failed to prevent foreseeable abuse or neglect or failed to take appropriate remedial action immediately after learning of the abuse or neglect;

g. the facility is closed with no plans for reopening and no means of verifying compliance with minimum standards for licensure;

h. any act of fraud such as falsifying or altering documents required for licensure or defrauding or attempting to defraud the state of Louisiana or any of its agencies or political subdivisions;

i. failure of the owner, director or any employee to report a known or suspected incident of abuse or neglect to child protection authorities;

j. the owner or director of the provider is not reputable;

k. the owner, director or a member of the staff is temperamentally or otherwise unsuited for the care of children;

l. failure to provide adequate care and supervision to any children in care;

m. failure to comply with any provision of state or federal law intended to protect the public health or safety;

n. failure to comply with any provision of state or federal law relating to providing care of children;

o. revocation or non-renewal of a previous license issued by a state or federal provider;

p. a substantial history of non-compliance with licensing statutes or regulations, including but not limited to failure to take prompt action to correct deficiencies, repeated citations for the same deficiencies, or revocation or denial of any previous license issued by the department;

q. failure to timely submit an application for renewal or to timely pay required fees; and/or

r. operating any unlicensed facility and/or program.

2. If a license is revoked, denied or refused, a license may also be denied or refused to any affiliate of the licensee or applicant. For the purpose of this section, "affiliate" means:

a. with respect to a partnership, each partner thereof;

b. with respect to a corporation, each officer, director and stockholder thereof; and

c. with respect to a natural person: anyone related within the third degree of kinship to that person; each partnership and each partner thereof which that person or any affiliate of that person is a partner; and each corporation in which that person or any affiliate of that person is an officer, director or stockholder.

3. Once a decision is made to recommend the denial, revocation or refusal to renew a license, the department shall notify the Child Care Committee in writing of its recommendation. If the Committee fails or refuses to reach a decision on the recommendation within 30 days of receipt, the recommendation of the department becomes the official action of the Child Care Committee. The department shall proceed with its action and notify the applicant or licensee in writing of the action taken and the reasons for that action.

H. Appeal Procedure

1. The provider administrator, owner, or designated agent may appeal this decision by submitting a written request with the reasons to the Bureau of Appeals within the department as directed in the certified letter notifying of the adverse decision. This written request shall be postmarked within 30 days of the receipt of the certified letter notifying of the adverse decision. Receipt of the certified letter by the child care facility shall be presumed to have occurred 7 days after the mailing of the letter to the address on the most recent application/renewal form on file with the Bureau of Licensing.

2. The Bureau of Appeals shall set a hearing to be held within 30 days after receipt of such a request.

3. An Appeals Hearing Officer shall conduct the hearing. Within 90 days after the date the appeal is filed, the Hearing Officer shall advise the appellant by certified letter of the decision, either affirming or reversing the original decision. If the license is refused or revoked, the child care facility shall terminate operation immediately except that in the case in which children remain in the provider's care, the provider shall work with the department to assure the least disruptive transfer of children and records to other placements.

4. If the child care facility continues to operate without a license, the department may file suit in the district court in the parish in which the provider is located for injunctive relief.

I. Exigent Circumstances. The department may take action as it deems necessary to extend a license and/or licensing survey of a provider that has been impacted by a catastrophic event including but not limited to fire, flood, hurricane, or other major disaster for a reasonable period of emergency response and recovery. The department will work with such a provider to stabilize its program, will be guided by the best interests of the children in care, and will closely monitor provider efforts to return to normal operating circumstances.

J. Waivers

1. The secretary of the department, in specific instances, may waive compliance with a minimum standard upon determination that the economic impact is sufficiently great to make compliance impractical, as long as the health,

safety, and well-being of the staff and/or children is not imperiled. If it is determined that the facility or provider is meeting or exceeding the intent of a standard or regulation, then the standard or regulation may be deemed to be met.

2. The secretary or designee may upon written request of a provider waive or modify a provision of these standards, unless it is mandated by Louisiana law, upon clear and convincing evidence showing the proposed alternative will comply with the intent of the standard being waived. The secretary or designee may require expert opinion to support granting the waiver.

3. A waiver request from a provider relative to all other chapters of this rule, including but not limited to Chapters 11, 13, 19, 21, and 23 will be submitted to the secretary to the attention of the bureau for processing.

4. Application for a waiver shall be made in writing and shall include:

a. a statement of the provisions for which a waiver is being requested;

b. an explanation of the reasons why the provisions cannot be met and why a waiver is being requested; and

c. for Paragraph J.2 above a description of the alternative method proposed for meeting the intent of the provision sought to be waived.

5. All requests for a waiver will be answered in writing and approvals will be maintained on file by the requesting provider and the department. A waiver shall be granted for a period of one year or as specified by the secretary and will not be renewed if the basis for it no longer exists.

6. For the purpose of the licensing of agencies, there are certain standards in this rule that are not subject to waiver. These standards are identified by the words "safety factor" at the conclusion of the annotation following the standard.

K. Complaints

1. Any complaints about the quality of care/services provided by a licensed child care facility and/or applicant may be made to the bureau and an investigation of such complaint will be conducted.

2. The department through the bureau has the duty to investigate a complaint:

a. a child care facility's care of a child in violation of this rule; and/or

b. an allegation of child care activities being carried out without benefit of a child care license. A licensing survey may be made as part of an investigation into a complaint about a provider without the giving of prior notice.

3. Reports of alleged child abuse/neglect shall be made to the local child protection provider in the parish in which the provider is located and also to local law enforcement in that parish if it is believed that a crime has been committed and/or the alleged abuse/neglect occurs while in the care of a third-party who has no connection to the provider home. (La. Children's Code Article 610 A. and E.)

4. Any complaint investigation reports made by the bureau or received by the bureau from other investigative sources shall be filed in a separate complaint file to be available during the annual review of provider.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 34:

§905. Definitions

Abuse—any one of the following acts which seriously endanger the physical, mental, or emotional health and safety of the child:

1. the infliction, attempted infliction, or, as a result of inadequate supervision, the allowance of the infliction or attempted infliction of physical or mental injury upon the child by a parent or any other person;

2. the exploitation or overwork of a child by a parent or any other person;

3. the involvement of the child in any sexual act with a parent or any other person, or the aiding or toleration by the parent or the caretaker of the child's sexual involvement with any other person or of the child's involvement in pornographic displays, or any other involvement of a child in sexual activity constituting a crime under the laws of this state. La. Children's Code Article 603(1).

Access to Children—any employee, volunteer, intern, independent contractor or other individual whose job duties require them to be in the presence of children at a facility whether such individual is inside or outside of the visual and auditory supervision or presence of other facility staff.

Accreditation—a provider's achievement and maintenance of accreditation status by an accrediting body that has been approved by the department.

Administrator—the person responsible for the on-site, daily implementation and supervision of the overall facility's operation.

Behavior Management—the techniques, measures, interventions, and procedures applied in a systematic fashion to promote positive behavioral or functional change by fostering the child's self-control, and to prevent or interrupt a child's behavior which threatens harm to self or others. Appropriate and inappropriate behaviors can be described with corresponding rewards or consequences depending on the type of behavior.

Bureau of Appeals—the unit within the Office of the Secretary of DSS assigned the responsibility for carrying out a fair hearing in an appeal of a departmental action.

Bureau of Residential Licensing—the unit within the Office of the Secretary of DSS assigned the responsibility for carrying out the licensing function. Where "the bureau" is used without modifiers it refers to the Bureau of Residential Licensing.

Caretaker—someone other than a parent who provides care to a child prior to any state intervention that results in the child entering state custody and includes the plural as well as the singular term.

Case Plan—the goal-oriented, time-limited, measurable, individualized program of action for a child in state custody developed by the provider in cooperation with the parent(s) and caretakers.

Child—a person who has not reached age 18 or otherwise been legally emancipated, unless another age is otherwise provided in law. The word child and children may be used interchangeably within this rule.

Child Care Facility—any place, facility or home operated by any institution, society, provider, corporation, facility, person or persons, or any other group engaged in providing

full-time care for more children who are not related to the operators and whose parents or guardians are not residents of the same facility, with or without transfer of custody. Child care facility includes community homes, infant/parenting programs, group homes, emergency shelters, and residential home.

Compliance—conformity or obedience to a standard or regulation, either by actual performance or through constructive conformity (deeming, variance, or waiver).

Confidentiality—the reasonable expectation of privacy of a parent and/or a child limiting access to information about themselves, their relationship and their interactions with child care facilities, health care professionals, and any other person or persons where confidentiality is mandated by law, custom, or the nature of the relationship.

