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Executive Orders

EXECUTIVE ORDER BJ 15-08

Marriage and Conscience Order

WHEREAS, Article I, Section 1 of the Louisiana Constitution is titled “Origin and Purpose of Government”, and provides:

All government, of right, originates with the people, is founded on their will alone, and is instituted to protect the rights of the individual and for the good of the whole. Its only legitimate ends are to secure justice for all, preserve peace, protect the rights, and promote the happiness and general welfare of the people. The rights enumerated in this Article are inalienable by the state and shall be preserved inviolate by the state.

WHEREAS, in 1974, the people of the State of Louisiana chose to adopt the exact language found in the First Amendment of the Constitution of the United States of America regarding religious free exercise as Article 1, Section 8 of the Constitution of Louisiana:

No law shall be enacted respecting an establishment of religion or prohibiting the free exercise thereof.

WHEREAS, in 2010, the Governor made part of his legislative package and signed into law the Preservation of Religious Freedom Act to further protect the free exercise of religion by making clear:

Government shall not substantially burden a person's exercise of religion, even if the burden results from a facially neutral rule or a rule of general applicability, unless it demonstrates that application of the burden to the person is both:

- (1) In furtherance of a compelling governmental interest.*
- (2) The least restrictive means of furthering that compelling governmental interest.*

WHEREAS, the federal Religious Freedom Restoration Act contains virtually identical language to prohibit the federal government from imposing a substantial burden upon a person's exercise of religion absent a compelling governmental interest and a showing that the action taken is the least restrictive means of furthering that compelling governmental interest;

WHEREAS, in June, 2014, the United States Supreme Court, in *Burwell v. Hobby Lobby Stores, Inc.*, 134 S.Ct. 2751 (2014), expressly held that the federal Religious Freedom Restoration Act of 1993 prohibits the federal government from requiring a “person” to act in contravention of a sincerely held religious belief, and that the definition of “person” includes individuals, non-profit, or for-profit corporations;

WHEREAS, federal and state law each contain nearly identical, expansive definitions of “person”, while the Preservation of Religious Freedom Act's definition includes certain terms, but does not exclude the more expansive state law definition:

“Person” is defined by La. R.S. 1:10: “Unless it is otherwise clearly indicated, the word ‘person’ includes a body of persons, whether incorporated or not.”

“Person” is defined in 1 USC 1: “In determining the meaning of any Act of Congress, unless the context indicates otherwise—...the words ‘person’ and ‘whoever’ include corporations, companies, associations, firms, partnerships, societies, and joint stock companies, as well as individuals;...”

“A person” is defined in La. R.S. 13:5234: “‘A person’ includes an individual and also includes a church, association of churches or other religious order, body or institution which qualifies for exemption from taxation under Section 501(c)(3) or (d) of the Internal Revenue Code of 1986 (Public law 99-514, 26 U.S.C. Section 501).” (Emphasis added.)

WHEREAS, it is of preeminent importance that government take no adverse action against a person, wholly or partially, on the basis that such person acts in accordance with his religious belief that marriage is or should be recognized as the union of one man and one woman, but that this principle not be construed to authorize any act of discrimination.

WHEREAS, specifically, government should take no adverse action to:

1. Deny or revoke an exemption from taxation pursuant to La. R.S. 47:287.501 of the person who is acting in accordance with his religious belief;
2. Disallow a deduction for state tax purposes of any charitable contribution made to or by such person;
3. Deny or exclude such person from receiving any state grant, contract, cooperative agreement, loan, professional license, certification, accreditation, employment, or other similar position or status; or
4. Deny or withhold from such person any benefit under a state benefit program;

WHEREAS, the state should consider any person who would be accredited, licensed, or certified but for a determination against such person on the basis that the person acts in accordance with his own religious belief about the institution of marriage, to be accredited, licensed, or certified for purposes of Louisiana law.

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: All departments, commissions, boards, agencies, and political subdivisions of the state are authorized and directed to take cognizance of the definition of “person” contained in La. R.S. 1:10 when complying with the Preservation of Religious Freedom Act (La. R.S. 13:5230-5242), the interpretation of the virtually identical federal law definition contained in 1 USC 1 by the United States Supreme Court in *Burwell v. Hobby Lobby* in its holding that the federal government is prohibited from requiring a “person” to act in contravention of a sincerely

held religious belief, and that the definition of “person” includes individuals, non-profit, or for-profit corporations.

SECTION 2: All departments, commissions, boards, agencies, and political subdivisions of the state are authorized and directed to comply with the restrictions placed upon government action in the Preservation of Religious Freedom Act and, including more specifically, on the basis that such person acts in accordance with his religious belief that marriage is or should be recognized as the union of one man and one woman, shall take no adverse action to:

A. Deny or revoke an exemption from taxation pursuant to La. R.S. 47:287.501 of the person who is acting in accordance with his religious belief.

B. Disallow a deduction for state tax purposes of any charitable contribution made to or by such person.

C. Deny or exclude such person from receiving any state grant, contract, cooperative agreement, loan, professional license, certification, accreditation, employment, or other similar position or status.

D. Deny or withhold from such person any benefit under a state benefit program.

E. Deny, revoke, or suspend the accreditation, licensing, or certification of any person that would be

accredited, licensed, or certified for purposes of Louisiana law but-for a determination against such person on the basis that the person acts in accordance with his own religious belief.

SECTION 3: All departments, commissions, boards, agencies, and political subdivisions of the state are authorized and directed to cooperate with the implementations of the provisions of this Order.

SECTION 4: This Order is effective upon signature and shall remain in effect until amended, modified, terminated or rescinded.

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 19th day of May, 2015.

Bobby Jindal
Governor

ATTEST BY
THE GOVERNOR
Tom Schedler
Secretary of State
1506#002

Policy and Procedure Memoranda

POLICY AND PROCEDURE MEMORANDA

Office of the Governor
Division of Administration
Office of State Procurement

PPM 49—General Travel (LAC 4:V.Chapter 15)

The following shows the amended text in PPM-49. This supersedes all prior issues of PPM-49 published in the *Louisiana Register*. This revised PPM-49 also supersedes and replaces PPM-49 which is designated as LAC 4:V.Chapter 15.

Title 4

ADMINISTRATION

Part V. Policy and Procedure Memoranda

Chapter 15. General Travel Regulations—PPM Number 49

§1501. Authorization and Legal Basis

A. In accordance with the authority vested in the Commissioner of Administration by Section 231 of Title 39 of the Revised Statutes of 1950 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950-968 as amended, notice is hereby given of the revision of Policy and Procedures Memorandum No. 49, the state general travel regulations, effective July 1, 2015. These amendments are both technical and substantive in nature and are intended to clarify certain portions of the previous regulations or provide for more efficient administration of travel policies. These regulations apply to all state departments, boards and commissions created by the legislature or executive order and operating from funds appropriated, dedicated, or self-sustaining; federal funds; or funds generated from any other source.

Please note that when political subdivisions are required to follow PPM49 for any pass through money issued by the State of Louisiana, any and all required approvals must be sent to the correct appointing authority, not to the Commissioner of Administration.

B. Legal Basis (R.S. 39:231.B) "The Commissioner of Administration, with the approval of the governor, shall, by rule or regulation prescribe the conditions under which each of various forms of transportation may be used by state officers and employees in the discharge of the duties of their respective offices and positions in the state service and the conditions under which allowances will be granted for traveling expenses.

AUTHORITY NOTE: Published in accordance with R.S. 39:231.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, published LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 6:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 26:1252 (June 2000), LR 27:802 (June 2001), LR 28:1125 (June 2002), LR 29:822 (June 2003), LR 30:1111 (June 2004), LR 31:1183 (June 2005), LR 32:938 (June 2006), LR 33:966 (June 2007), republished LR 33:1314 (July 2007), amended LR 34:1299 (July 2008), LR 35:1192 (July 2009), LR 36:1647 (July 2010), LR 37:2048 (July

2011), LR 38:1475 (July 2012), LR 39:1659 (July 2013), LR 40:1052 (June 2014), amended by the Office of the Governor, Division of Administration, Office of State Procurement and Travel, LR 41:1043 (June 2015).

§1502. Definitions

A. For the purposes of this PPM, the following words have the meaning indicated.

Authorized Persons—

a. advisors, consultants, contractors and other persons who are called upon to contribute time and services to the state who are not otherwise required to be reimbursed through a contract for professional, personal, or consulting services in accordance with R.S. 39:1481 et seq.;

b. members of boards, commissions, and advisory councils required by federal or state legislation or regulation. Travel allowance levels for all such members and any staff shall be those authorized for state employees unless specific allowances are legislatively provided.

c. The department head or his/her designee is allowed to deem persons as an authorized traveler for official state business only.

NOTE: College/University Students must be deemed authorized travelers to be reimbursed for state business purposes. A file must be kept containing all of these approvals.

*Conference/Convention—*is herein defined as a meeting (other than routine) for a specific purpose and/or objective. Non-routine meetings can be defined as a seminar, conference, convention, or training. Documentation required is a formal agenda, program, letter of invitation, or registration fee. Participation as an exhibiting vendor in an exhibit/trade show also qualifies as a conference. For a hotel to qualify for conference rate lodging it requires that the hotel is hosting or is in "conjunction with hosting" the meeting. In the event the designated conference hotel(s) have no room available, a department head may approve to pay actual hotel cost not to exceed the conference lodging rates for other hotels located near the conference hotel.

*Controlled Billed Account (CBA)—*credit account issued in an agency's name (no plastic card issued). These accounts are direct liabilities of the state and are paid by each agency. CBA accounts are controlled through an authorized approver(s) to provide a means to purchase airfare, registration, lodging, rental vehicles, pre-paid shuttle service and any other allowable charges outlined in the current State of Louisiana State Liability Travel and CBA Policy. Each department head determines the extent of the account's use.

*Corporate Travel Card—*credit cards issued in a State of Louisiana employee's name to be used for specific, higher cost official business travel expenses. Corporate Travel Cards are state liability cards, paid by each agency.

*Emergency Travel—*Each department shall establish internal procedures for authorizing travel in emergency situations. Approval may be obtained after the fact from the Commissioner of Administration with appropriate documentation, under extraordinary circumstances when PPM49 regulations cannot be followed but where the best interests of the state requires that travel be undertaken.

Extended Stays—any assignment made for a period of 31 or more consecutive days at a place other than the official domicile.

Higher Education Entities—entities listed under Schedule 19 Higher Education of the General Appropriations Bill.

Higher Education Entity Head—president of a university.

In-State Travel—all travel within the borders of Louisiana or travel through adjacent states between points within Louisiana when such is the most efficient route.

International Travel—all travel to destinations outside the 50 United States, District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam and Saipan.

Lowest Logical Airfare—In general, these types of airfares are non-refundable, penalty tickets. Penalties could include restrictions such as advanced purchase requirements, weekend stays, etc. Prices will increase as seats are sold. When schedule changes are required for lowest logical tickets, penalty fees are added.

Official Domicile—every state officer, employee, and authorized person, except those on temporary assignment, shall be assigned an official domicile:

a. except where fixed by law, official domicile of an officer or employee assigned to an office shall be, at a minimum, the city limits in which the office is located. The department head or his designee should determine the extent of any surrounding area to be included, such as parish or region. As a guideline, a radius of at least 30 miles is recommended. The official domicile of an authorized person shall be the city in which the person resides, except when the department head has designated another location (such as the person's workplace);

b. a traveler whose residence is other than the official domicile of his/her office shall not receive travel and subsistence while at his/her official domicile nor shall he/she receive reimbursement for travel to and from his/her residence;

c. the official domicile of a person located in the field shall be the city or town nearest to the area where the majority of work is performed, or such city, town, or area as may be designated by the department head, provided that in all cases such designation must be in the best interest of the agency and not for the convenience of the person.

d. The department head or his/her designee may authorize approval for an employee to be reimbursed for lodging expenses within an employee's domicile with proper justification as to why this is necessary and in the best interest of the state.

Out-of-State Travel—travel to any of the other 49 states plus District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, and Saipan.

Passport—a document identifying an individual as a citizen of a specific country and attesting to his or her identity and ability to travel freely.

Per Diem—a flat rate paid in lieu of travel reimbursements for people on extended stays only.

Receipts/Document Requirements—supporting documentation, including original receipts, must be retained according to record retention laws. It shall be at the discretion of each agency to determine where the receipts/documents will be maintained.

Routine Travel—travel required in the course of performing his/her job duties. This does not include non-routine meetings, conferences and out-of-state travel.

State Employee—employees below the level of state officer

State Officer—

a. state elected officials;

b. department head as defined by Title 36 of the Louisiana Revised Statutes, and the equivalent positions in higher education and the office of elected officials.

Suburb—an immediate or adjacent location (overflow of the city) to the higher cost areas which would be within approximately 30 miles of the highest cost area.

Temporary Assignment—any assignment made for a period of less than 31 consecutive days at a place other than the official domicile.

Travel Period—a period of time between the time of departure and the time of return.

Travel Routes—the most direct traveled route must be used by official state travelers.

Travel Scholarships—if any type of scholarship for travel is offered/received by a state employee, it is the agency/employee's responsibility to receive/comply with all ethic laws/requirements. See R.S. 42:1123

Traveler—a state officer, state employee, or authorized person performing authorized travel.