Court—the court exercising juvenile jurisdiction that granted custody of the child, the court in whose jurisdiction the child is domiciled, the court in which an adoption petition is filed, or any other court having jurisdiction over a provider, a person and/or a child pursuant to this rule, depending on the context in which it is used.

Criminal Record Clearances—the requirements of state law and federal funding rule for checking criminal records for certain offenses prior to employing an individual who will have access to a child in a child care facility.

Cumulative Record Review—a review of cases pulled for sample case reading followed by evaluation and averaging for the purpose of calculating a rating on a standard for a provider. This review is distinguished from a relative record review in that following a relative record review a rating is made for a standard simply applying the rating indicators relative to the records read as a whole.

Custodian—the person or provider designated by a court to be legally responsible for a minor child or the person or provider accepting a child through an act of surrender.

Deemed—certain identified regulations of these standards which are approved by the department as being in compliance because the facility maintains full accreditation from a DSS-approved accrediting body and the accredited facility has had no substantial licensing violations during the past three years that affect the health, safety, morals, or welfare of children.

Department—the Department of Social Services. (Herein after the department)

Direct Care Staff—an employee whose primary responsibility is the care and supervision of children in the child care facility. This may include staff such as administrative staff that have the required background clearances and appropriate training who may serve temporarily as direct care staff in the absence of staff hired specifically for the direct care position.

Director—the person who has program authority.

Discipline—an educational process by which children in state custody are guided to develop the self-control and self-direction necessary to assume responsibilities, make daily living decisions, and learn to live in conformity to accepted levels of social behavior.

Documentation—the written evidence or proof, including signatures of appropriate individuals and date, which is maintained on site and available for review. When approved by the Bureau of Residential Licensing, documentation may be in electronic or digital form where digital or electronic

documentation is accepted practice and the authenticity of the documentation can be assured.

Emergency Shelter Program—a 24-hour residential facility designed to accept on a regular basis emergency placements of children under age 18. Facilities caring for five or more children must be licensed, but licensure is optional when emergency shelter care is provided to fewer than five children. This licensure does not apply to state-approved foster homes or to foster homes developed by licensed child placing agencies.

Extended License—

1. a license which may be issued as deemed necessary by the department in the following circumstances:

a. issued for six months when the department has not completed a required annual survey prior to the end of the anniversary month;

b. issued for three months if the provider lacks current fire and/or health approval but does not have a current fire or health disapproval. If the provider does not submit the necessary approvals within the given timeframe the license will be allowed to expire and will not be renewed;

c. in exigent circumstances, for such period as the circumstances may require.

2. Extended licenses are granted only in circumstances where the failure to complete the inspection or obtain necessary approvals is due to circumstances beyond the control of the licensee. If the license was subject to any qualifications or conditions at the time the extended license was issued, those qualifications/conditions apply to the extended license as well.

Human Service Field—a field of employment similar or related to social services such as social work, psychology, sociology, special education, rehabilitation counseling, juvenile justice and/or corrections and nursing through which a person gains experience in providing services to the public and/or private clients that serves to meet the years of experience required for a job as specified on the job description for that position.

Immediately—as soon as practicable. With regard to a requirement or notification, "immediately" means as soon as reasonably possible after the facility first becomes aware of the incident or condition mandating the requirement or notification, but in no event later than 24 hours after the incident or condition. When an incident or condition occurs outside of normal state business hours or holidays or weekends, notice shall be given by facsimile transmission to the Bureau of Residential Licensing.

License—the document issued by the department under the authority of R.S. 46:1401 et seq., and these rules authorizing the licensee to conduct child care facility activities in this state.

Licensing Standard—the minimum requirement established by the state in a certain area related to the health, safety and well-being of a child in out-of-home care. For children in state custody, this rule recognizes that additional good practice requirements are included in the state child-care agencies' policy, in the federal funding rule and in the state's Children's Code and the care of children in custody of those state agencies is subjected to additional monitoring as required by those sources.

Licensing Survey—the on-site process used by the bureau to determine whether a provider is in compliance with this rule.

Mandatory Regulation or Section—a regulation or section with which a licensee is expected to comply at all times. Violations of a mandatory regulation or section require immediate corrective action.

Minimum Quality of Care—the following cluster of rights to which a child is entitled to while under the supervision of a public child-placing provider:

1. retention of basic constitutional and civil rights, notwithstanding his status in out-of-home care;

2. contact between the child, the child's siblings and the child's other family members, as provided in the child's case plan unless restricted by the court;

3. receipt of telephone calls, letters, visits, gifts and other communication, unless restricted by the child's case plan and court approved;

4. confidentiality as to the child's status and personal information, except for those involved in his care and/or oversight;

5. freedom from coercion regarding participation in provider events;

6. freedom from harsh or demeaning or physical discipline, humiliating treatment or punishment;

7. freedom to participate in religious services and free exercise of the faith with which the child's family was affiliated, if a faith preference has been expressly made by the parent(s) or family; for a child age 16 and over, freedom to decide on attendance and/or choice in religious services;

8. adequate, timely and nutritious food;

9. possession and use of personal money, belongings, hygiene products and gifts;

10. new, clean, proper fitting, seasonally appropriate clothing and shoes;

11. free and private communication with any regulatory or child welfare officials including the child's case worker, attorney, Bureau of Residential Licensing, OCS, OYD, or Advocacy Center representatives, or other adults charged by law with the child's welfare;

12. opportunity to make a complaint without fear of reprisal;

13. any work assignment is consistent with the age, abilities, case plan of the child, and other children's work in the household; and

14. any other restrictions or conditions inconsistent with the human dignity and the civil and human rights guaranteed under the Constitutions of the United States or the State of Louisiana.

Neglect—the unreasonable refusal or failure of a parent or caretaker to supply the child with necessary food, clothing, shelter, care, treatment, or counseling for any injury, illness, or condition of the child, as a result of which the child's physical, mental, or emotional health and safety is substantially threatened or impaired. La. Children's Code Article 603(14).

Non-Employees—those individuals who are not facility staff but who may be at the facility as volunteers, students, interns, tutors, counselors, and other non-staff individuals who may or may not work directly with the children.

Out-of-Home Care—the circumstance of 24-hour care being provided for a child when the child has had to be removed from his parents' or other caretakers' care by state intervention or the child has been surrendered by his parents or by other persons with a legal right to the child to DSS.

Parents—biological and/or legal parents of a child with the term including the singular as well as the plural.

Partial Compliance—compliance with not less than two-thirds (66.66 percent) of mandatory standards and compliance with at least a majority (50 percent) of non-mandatory standards. *Non-compliance* means anything less than partial compliance.

Person Affiliated with Provider—a provider's owners, officers, board members, volunteers, interns, and/or any other such person who may be involved in some capacity with the work of the provider but does not include employees.

Physical Restraint—a continuum of nationally-certified methods used to prevent or limit free body movement when a child may be of danger in harming self or others.

Placement—as a verb the locating of a child into a foster, temporary placement for 24-hour care away from his own home and as a noun the physical location of the child.

Policy—a plan or course of action and/or guiding principles and/or procedures adopted by the provider which is designed to determine decisions, actions and other matters which shall be adhered to by appropriate staff.

Provider—the owner and/or operator of a child care facility and/or his agents, employees and representatives.

Qualified License—a license issued when a facility is in substantial compliance with licensing regulations, issued through the facility's anniversary date. If a facility has a history of substantial compliance, a multi-year license may be issued, at the sole discretion of the bureau, through the anniversary date of the year designated. If a multi-year license is issued, the provider must still submit the annual application and fee as required. However, a full inspection will be conducted only in the initial year of the multi-year license, with annual compliance visits during the following years. A full inspection will be required before the renewal of each multi-year license. A license bearing no modifying terms (i.e., "extended," "provisional," etc.) is presumed to be unqualified.

Rating System—the process used for determining compliance with these rules as described and defined herein.

Related or Relative—a child in care who is the natural or adopted child or grandchild of the provider.

Residential Care—24-hour care every day for children living in a residential facility and the provision of full time therapeutic care according to an approved treatment plan for each child.

Residential Facility (Child)—any place, facility or home operated by any institution, society, provider, corporation, person or persons or any other group to provide full-time care (24 hour residential care) for four or more children under the age of 18 years who are not related to the operators, and whose parents or guardians are not residents of the same facility, with or without transfer of custody. This does not include any program licensed under other state departments such as the Department of Health and Hospitals.

Revocation—the act of making a license null and void through its cancellation.

Safety Practices—the following specific components to be followed by all child care facilities.

1. Facility staff shall have 24-hour access to telephone services.

2. Each living unit shall have emergency service telephone numbers posted.

3. Fire drills shall be conducted once per month at varying times, with one drill per shift every 90 days.

4. Firearms and chemical weapons shall not be maintained in the living units of the facility.

5. Poisonous, toxic and flammable material shall be used appropriately and safely stored in a labeled and suitable containers.

6. Candles shall not be used in the children's sleeping areas.

7. On-going hygienic actions shall be used to prevent insect and rodent infestation.

8. Power-driven equipment shall be safe and properly maintained.

9. Any use of power-driven of equipment by children shall be under the direct supervision of a staff person and according to any applicable stat law.

10. Children shall only swim in safe areas and under the supervision of a person certified/trained in American Red Cross Community Water Safety or equivalent.

Shall or Must—denotes a mandatory requirement or provision.

Should—strongly suggested or urged as a best practice.

Staffing Patterns—the minimum number of direct care staff to supervise and meet the needs of the children in the facility and shall follow these staffing requirements:

1. at least one adult staff present for every six children while children are present and awake;

2. at least one adult staff present and awake for every 12 children when children are present and asleep;

3. on-call staff available and accessible 24 hours per day when children are asleep, away from the facility for school, work, or recreation and to handle emergencies at all times;

4. arrangements for relief staff to ensure adequate off-duty time for regular staff, and if applicable, live-in staff;

5. sufficient provisions made for housekeeping and maintenance to ensure direct care staff are able to perform direct care functions only;

6. six or more children under two years of age shall have an additional direct care staff person on duty when the children are present to provide a staff ratio of one staff per every six children under age two.

Specialized Intensive Program—a staff secure, intensive therapeutic residential program designed to serve children with serious behavior, emotional, and/or physical challenges who, because of their problems, are unable to be cared for in a less restrictive program. These programs are the most restrictive programs licensed by DSS and have greater staffing and other requirements.

Special Needs—

1. a placement effected by an intensive recruitment effort due to a physical, mental or behavioral condition, race, age, membership in a sibling group; or

2. other unique need of a child or the means of noting additional services are required for a child beyond those provided to any child.

Substantial Compliance—compliance with not less than 90 percent mandatory standards together with not less than 80 percent critical standards and not less than 70 percent significant standards. Not met will be addressed in the quality improvement plan.

Supervision—an oversight process used by a state provider with a child to support his adjustment, to keep informed of his progress and well-being, and to identify and obtain services he needs in order to carry out its legal responsibility to him. *Supervision* also means the direct observation and guidance of children at all times and requires being physically present with them. Close physical presence and frequent, routine checking is part of supervision when children of appropriate ages and abilities are allowed private time in bathrooms and bedrooms.

Temporary License—a license which may be issued by the department for a limited period of time subject to the terms and conditions set forth at the time of its issuance. The designation "temporary" on a license denotes that the provider does not meet the minimum standards required for licensure. A temporary license expires by its own terms on the date stated on its face and may be terminated at any time prior to its expiration if the holder violates any of the terms of its issuance.

Time-Out—an intervention utilized when a child needs to be removed from a situation or circumstance and does not have the ability, at the time, to self-monitor and determine readiness to rejoin the group.

Treatment Plan Manager—the individual, who is assigned responsibility for development, supervision of implementation, follow-up, monitoring, and other aspects of a child's treatment plan as outlined in these regulations.

Variance—an approved exception to the regulations granted temporarily for the purposes of allowing emergency admittance of specific children and which does not accommodate or result in substantial changes to the program.

Waiver—an exemption from a requirement of this rule that requires at a minimum a showing that no child or staff is placed at risk if such exemption is granted.

Wilderness (Therapeutic) Program—an incorporation of a primitive camping program with a non-punitive environment, and an experience curriculum promoting personal growth and group cooperation for residents 9 years of age and older who have difficulty functioning in home, school and community.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 34:

Chapter 11. Child Residential Care

§1101. Residential Regulations

A. All child care agencies must meet the regulations listed in §§1103, 1105, and 1107 unless an interpretation provides otherwise. The following regulations are listed by designated weights with M for mandatory, C for critical and S for significant.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 34:

§1103. Mandatory Regulations

A. Policies

1. The provider has written policy and implements the procedures to ensure that staff documents and continually provides adequate communication regarding the children and anything which would impact the care of the children. Weight—M

2. The provider has written policy, implements the procedures and documents of an on-going safety program. Weight—M

3. The provider has written policy and implements the training that includes: specific responses, punishments, and discipline staff shall not employ when interacting with children. At a minimum, the following responses, punishments, and discipline shall be addressed as unacceptable:

a. any type of physical hitting or other painful physical contact except as required for medical, dental, or first aid procedures necessary to preserve the child's life or health;

b. requiring a child to take an extremely uncomfortable position;

c. verbal abuse, ridicule, or humiliation;

d. withholding or denial of a meal or sufficient sleep, except under a physician's order;

e. requiring a child to remain silent for a long period of time;

f. denial of shelter, warmth, clothing, shoes or bedding;

g. assignment of harsh physical work;

h. physical exercise or repeated physical motions as punishments;

i. excessive denial of usual services;

j. denial of visitation or communication with family, legal guardian, or clergy except in accordance with the child's written treatment plan and agreed to by the parent/legal guardian;

k. denial of access to or communication with the child's attorney, CASA worker, or Bureau of Residential Licensing, OCS, OYD, or Advocacy Center representatives;

l. extensive withholding of emotional response;

m. punishment of groups of children for actions committed by an individual unless part of the LaMOD therapeutic behavior management system; and

n. any other cruel and unusual punishment.

Weight—M

4. The provider has written policy and implements the training for staff that defines minimum quality of care for those children consistent with the definition found in these regulations at intake, provides the child information that defines minimum quality of care for those children consistent with the definition found in these regulations. Weight—M

5. A provider has written procedures consistent with and assures for the provision appropriate direct care staffing patterns/ratio that is consistent with the definition found in these regulations *Cumulative Record Review*. Weight—M

B. Personnel Requirements

1. The provider has written criminal record policy that is applicable for each employee or others who perform paid or unpaid work regularly in the program such as independent contractors, consultants, students, volunteers, and trainees,

other person affiliated with the provider and addresses the following.

a. A criminal record clearance shall be received from Louisiana State Police prior to employment of an individual having any direct supervision or interactions with children.

b. A clear criminal record clearance for any employee or others who perform paid or unpaid work regularly in the program such as independent contractors, consultants, students, volunteers, and trainees.

c. Employment shall not occur nor continue for any person convicted of any crimes listed in the Louisiana Child Protection Act or any crime involving a juvenile victim.

d. Volunteers or contractors, consultants, students, or others who do not work regularly in the facility need not have a criminal background clearance if they are accompanied at all times while they are on the premises by a staff person with such clearance. Unsupervised volunteers must meet all qualifications of employees, including criminal background checks. Weight—M

2. The agency has written policy and implements the practice of requiring a satisfactory health statement verifying that each staff member is free of all communicable diseases, including verification of a satisfactory TB test. A satisfactory health statement is defined as being dated within 3 months prior to or 1 month after employment. A new health statement is required on an employee every 3 years. Weight—M

C. Child Safety Policy and Procedure Requirements

1. The provider has written policy and implements the procedures for staff awareness on response to reports of alleged abuse/neglect of a child in its care which include:

- a. immediate reporting internally and externally;
- b. taking immediate action to protect the child; and
- c. a thorough written record of the provider's response.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 34:

§1105. Critical Regulations

A. Admissions

1. The provider has written policy and implements the practice prohibiting discrimination in admission and services at admission based on race, color, creed, religion, national origin, sex, disability, or any other basis prohibited in law. Weight—C

2. A provider only accepts a child for placement with a court order and/or with the written authorization of the parents or legal guardian. *Cumulative record review* Weight—C

B. Personnel Qualifications

1. The chief administrator or a person authorized to act on behalf of the chief administrator shall be accessible to provider staff and representatives of DSS at all times 24 hours per day, 7 days per week. The Administrator shall have a bachelors' degree in human services field and is to have at least 3 years experience in the field of human services. Weight—C

2. The provider has a qualified director who is responsible for the general management of the provider

services. The qualifications are:

a. at least 21 years of age;

b. possess a baccalaureate degree in a human service field from an accredited college or university; and

c. a minimum of three years paid full-time employment in a human service field or at least three years of progressively responsible experience in a program for at-risk or troubled youth. Weight—C