Visa—a document or, more frequently, a stamp in a passport authorizing the bearer to visit a country for specific purposes and for a specific length of time.

AUTHORITY NOTE: Published in accordance with R.S. 39:231.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, published LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 6:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 26:1252 (June 2000), LR 27:802 (June 2001), LR 28:1125 (June 2002), LR 29:822 (June 2003), LR 30:1111 (June 2004), LR 31:1183 (June 2005), LR 32:938 (June 2006), LR 33:966 (June 2007), republished LR 33:1314 (July 2007), amended LR 34:1299 (July 2008), LR 35:1192 (July 2009), LR 36:1647 (July 2010), LR 37:2048 (July 2011), LR 38:1475 (July 2012), LR 39: 1659 (July 2013), LR 40:1052 (June 2014), amended by the Office of the Governor, Division of Administration, Office of State Procurement and Travel, LR 41:1043 (June 2015).

§1503. General Specifications

A. Department Policies

1. Department heads may establish travel regulations within their respective agencies, but such regulations shall not exceed the maximum limitations established by the Commissioner of Administration. Three copies of such regulations shall be submitted for prior review and approval by the Commissioner of Administration. One of the copies shall highlight any exceptions /deviations to PPM-49.

2. Department and agency heads will take whatever action necessary to minimize all travel to carry on the department mission.

3. All High Cost Expenditures (airfare, lodging, vehicle rentals, and registration) must be placed on the LaCarte Purchasing Card, Travel Card or agency CBA programs unless prior approval is granted from the Commissioner of Administration.

4. Contracted Travel Services. The state has contracted for travel agency services which use is mandatory for airfares unless exemptions have been granted by the Division of Administration, Office of State Travel, prior to purchasing airfare tickets. The contracted travel agency has an online booking system which can and should be used by all travelers for booking airfare. Use of the online booking system can drastically reduce the cost paid per transaction and state travelers are strongly encouraged to utilize.

5. Contracted Hotel Services. The state has a contract for hotel services, with HotelPlanner, which use is mandatory. This mandate is also applicable to authorized travelers, contractors, board members and students who are traveling on behalf of State of Louisiana. A one-time exemption may be granted for individual lodging on a case by case basis by the Agency Department Head with proper justification.

NOTE: Travelers will be responsible for adhering to the hotel's cancellation policy that is set by the hotel when booking through Hotelplanner. If a traveler does not cancel a hotel stay within the cancellation time frame that is set by the hotel, the traveler will be responsible for payments. No exceptions unless approval is granted from the Commissioner of Administration. Travelers not booking through the portal without prior approval must reimburse the agency/university/board.

a. All agency/university/board hosted in-state conferences that require lodging must be booked through Hotelplanner portal unless prior approval granted by the Division of Administration, Office of State Travel.

b. Group lodging for in-state and out-of-state bookings must be booked through Hotelplanner portal unless prior approval is granted by the Division of Administration, Office of State Travel.

6. Contracted Vehicles Rentals. The state has a contract for all rentals based out of Louisiana through Enterprise Rent-A-Car, which use is mandatory.

a. The state has a contract for all out-of-state rental vehicles which use is mandatory. Travelers shall use Hertz, Enterprise, or National for business travel. These contracts are also applicable to all authorized travelers, and contractors.

7. When a state agency enters into a contract with an out-of-state public entity, the out-of-state public entity may have the authority to conduct any related travel in accordance with their published travel regulations.

8. Authorization to Travel

a. All non-routine travel must be authorized with prior approvals in writing by the head of the department, board, or commission from whose funds the traveler is paid. A department head may delegate this authority in writing to one designated person. Additional persons within a department may be designated with approval from the Commissioner of Administration. A file shall be maintained, by the agency, on all approved travel authorizations.

b. Annual travel authorizations are no longer a mandatory requirement of PPM-49 for routine travel, however, an agency can continue to utilize this process if determined to be in your department's best interest and to obtain prior approval for annual routine travel. A prior approved travel authorization is still required for non-routine meetings, conferences and out-of-state travel.

B. Funds for Travel Expenses

1. Persons traveling on official business will provide themselves with sufficient funds for all routine travel expenses not covered by the corporate travel card, LaCarte purchasing card, if applicable, and/or agency's CBA account. Advance of funds for travel shall be made only for extraordinary travel and should be punctually repaid when submitting the Travel expense form covering the related travel, no later than the fifteenth day of the month following the completion of travel.

2. Exemptions: Cash advance(s) meeting the exception requirement(s) listed below, must have an original receipt to support all expenditures in which a cash advance was given, including meals. At the agency's discretion, cash advances may be allowed for:

a. state employees whose salary is less than \$30,000/year;

b. state employees who accompany and/or are responsible for students or athletes for a group travel advance.

NOTE: In this case and in regards to meals, where there is group travel advancements, a roster with signatures of each group member along with the amount of funds received by each group member, may be substituted for individual receipts. (This exception does not apply when given for just an individual employee's travel which is over a group.)

c. state employees who accompany and/or responsible for client travel

d. new employees who have not had time to apply for and receive the state's corporate travel card;

e. employees traveling for extended periods, defined as 30 or more consecutive days;

f. employees traveling to remote destinations in foreign countries, such as jungles of Peru or Bolivia;

g. lodging purchase, if hotel will not allow direct bill or charges to agency's CBA and whose salary is less than \$30,000/year;

h. registration for seminars, conferences, and conventions;

i. any ticket booked by a traveler 30 days or more in advance and for which the traveler has been billed, may be reimbursed by the agency to the traveler on a preliminary expense reimbursement request. The traveler should submit the request with a copy of the bill or invoice. Passenger airfare receipts are required for reimbursement;

j. employees who infrequently travel or travelers that incur significant out-of-pocket cash expenditures and whose salary is less than \$30,000/year.

3. Expenses Incurred on State Business. Traveling expenses of travelers shall be limited to those expenses necessarily incurred by them in the performance of a public purpose authorized by law to be performed by the agency and must be within the limitations prescribed herein.

4. CBA (Controlled Billed Account) issued in an agency's name, and paid by the agency may be used for airfare, registration, rental cars, prepaid shuttle charges, lodging and any allowable lodging associated charges such as parking and internet charges. Other credit cards issued in the name of the state agency are not to be used without written approval.

5. No Reimbursement When No Cost Incurred by Traveler. This includes but is not limited to reimbursement

for any lodging and/or meals furnished at a state institution or other state agency, or furnished by any other party at no cost to the traveler. In no case will a traveler be allowed mileage or transportation when he/she is gratuitously transported by another person.

C. Claims for Reimbursement

1. All claims for reimbursement for travel shall be submitted on the state's Travel Expense Form BA-12, unless exception has been granted by the Commissioner of Administration, and shall include all details provided for on the form. It must be signed by the person claiming reimbursement and approved by his/her immediate supervisor. In all cases the date and hour of departure from and return to domicile must be shown, along with each final destination throughout the trip clearly defined on the form. On the State's Travel Authorization Form GF-4 the second page must be completed with breakdown of the estimated travel expenses. This is necessary for every trip, not just when requesting a travel advance. For every travel authorization request, the "purpose of the trip" for travel must be stated in the space provided on the front of the form.

2. Except where the cost of air transportation, registration, lodging, rental vehicles, shuttle service, and all other allowable charges outlined in the current State of Louisiana State Liability Travel and CBA Policy are invoiced directly to the agency or charged to a state liability card, any and all expenses incurred on any official trip shall be paid by the traveler and his travel expense form shall show all such expenses in detail so that the total cost of the trip shall be reflected on the travel expense form. If the cost of the expenses listed above are paid directly or charged directly to the agency/department, a notation will be indicated on the travel expense form indicating the date of travel, destination, amount, and the fact that it has been paid by the agency/department. The traveler must provide receipts, for all items charged or billed direct to the agency.

3. In all cases, and under any travel status, cost of meals shall be paid by the traveler and claimed on the travel expense form for reimbursement, and not charged to the state department, unless otherwise authorized by the department head or his designee, allowed under the State Liability Travel, CBA and/or LaCarte Purchasing Card Policy or with written approval from the Office of State Purchasing and Travel. A file must be kept containing all of these special approvals.

4. Claims should be submitted within the month following the travel, but preferably held until a reimbursement of at least \$25 is due. Department heads at their discretion may make the 30 day submittal mandatory on a department wide basis.

5. Any person who submits a claim pursuant to these regulations and who willfully makes and subscribes to any claim which he/she does not believe to be true and correct as to every material matter, or who willfully aids or assists in, or procures, counsels or advises the preparation or presentation of a claim, which is fraudulent or is false as to any material matter shall be guilty of official misconduct. Whoever shall receive an allowance or reimbursement by means of a false claim shall be subject to severe disciplinary action as well as being criminally and civilly liable within the provisions of state law.

6. Agencies are required to reimburse travel in an expeditious manner. In no case shall reimbursements require more than 30 days to process from receipt of complete, proper travel documentation.

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§1504. Methods of Transportation

A. Cost-Effective Transportation. The most cost-effective method of transportation that will accomplish the purpose of the travel shall be selected. Among the factors to be considered should be length of travel time, employee's salary, cost of operation of a vehicle, cost and availability of common carrier services, etc. Common carrier shall be used for out-of-state travel unless it is documented that utilization of another method of travel is more cost-efficient or practical and approved in accordance with these regulations.

B. Air

1. Private Owned or Charter Planes. Before travel by privately-owned or by chartered aircraft is authorized for individual's travel by a department head, the traveler shall certify that: at least two hours of working time will be saved by such travel; and no other form of transportation, such as commercial air travel or a state plane, will serve this same purpose.

a. Chartering a privately owned aircraft must be in accordance with the Procurement Code.

b. Reimbursement for use of a chartered or un-chartered privately owned aircraft under the above guidelines will be made on the following basis:

- i. at the rate of \$1.29 cents per mile; or
- ii. at the lesser of coach economy airfare

c. If there are extenuating circumstances requiring reimbursement for other than listed above, approval must be granted by the Commissioner of Administration.

c. When common carrier services are unavailable and time is at a premium, travel via state aircraft shall be investigated, and such investigation shall be documented and readily available in the department's travel reimbursement files. Optimum utilization will be the responsibility of the department head.

2. Commercial Airlines. (Receipts required.) All state travelers are to purchase commercial airline tickets through the state contracted travel agency (see front cover for contract travel agency contact numbers). This requirement is mandatory unless approval is granted from the Office of State Travel. (In the event travelers seek approval to go outside the travel agency, they shall submit their request

through their agency travel program administrator, who will determine if the request should be submitted to the Office of State Travel.) While state contractors are not required to use the state's contracted travel agency when purchasing airfare, it will be the agency's responsibility to monitor cost ensuring that the contractor(s) are purchasing the lowest, most logical airfare. The state always supports purchasing the "best value" ticket. Therefore once all rates are received, the traveler must compare cost and options to determine which fare would be the "best value" for their trip. To make this determination, the traveler must ask the question: Is there a likelihood my itinerary could change or be cancelled? Depending on the response, the traveler must determine if the costs associated with changing a non-refundable ticket (usually around \$200) would still be the best value. Another factor to assist having a travel agent search the lowest fare is advising the agent if traveler is flexible in either your dates or time of travel. By informing the travel agent of your "window of time" for your departure and return will assist them to search for the best price. Travelers are to seek airfares allowing an ample amount of lead time prior to departure date. The lead-time should be about 10 to 14 days in advance of travel dates to ensure the lowest fares are available.