C. Orientation and Annual Staff Training

1. The facility provides and documents a minimum of 24 hours of orientation training for direct care staff within 20 working days of the initial date of employment which provides the following information:

a. the requirements of this rule, such as but not limited to, reporting abuse/neglect incidents, implementing treatment plans, children's rights, philosophy of the provider, etc; crisis de-escalation and management of aggressive behavior which is to include acceptable and prohibited responses;

b. passive physical restraint which is to include a practice element in the chosen method;

c. CPR and First Aid certification, currently possesses or to be obtained within 45 days of employment;

d. instruction on documentation and communication procedures with fellow employees; and

e. the areas necessary to equip a provider employee or other person affiliated with the provider with such knowledge as is necessary to undertake assignment in the provider's child care program, prior to having unsupervised contact with a child/children. *Cumulative record review* Weight—C

2. A provider must document that the support personnel and direct care employees receive in-service training for enhancing knowledge annually in four areas:

a. provider's administrative procedures and programmatic goals;

b. provider's emergency and safety procedures including medical emergencies;

c. children's rights;

d. detecting and reporting suspected abuse and neglect. *Record Review* Weight—C

3. A provider must document that direct care employees receive, in addition to training required in core standards, in-service training for enhancing their knowledge and skills annually in ten areas:

a. reporting and documentation of critical incidents;

b. implementation of treatment plans;

c. instruction on documentation and communication procedures with fellow employees;

d. basic preventive skills, to include universal precautions, on how to protect/prevent staff, children and others from injury/illness;

e. how to detect signs of illness or dysfunction that require medical or nursing intervention;

f. crisis de-escalation and the management of aggressive behavior;

g. passive restraint which is to include a practice element in the chosen method nationally-recognized;

h. prohibited responses, punishments, disciplines to be used with a child or children;

i. safe administration and handling of medication including psychotropic drugs, dosages, and side effects; and

j. current certification of CPR and First Aid. *Cumulative Record Review*. Weight—C

D. Files of Employees and Other Persons Affiliated with the Provider

1. A provider maintains personnel file that tracks the chronological history of a person with the provider including application, statements of health, criminal record clearance, subsequent evaluations of performance, annual training, annual checks for valid driving license and proof of insurance, and the record of any grievance. *Cumulative record review*. Weight—C

E. Placement Records

1. The provider is to maintain a record for each child at the facility where the child is placed. The record shall include at a minimum the child's name, date of birth, parent/guardian information, family and medical history as available, educational records as available. Weight—C

2. The provider has a written treatment plan for each child. *Cumulative record review*. Weight—C

F. Medications

1. A provider is to administer and handle medications safely and have policy and procedures to address the following:

a. prescription and non-prescription medications are to be either self-administered or administered by qualified persons according to state law with each drug to be identified up to the point of administration;

b. medication administration records are to contain the name of the medication, dosage, time, date and person supervising;

c. only properly certified personnel or the child may bottle or pack medications when the child leaves the facility on pass;

d. any side effects observed by staff or serious medication errors shall be immediately reported to the physician, written in the child's record and reported to the child's parent or legal guardian. *Record Review* Weight—C

2. A provider is to assure drugs are stored properly and comply with the following:

a. drugs, including refrigerated drugs, shall be kept under lock and key;

b. discontinued, outdated medications and containers with worn, illegible or missing labels are to be disposed of properly;

c. drugs shall be stored under proper conditions: sanitation, temperature, light, moisture, ventilation, segregation, and security;

d. drugs used externally and drugs taken internally shall be stored on separate shelves or in separate cabinets at all locations. *Record Review* Weight—C

3. Psychotropic medications used on a regular basis are only to be used as ordered by the physician for therapeutic purposes according to clinical practices and FDA approval as well as:

a. continual physician review at least every 90 days with a written renewal order or discontinuation of the drug if not necessary;

b. potential benefits and negative side-effects are retained in the child's record. *Cumulative record review* Weight—C

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 34:

§1107. Significant Regulations

A. General Organizational Requirements

1. The provider has a written up-to-date program description that includes at a minimum:

a. its child care philosophy and approach to service delivery;

b. the ages and types of children served by the program;

c. treatment components/approaches/plans;

d. living arrangements provided;

e. direct and support services offered;

f. behavior management policy;

g. house rules and regulations;

h. goals of placement;

i. religious orientation, if applicable; and

j. the decision-making criteria for admission and discharge. Weight—S

2. The provider has the policies/procedures governing its program available for public review during its normal business hours of operation. Weight—S

3. The provider has evidence of its authority to carry out its child care function in the state. Weight—S

4. The provider has external governance and provides a list of members. Weight—S

5. The provider has physical accommodations to carry out its child care function competently. Weight—S

6. The provider has developed and implements written policy/procedures requiring measures to enhance the safety of children transported in vehicles by provider staff, or other persons affiliated with the provider, which include at minimum periodic checks on inspection of vehicles, annual check of driving licenses, proof of insurance, and child-safety restraint systems for compliance with state law. Weight—S

7. The provider has developed and implements written policy/procedures for its staff that prescribes the minimum safety practices, as defined herein, for the facility, staff and children. Weight—S

8. The provider has a written emergency preparedness plan that is current for the review period. Weight—S

9. Provider has written policy and implements the procedures to address work performed by a child which is to include:

a. specific work assignments are to be a constructive experience and not a means for the provider to obtain vital facility functioning services at a low cost;

b. any unpaid work is to consist only of housekeeping tasks or chores similar to those performed in a normal family environment;

c. any additional unpaid services not covered by the above is to be compensated at such a rate and under conditions that are comparable to similar work in outside employment;

d. any off-grounds or on-grounds paid employment must be in the Treatment Plan, which is approved by the parent or legal guardian, adhere to applicable state and federal laws, cannot conflict with the child's program and must not be in any hazardous condition or employment. Weight—S

B. Discharges

1. Residents who attain the age of 18 cannot exceed the 6-month period beyond their eighteenth birthday to complete an educational, vocational, or other program offered by the facility. Weight—S

C. Policies, Documentation, and Job Descriptions

1. The provider has written policies and implements the procedures for all non-employees as defined herein, who are involved with the facility which may or may not include their involvement with the residing children. Weight—S

D. Behavior Management

1. Observational cameras may be installed and used only with the knowledge of the children and in common areas. Weight—S

2. Observational cameras and the resulting video image records are to be considered confidential material. Weight—S

E. Physical Environment

1. Recreational space is available for the children. Weight—S

2. Interior requirements for space, safety and well-being of the children are to include:

a. a minimum of 60 square feet of floor area per child in living areas accessible to children for informal use but excludes halls, closets, bathrooms, bedrooms, staff or staff's family quarters, laundry areas, storage areas and office areas;

b. a minimum of 60 square feet of floor space is required for any room used for time-out, and additionally the room is to have no furniture, obstructions, projections and is to have a view panel/window that allows staff to observe the child at all times;

c. each single occupancy bedroom space shall have a floor area of at least 80 square feet and each multiple occupancy bedroom is to have at least 60 square feet floor area for each occupant;

d. bedroom ceiling heights are:

i. where the uppermost mattress of any bunk bed shall allow the occupant to sit up comfortably in bed;

ii. any ceilings heights of less than 7 feet 6 inches shall not be used as a bedroom; and

iii. a room with varying ceiling heights shall only use the portion that allows at least 7 feet 6 inches of height;

e. stairways are to be safe and secure with handrails that are 4 feet from the ground and have gates at the top and bottom of the stairs should there be any children under the age of two residing in the facility. All such gates must be equipped and locked with child-proof locks; and

f. live-in staff, if utilized, shall have adequate and separate space with a private bathroom. Weight—S

3. Interior doors and windows are maintained for the safety and well-being of the children and are to include:

a. windows which can be opened and are routinely utilized are to have insect screening which is in good repair and removable;

b. each bedroom is to have a window;

c. doors to closets, bedrooms, and bathrooms are to open easily from both sides and shall remain unlocked;

d. doors to closets containing medicines, chemicals, or hazardous substances shall be locked at all times when not in use;

e. doors leading into a facility may be locked only in the direction of ingress;

f. doors in the line of egress shall not be locked and any deviation of lockage may only be made as agreed upon by the provider, the Office of the State Fire Marshall, and a state agency acting in a placing/funding capacity;

g. approval of locked exit doors from the facility requires the staff to know the codes to the exit doors and/or to keep keys in their possession at all times. Weight—S

4. Sleeping area requirements are necessary for the children and are to include:

a. occupancy of bedrooms shall be appropriate for the sex of the children and are not to exceed more than four children in a specific bedroom;

b. no child over the age of five shall occupy a bedroom with a member of the opposite sex;

c. children shall be reasonably allowed to express personal tastes in the decoration of their own sleeping areas;

d. each child shall have adequate and appropriate linens for their bed which is to include sheets, pillows, bedspreads, and blankets with the sheets and pillow cases to be changed at least weekly or more frequently as necessary;

e. all children shall have mattresses with moisture resistant covers. Weight—S

5. Bathroom areas and necessities are to include:

a. an adequate number of bathrooms are available to meet the hygienic needs of the children with separate toilet and bath facilities for boys and girls age five and older;

b. each bathroom is large enough for staff to assist the children if necessary but also designed to allow privacy in the toilet, baths and shower areas;

c. each bathroom is properly constructed and equipped with flush toilets, sinks and baths and/or showers which all have a safe and adequate supply of hot and cold water and slip-proof surfaces;

d. mirrors or mirror-like surfaces shall be available.