NOTE: Cost of a preferred or premium seat is not reimbursable. To avoid these charges or to avoid being bumped, a traveler must check in as early as possible. A traveler should check-in online 24 hours prior to a flight or check-in at the airport several hours prior to departure to obtain a seat assignment. Please be aware that it is a strict airline policy that a traveler must check-in, at a minimum, prior to 30 minutes of departure. The airlines are very strict about this policy. Airline rules typically state that if you don't arrive at least 30 minutes before the schedule departure, you may forfeit your reservation. The earlier you arrive at the gate increases the chances of retaining your original reservation and assurance of a seat on the flight purchased.

c. Commercial air travel will not be reimbursed in excess of lowest logical airfare when it has been determined to be the best value (receipts required). The difference between coach/economy class rates and first class or business class rates will be paid by the traveler. Upgrades at the expense of the state are not permitted, without prior approval of the Commissioner of Administration. If space is not available in less than first or business class air accommodations in time to carry out the purpose of the travel, the traveler will secure a certification from the airline or contracted travel agency indicating this fact. The certification is required for travel reimbursement.

d. The policy regarding airfare penalties is that the state will pay for the airfare and/or penalty incurred for a change in plans or cancellation when the change or cancellation is required by the state or other unavoidable situations approved by the agency's department head. Justification for the change or cancellation by the traveler's department head is required on the travel expense form.

e. When an international flight segment is more than 10 hours in duration, the state will allow the business class rate not to exceed 10 percent of the coach rate. The traveler's itinerary provided by the travel agency must document the flight segment as more than 10 hours and must be attached to the travel expense form.

f. A lost airline ticket is the responsibility of the person to whom the ticket was issued. The airline fee of searching and refunding lost tickets will be charged to the

traveler. The difference between the prepaid amount and the amount refunded by the airlines must be paid by the employee.

g. Traveler is to use the lowest logical airfare whether the plane is a prop or a jet.

h. Employees may retain promotional items, including frequent flyer miles, earned on official state travel. However, if an employee makes travel arrangements that favor a preferred airline/supplier to receive promotional items/points and this circumvents purchasing the most economical means of travel, they are in violation of this travel policy. Costs for travel arrangements subject to this violation are non-reimbursable.

i. When making airline reservations for a conference, let the travel agent know that certain airlines have been designated as the official carrier for the conference. In many instances, the conference registration form specifies that certain airlines have been designated as the official carrier offering discount rates, if available. If so, giving this information to our contracted agency could result in them securing that rate for your travel.

j. Tickets which are unused by a traveler should always be monitored by the traveler and the agency. Traveler should ensure that any unused ticket is considered when planning future travel arrangements. Some airlines have a policy which would allow for a name change to another employee within the agency. A view of the latest airline policies regarding unused tickets are available at the State Travel Office's website <http://www.doa.louisiana.gov/osp/travel/airfare.htm>.

i. Ultimately, it is the traveler's responsibility to determine, upon initial notification of an unused ticket and then every 30 days thereafter, if they will be utilizing the unused ticket. If it is determined that the ticket will not be utilized prior to expiration and there is a possibility to transfer the ticket, the traveler must immediately advise the agency travel administrator that the ticket is available for use by another employee, section or agency. The traveler administrator should then act accordingly.

ii. In addition, the department head, at a minimum of two months prior to expiration, must review all unused airfare to determine, based on the traveler's justification, if reimbursement from the traveler must be made to the agency for the amount of the unused ticket. All files must be properly documented.

iii. This may be accomplished with the unused ticket report sent to each agency program administrator each month from the contracted travel agency. This report in conjunction with employee notifications while booking other flights and employee email notifications every 90, 60, 30 and 14 days prior to ticket expiration should be more than sufficient to reduce the loss of reusable airfare.

C. Motor Vehicle. No vehicle may be operated in violation of state or local laws. No traveler may operate a vehicle without having in his/her possession a valid U.S. driver's license. Safety restraints shall be used by the driver and passengers of vehicles. All accidents, major and minor, shall be reported first to the local police department or appropriate law enforcement agency. In addition, an accident report form, available from the Office of Risk Management (ORM) of the Division of Administration, should be completed as soon as possible and must be returned to ORM,

together with names and addresses of principals and witnesses. Any questions about this should be addressed to the Office of Risk Management of the Division of Administration. These reports shall be in addition to reporting the accident to the Department of Public Safety as required by law. Operating a state owned vehicle, state-rented vehicle or state-leased vehicle or operating a non-state-owned vehicle for state business while intoxicated as set forth in R.S. 14:98 and 14:98.1 is strictly prohibited, unauthorized, and expressly violates the terms and conditions of use of said vehicle. In the event such operation results in the employee being convicted of, pleading nolo contendere to, or pleading guilty to driving while intoxicated under R.S. 14:98 and 14:98.1, such would constitute evidence of the employee: violating the terms and conditions of use of said vehicle, violating the direction of his/her employer, and acting beyond the course and scope of his/her employment with the State of Louisiana. Personal use of a state-owned, state-rented or state-leased vehicle is not permitted. No person may be authorized to operate or travel in a state owned or rental vehicle unless that person is a classified or unclassified employee of the State of Louisiana; any duly appointed member of a state board, commission, or advisory council; or any other person who has received specific approval and is deemed as an "authorized traveler" on behalf of the State, from the department head or his designee to operate or travel in a fleet vehicle on official state business. A file must be kept containing all of these approvals. Any persons who are not official state employees must sign a Hold Harmless Agreement Form, located at the Office of State Travel's website, <http://www.doa.louisiana.gov/osp/travel/forms.htm> prior to riding in or driving a state-owned vehicle or rental vehicle on behalf of the state. Each agency is responsible in ensuring that this along with any other necessary documents and requirements are completed and made part of the travel file prior to travel dates. Students not employed by the state shall not be authorized to drive state-owned or rented vehicles for use on official state business. A student may be deemed as an "authorized traveler" on behalf of the state by the department head or his designee to operate or travel in a state-owned or rented vehicle on official state business. The hold harmless agreement form acknowledging the fact that the state assumes no liability for any loss, injury, or death resulting from said travel must be signed as part of the approval process. A file must be kept containing all of these approvals. Persons operating a state owned, rental or personal vehicle on official state business will be completely responsible for all traffic, driving, and parking violations received. This does not include state-owned or rental vehicle violations, i.e. inspections sticker, as the state and/or rental company would be liable for any cost associated with these types of violations.

1. State-Owned Vehicles

a. Travelers in state-owned automobiles who purchase needed fuel, repairs and equipment while on travel status shall make use of all fleet discount allowances and state bulk purchasing contracts where applicable. Reimbursements require a receipt and only regular unleaded gasoline, or diesel when applicable, should be used. This

applies for both state owned vehicles and rental vehicles, as mid-grade, super, plus or premium gasoline is not necessary. Each agency/department shall familiarize itself with the existence of the fuel/repair contract(s), terms and conditions as well as location of vendors.

b. State-owned vehicles may be used for out-of-state travel only if permission of the department head has been given prior to departure. If a state-owned vehicle is to be used to travel to a destination more than 500 miles from its usual location, documentation that this is the most cost-effective means of travel should be readily available in the department's travel reimbursement files.

c. Unauthorized persons should not be transported in state vehicles. Approval of exceptions to this policy may be made by the department head if he determines that the unauthorized person is part of the official state business and the best interest of the state will be served and the passenger (or passenger's guardian) signs a hold harmless agreement form acknowledging the fact that the state assumes no liability for any loss, injury, or death resulting from said travel.

d. If a state vehicle is needed/requested to be brought to the home of a state employee overnight, then the agency/traveler should ensure it is in accordance with requirements outlined in R.S. 39:361-364.

2. Personally Owned Vehicles

a. When two or more persons travel in the same personally owned vehicle, only one charge will be allowed for the expense of the vehicle. The person claiming reimbursement shall report the names of the other passengers.

b. A mileage allowance shall be authorized for travelers approved to use personally-owned vehicles while conducting official state business. Mileage may be reimbursable on the basis of no more than \$0.51 per mile and in accordance with the following:

i. For official in-state business travel:

(a). employee should utilize a state vehicle when available;

(b). employee may rent a vehicle from the State's in-state contract Enterprise-Rent-A-Card if a state vehicle is not available and travel exceeds 100 miles; or

(c). if an employee elects to use his/her personal vehicle, reimbursement may not exceed a maximum of 99 miles per round trip and/or day (day or the return to domicile) at \$0.51 cents per mile. Please note that mileage is applicable for round trip (multiple days) and/or round trip (one day).

Example No. 1: If someone leaves Baton Rouge, travels to New Orleans and returns that same day, they are entitled to 99 miles maximum for that day trip if they choose to drive their personal vehicle.

Example No. 2: If someone leaves Baton Rouge, travels to New Orleans, and returns two days later, they are entitled to 99 miles maximum for the entire "trip" if they choose to drive their personal vehicle.

Example No. 3: If someone leaves Baton Rouge, travels to New Orleans then on to Lafayette, Shreveport, Monroe and returns to the office four days later, they are entitled to 99 miles maximum for the entire "trip" if they choose to drive their personal vehicle.

c. Mileage shall be computed by one of the following options:

i. on the basis of odometer readings from point of origin to point of return;

ii. by using a website mileage calculator or a published software package for calculating mileage such as Tripmaker, How Far Is It, Mapquest, etc.. Employee is to print the page indicating mileage and attach it with his/her travel expense form.

d. An employee shall never receive any benefit from not living in his/her official domicile. In computing reimbursable mileage, while the employee is on official state travel status, to an authorized travel destination from an employee's residence outside the official domicile, the employee is always to claim the lesser of the miles from their official domicile or from their residence. If an employee is leaving on a non-work day or leaving significantly before or after work hours, the department head may determine to pay the actual mileage from the employee's residence not to exceed a maximum of 99 miles per round trip and/or day at \$0.51 cents per mile. See Example Subsection C.2.b.

e. The department head or his designee may approve an authorization for routine travel for an employee who must travel in the course of performing his/her duties; this may include domicile travel if such is a regular and necessary part of the employee's duties, but not for attendance to infrequent or irregular meetings, etc., within the city limits where his/her office is located, the employee may be reimbursed for mileage only not to exceed a maximum of 99 miles per round trip and/or day at \$0.51 cents per mile. See Example Subsection C.2.b.

f. Reimbursements will be allowed on the basis of \$0.51 per mile, not to exceed a maximum of 99 miles per round trip and/or day, to travel between a common carrier/terminal and the employees point of departure, i.e., home, office, etc., whichever is appropriate and in the best interest of the state. See Example Subsection C.2.b.

g. When the use of a privately-owned vehicle has been approved by the department head for out-of-state travel for the travelers convenience, the traveler will be reimbursed for mileage on the basis of \$0.51 per mile only not to exceed a maximum of 99 miles per round trip and/or day. If prior approval for reimbursement of actual mileage is requested and granted by the Commissioner of Administration, the total cost of the mileage reimbursement may never exceed the cost of a rental vehicle or the cost of travel by using the lowest logical airfare obtained at least 14 days prior to the trip departure date, whichever is the lesser of the two. The reimbursement would be limited to one lowest logical airfare quote, not the number of persons traveling in the vehicle. The traveler is personally responsible for any other expenses in-route to and from destination which is inclusive of meals and lodging. If a traveler, at the request of the department, is asked to take his/her personally owned vehicle out-of-state for a purpose that will benefit the agency, then the department head may on a case-by-case basis determine to pay a traveler for all/part of in-route travel expenses, however, mileage reimbursement over 99 miles would still require prior approval from the Commissioner of Administration's approval. In this case, once approval is obtained from the Commissioner of Administration to

exceed 99 miles, then the department head may authorized actual mileage reimbursements. File should be justified accordingly.

h. When a traveler is required to regularly use his/her personally owned vehicle for agency activities, the agency head may request prior authorization from the Commissioner of Administration for a lump sum allowance for transportation or reimbursement for transportation (mileage). Request for lump sum allowance must be accompanied by a detailed account of routine travel listing exact mileage for each such route and justification why a rental vehicle is not feasible. Miscellaneous travel must be justified by at least a three-month travel history to include a complete mileage log for all travel incurred, showing all points traveled to or from and the exact mileage. Request for lump sum allowance shall be granted for periods not to exceed one fiscal year. A centralized file must be kept containing all approvals. NOTE: Once someone is given a monthly vehicle allowance or lump sum allowance, they are not to be reimbursed for mileage, fuel or rental vehicles. Rental could be allowed only when flying out of state.

i. In all cases, the traveler shall be required to pay all operating expenses for his/her personal vehicle including fuel, repairs, and insurance.

j. The only exemption which would not require the Commissioner of Administration's prior approval for exceeding 99 miles reimbursement and receiving actual mileage reimbursements is for members of boards and commissions, not administration/office personnel, and for students which are traveling on a grant, scholarship, or any other occasion where use of a personal vehicle is the best and/or only method of transportation available. Department Head approval is required.