Weight—S

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 34:

Chapter 13. Emergency Shelter Program

§1301. Emergency Shelter Regulations

A. An Emergency Shelter Program shall meet all the core regulations identified in LAC 67:I.Chapter 11 except for specific regulations identified in this chapter which may be in addition to or not applicable to the core regulations. An Emergency Shelter Program shall meet the program-specific regulations listed in §§1303 and 1305. The regulations are listed by designated weights with C for critical and S for significant.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 34:

§1303. Critical Regulations

A. Placement Records

1. The provider has a treatment plan for each child. *Cumulative record review.* Weight—C

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 34:

§1305. Significant Regulations

A. Admissions

1. Length of Stay. A child in an emergency shelter facility is to be retained no more than 45 days. There can be 2 renewals of 30 days each by written contract between the facility and the placing party. No child may remain more than the total of 105 days allowed by using the 2 renewals. *Cumulative record review* Weight—S

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 34:

Chapter 19. Specialized Intensive Program

§1901. Specialized Intensive Program Regulations

A. A Specialized Intensive Program shall meet all the core regulations listed in LAC67:I.Chapter 11 except for specific regulations identified in this chapter which may be in addition to or not applicable to the core regulations identified in LAC67:I.Chapter 11. A Specialized Intensive Program shall meet the program-specific regulations listed in §§1903 and 1905. The regulations are listed by designated weights with C for critical and S for significant.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 34:

§1903. Critical Regulations

A. Personnel Requirements

1. A provider has written policy/procedures consistent with and assures for the provision of appropriate direct care staffing patterns/ratio that is consistent with the definitions herein. In addition, the following minimum staffing patterns and arrangements are to be maintained by the direct care staff:

a. only staff members employed in specifically designated positions designated as direct care and supervisor of children are to be counted in determining child/staff ratio;

b. administrative and other qualified staff who may be present are not to be counted as part of the child/staff ratio;

c. at least one adult staff is present for every two children when children are present and awake;

d. at least one adult staff is present and awake for every three children when the children are present and asleep; and

e. direct care staff is available and accessible when children are away from the facility for school, work, or recreation. *Cumulative record review* Weight—C

2. A provider has written policy/procedures consistent with and assures for the provision of appropriate supervisory staff that are in addition to the required direct care staffing. The following requirements are to be fulfilled by the supervisory staff:

a. in addition to the required direct care staff, there is to be at least one supervisory staff person on-call who is

available and accessible to direct care staff to handle emergencies;

b. assure arrangements are made for relief staff to ensure adequate off-duty time for the regular shift direct care staff; and

c. assure housekeeping and maintenance and other activities are not the responsibilities of the direct care staff. *Cumulative record review* Weight—C

3. A provider has written policy/procedures consistent with and assures for the provision of appropriate qualified staff for their designated positions. The following qualifications are to be met by the following personnel positions:

a. the director shall have a bachelor's degree plus three years experience relative to the population being served;

b. the treatment plan manager shall have a bachelor's degree in a human service field plus three years experience with the relevant population or a master's degree in a human service field plus one year experience with the relevant population;

c. direct care workers shall be at least 20 years old, possess a high school diploma or GED and it is preferable the worker have experience in child care giving; and

d. direct care staff shall not be contracted from outside agencies. Weight—C

B. Orientation and Annual Staff Training

1. The orientation and annual in-service training for this program replaces LAC 67:I.1105.C Residential Regulations requirements.

2. The facility provides a minimum of 24 hours of orientation training for direct care staff within 20 working days of the initial date of employment which provides the following information:

a. the requirements of this rule, such as but not limited, to reporting abuse/neglect incidents, implementing treatment plans, children's rights, philosophy of the provider, etc.;

b. crisis de-escalation and management of aggressive behavior which is to include nationally-recognized acceptable and prohibited responses;

c. passive physical restraint which is to include a practice element in the chosen method;

d. CPR and First Aid certification, currently possesses or to be obtained within 45 days of employment; and

e. reporting and documentation of critical incidents;

f. implementation of treatment plans;

g. instruction on documentation and communication procedures with fellow employees;

h. basic preventive skills, to include universal precautions, on how to protect/prevent staff, children and others of injury/illness;

i. how to detect signs of illness or dysfunction that require medical or nursing intervention;

j. crisis de-escalation and the management of aggressive behavior;

k. prohibited responses, punishments, disciplines to be used with a child or children;

l. safe administration and handling of medication including psychotropic drugs, dosages, and side effects; and

m. procedures for use of locked doors and gates, if allowed. *Cumulative record review* Weight—C

3. A provider must document that the support and clerical support staff and non-employees who have contact with the residents are to receive as part of their orientation information focusing on the following areas:

- a. provider's administrative procedures and programmatic goals;
- b. provider's emergency and safety procedures including medical emergencies;
- c. children's rights;
- d. detecting and reporting suspected abuse and neglect;
- e. security procedures; and
- f. reporting critical incidents. Weight—C

4. A provider must document that the support personnel and direct care employees receive in-service training for enhancing knowledge annually in four areas:

- a. provider's administrative procedures and programmatic goals;
- b. provider's emergency and safety procedures including medical emergencies;
- c. children's rights;
- d. detecting and reporting suspected abuse and neglect. *Cumulative record review* Weight—C

5. A provider must document that direct care staff and direct care supervisory staff receive, in addition to that training listed in LAC67:I.1105.C., in-service training for enhancing their knowledge and skills annually in 10 areas:

- a. reporting and documentation of critical incidents;
- b. implementation of treatment plans;
- c. instruction on documentation and communication procedures with fellow employees;
- d. basic preventive skills, to include universal precautions, on how to protect/prevent staff, children and others from injury/illness;
- e. how to detect signs of illness or dysfunction that require medical or nursing intervention;
- f. crisis de-escalation and the management of aggressive behavior which is to include nationally-recognized acceptable and prohibited responses;
- g. passive restraint which is to include a practice element in the chosen method;
- h. prohibited responses, punishments, disciplines to be used with a child or children;
- i. safe administration and handling of medication including psychotropic drugs, dosages, and side effects; and
- j. current certification of CPR and First Aid.

Cumulative record review Weight—C

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 34:

§1905. Significant Regulations

A. Requirements for the Facility. All regulations listed in LAC 67:I.1107 are applicable in addition to the following standards which may modify and/or add requirements of the specific standard.

1. Exterior security fencing is to comply with the following.

a. A gathering area that is at least 50 feet away from the building is to allow for 15 square feet of space per resident and staff.

b. The fencing may not be equipped with razor wire.

c. Staff working in the area must carry keys to gates at all times. Weight—S

2. Sleeping area requirements, are in addition to requirements in LAC 67:I.1107, and are to include:

a. occupancy of bedrooms shall be appropriate for the sex of the children and are not to exceed more than two children in a specific bedroom;

b. any deviation from the requirement of no more than two children per room must have written approval of the Louisiana state placing/funding agency;

c. doors to the individual bedrooms are not equipped with locks and/or other devices that prohibit the door from being opened from either side unless there is a therapeutic and/or safety reason for the doors to be locked from the outside only when the children are involved in a structured activity elsewhere. Weight—S

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 34:

Chapter 21. Infant/Parenting Program

§2101. Infant/Parenting Program Regulations

A. An Infant/Parenting Program shall meet all the core regulations listed in LAC 67:I, Chapter 11 except for specific regulations identified in this chapter which may be in addition to or not applicable to the core regulations. An Infant/Parenting Program shall meet the program-specific regulations in §§2103 and 2105. The regulations are listed by designated weights with M for mandatory and C for critical.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 34:

§2103. Mandatory Regulations

A. Personnel Requirements

1. Residential regulations identified in LAC 67:I.1103.B are followed in addition to the following staffing requirements.

a. At least one adult staff is present for every five infants or toddlers to provide care and supervision during the absence of the resident mothers.

b. The facility staff is not to allow resident mothers to provide care or supervision to any child other than her own should the other mother or staff be absent. *Cumulative record review*. Weight—M

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 34:

§2105. Critical Regulations

A. Orientation and Annual Staff Training

1. The facility provides orientation to new employees as required under the general licensing standards, and on the care of infants and the transmission/prevention of HIV/AIDS

and bloodborne pathogens. *Cumulative record review.* Weight—C

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 34:

Chapter 23. Therapeutic Wilderness Program

§2301. Therapeutic Wilderness Program Regulations

A. A Therapeutic Wilderness Program shall meet all the core regulations listed in LAC 67:I, Chapter 11 except for the program-specific regulations identified in this Chapter which may be in addition to or not applicable to the core regulations. The regulations are listed with designated weights with M being mandatory, C being critical and S being significant.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 34:

§2303. Services for Children

A. A provider develops and immediately uses a written treatment plan of action, which is to be periodically updated, as its method of guiding specific strategies, techniques and activities in each child's case record toward the identified goal/s of service delivery. The treatment plan is to also describe how the child will participate and benefit from this program. The treatment plan for the therapeutic wilderness program is to include the following:

1. how the therapeutic adventure-based activities will help the child develop behaviors, skills, and knowledge required to function effectively in life situations;

2. how the outdoor physical, environmental, educational athletic or other challenging activities will be provided in a supportive and therapeutic environment;

3. how the above mentioned activities will be designed to stimulate competence and personal growth which may be seen by expanded individual capabilities, more developed self-confidence and insight, and improved interpersonal skills and relationships. *Cumulative record review.* Weight—C

B. A provider initiates a health examination for a child to be performed by a licensed physician no earlier than 30 days prior to participation in program activities. *Cumulative record review.* Weight—M

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 34:

§2305. Child Safety Policy/Procedure Requirements

A. The provider is to establish a Safety Review Committee or similar committee comprised of in-house technical and supervisory personnel. This committee is to comply with the following requirements:

1. the committee is to meet monthly;
2. conduct on-going safety reviews and evaluations of accidents, incidents or patterns of incidents;
3. identify health and safety issues;
4. implement, authorize, and monitor the corrective actions addressing the identified health and safety issues;

5. establish specific rules and procedures governing the safety of each activity including, but not limited to, outdoor hiking, horseback riding, ropes course, canoeing and any other adventure/sports/recreation activity in which the children participate;

6. rules and procedures in which appropriate safety measures are adopted and followed for each type of activity. Weight—M

B. The provider has written policy and implements a safety plan for each activity in which the children will participate. The safety plan will address at a minimum the following items:

1. a description of the activity including the location;
2. staff requirements;
3. children's requirements for participation;
4. safety equipment and technical requirements necessary for the activity;
5. emergency and evacuation procedures; and
6. search and rescue procedures. Weight—C

C. The provider has written procedures, implements the procedures, and documents an on-going safety program. Weight—C

D. Equipment safety guidelines and requirements for the program are to be as follows:

1. only sports and outdoor equipment that complies with applicable national standards for the equipment is used;
2. any personal equipment used must adhere to the same applicable national standards for the equipment;
3. repair kits, location devices, reflectors or any nighttime activity and other protective gear is provided according to the activity;
4. personal flotation devices (Type III) shall be worn at all times when on the water;
5. children are prohibited from using chainsaws;
6. firearms are prohibited; and
7. guidelines are in place governing the uses and storage of any potentially hazardous material or equipment such as propane, axes, knives, etc. Weight—M

E. The provider has written policy and implements a written safety plan that is utilized prior to any activity in which the children will participate. The safety plan will address at a minimum the following items:

1. staff familiarization of the terrain site and/or waterways are to be used and with up-to-date information about conditions that may be encountered;
2. no employee or non-employee may be left alone with a child or group of children unless the individual has been certified in CPR and First Aid;
3. terrain, water temperatures and other environmental conditions involved in the activity are to be assessed as to the appropriateness of the group skill levels and contain no hazards or threats to the children; and
4. when the activity includes such activities as hiking, running, climbing, canoeing, bicycle touring, or similar pursuits, the participants are to be instructed in the proper techniques, pacing, need for fluids and sunscreen, appropriate footwear and equipment and any potential hazards. Weight—M

F. The provider has implemented a written plan to be utilized for any activity in which the children will participate. Weight—M

G. The provider has implemented a written plan, with specific criteria, which is utilized for any ropes courses, alpine or climbing towers and artificial wall climbing program activity in which the children will participate. Weight—M

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 34:

§2307. Personnel Qualifications

A. The requirements for direct care staff and treatment plan manager remain the same as in the Personnel Qualifications for all facilities as listed in LAC 67:I, Chapters 11, 13, 19, and 21.

B. The chief administrator or a person authorized to act on behalf of the chief administrator shall be accessible to provider staff and designated representatives of DSS at all times 24 hours per day, 7 days per week and has educational and experience requirements. The designated staff person must be available unless the bureau has been informed of a change, e.g., all residents and staff go on vacation. The administrator shall have a bachelor's degree in human services field and have at least 3 years experience in the field of human services. Weight—C

C. The provider has a qualified director who is responsible for the general management of the provider's services and has educational and experience requirements. The qualifications are:

1. at least 21 years of age;
2. possess a baccalaureate degree in a human service field from an accredited college or university; and
3. a minimum of 3 years paid full-time employment in a human service field or at least 3 years of progressively responsible experience in a program for at-risk or troubled youth and in the area of therapeutic wilderness programs. Weight—C

D. The provider has at least one activity-certified staff member for each adventure. The staff person is certified in the adventure activity for which he/she will be supervising children. Weight—C

E. The provider has at least one activity-certified staff member for each water event. The staff person is certified in emergency water safety and life saving techniques. Weight—M

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 34:

§2309. Personnel Requirements

A. Personnel requirements in the core standards and LAC 67:I.1107.C are to be followed in addition to the following staffing requirements:

1. at least two adult staff must be present at all times (24 hours per day) a group of 12 or fewer children requires two staff;
2. if more than 12 children are involved, the ratio is one staff to six children;
3. at least one staff member shall remain awake at night and check children every 30 minutes; other night time staff may be asleep;

4. only staff members employed in specific positions designated as direct care and supervisor of children are to be counted in determining child/staff ratio. *Cumulative record review.* Weight—M

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 34:

§2311. Annual Staff Training

A. This standard is in addition to the applicable training presented in the core standards. A provider must document that the direct care employees receive additional annual in-service training annually in the four following areas:

1. emergency procedures, including medical emergencies with the employee to be provided a copy of the written emergency policy;
2. specific training for the wilderness activities they will be directing and to be certified in areas that require certification. *Cumulative record review.* Weight—C

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 34:

§2313. Permanent Base Requirements

A. The following regulations may be additional to the core regulations as listed in LAC 67:I, Chapter 11 or may replace regulations which are not applicable to Therapeutic Wilderness Programs.

1. The permanent base is required to have permanent buildings for designated services. The following buildings or space is to be provided at the permanent base:

- a. administrative area;
- b. infirmary space;
- c. laundry space with hot and cold water;
- d. indoor food services with dining and food storage area;
- e. toileting and bathing areas;
- f. educational space;
- g. storage area for belongings; and
- h. adequate space to provide shelter for the children.

Permanent buildings meet the requirements of the Office of Public Health, Sanitation Services. Weight—S

2. Exterior areas of buildings are well-maintained. The physical facilities areas have been selected to prevent offensive conditions, safety hazards and provide adequate drainage. The grounds of the permanent buildings are free of debris, noxious plants and uncontrolled weeds and brush. Walkways and heavily traveled common areas are adequately lighted, safe and adequately maintained. Weight—S

3. Interior requirements for space are to include:

- a. a minimum of 25 square feet of floor space per child for the educational area is equipped with chairs, tables/desks to accommodate the educational component of the program, if applicable;
- b. a minimum of 35 square feet of floor area per child in buildings to be used by children for sleeping during adverse weather and are maintained at a comfortable temperature;
- c. permanent laundry areas have one washer and dryer for every 15 children;

- d. permanent infirmary space for medical purposes only, is to:
 - i. be separate and private;
 - ii. accessible to bathrooms;
 - iii. equipped with adequate beds; and
 - iv. have locking medication storage and supplies.

Weight—S

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 34:

§2315. The Campsite Requirements

A. The physical accommodations of the campsites must conform to special criteria.

1. The campsite may consist of tents, tepees, cabins, wagon trains, or other non-permanent structures.

2. There is a sheltered area, with adequate lighting, for personal and recreational activities. This area may serve as the dining area.

3. There is an emergency access road to the campsite. Weight—S

B. The campsite is required to have specific equipment and storage areas that include:

1. fire safety equipment, fire extinguishers, sand, water, shovels, signaling devices and posted procedures;

2. first aid equipment, a Red Cross standard or equivalent first aid kit;

3. adequate sanitary storage for cooking utensils, food, and cleaning supplies, which must be stored separately; and

4. storage areas, with locks if necessary and containers for tools and trash. Weight—S

C. Structural requirements for the sleeping areas include:

1. the structure of the sleeping area is sound, sanitary, in good repair, and provide adequate storage space for each child's personal belongings;

2. the structure is constructed of durable, flame-resistant, waterproof material, whether it is tents, tepees, wagons, etc.;

3. the structure has screening or netting to provide protection against insects, if applicable;

4. tents or tepees are on raised platforms and/or constructed to prevent the entrance of ground and surface water;

5. the structure allows cross ventilation. Weight—S

D. Sleeping area furnishings and occupancy are to include:

1. separate suitable beds are provided for each child;

2. if bunk beds are used, the top bunk is to have sufficient clearance between the bunk and ceiling to allow the child to sit up in bed. Triple bunk beds are not to be used;

3. each temporary sleeping unit is to have no more than 12 individuals;

4. males and females are not to sleep in the same sleeping units. Counselors are permitted to sleep in the unit with the children only if they are the same gender as the children;

5. any counselor's sleeping areas are located so that no child's sleeping area will be out of calling range. Weight—S

E. Bedding requirements for the sleeping areas are for the safety of the children and are to include:

- 1. the bedding is clean and sanitary;
- 2. the mattresses have a protective waterproof mattress cover or pad that is in good repair;
- 3. linens are changed as often as necessary for cleanliness and sanitation, but not less than weekly;
- 4. if sleeping bags are used, one is provided for each child and is given to the child upon discharge;

5. sleeping bags are:

a. placed on a mattress or a plastic-covered foam pad;

b. fire resistant; and

c. aired every five days and cleaned monthly or as often as necessary to maintain sanitary conditions;

d. of sufficient weight and construction to maintain children's comfort in the climate and conditions in which the sleeping bag is used, according to the manufacturer's label. Weight—S

F. The toilet and personal hygiene accommodations replace the bathroom regulations in LAC 67:I.1107.E.5. The bathroom area and necessities are to include:

1. privies, water closets, latrines, chemical toilets, etc.;

2. the accommodations are in compliance with Office of Public Health, Sanitation Services requirements and are constructed, located, and maintained so as to prevent any nuisance or public health hazard;

3. toilet tissue is available at each toilet seat;

4. an area for personal hygiene is made available with wash basins equipped with potable water, soap, towels, and clean water for hand washing;

5. there are separate facilities if the program is co-ed;

6. accommodations are well lit, ventilated, clean, and sanitary; and

7. individual items such as shampoo, hairbrushes, razors, personal hygiene products, toothbrushes, etc., are provided for the children. Weight—S

G. The meal accommodations standards at the campsite are to include:

1. meals coordinated to meet the daily national needs of the children as outlined by the Food Nutrition Board of the National Research Council;

2. cooking and eating areas are protected from water by locating the areas so that ground and surface water cannot accumulate/enter, or have a flooring that is constructed to prevent entrance of ground/surface water and is to have a covering to protect against rain and the elements;

3. potable water for cooking and drinking is made available;

4. the areas for food preparation have sanitary surfaces with proper food sanitation practices written and posted in the cooking area;

5. eating areas have tables and benches with eating utensils at meal times;

6. appropriate cookware, materials for handling hot cookware and materials for cleaning cooking and eating utensils are available at the campsite. Weight—S

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 34:

Family Impact Statement

1. What effect will this Rule have on the stability of the family? This Rule will have no effect on the stability of the family.

2. What effect will this Rule have on the authority and rights of persons regarding the education and supervision of their children? This Rule will have no effect on the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this Rule have on the functioning of the family? This Rule will have no effect on the functioning of the family.

4. What effect will this Rule have on family earnings and family budget? This Rule will have no effect on the family's earnings or budget.

5. What effect will this Rule have on the behavior and personal responsibility of children? This Rule will have no effect on the behavior or personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed Rule? No, this program is strictly an agency function.

Interested persons may submit written comments to Ann S. Williamson, Secretary, Department of Social Services, Post Office Box 3776, Baton Rouge, Louisiana, 70821. She is responsible for responding to inquiries regarding this proposed Rule. Three public hearings on the proposed Rule will be held throughout the state during the month of June 2008, as follows:

Thursday, June 5, 2008

Department of Social Services, Iberville Building
627 N. Fourth Street, Baton Rouge, LA
9 a.m. to 3:30 p.m.

Thursday, June 12, 2008

Louisiana United Methodist Children and Family Services, Inc.
901 South Vienna, Ruston, LA
9:30 a.m. to 3:30 p.m.

Thursday, June 19, 2008

Office of Youth Development
Lafayette Regional Office
130 Chappius Drive, Lafayette, LA
9 a.m. to 4 p.m.

All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing at said hearings. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (Voice and TDD).

Ann S. Williamson
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Child Residential Regulations

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The purpose of this proposed rule is to revise the minimum standards for the licensure of Class "A" child residential facilities and to renumber LAC 67.I.Subpart 2 to better organize these portions of the code. R.S. 46:1401-1427 directs DSS to conduct a comprehensive review of all standards, rules and regulations every three years. This review resulted in the

agency revising the minimum licensing standards to incorporate a rating system to define what constitutes "substantial compliance." Currently substantial compliance is defined as either pass or fail. This new system establishes a numeric system to determine various degrees of compliance with licensing standards.

The total cost to implement this rule in FY 08-09 is \$64,400 (\$48,300 State General Fund; \$16,100 IAT from the Office of Community Services). This cost includes \$3,000 to print 1,000 copies of the revised regulations; \$49,900 to secure the services of four qualified trainers who will be responsible for producing a training manual and provider handbook and for providing three statewide two-day training sessions for 9 Department of Social Services (DSS) employees, 10 Office of Youth Development (OYD) employees and 95 residential providers; and \$8,000 for travel costs which includes transportation, meals, and lodging for 2 nights for 5 DSS employees and 4 contracted trainers. In addition, the cost for publishing rulemaking in the Louisiana Register is anticipated to be approximately \$3,500. The agency anticipates that these costs will be absorbed in the FY 08/09 appropriated budget. These are one-time costs; therefore, no funding is needed for FY 2009-10 and 2010-11.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections of state and local governments.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The residential care provider will benefit from this rule change because the provider will be rated for implementation of licensing standards on a graduated scale of four choices with ratings of 1 to 4 (1 is full implementation, 2 is substantial implementation, 3 is partial implementation, and 4 is non-compliance) in lieu of receiving a pass or fail rating. Under the current system, a provider's license would not be renewed with a failed rating. Under the new rating system, only a rating of 3 or 4 would mean non-compliance with the standards and the provider will be required to submit a Quality Improvement Plan. Although, this rule will provide less subjective criteria for rating a provider, the agency expects the overall impact for passing or failing the standards to be neutral.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no impact anticipated on competition or employment.

Ann Silverberg Williamson
Secretary
0805#059

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Voluntary Deductions from Retiree Benefits Payroll
(LAC 58.I:1101 and 1103)

The Department of the Treasury, Board of Trustees of the Louisiana State Employees' Retirement System ("LASERS") proposes to amend LAC 58.I:1101 and LAC 58.I:1103, which provide for voluntary deductions by LASERS retirees from their retirement benefits. They are being amended in order to streamline the process for adding additional

insurance vendors. This Rule complies with and is enabled by R.S. 11:515.

**Title 58
RETIREMENT**

Part I. State Employees' Retirement

Chapter 11. Voluntary Deductions from Retiree Benefits Payroll

§1101. Application Process for Voluntary Payroll Deduction

A. - B.7. ...

8. other insurance companies approved by the executive director.

C. ...

D. - E. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 18:1417 (December 1992), amended LR 22:373 (May 1996), LR 33:676 (April 2007), LR 34:

§1103. Applicant and Vendor Requirements

A. General insurance vendors shall meet the requirements established by the Division of Administration and shall either be included on the annual listing maintained by the Office of State Uniform Payroll or approved by the executive director.