3. Rented Motor Vehicles (Receipts Required). Any rental vehicles not covered in the state's in-state or out-of-state contracts should be bid in accordance with proper purchasing rules and regulations. The state has a contract for all vehicle rentals based out of Louisiana through Enterprise Rent-A-Car, which use is mandatory for business travel. This contract is applicable to all authorized travelers, and contractors. The state has a contract for out-of-state vehicles rentals. Travelers shall use Hertz, Enterprise-Rent-A-Car, or National which use is mandatory for business travel. These contracts are also applicable to all authorized travelers, and contractors.

a. In-State Vehicle Rental. The state has contracted for all rentals based out of Louisiana through Enterprise Rent-A-Car's State Motor Pool Rental Contract, which use is mandatory, for business travel which applies to all State of Louisiana employees and/or authorized travelers, contractors, etc traveling on official state business.

i. A rental vehicle should be used, if a state owned vehicle is not available, for all travel over 99 miles. All exemptions must be requested and granted by the Commissioner of Administration for an reimbursements which exceed 99 miles prior to the trip. Requests for exemption must be accompanied by a detailed explanation as to why a rental is not feasible. If an exemption from the program is granted by the Commissioner of Administration as stated above, then the employee will not be required to rent a vehicle and may receive actual mileage reimbursement up to \$0.51 cents per mile.

ii. All state contractors, who have entered into a contract with the State of Louisiana on or after March 1, 2013, and whose contracts are required to follow PPM49 for travel reimbursements, are required to utilize both in-state and out-of-state mandatory contracts awarded by the state.

iii. Although exemptions may be granted, by the Commissioner of Administration, if exemption is approved, in any case, all must adhere to the current mileage reimbursement rate of no more than \$0.51 cents per mile.

iv. The only exemption which would not require the Commissioner of Administration's prior approval for exceeding 99 miles reimbursement and receiving actual mileage reimbursements is for members of boards and commissions, not administration/office personnel, and for students which are traveling on a grant, scholarship, or any other occasion where use of a personal vehicle is the best and/or only method of transportation available. Department Head approval is required.

v. For trips of 100 miles or more, any employee and/or authorized traveler, should use a state owned vehicle or rental from Enterprise Rent-A-Car State Motor Pool Rental Contract, when a state vehicle is not available.

vi. For trips of less than 100 miles employees should utilize a state vehicle when available, may utilize their own vehicle and receive mileage reimbursement not to exceed a maximum of 99 miles per round trip and/or day at \$0.51 cents per mile or may rent a vehicle from Enterprise Rent-A-Car's State Motor Pool Rental Contract.

vii. Reservations should not be made at an airport location for daily routine travel, as this will add additional unnecessary cost to your rental charges.

b. Payments Rentals through the State Motor Pool Rental Contract may be made using the "LaCarte" purchasing card, an agency's CBA account, an employee's state corporate travel card or by direct bill to the agency. This will be an agency decision as to the form of payment chosen. If direct bill is chosen, agency must set up account billing information with Enterprise. An account may be established by contacting Joseph Rosenfeld at 225-445-7250, joseph.g.rosenfeld@erac.com

c. Out-of-State Vehicle Rental. The State has contracted for rental vehicles for domestic and out-of-state travel, excluding Louisiana and international travel, utilizing the State of Louisiana's Out-of-State Contracts, which use is mandatory. All State of Louisiana employees and/or authorized travelers, contractors are mandated to use these contracts due to exceptional pricing which includes CDW (Collision Damage Waiver) and one million dollar liability insurance. The State of Louisiana Out-of-State participating vendors include Enterprise Rent-A-Car, National Car Rental and Hertz Car Rental Corporation. It is the traveler's discretion which rental company is utilized.

i. All state contractors who have entered into a contract with the State of Louisiana on or after March 1, 2013, and whose contracts are required to follow PPM49 for travel reimbursements, are required to utilize both in-state and out-of-state mandatory contracts awarded by the State.

ii. Although exemptions may be granted, by the Commissioner of Administration, if exemption is approved, in any case, all must adhere to the current mileage reimbursement rate of no more than .51 cents per mile.

iii. The only exemption which would not require the Commissioner of Administration's approval for exceeding 99 miles reimbursement and receiving actual mileage reimbursements is for students which are traveling on a grant, scholarship, or any other occasion where use of a personal vehicle is the best and/or only method of transportation available. Department head approval is required.

d. Payments Rentals made through the State of Louisiana Out-of-State Contracts may be made using the "LaCarte" purchasing card, an employee's corporate travel card or by direct bill to the agency. This will be an agency decision as to the form of payment chosen. If a direct bill account is chosen for Enterprise and National, you may contact Joseph Rosenfeld at 225-445-7250, joseph.g.rosenfeld@erac.com. And for Hertz, you may contact Tami Vetter at 225-303-5973, tvetter@hertz.com.

e. Approvals. Written approval of the department head or his designee prior to departure is not required for the rental of vehicles, however, if your agency chooses, approval may be made mandatory or handled on an annual basis if duties require frequent rentals. Special approval is required, from the Department Head or his/her designee, for rental of any vehicle in the "full size" category or above.

f. Vehicle Rental Size. Only the cost of a compact or intermediate model is reimbursable, unless: non-availability is documented, or the vehicle will be used to transport more than two persons. Note: When a larger vehicle is necessary as stated in 1 or a larger vehicle is necessary due to the number of persons being transported, the vehicle shall be upgraded only to the next smallest size and lowest price necessary to accommodate the number of persons traveling.

i. A department head or his/her designee may, on a case-by-case basis, authorize a larger size vehicle provided detailed justification is made in the employee's file. Such justification could include, but is not limited to, specific medical requirements when supported by a doctor's recommendation.

g. Personal Use of Rental. Personal use of a rental vehicle, when rented for official state business, is not allowed.

h. Gasoline (Receipts Required). Reimbursements require an original receipt and only regular unleaded gasoline, or diesel when applicable, should be used. This applies for both state owned vehicles and rental vehicles, as mid-grade, super, plus or premium gasoline is not necessary. An employee should purchase gasoline with the state's fuel card or other approved credit card at reasonable cost from a local gasoline station prior to returning the rental. Pre-paid fuel options, for rental vehicles, are only to be allowed with prior approval from the department head, when the traveler can document that the pre-purchased amount was necessary and that the amount charged by the rental company is reasonable in relation to local gasoline cost.

i. Insurance for Vehicle Rentals within the 50 United States. Insurance billed by car rental companies is not reimbursable. All insurance coverage for rental vehicles, other than the State's in-state and out-of-state mandatory contracts, is provided by the Office of Risk Management. Should a collision occur while on official state business, the

accident should immediately be reported to the Office of Risk Management and rental company. Any damage involving a third party must be reported to appropriate law enforcement entity to have a police report generated. CDW/Damage Waiver Insurance and \$1 Million Liability Protection Coverage is included in the State in-state and out-of-state rental contract pricing. Note: Lost keys and car door unlocking services for rental vehicles are not covered under the damage waiver policy and are very costly. The agency should establish an internal procedure regarding liability of these costs.

i. No other insurance will be reimbursed when renting, except when renting outside the 50 United States, see section §1504.C.3.i. There should be no other charges added to the base price, unless the traveler reserves the vehicle at an airport location (which is not recommended for daily routine travel). Reimbursable amounts would then be submitted at the end of the trip on a travel expense form.

j. Insurance for Vehicles Rentals outside the 50 United States. (receipts required) The Office of Risk Management (ORM) recommends that the appropriate insurance (liability and physical damage) provided through the car rental company be purchased when the traveler is renting a vehicle outside the 50 United States. With the approval of the department head or his/her designee required insurance costs may be reimbursed for travel outside the 50 United States only.

4. The following are insurance packages available by rental vehicle companies which are reimbursable:

a. collision damage waiver (CDW)—should a collision occur while on official state business, the cost of the deductible should be paid by the traveler and submit a reimbursement claimed on a travel expense form. The accident should also be reported to the Office of Risk Management;

b. loss damage waiver (LDW);

c. auto tow protection (ATP)—*approval of department head;

d. supplementary liability insurance (SLI)—*if required by the rental company;

e. theft and/or super theft protection (coverage of contents lost during a theft or fire)—*if required by the car rental company;

f. vehicle coverage for attempted theft or partial damage due to fire, *if required by the car rental company.

5. The following are some of the insurance packages available by rental vehicle companies that are not reimbursable:

a. personal accident coverage insurance (PAC);

b. emergency sickness protection (ESP).

6. Navigation equipment (GPS System), rented not purchased, from a rental car company, may only be reimbursed if an employee justifies the need for such equipment and with prior approval of the department head or his designee.

D. Public Ground Transportation. The cost of public ground transportation such as buses, subways, airport shuttle/limousines, and taxis are reimbursable when the expenses are incurred as part of approved state travel. See receipt requirements below.

1. Airport Shuttle/limousines, taxi and all other public transportation where a receipt is available, requires a receipt

for reimbursements. A driver's tip for shuttle/limousines and taxis may be given and must not exceed 15% of total charge. Amount of tip must be included on receipt received from driver/company.

2. All other forms of public ground transportation, where a receipt is not possible and other than those listed above, are limited to \$15 per day without a receipt, claims in excess of \$15 per day requires a receipt. At the agency's discretion, the department head may implement an agency wide policy requiring receipts for all public transportation request less than \$15 per day.

3. To assist agencies with verification of taxi fares, you may contact the taxi company for an estimate or visit sites such as taxifarefinder.com. An employee should always get approval, prior to a trip, if multiple taxis will be used; as it may be in the agency's best interest to rent a vehicle versus reimbursement of multiple taxi expenses.

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§1505. State Issued Travel Credit Cards/CBA Accounts

A. Use. All high cost expenditures (airfare, lodging, vehicle rentals, and registration) must be placed on the LaCarte Purchasing Card, Travel Card or agency CBA programs unless prior approval is granted from the Commissioner of Administration. The State Travel Office contracts for an official state corporate travel card to form one source of payment for travel. If a supervisor recommends an employee be issued a state travel card, the employee should complete an application through their agency travel program administrator. The State Travel Office contracts for an official state corporate travel card to form one source of payment for travel. If a supervisor recommends an employee be issued a state travel card, the employee should complete an application through their agency travel program administrator.

1. The employee's corporate travel card is for official state travel business purposes only. Personal use on the state travel card shall result in disciplinary action.

B. Liability

1. The corporate travel card is the liability of the state. Each monthly statement balance is due in full to the card-issuing bank. The state will have no tolerance to assist those employees who abuse their travel card privileges.

2. The department/agency is responsible for cancellation of corporate travel cards for those employees terminating/retiring from state service.

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§1506. Lodging and Meals

A. Eligibility

1. Official Domicile/Temporary Assignment.

Travelers are eligible to receive reimbursement for travel only when away from "official domicile" or on temporary assignment unless exception is granted in accordance with these regulations. Temporary assignment will be deemed to have ceased after a period of 30 calendar days, and after such period the place of assignment shall be deemed to be his/her official domicile. He/she shall not be allowed travel and subsistence unless permission to extend the 30 day period has been previously secured from the Commissioner of Administration.

2. Extended Stays. For travel assignments approved by the Commissioner of Administration involving duty for extended periods (31 or more consecutive days) at a fixed location, the reimbursement rates indicated should be adjusted downward whenever possible. Claims for meals and lodging may be reported on a per diem basis supported by lodging receipt. Care should be exercised to prevent allowing rates in excess of those required to meet the necessary authorized subsistence expenses. It is the responsibility of each agency head to authorize only such travel allowances as are justified by the circumstances affecting the travel.

The only exemption, for travel of 31 days or more which does not require the Commissioner of Administration's approval, are students, professors or other state employees which are traveling on a grant, scholarship, studying abroad or any other occasion where funds utilized are other than state general funds. Department Head approval is required.

3. Single Day Travel

a. Meals are not eligible for reimbursements on single day travel. This means that when an authorized traveler of the state is in travel status where no overnight stay is required, no meals are eligible for reimbursement. Each department head or their designees are to determine the reasonableness of when an overnight stay is justified.

b. However, the department head will be allowed to authorize single day meal reimbursements on a case-by-case basis or by type(s) of single day travel when it is determined to be in the best interest of the department. In those cases the department must keep the approvals in the travel file and must be responsible to take appropriate steps to report the reimbursement as wages to the employee.

c. If a department head or his/her designee determines that single day meals will be provided for, they must adhere the following allowances. To receive any meal

reimbursement on single day travel, an employee must be in travel status for a minimum of 12 hours.

i The maximum allowance for meal reimbursement for single day travel will be \$42.

(a). Breakfast and Lunch: (\$22) The 12 hours travel duration must begin at or before 6 a.m.

(b). Lunch: (\$13) Requires 12 hours duration in travel status.

(c). Lunch and Dinner: (\$42) The 12 hour travel duration must end at or after 8 p.m.

4. Travel with Over Night Stay. (minimum of 12 hours in travel status) Travelers may be reimbursed for meals according to the following schedule.

a. Breakfast—When travel begins at/or before 6 a.m. on the first day of travel or extends at/or beyond 9 a.m. on the last day of travel, and for any intervening days.

b. Lunch—When travel begins at/or before 10 a.m. on the first day of travel or extends at/or beyond 2 p.m. on the last day of travel, and for any intervening days.

c. Dinner—When travel begins at/or before 4 p.m. on the first day of travel or extends at/or beyond 8 p.m. on the last day of travel, and for any intervening days.

5. Alcohol—reimbursement for alcohol is prohibited.

B. Exceptions

1. Routine Lodging Overage Allowances (Receipts required). Department head or his/her designee has the authority to approve actual costs for routine lodging provisions on a case by case basis, not to exceed 50 percent over PPM-49 current listed rates. (Note: this authority for increase in allowance is for lodging only and not for any other area of PPM-49) Justification must be maintained in the file to show that attempts were made with hotels in the area to receive the state/best rate. In areas where the governor has declared an emergency, a department head or his/her designee will have the authority to approve actual routine lodging provisions on a case by case basis not to exceed 75 percent over PPM-49 current listed rates. Each case must be fully documented as to necessity (e.g., proximity to meeting place) and cost effectiveness of alternative options. Documentation must be readily available in the department's travel reimbursement files.

2. Actual Expenses for State Officers (Itemized receipts or other supporting documents are required for each item claimed). State officers and others so authorized by statute (see definition under *state officer*) or individual exception will be reimbursed on an actual expense basis for meals and lodging except in cases where other provisions for reimbursement have been made by statute. Request shall not be extravagant and will be reasonable in relation to the purpose of travel. State officers entitled to actual expense reimbursements are only exempt from meals and lodging rates; they are subject to the time frames and all other requirements as listed in these travel regulations.