B. ...

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

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 18:1417 (December 1992), amended LR 22:373 (May 1996), LR 33:676 (April 2007), LR 34:

Family Impact Statement

These proposed Rule amendments should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;

5. the behavior and personal responsibility of children;

6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Interested persons may submit written comments on the proposed changes until 4:30 p.m., June 27, 2008, to Steve Stark, Board of Trustees for the Louisiana State Employees' Retirement System, P.O. Box 44213, Baton Rouge, LA 70804.

Cindy Rougeou
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Voluntary Deductions from Retiree Benefits Payroll

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

No implementation costs to state or local governmental units are anticipated to result from the implementation of these rule changes.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No effect on revenue collections of state or local governmental units is anticipated to result from the implementation of these rule changes.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Retirees seeking new insurance vendors would be affected, along with insurance vendors. LASERS expects no associated costs or economic benefits to result from the proposed rule amendments.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition or employment in the public or private sectors is anticipated to result from the proposed rule changes.

Cindy Rougeou
Executive Director
0804#028

Robert E. Hosse
Staff Director
Legislative Fiscal Office

Potpourri

POTPOURRI

Department of Agriculture and Forestry Horticulture Commission

Retail Floristry Examination

The next retail floristry examinations will be given July 21-25, 2008, 9:30 a.m. at Louisiana Technical College, Lomax Hall, Ruston, LA. The deadline for sending in application and fee is June 6, 2008. No applications will be accepted after June 6, 2007.

Further information pertaining to the examinations may be obtained from Craig Roussel, Director, Horticulture Commission, Box 3596, Baton Rouge, LA 70821-3596, phone (225) 952-8100.

Any individual requesting special accommodations due to a disability should notify the office prior to June 6, 2007. Questions may be directed to (225) 952-8100.

Mike Stran, DVM
Commissioner

0805#022

POTPOURRI

Department of Health and Hospitals Office of Public Health Maternal and Child Health Section

Public Notice—Maternal and Child Health

The Department of Health and Hospitals (DHH) intends to apply for Maternal and Child (MCH) Block Grant Federal Funding for FY 2008-2009 in accordance with Public Law 97-35 and the Omnibus Budget Reconciliation Act of 1981. The Office of Public Health, Maternal and Child Health Section, is responsible for program administration of the grant.

The Block Grant Application describes in detail the goals and planned activities of the State Maternal and Child Health Program for the next year. Program priorities are based on the results of a statewide needs assessment conducted in 2005, which is updated annually based on relevant data collection.

Interested persons may request copies of the application from:

State of Louisiana
DHH—Office of Public Health
Maternal and Child Health Section
628 N. Fourth Street
Baton Rouge, LA 70821

Or view a summary of the application at:

<http://www.dhh.louisiana.gov/offices/publications.asp?ID=267&Detail=1065>

Additional information may be gathered by contacting Tracy Hubbard at (225)-342-7805.

M. Rony Francois, M.D., MSPH, Ph.D.
Assistant Secretary

0805#065

POTPOURRI

Department of Natural Resources Office of Conservation

Orphaned Oilfield Sites

Office of Conservation records indicate that the Oilfield Sites listed in the table below have met the requirements as set forth by Section 91 of Act 404, R.S. 30:80 et seq., and as such are being declared Orphaned Oilfield Sites.

Operator	Field	District	Well Name	Well Number	Serial Number
J. E. Holmes Co.	Joyce	S	Tremont LBR CO	C-1-A	51914

James H. Welsh
Commissioner

0805#068

POTPOURRI

Department of Natural Resources Office of the Secretary

Certification of Land Conservation Organizations (LAC 43:I.Chapter 41)

The Notice of Intent which proposed to adopt new rules to govern the Certification of Land Conservation Organizations, LAC 43:I.4101, 4103, 4105, 4107, 4109, 4111, 4113, 4115, 4117, and 4119, was published in the January 2008 publication of the *Louisiana Register* (pp. 178-186). A deadline for submission of written comments on the proposed Rules was originally set for March 7, 2008 at 4:30 p.m.

Because several requests have been received requesting more time to fully ascertain the effects of this Rule and to provide additional comment, the deadline for submission of written comments on the proposed Rule governing the administration of the Certification of Land Conservations Organizations has been reset for July 7, 2008 at 4:30 p.m.

All interested persons may submit written comments on the proposed Rule. Persons commenting should reference this proposed Rule by "Certification of Land Conservation Organizations" Such comments must be received no later than June 20, 2008 at 4:30 p.m., and should be sent to the

following contact person and address: James J. Devitt, Deputy General Counsel, Legal Division, Louisiana Department of Natural Resources, Office of the Secretary, P.O. Box 94396, Baton Rouge, LA 70804-9396 or to FAX (225) 342-2707 or by email to James.Devitt@la.gov. This proposed Rule is available on the Internet at <http://dnr.louisiana.gov>. This proposed Rule is available for inspection and copying between the hours of 8:30 a.m. and 4:30 p.m. at the following address: Louisiana Department of Natural Resources, Office of the Secretary, 617 North Third Street, 12th Floor, Baton Rouge, LA 70804.

Gerry M Duszynski
Assistant Secretary

0804#076

POTPOURRI

**Department of Natural Resources
Office of the Secretary
Fishermen's Gear Compensation Fund**

Loran Coordinates

In accordance with the provisions of R.S. 56:700.1 et. seq., notice is given that 11 claims in the amount of \$39,915.57 were received for payment during the period April 1, 2008 - April 30, 2008.

There were 11 claims paid and 0 claims denied.

Latitude/Longitude Coordinates of reported underwater obstructions are:

2913.732	8954.336	Jefferson
2924.910	9002.990	Lafourche
2927.922	9005.302	Jefferson
2931.039	9218.913	Vermilion
2940.658	8930.422	St. Bernard
2944.068	9230.063	Vermilion
2945.348	9008.010	Jefferson
2945.424	9230.216	Vermilion
2946.892	8932.010	St. Bernard
2952.958	9014.810	St. Charles
3007.465	8947.848	Orleans

A list of claimants and amounts paid can be obtained from Gwendolyn Thomas, Administrator, Fishermen's Gear Compensation Fund, P.O. Box 44277, Baton Rouge, LA 70804 or you can call (225)342-0122.

Scott A. Angelle
Secretary

08005#018

POTPOURRI

**Department of Social Services
Office of Community Services**

Louisiana's Child and Family Services Plan
and Annual Progress and Services Report

The Louisiana Department of Social Services/Office of Community Services (DSS/OCS) announces opportunities for public review of the state's 2008 Annual Progress and Services Report (APSR). The APSR is a report on year four of the 2004-2009 Child and Family Services Plan (CFSP) with regard to the use of Title IV-B, Subpart 1 and Subpart 2, Title IV-E Chafee independence program and Child Abuse Prevention & Treatment Act (CAPTA) funds. The APSR is the report on the achievement of goals and objectives/outcomes and amends any changes to the agency's CFSP.

Louisiana, through the DSS/OCS, provides services that include child protection investigations, family services, foster care, adoption and the Chafee independence program. OCS will use its allotted funds provided under the Social Security Act, Title IV-B, Subpart 1, to provide child welfare services to prevent child abuse and neglect; to prevent foster care placement; to reunite families; to arrange adoptions; and, to ensure adequate foster care. Title IV-B, Subpart 2, entitled Promoting Safe and Stable Families, includes services to support families and prevent the need for foster care. The Chafee Independence Program funds services to assist foster children 15 years old and older who are likely to remain in foster care until age 18. Former foster care recipients who are 18 to 21 years of age who have aged out of foster care are also eligible for services. The services include basic living skills training and education and employment initiatives. The CAPTA funding is used to complement and support the overall mission of OCS with emphasis on developing, strengthening, and carrying out child abuse and neglect prevention and treatment programs.

DSS/OCS is encouraging public participation in the planning of services and the writing of this document. The report can be found for review on the Internet under www.dss.state.la.us by scanning down to the OCS/State and Federal Plans and Reports/APSR link.

All interested persons will have the opportunity to provide recommendations on the plan, orally or in writing, at a public hearing scheduled for June 5, 2008, at 10:00 a.m. at the Iberville Building located at 627 North 4th Street in Baton Rouge, on the First Floor, Room 1-127. Comments on the plan may be submitted in writing to the OCS Assistant Secretary on or before the close of business on June 5, 2008, at PO Box 3318, Baton Rouge, LA 70821.

Ann S. Williamson
Secretary

0805#057

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