C. Meals and Lodging Allowances (meal rates are not a per diem—only the maximum allowed while in travel status)

1. Meal Allowance—includes Tax and Tips. Receipts are not required for routine meals within these allowances, unless a cash advance was received. See Section 1503.B.2 Number of meals claimed must be shown on travel expense form. For meal rates, the inclusion of suburbs (see definition of *suburb*) shall be determined by the department head or

his/her designee on a case-by-case basis. See tier pricing below. Partial meals such as continental breakfast or airline meals are not considered meals.

NOTE: If a meal is included in a conference schedule, it is part of the registration fee, therefore, an employee cannot request/receive additional reimbursement for that meal. If meals of state officials receiving actual expenses exceed these allowances, itemized receipt are required. See §1506.B.2.

2. Meals with relatives or friends may not be reimbursed unless the host can substantiate costs for providing for the traveler. The reimbursement amount will not automatically be the meal cost for that area, but rather the actual cost of the meal. Example: The host would have to show proof of the cost of extra food, etc. Cost shall never exceed the allowed meal rate listed for that area.

3. Routine Lodging Allowance—Mandatory Use of Hotelplanner. The state has contracted for all hotel expenditures through HotelPlanners contract, which use is mandatory. This mandate is also applicable to authorized travelers, contractors, board members and students who is traveling on behalf of State of Louisiana. Lodging rate, plus tax and any mandatory surcharge. (Receipts are required) For lodging rates, the inclusion of suburbs (see definition of suburb) shall be determined by the department head on a case-by-case basis. Employees should always attempt to use the tax exempt form located on the State Travel website <http://www.doa.louisiana.gov/osp/travel/forms/hoteltaxexemption.pdf> when traveling in-state on official state business, and must be used if hotel expenses are being charged to employee's state corporate travel card, the LaCarte Card or the agency's CBA account. When two or more employees on official state business share a lodging room, the state will reimburse the actual cost of the room; subject to a maximum amount allowed for an individual traveler times the number of employees.

4. Lodging with relatives or friends may not be reimbursed unless the host can substantiate costs for accommodating the traveler. The amount will not automatically be the lodging cost for that area, but rather the actual cost of accommodations.

Example: The host would have to show proof of the cost of extra water, electricity, etc. Cost shall never exceed the allowed routine lodging rate listed for that area. Department head or his/her designee's approval must be provided to allow lodging expenses to be direct billed to an agency.

5. Conference Lodging Allowance. Employees may be allowed lodging rates, plus tax (other than State of Louisiana tax) and any mandatory surcharge. (Receipts are required) Department head or his/her designee has the authority to approve the actual cost of conference lodging, for a single occupancy standard room, when the traveler is staying at the designated conference hotel. If there are multiple designated conference hotels, the lower cost designated conference hotel should be utilized, if available. In the event the designated conference hotel(s) have no room availability, a department head or his/her designee may approve to pay actual hotel cost not to exceed the conference lodging rates for other hotels in the immediate vicinity of the conference hotel. This allowance does not include agency hosted conference lodging allowances; see §1510 for these allowances. In the event a traveler chooses to stay at a hotel which is not associated with the conference, then the traveler must book through Hotelplanners and the hotel rate that will be allowed is routine lodging only, as listed below.

6. No reimbursements are allowed for functions not relating to a conference, i.e., tours, dances, golf tournaments, etc.

Tier I	
Breakfast	\$9
Lunch	\$13
Dinner	\$29
Total	\$51
Lodging Area	Routine Lodging
In-State Cities (except as listed)	\$83
Alexandria/Leesville/Natchitoches	\$86
Baton Rouge-EBR	\$94
Covington/Slidell-St.Tammany	\$90
Lake Charles-Calcasieu	\$83
Lafayette	\$83

Tier II	
Breakfast	\$10
Lunch	\$16
Dinner	\$30
Total	\$56
Lodging Area	Routine Lodging
New Orleans – Orleans, St. Bernard, Jefferson and Plaquemines Parishes	\$107
July – September	\$154
October – December	\$151
January - June	
Out-Of-State (Except Cities Listed in Tier III & IV)	\$91

Tier III	
Breakfast	\$12
Lunch	\$17
Dinner	\$32
Total	\$61
Lodging Area	Routine Lodging
Austin, TX; Atlanta, GA; Cleveland, OH; Dallas/Fort Worth, TX; Denver, CO; Ft. Lauderdale, FL; Hartford, CT; Houston, TX; Kansas City, MO; Los Angeles, CA; Miami, FL; Minneapolis/St. Paul, MN; Nashville, TN; Oakland, CA; Orlando, FL; Philadelphia, PA; Phoenix, AZ; Pittsburgh, PA; Portland, OR; Sacramento, CA; San Antonio, TX; San Diego, CA; Sedona, AZ; St. Louis, MO; Wilmington, DE; all of Alaska and Hawaii; Puerto Rico; Virgin Island; American Samoa; Guam, Saipan	\$126

Tier IV	
Breakfast	\$13
Lunch	\$19
Dinner	\$36
Total	\$68
Lodging Area	Routine Lodging
Baltimore, MD; San Francisco, CA; Seattle, WA; Chicago, IL; Boston, MA	\$175
Alexandria, VA; Arlington, VA; New York City, NY; Washington DC	\$225
International Cities	\$200

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7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 26:1256 (June 2000), LR 27:807 (June 2001), republished LR 27:1495 (September 2001), LR 28:1130 (June 2002), LR 30:1116 (June 2004 LR 31:1189 (June 2005), LR 32:939 (June 2006), LR 33:967 (June 2007), republished LR 33:1320 (July 2007), amended LR 34:1305 (July 2008), LR 35:1198 (July 2009), LR 36:1654 (July 2010), LR 37:2055 (July 2011), LR 38:1482 (July 2012), LR 39:1667 (July 2013), LR 40:1060 (June 2014), amended by the Office of the Governor, Division of Administration, Office of State Procurement and Travel, LR 41:1052 (June 2015).

§1507. Parking and Related Parking Expenses

A. Parking at the Baton Rouge Airport. The state's current contract rate is \$3.50 per day (no receipts required) for parking in the indoor parking garage as well as the outside, fenced parking lot at the Baton Rouge airport. Documentation required to receive the contract price is the airport certificate and a state ID. If the agency does not issue a State ID, the traveler would need a business card and a driver's license along with the certificate to be eligible for the state contracted rate. Airport certificate may be found on State Travel Office's website at <http://www.doa.louisiana.gov/osp/travel/parking/brairport.pdf>. At the agency discretion an employee may be paid actual expenses up to \$5 per day with a receipt.

B. New Orleans Airport Parking. The state's current contract is with Park-N-Fly and the rate, inclusive of all allowable and approved taxes/fees, etc will not exceed \$7 per day and \$42 weekly (no receipts required for parking at Park-N-Fly in New Orleans). Promotional code 0050081 must be used to obtain this rate. For on-line reservations, no other documentation will be required to receive this rate. For all "pay when you exit" employees, a state issued ID or a valid ID with a state business card along with a tax exempt form is required to receive the state contracted rate. At the agency discretion an employee may be paid actual expenses, at another location, up to \$7 per day with a receipt.

C. Travelers using motor vehicles on official state business may be reimbursed for all other parking, including airport parking except as listed in A and B above, ferry fares, and road and bridge tolls. For each transaction over \$5, a receipt is required.

D. Tips for valet parking not to exceed \$2 per day.

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§1508. Reimbursement for Other Expenses

NOTE: These charges are while in travel status only.

A. The following expenses incidental to travel may be reimbursed:

1. Communications Expenses

a. For official state business—all business communication costs may be reimbursed (receipts required).

b. For domestic overnight travel—up to \$3 for personal calls upon arrival at each destination and up to \$3 for personal calls every second night after the first night if the travel extends several days.

c. For international travel—up to \$10 for personal calls upon arrival at each destination and up to \$10 for personal calls every second night after the first night if the travel extends several days.

d. Internet access charges for official state business from hotels or other travel locations are treated the same as business telephone charges. A department may implement a stricter policy for reimbursement of Internet charges. (Receipts required)

B. Charges for Storage and Handling of State Equipment (Receipts required)

C. Baggage Tips

1. Hotel Allowances—up to \$3 tip per hotel check-in and \$3 tip per hotel checkout, if applicable.

2. Airport Allowances—up to \$3 tip for airport outbound departure trip and \$3 tip for inbound departure trip.

D. Luggage Allowances (receipt Required). A department head or his designee may approve reimbursement to a traveler for airline charges for first checked bag for a business trip of five days or less and for the second checked bag for a 6-10 day business trip and/or any additional baggage which is business related and required by the department. The traveler must present a receipt to substantiate these charges.

1. Travelers will be reimbursed for excess baggage charges (overweight baggage) only in the following circumstances:

a. when traveling with heavy or bulky materials or equipment necessary for business;

b. the excess baggage consists of organization records or property.

NOTE: Traveler should always consider shipping materials to final destination or splitting materials into additional pieces of luggage to avoid the excess baggage charges in order to save their agency costs.

E. Registration fees at conferences (meals that are a designated integral part of the conference may be reimbursed on an actual expense basis with prior approval by the department head). Note: If a meal is included in a conference schedule, it is part of the registration fee, therefore, an employee cannot request/receive additional reimbursement for that meal.

F. Laundry Services. Employees on travel for more than 7 days may be reimbursed with department head or his/her designee's approval, up to actual, but reasonable, costs incurred. Receipts are required for reimbursement.

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2008), LR 35:1200 (July 2009), LR 36:1656 (July 2010), LR 37:2058 (July 2011), LR 38:1485 (July 2012), LR 39:1669 (July 2013), LR 40:1062 (June 2014), amended by the Office of the Governor, Division of Administration, Office of State Procurement and Travel, LR 41:1054 (June 2015).

§1509. Special Meals

A. Reimbursement designed for those occasions when, as a matter of extraordinary courtesy or necessity, it is appropriate and in the best interest of the state to use public funds for provision of a meal to a person who is not otherwise eligible for such reimbursement and where reimbursement is not available from another source. Requests should be within reason and may include tax and tips. Itemized receipts are required.

1. Visiting dignitaries or executive-level persons from other governmental units, and persons providing identified gratuity services to the state. This explicitly does not include normal visits, meetings, reviews, etc., by federal or local representatives.

2. Extraordinary situations are when state employees are required by their supervisor to work more than a 12-hour weekday or 6-hours on a weekend (when such are not normal working hours to meet crucial deadlines or to handle emergencies).

B. All special meals must have prior approval from the Commissioner of Administration or, for Higher Education, the entity head or his designee in order to be reimbursed, unless specific authority for approval has been delegated to a department head for a period not to exceed one fiscal year with the exception in Subsection C, as follows.

C. A department head may authorize a special meal within allowable rates listed under Meals—Tier 1, to be served in conjunction with a working meeting of departmental staff. Reasonable tip is allowed if ordered from outside vendor. No tip should ever exceed 20 percent.

D. In such cases, the department will report on a quarterly basis to the Commissioner of Administration all special meal reimbursements made during the previous three months. For Higher Education, these reports should be sent to the respective Institution of Higher Education management board. These reports must include, for each special meal, the name and title of the person receiving reimbursement, the name and title of each recipient, the cost of each meal and an explanation as to why the meal was in the best interest of the state. Renewal of such delegation will depend upon a review of all special meals authorized and paid during the period. Request to the commissioner for special meal authorization must include, under signature of the department head:

1. name and position/title of the state officer or employee requesting authority to incur expenses and assuming responsibility for such;
2. clear justification of the necessity and appropriateness of the request;
3. names, official titles or affiliations of all persons for whom reimbursement of meal expenses is being requested;
4. statement that allowances for meal reimbursement according to these regulations will be followed unless specific approval is received from the Commissioner of Administration to exceed this reimbursement limitation;
 - a. all of the following must be reviewed and approved by the department head or his/her designee prior to reimbursement:
 - i. detailed breakdown of all expenses incurred, with appropriate receipts(s);
 - ii. subtraction of cost of any alcoholic beverages;
 - iii. copy of prior written approval from the Commissioner of Administration or, for higher education, the entity head or his/her designee.

- i. detailed breakdown of all expenses incurred, with appropriate receipts(s);
- ii. subtraction of cost of any alcoholic beverages;
- iii. copy of prior written approval from the Commissioner of Administration or, for higher education, the entity head or his/her designee.

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§1510. Agency Hosted Conferences (Both In-State and Out-of-State)

A. State Sponsored Conferences. An agency must solicit three bona fide competitive quotes in accordance with the governor's Executive Order for small purchase. Agency hosted in-state conferences that require lodging must be booked through Hotelplanner unless prior approval is granted by the Division of Administration, Office of State Travel.

B. Attendee Verification. All state sponsored conferences must have a sign-in sheet or some type of attendee acknowledgment for justification of number of meals ordered and charged.

C. Conference Lunch Allowance. Lunch direct billed to an agency in conjunction with a state sponsored conference is to be within the following rates plus mandated gratuity.

Lunch In-State excluding New Orleans	\$20
Lunch—New Orleans and Out-of-State	\$25

i. Any other meals such as breakfast and dinner require special approval in accordance with PPM49 §1509. “Special Meal” and must have prior approval from the Commissioner of Administration or for Higher Education, the entity head or his/her designee.

D. Conference Refreshment Allowance. Cost for break allowances for meeting, conference or convention are to be within the following rates.

i. Refreshments shall not exceed \$4.50 per person, per morning and/or afternoon sessions. A mandated gratuity may be added if refreshments are being catered.

E. Conference Lodging Allowances. Lodging rates may not exceed \$20 above the current listed routine lodging rates listed for the area in which the conference is being held.

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§1511. International Travel

A. International travel must be approved by the Commissioner of Administration or, for Higher Education, the entity head or his designee prior to departure, unless specific authority for approval has been delegated to a department head. Requests for approval must be accompanied by a detailed account of expected expenditures (such as room rate, date, meals, local transportation, etc.), and an assessment of the adequacy of this source to meet such expenditures without curtailing subsequent travel plans.

B. International travelers will be reimbursed the Tier IV area rates for meals and lodging, unless U.S. State Department rates are requested and authorized by the Commissioner of Administration or, for Higher Education, the entity head or his designee, prior to departure. Itemized receipts are required for reimbursement of meals and lodging claimed at the U.S. State Department rates. http://aoprals.state.gov/web920/per_diem.asp.

C. It is the agency's decision, if justification is given, to allow state employees to be reimbursed for a VISA and/or immunizations when the traveler is traveling on behalf of the agency/university on official state business. However, it is not considered best practice for the state to reimburse for a passport, therefore, passport reimbursements must be submitted to the department head for approval along with detailed justification as to why this reimbursement is being requested/approved.

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§1512. Waivers

A. The Commissioner of Administration may waive in writing any provision in these regulations when the best interest of the state will be served. All waivers must obtain prior approvals, except in emergency situations.

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Paul Holmes
Director

1506#007

Emergency Rules

DECLARATION OF EMERGENCY

Department of Children and Family Services Child Welfare Section

Guardianship Subsidy Program (LAC 67:V.4101 and 4103)

The Department of Children and Family Services, Child Welfare Section, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B), to amend LAC 67:V, Subpart 5 Foster Care, Chapter 41 Guardianship Subsidy Program, Sections 4101 and 4103. This Emergency Rule shall be effective June 10, 2015 and shall remain in effect for a period of 120 days.

Pursuant to United States Children's Bureau requirements for authorization of Louisiana's Title IV-E State Plan, adjustments to the foster care and guardianship subsidy programs are necessary to update required terminology related to the programs, types of available payments, and eligibility criteria. The proposed rule will amend the option of Subsidized Guardianship and establish Successor Guardianship as a permanency option, therefore promoting the establishment of permanent families for children within relative foster care placements where adoption is not an alternative.

The department considers emergency action necessary in order to fulfill Title IV-E State Plan requirements and to avoid sanctions and penalties from the United States Children's Bureau.

Title 67

SOCIAL SERVICES

Part V. Child Welfare

Subpart 5. Foster Care

Chapter 41. Guardianship Subsidy Program

§4101. Subsidizing Guardianship Arrangements for Children in Foster Care

A. Overview of Program Purpose

1. The Subsidized Guardianship Program enables the Department of Children and Family Services (DCFS) to make payments to certified relative and fictive kin caregivers on behalf of a child who otherwise might not be able to achieve permanency outside of department custody because of special needs or other circumstances. Subsidy payments shall be limited to a child(ren) for whom guardianship is indicated due to other more permanent options such as reunification with the parents, immediate unsubsidized custody to a relative or other caregiver, or adoption being determined unfeasible for the child. The guardianship subsidy applies only to a child(ren) for whom the (DCFS) holds legal custody, only to potential caregivers with whom the child had an established familial or emotional relationship prior to entering (DCFS) custody, and when the kinship placement provider becomes a certified foster caregiver according to the certification standards of the State, and, the child(ren) remains in the certified kinship placement for at least six consecutive months immediately

prior to entering the guardianship subsidy arrangement. The guardianship subsidy also applies to successor guardian(s) who meet the following criteria:

a. The successor guardian is named in the guardianship subsidy agreement with DCFS;

b. The successor guardian and all adult household members have satisfactorily completed fingerprint based criminal and child abuse/neglect background clearances; and

c. Guardianship is transferred by a court to the successor guardian in accordance with Louisiana Children's Code Articles 718 through 724.1.

2. The prospective guardianship family must meet basic foster care certification eligibility requirements or the successor guardianship criteria in all respects except for the ability to assume complete financial responsibility for the child's care.

B. Types of Subsidy Payments. The child may be subsidized for the following services up to age 18.

1. Maintenance. The maintenance subsidy includes basic living expenses such as board, room, clothing, spending money, and ordinary medical costs. The maintenance subsidy may be ongoing until the child reaches age 18, but must be renewed on a yearly basis. This renewal will be dependent upon the child remaining in the care of the guardian with whom the subsidy agreement was established. The amount of payment shall not exceed 80 percent of the state's regular foster care board rate based on the monthly flat rate payments of the regular foster care board rate for the corresponding age group. Monthly maintenance payments shall not be based on subsidized foster care arrangements such as specialized foster care, alternate family care, or therapeutic foster care. Changes in the maintenance subsidy rate routinely only occur once a year and the adjustment is typically made at the time of the subsidy renewal, or due to a change in the child's age. Adjustments to the maintenance subsidy rate may also occur due to availability of funds, legislative changes or adjustments to the regular foster care board rate.

2. Special Board Rate. Foster parents entering into a guardianship agreement for a foster child for whom a special board rate was received during the foster care episode may request up to a maximum of \$240 which is 80 percent of the special board rate amount of \$300. This is only provided if the care and needs of the child in the guardianship arrangement warrant this same special board rate. The continued need for the special board rate shall be reviewed at the time of the annual review. This review shall consist of a determination of whether the same level of specialized care by the guardian, for which the special board rate was being provided at the time of the subsidy agreement, continues to be necessary to meet the child's needs. Any reduction in the level of care required by the guardian should result in a decrease in the amount of special board rate compensation to the guardian.

3. Special Services

a. The special services subsidy is time limited and in some cases may be a one-time payment. It is the special

assistance given to handle an anticipated expense when no other family or community resource is available. If needed, it can be offered in addition to the maintenance and special board rate subsidy. The special services subsidy must be established as a part of the initial guardianship subsidy agreement, and may not be provided or renegotiated based on any circumstances which develop or issues identified after that point. Special services subsidies include the following types of needs:

i. special medical costs deemed medically necessary for the daily functioning of the child for any condition existing prior to the date of the initial judgment establishing guardianship with the kinship caregiver and not covered by Medicaid or other insurance;

ii. ongoing therapeutic treatment costs to complete current therapy and future treatment costs on a time limited basis up to 18 years of age, as agency resources allow, related to the abuse/neglect received by the child and impacting the child's capacity to function effectively as part of the child's educational, family or social environment. This does not include the cost of residential care or psychiatric hospitalization, nor does it include therapeutic intervention for the sole purpose of providing behavior management assistance to the guardian;

iii. legal and court costs to the potential guardian family up to \$1000 for children who are not Title IV-E eligible and up to \$2000 for children who are Title IV-E eligible for establishing the guardianship arrangement. This service is only available for costs distinct and separate from the routine costs of the child in need of care proceedings to provide for costs to the potential guardian in establishing the guardianship arrangement. This legal and/or court fee will be provided as a non-reoccurring, one-time payment for each guardianship episode.

b. Medicaid Eligibility. The child remains eligible for Medicaid coverage up to 18 years of age when entering a guardianship subsidy arrangement from foster care. This coverage will be eligible utilizing Title IV-E federal benefits if the child was Title IV-E eligible at the time of the subsidy arrangement. For children not eligible for Title IV-E, this coverage will be provided through Title XIX federal benefits or state general funds. For a Louisiana child who is placed out of state in a potential guardianship placement or who moves to another state after the establishment of a guardianship subsidy, if the child is eligible for Title IV-E guardianship subsidy payments, the child is also categorically eligible for Medicaid in the state in which the child resides whether that state participates in the Title IV-E Guardianship Subsidy Assistance Program or not.

c. Chaffee Foster Care Independent Living Skills Training and Education Training Voucher Eligibility. The child is eligible for consideration for participation in the Chaffee Foster Care Independent Living Skills Training and for Education Training Vouchers if the child enters a guardianship arrangement from foster care after reaching 16 years of age, as long as the child meets any other program eligibility requirements.

C. Exploration of Guardianship Resources

1. Before a child is determined by the Department of Children and Family Services (DCFS) as eligible for a guardianship subsidy, it must be determined the child can not be reunited with the parents, and resources for adoptive

placement must be explored by the child's worker. If the kinship family with whom the child is placed refuses to adopt the child or is unable to be certified as an adoptive family, the department has to show efforts to achieve the more permanent case goal of adoption for the child and demonstrate the benefits of maintaining the child in the placement in a guardianship arrangement as opposed to ongoing efforts in pursuing adoption or any other long term permanency arrangement. It is also necessary for the child's worker to discuss plans for a guardianship arrangement with the child and document the outcome of that discussion with the child, including agreement with that plan by any child 14 years of age up to 18 years of age. Lack of agreement by any child 14 years of age up to 18 years of age should be an ongoing topic of counseling regarding the benefits of the arrangement between the worker and the child, until a permanency option is achieved for the child or until the child attains 18 years of age.

2. Whenever an eligible child in the custody of DCFS is legally placed based on the Interstate Compact on the Placement of Children guidelines with a certified kinship caregiver in another state, the family shall be eligible for a guardianship subsidy under the same conditions as Louisiana residents.

D. Eligibility Criteria

1. The DCFS, Guardianship Subsidy Program, will determine the appropriateness of subsidy benefits, the type of subsidy, and, the level of the subsidy. An agreement form between the DCFS and the prospective guardianship parent(s), with clearly delineated terms, including designation of a successor guardian, if desired, must be signed prior to the granting of the final decree for guardianship. This agreement will be reviewed on an annual basis thereafter by the DCFS to insure ongoing eligibility.

2. Subsidy payments shall be limited to a child(ren) for whom guardianship is indicated due to other more permanent options such as reunification with the parents, or adoption being determined unfeasible for the child. The exception would be any child who has been receiving a subsidy payment and enters a successor guardianship. A more permanent option for placement is not required as these children do not re-enter state custody.

3. The guardianship subsidy applies only to a child(ren) for whom the DCFS holds legal custody, only to potential caregivers with whom the child had an established familial or emotional relationship prior to entering DCFS custody, and when the kinship placement provider becomes a certified foster caregiver according to the certification standards of the State, and, the child(ren) remains in the certified kinship placement for at least six consecutive months immediately prior to entering the guardianship subsidy arrangement. The exception would be children entering a successor guardianship. There is no requirement for the child to be in DCFS custody, to be with a caregiver with an established relationship, for certification of the caregiver, nor for a child to be placed with the successor guardian for any length of time prior to entering the guardianship subsidy arrangement.

4. A family is considered eligible for participation in the Guardianship Subsidy Program if they are related to the child or family of the child through blood or marriage or if there exists a fictive kin relationship, which is defined as a

relationship with those individuals connected to an individual child or the family of that child through bonds of affection, concern, obligation, and/or responsibility prior to the child's original entry into the custody of the state, and the individual(s) are considered by the child or family to hold the same level of relationship with the child or family as those individuals related by blood or marriage. The exception would be an individual considered for the successor guardianship named by the guardian in the guardianship subsidy agreement with DCFS.

E. Effects of Deaths of Guardians on Guardianship Subsidy

1. When a child has been placed in an approved guardianship placement with a guardianship subsidy agreement in effect and the guardian dies prior to the child reaching the age of majority, the child's eligibility for a guardianship subsidy shall not be affected if a successor guardian was named in the guardianship subsidy agreement. The child may remain in the care of a duly designated tutor/guardian as established by the guardian family prior to their death, without further involvement of the department. If the "duly designated" tutor/guardian requires financial assistance to maintain the care of the child and the individual was named in the guardianship subsidy agreement as a successor guardian, it is not necessary for the child to return to state custody and those individuals to become certified foster parents.

2. If no successor guardian was named in the guardianship subsidy agreement, any individual otherwise legally designated as a tutor/guardian for the child and requiring financial assistance to sustain the care of the child would have to return the child to state custody and those individuals would have to become certified foster parents. Adoption of the child by the family should be explored as well, since adoption is a more permanent relationship for the child and family. If the family and home are determined to be safe for the care of the child through assessment of the home environment, fingerprint based criminal records clearance, and child abuse/neglect clearances, the child may remain in the care of the family while they are certified.

3. Where a guardianship subsidy agreement is in effect and the guardians both die prior to the child reaching the age of majority, the subsidy agreement will end. The child may remain in the care of a duly designated tutor/guardian as established by the family prior to their death, without further involvement of the department.

4.a. If the designated tutor/guardian requires financial assistance to maintain the care of the child, it will be necessary for the child to return to state custody and those individuals to become certified as foster parents and provide care to the child six consecutive months after certification and immediately prior to entering into a guardianship subsidy agreement with the department. During the process of becoming certified as foster parents the family may continue to provide care to the child, as long as they are determined to be safe caregivers through a minimum of:

- i. department assessment of the home environment;
- ii. fingerprint based criminal records clearances on all adults in the home; and
- iii. child abuse/neglect clearances on all adults in the home.

b. Adoption of the child by the family will be explored by the department as well. There can be no financial support of the child by the state while being cared for by the family until such family has been certified, other than incidental expenditures routinely reimbursed to other non-certified caregivers of children in foster care. Each guardianship arrangement is considered a new episode. Therefore, the agency may provide legal and court costs to support the establishment of this new legal guardianship arrangement between the potential guardian and the child up to \$1000 for children who are not Title IV-E eligible and up to \$2000 for children who are Title IV-E eligible.

AUTHORITY NOTE: Promulgated in accordance with P.L. 110-351 and P.L. 113-183.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 36:552 (March 2010), amended by the Department of Children and Family Services, Child Welfare, LR 41:

§4103. Nonrecurring Expenses in Guardianship Arrangements

A. The Department of Children and Family Services (DCFS) sets forth criteria for reimbursement of nonrecurring expenses associated with establishing guardianship arrangements for children in foster care.

1. The amount of the payment made for nonrecurring expenses associated with establishing guardianship arrangements for children in foster care shall be determined through agreement between the guardian(s) and the (DCFS). The agreement must indicate the nature and amount of the nonrecurring expenses to be paid.

2. The agreement for nonrecurring expenses must be signed prior to the final decree granting guardianship.

3. There must be no income eligibility requirement for guardian(s) in determining whether payments for nonrecurring expenses associated with establishing guardianship arrangements for children in foster care shall be made. However, potential guardians cannot be reimbursed for out-of-pocket expenses for which they have otherwise been reimbursed.

4. The maximum rate of reimbursement for nonrecurring expenses has been set at \$1000 for children who are not Title IV-E eligible and up to \$2000 for children who are Title IV-E eligible per guardianship arrangement.

5. In cases where siblings are placed and guardianship arrangements established, whether separately or as a unit, each child is treated as an individual with separate reimbursement for nonrecurring expenses up to the maximum amount allowable for each child.

6. In cases where a child has been returned to the custody of the state and a guardianship arrangement dissolved, the child is allowed separate and complete reimbursement for nonrecurring expenses up to the maximum amount allowable for establishing another guardianship arrangement.

7. Reimbursement is limited to costs incurred by or on behalf of guardian(s) not otherwise reimbursed from other sources. Payments for nonrecurring expenses shall be made directly by the (DCFS).

8. When the guardianship arrangement for the child involves interstate placement, Louisiana will only be responsible for paying the nonrecurring expenses for the arrangement for the child when Louisiana is the child's legal

custodian and enters into the guardianship subsidy agreement with the caregiver.

9. The term nonrecurring expenses in relation to guardianship arrangements means reasonable and necessary legal fees, court costs, attorney fees and other expenses which are directly related to the legal establishment of the guardianship arrangement for a child in foster care, which are not incurred in violation of state or federal law, and which have not been reimbursed from other sources or other funds. Other expenses which are directly related to the legal establishment of the guardianship arrangement for a child in foster care means the costs of the arrangement incurred by or on behalf of the guardians and for which guardians carry the ultimate liability for payment. Such costs may include but are not limited to travel costs for the child and/or guardians to be present for the legal proceedings to establish the guardianship arrangement.

AUTHORITY NOTE: Promulgated in accordance with P.L. 110-351 and P.L. 113-183.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 36:554 (March 2010), amended by the Department of Children and Family Services, Child Welfare, LR 41:

Suzy Sonnier
Secretary

1506#025

DECLARATION OF EMERGENCY

**Office of the Governor
Board of Pardons
Committee on Parole**

**Ameliorative Penalty Consideration
(LAC 22:XI.Chapter 8)**

The Committee on Parole is exercising the emergency provisions of the Administrative Procedure Act [R.S.49:953(B)] to amend its rules of LAC 22:XI.802, 807 and to promulgate rules of LAC 22:XI.809. This rulemaking provides for notification to the victim and prosecuting district attorney that an application has been docketed for ameliorative penalty consideration by a parole panel; provides for written input by the victim and prosecuting district attorney into the ameliorative penalty consideration process. In LAC 22:XI.809, the rules provide that upon receipt of a recommendation for ameliorative review consideration from the Committee on Parole, the procedure for such consideration shall follow the procedures outlined in LAC 22:V.211.

A delay in promulgation of the rules would have an adverse impact on victims of offenders who are eligible for ameliorative penalty consideration in accordance with Act 340 of the 2014 Regular Legislative Session.

The Board of Pardons has determined that the adoption of an Emergency Rule is necessary and hereby provides notice of its Declaration of Emergency effective on June 10, 2015 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 XI. Committee on Parole

Chapter 8. Ameliorative Penalty Consideration

§802. Victim and District Attorney Notification

A. The victim and district attorney shall be invited to provide written input into the ameliorative penalty consideration process.

B. The committee shall ensure victims registered with the Crime Victims Services Bureau of the department receive written notification of the date and time an offender is docketed for review by a parole panel. A copy of the letter to the victim shall also be sent to the prosecuting district attorney. Such notice shall be made no less than 30 days prior to the scheduled docket date for administrative review.

C. In any case where there is no registered victim, the prosecuting district attorney shall be provided notice as set forth above.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Pardons, Committee on Parole, LR 41:

§807. Victim Notification

Repealed.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Pardons, Committee on Parole, LR 41:46 (January 2015), repealed LR 41:

§809. Consideration by the Board of Pardons

A. Upon receipt of a recommendation for ameliorative review consideration from the Committee on Parole, the Board of Pardons shall notify the offender in writing of the requirement to place advertisement in the official journal of the parish where the offense occurred. The ad must state: "I, (applicant's name), (DOC number), have applied for ameliorative penalty consideration for my conviction of (crime). If you have any contacts, contact the Board of Pardons (225) 342-5421."

B. The applicant shall provide the Board office with proof of advertisement within 60 days from the date of notice that a hearing has been granted.

C. After receipt of the clemency investigation from the appropriate probation and parole district and any other documents requested by the board, the board shall set the matter for public hearing.

D. The procedure for hearings conducted for the purpose of ameliorative penalty consideration shall follow the procedures outlined in LAC, Part V, Chapter 2, §211, and Board Policy 02-209, "Hearings Before the Board of Pardons."

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Pardons, Committee on Parole, LR 41:

Sheryl M. Ranatza
Board Chair

1506#054

DECLARATION OF EMERGENCY

Department of Health and Hospitals Board of Pharmacy

Compounding for Office Use for Veterinarians
(LAC 46:LIII.2535)

The Louisiana Board of Pharmacy is exercising the emergency provisions of the Administrative Procedure Act, specifically at R.S. 49:953(B), to amend its rules governing the compounding of drugs by pharmacies, to restore the capability of pharmacies to compound preparations intended for administration by veterinarians without the necessity of a patient-specific prescription.

Pursuant to the adoption of the Drug Quality and Security Act (DQSA) by the U.S. Congress in November 2013, the board amended its rules to remove the capability of pharmacies to compound drug preparations intended for administration by practitioners without the necessity of a patient-specific prescription. With the further clarification from the federal Food and Drug Administration that the DQSA only applied to compounding of drugs for human use, and further, did not apply to the compounding of drugs for veterinary use, in combination with requests from veterinarians for the restoration of the authority for pharmacies to compound drugs for office use by veterinarians, the board has determined it appropriate to restore the authority for pharmacies to compound drugs for office use by veterinarians.

The board now seeks to amend its rules to authorize pharmacies to compound drugs for office use for veterinarians only and not for human use. In their petition to the board, the veterinarians presented examples of medications that are needed for emergency use in the veterinarian's office. Since the time required to promulgate the rule change is of such duration that a veterinarian may not be able to obtain a compounded medication necessary to save an animal's life, the board proposes to enable the temporary authority for pharmacies to compound medications for office use by veterinarians through an Emergency Rule.

The board has determined this Emergency Rule is necessary to prevent imminent peril to the public health, safety, and welfare. The declaration of emergency is effective June 1, 2015 and shall remain in effect for the maximum time period allowed under the Administrative Procedure Act or until adoption of the final Rule, whichever shall first occur.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LIII. Pharmacists

Chapter 25. Prescriptions, Drugs, and Devices

Subchapter C. Compounding of Drugs

§2535. General Standards

A. - D. ...

E. Veterinarian Administered Compounds, also referred to as Pharmacy-Generated Drugs

1. Upon receipt of a valid non-patient-specific medical order from a licensed veterinarian, the pharmacy may compound a preparation intended for administration to an animal patient by the veterinarian.

2. These preparations may not be distributed to any other third party by the pharmacy, nor may these preparations be further re-sold or distributed by the veterinarian ordering the preparation from the pharmacy.

3. This authorization is primarily intended to facilitate the preparation of medications needed for emergency use in a veterinary office practice. Given the limited application of this authorization, which allows these products to be prepared using less rigorous standards applicable to compounding as opposed to the more rigorous standards applicable to manufacturing processes, the compounding pharmacy preparing these products shall be limited in the amount of such products they can prepare.

a. No Louisiana-licensed pharmacy may distribute any amount of practitioner administered compounds in excess of 5 percent of the total amount of drug products dispensed and/or distributed from their pharmacy.

b. The 5 percent limitation shall be calculated on a monthly basis and shall reference the number of dosage units.

c. For those Louisiana-licensed pharmacies located outside Louisiana, the total amount distributed and/or dispensed shall reference the pharmacy's total business within the state of Louisiana.

F. Compounding Commercial Products not Available. A pharmacy may prepare a copy of a commercial product when that product is not available as evidenced by either of the following:

1. products appearing on a website maintained by the federal Food and Drug Administration (FDA) and/or the American Society of Health-System Pharmacists (ASHP);

2. products temporarily unavailable from manufacturers, as documented by invoice or other communication from the distributor or manufacturer.

G. Labeling of Compounded Preparations

1. For patient-specific compounded preparations, the labeling requirements of R.S. 37:1225, or its successor, as well as §2527 of this Chapter, or its successor shall apply.

2. For veterinarian administered compounds, the label shall contain, at a minimum, the following data elements:

a. pharmacy's name, address, and telephone number;

b. veterinarian's name;

c. name of preparation;

d. strength and concentration;

e. lot number;

f. beyond use date;

g. special storage requirements, if applicable;

h. identification number assigned by the pharmacy;

and

i. name or initials of pharmacist responsible for final check of the preparation.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 23:1316 (October 1997), LR 29:2105 (October 2003), effective January 1, 2004, LR 41:97 (January 2015), LR 41:

Malcolm J. Broussard
Executive Director

1506#010

DECLARATION OF EMERGENCY

Department of Health and Hospitals Board of Pharmacy

Electronic Signature on Facsimile Prescription
(LAC 46:LIII.2511)

The Louisiana Board of Pharmacy is exercising the emergency provisions of the Administrative Procedure Act, specifically at R.S. 49:953(B), to amend its rules governing the formatting requirements of prescription forms, more specifically the use of an electronic signature on a prescription received by facsimile in the dispensing pharmacy.

The board recently promulgated a revision to this section of rules in January 2015. The objective of the revision project was to clarify the three methods of generating prescriptions, verbal, written, and electronic, and further, to harmonize the federal and state requirements for prescriptions for all drugs, both controlled substances and non-controlled substances. With respect to prescriptions for controlled substances, the federal rules permit the prescriber to affix an electronic signature to a prescription that is delivered electronically to the pharmacy; however, for prescriptions for controlled substances that are delivered in written form, including by facsimile, such prescriptions must be manually signed by the prescriber. The objective of the rule project was to standardize that rule to apply to all prescriptions, not just prescriptions for controlled substances.

In the aftermath of the rule's promulgation, pharmacies have been reporting a number of prescriptions received by facsimile bearing an electronic signature. When contacted, the prescriber insists they are prescribing electronically. We have learned that providers of prescribing software tell their clients they are prescribing electronically, but when the provider transmits the prescription to the pharmacy it is delivered by facsimile instead of electronically. We have found that some pharmacies are not truly prepared to receive electronic prescriptions.

The federal standards for controlled substance prescriptions requires the transmitter of an electronic prescription to advise the prescriber when it cannot deliver the prescription electronically. There is no reason why the transmitter cannot render the same advice for all prescriptions.

In an effort to give the prescribers, pharmacies, and their system providers an adequate opportunity to make the appropriate adjustments in their operating systems, the board proposes to delay the prohibition of electronic signatures on facsimile prescriptions for medications not listed as controlled substances until December 31, 2016. Since the period of time required to promulgate this Rule is of such duration that disruptions in patient care may occur, the board proposes to enable the temporary provision through an Emergency Rule.

The board has determined this Emergency Rule is necessary to prevent imminent peril to the public health, safety, and welfare. The Declaration of Emergency is effective June 1, 2015 and shall remain in effect for the maximum time period allowed under the Administrative

Procedure Act or until adoption of the final Rule, whichever shall first occur.

Title 46 PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LIII. Pharmacists

Chapter 25. Prescriptions, Drugs, and Devices

Subchapter B. Prescriptions

§2511. Prescriptions

A. - C.5.c. ...

d. The provisions of this Section notwithstanding, a prescription for a medication not listed as a controlled substance which is received in a pharmacy by facsimile and which bears an electronic signature of the prescriber shall be construed as a validly-formatted prescription; however, this temporary allowance shall expire at midnight on December 31, 2016.

C.6. - F. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2102 (October 2003), effective January 1, 2004, LR 41:98 (January 2015), LR 41:

Malcolm J. Broussard
Executive Director

1506#011

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Case Management
Licensing Standards
(LAC 48:I.4929)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 48:I.4929 in the Medical Assistance Program as authorized by R.S. 36:254. 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 amended the provisions governing the licensing standards for providers of case management services (*Louisiana Register*, Volume 20, Number 8). The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services (OAAS) adopted provisions to establish Standards for Participation for support coordination agencies that provide support coordination/case management services to participants in OAAS-administered waiver programs (*Louisiana Register*, Volume 39, Number 11). The Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which established Medicaid reimbursement for targeted case management services provided to Medicaid eligible foster children by the Department of Children and Family Services (DCFS) (*Louisiana Register*, Volume 41, Number 6). The

department now proposes to amend the licensing standards governing providers of case management services to exempt OAAS support coordination service providers and DCFS foster care and family support workers from these licensing standards since OAAS and DCFS will provide certification for support coordination/case management services rendered by their workers.

This action is being taken to promote the health and welfare of children by ensuring continued access to Medicaid covered services. It is estimated that implementation of this Emergency Rule will have no programmatic costs for state fiscal year 2015-2016.

Effective July 1, 2015, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the licensing standards for providers of case management services.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 49. Case Management

§4929. General Waiver

A. - C. ...

D. DHH Office of Aging and Adult Services Case Management

1. Agencies that provide case management and/or support coordination services to the DHH Office of Aging and Adult Services (OAAS) waiver programs recipients shall be exempt from licensure as a case management agency for the provision of case management services. This licensure exemption shall only be to the extent that the agency uses only DHH/OAAS trained and certified case managers to provide case management services to OAAS waiver programs in lieu of DHH licensure. Such agencies serving other populations and programs, in addition to those waiver programs operated by OAAS, shall obtain and maintain DHH licensure.

2. OAAS certification requirements shall ensure:

- the quality of services and the care, well-being, and protection of the clients receiving services; and
- that the delivery of case management services does not afford less quality or protection than the licensing provisions of this Chapter.

3. OAAS shall provide an attestation of meeting these requirements on an annual basis or as required by the DHH Health Standards Section.

4. OAAS case management and support coordination services will still be subject to the Support Coordination Standards of Participation rule for OAAS waiver programs, the program integrity/SURS (fraud/abuse) rules, and other applicable Medicaid rules and regulations.

E. Department of Children and Family Services Case Management

1. The Department of Children and Family Services (DCFS) shall be exempt from licensure as a case management agency for the provision of targeted case management services rendered by foster care and family services workers. The licensure exemption shall only be to the extent that DCFS uses trained and certified employees to provide case management services in lieu of DHH licensure.

2. DCFS certification requirements shall ensure:

- the quality of services and the care, well-being, and protection of the clients receiving services; and
- that the delivery of case management services does not afford less quality or protection than the licensing provisions of this Chapter.

3. DCFS shall provide an attestation of meeting these requirements on an annual basis.

4. DCFS case management services will still be subject to the Medicaid targeted case management rules, the program integrity/SURS (fraud/abuse) rules and other applicable Medicaid rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:380-451.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, LR 20:888 (August 1994), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

Interested persons may submit written comments to Cecile Castello, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821 or by email to MedicaidPolicy@la.gov. Ms. Castello is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Kathy H. Kliebert
Secretary

1506#031

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Early and Periodic Screening, Diagnosis and Treatment
School-Based Nursing Services
(LAC 50:XV.9501)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XV.9501 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, Bureau of Health Services Financing promulgated a Rule which adopted provisions to establish reimbursement and coverage for school-based nursing services rendered to all children enrolled in Louisiana schools (*Louisiana Register*, Volume 39, Number 10).

The U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) recently issued guidance which removed the requirement that school-based nursing services be included on the individualized education plan (IEP) to be reimbursed by Medicaid. As a result of the CMS guidance, the department now proposes to

amend the provisions governing school-based nursing services covered in the EPSDT Program to remove the IEP requirement. This action is being taken to avoid CMS sanctions, promote the health and welfare of Medicaid eligible recipients, and to assure a more efficient and effective delivery of health care services. It is estimated that implementation of this Emergency Rule will be cost neutral to the department for state fiscal year 2015-2016.

Effective July 1, 2015, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing Medicaid coverage of school-based nursing services covered under the Early and Periodic Screening, Diagnosis and Treatment Program.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 5. Early and Periodic Screening, Diagnosis, and Treatment

Chapter 95. School-Based Nursing Services

§9501. General Provisions

A. - B. ...

C. School-based nursing services shall be covered for all recipients in the school system.

D. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:2760 (October 2013), amended LR: 41

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

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. She 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.

Kathy H. Kliebert
Secretary

1506#032

DECLARATION OF EMERGENCY

**Department of Health and Hospitals
Bureau of Health Services Financing**

Disproportionate Share Hospital Payments
Mental Health Emergency Room Extensions
(LAC 50:V.2711)

The Department of Health and Hospitals, Bureau of Health Services Financing repeals LAC 50:V.2711 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, Bureau of Health Services Financing amended the provisions governing disproportionate share hospital (DSH) payments for mental health emergency room extensions (MHEREs) in order to change the deadline for hospitals that established a MHERE to sign an agreement to participate for reimbursement of uncompensated care costs for psychiatric services (*Louisiana Register*, Volume 36, Number 8).

As a result of a budgetary shortfall in state fiscal year 2015, the department determined that it is necessary to amend the provisions governing DSH payments to eliminate payments for MHEREs (*Louisiana Register*, Volume 41, Number 3). This Emergency Rule is being promulgated in order to continue the provisions of the March 5, 2015 Emergency Rule. This action is being taken to avoid a budget deficit in the Medical Assistance Program.

Effective July 4, 2015, the Department of Health and Hospitals, Bureau of Health Services Financing repeals the provisions governing disproportionate share hospital payments for mental health emergency room extensions.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 3. Disproportionate Share Hospital Payments

Chapter 27. Qualifying Hospitals

§2711. Mental Health Emergency Room Extensions

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 34:1628 (August 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1781 (August 2010), repealed LR 41:

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to Medicaid.Policy@la.gov. Ms. Kennedy 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.

Kathy H. Kliebert
Secretary

1506#036

DECLARATION OF EMERGENCY

**Department of Health and Hospitals
Bureau of Health Services Financing**

Inpatient Hospital Services
Non-Rural, Non-State Hospitals
Termination of Additional Payments for
Hemophilia Blood Products
(LAC 50:V.965)

The Department of Health and Hospitals, Bureau of Health Services Financing repeals 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 provisions governing the reimbursement methodology for non-rural, non-state acute care hospitals to provide additional reimbursements to certain hospitals for the extraordinary costs incurred in the purchase of blood products for Medicaid recipients who have been diagnosed with hemophilia (*Louisiana Register*, Volume 34, Number 10) and other rare bleeding disorders (*Louisiana Register*, Volume 35, Number 4).

As a result of a budget shortfall in state fiscal year 2015, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for inpatient hospital services rendered by non-rural, non-state hospitals to eliminate the additional reimbursements for hemophilia blood products purchased by hospitals (*Louisiana Register*, Volume 41, Number 3). This Emergency Rule is being promulgated to continue the provisions of the March 5, 2015 Emergency Rule. This action is being taken to avoid a budget deficit in the Medical Assistance Program.

Effective July 4, 2015, the Department of Health and Hospitals, Bureau of Health Services Financing amends the reimbursement methodology for inpatient hospital services rendered by non-rural, non-state hospitals in order to repeal the provisions governing additional reimbursements for hemophilia blood products.

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

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 34:2176 (October 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:674 (April 2009), repealed LR 41:

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, Louisiana 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy 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.

Kathy H. Kliebert
Secretary

1506#037

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Inpatient Hospital Services
Public-Private Partnerships
Reimbursement Methodology
(LAC 50:V.1703)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:V.1703 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, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing inpatient hospital services to establish supplemental Medicaid payments to non-state owned hospitals in order to encourage them to take over the operation and management of state-owned and operated hospitals that have terminated or reduced services. Participating non-state owned hospitals shall enter into a cooperative endeavor agreement with the department to support this public-provider partnership initiative (*Louisiana Register*, Volume 39, Number 11). The department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for inpatient psychiatric hospital services provided by non-state owned hospitals participating in public-private partnerships (*Louisiana Register*, Volume 39, Number 1). In April 2013, the department promulgated an Emergency Rule to continue the provisions of the January 2, 2013 Emergency Rule (*Louisiana Register*, Volume 39, Number 4).

The department amended the provisions governing the reimbursement methodology for inpatient services provided by non-state owned major teaching hospitals participating in public-private partnerships which assume the provision of services that were previously delivered and terminated or reduced by a state-owned and operated facility to establish an interim per diem reimbursement (*Louisiana Register*, Volume 39, Number 4). In June 2013, the department determined that it was necessary to rescind the January 2, 2013 and the May 3, 2013 Emergency Rules governing Medicaid payments to non-state owned hospitals for inpatient psychiatric hospital services (*Louisiana Register*, Volume 39, Number 6). The department promulgated an Emergency Rule which amended the provisions of the April 15, 2013 Emergency Rule in order to revise the formatting of these provisions as a result of the promulgation of the June 1, 2013 Emergency Rule to assure that these provisions are promulgated in a clear and concise manner in the *Louisiana Administrative Code* (LAC) (*Louisiana Register*, Volume 39, Number 7). This Emergency Rule is being promulgated to continue the provisions of the July 20, 2013

Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by maintaining recipient access to much needed hospital services.

Effective July 16, 2015, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing Medicaid payments for inpatient hospital services provided by non-state owned hospitals participating in public-private partnerships.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 1. Inpatient Hospital Services

Chapter 17. Public-Private Partnerships

§1703. Reimbursement Methodology

A. Reserved.

B. Effective for dates of service on or after April 15, 2013, a major teaching hospital that enters into a cooperative endeavor agreement with the Department of Health and Hospitals to provide acute care hospital services to Medicaid and uninsured patients and which assumes providing services that were previously delivered and terminated or reduced by a state owned and operated facility shall be reimbursed as follows.

1. The inpatient reimbursement shall be reimbursed at 95 percent of allowable Medicaid costs. The interim per diem reimbursement may be adjusted not to exceed the final reimbursement of 95 percent of allowable Medicaid costs.

C. - E.3. Reserved.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy 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.

Kathy H. Kliebert
Secretary

1506#038

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Inpatient Hospital Services
Public-Private Partnerships
Supplemental Payments
(LAC 50:V.Chapter 17)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:V.Chapter 17 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, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing inpatient hospital services to establish supplemental Medicaid payments to non-state owned hospitals in order to encourage them to take over the operation and management of state-owned and operated hospitals that have terminated or reduced services (*Louisiana Register*, Volume 38, Number 11). Participating non-state owned hospitals shall enter into a cooperative endeavor agreement with the department to support this public-provider partnership initiative. This Emergency Rule is being promulgated to continue the provisions of the November 1, 2012 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by maintaining recipient access to much needed hospital services.

Effective June 27, 2015, the Department of Health and Hospitals, Bureau of Health Services Financing adopts provisions to establish supplemental Medicaid payments for inpatient hospital services provided by non-state owned hospitals participating in public-private partnerships.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 1. Inpatient Hospital Services

Chapter 17. Public-Private Partnerships

§1701. Qualifying Hospitals

A. Non-State Privately Owned Hospitals. Effective for dates of service on or after November 1, 2012, the department shall provide supplemental Medicaid payments for inpatient hospital services rendered by non-state privately owned hospitals that meet the following conditions.

1. Qualifying Criteria. The hospital must be a non-state privately owned and operated hospital that enters into a cooperative endeavor agreement with the Department of Health and Hospitals to increase its provision of inpatient Medicaid and uninsured hospital services by:

a. assuming the management and operation of services at a facility where such services were previously provided by a state owned and operated facility; or
b. providing services that were previously delivered and terminated or reduced by a state owned and operated facility.

B. Non-State Publicly Owned Hospitals. Effective for dates of service on or after November 1, 2012, the department shall make supplemental Medicaid payments for inpatient hospital services rendered by non-state publicly owned hospitals that meet the following conditions.

1. Qualifying Criteria. The hospital must be a non-state publicly owned and operated hospital that enters into a cooperative endeavor agreement with the Department of Health and Hospitals to increase its provision of inpatient Medicaid and uninsured hospital services by:

a. assuming the management and operation of services at a facility where such services were previously provided by a state owned and operated facility; or
b. providing services that were previously delivered and terminated or reduced by a state owned and operated facility.

C. Non-State Free-Standing Psychiatric Hospitals. Effective for dates of service on or after November 1, 2012,

the department shall make supplemental Medicaid payments for inpatient psychiatric hospital services rendered by non-state privately or publicly owned hospitals that meet the following conditions.

1. Qualifying Criteria. The hospital must be a non-state privately or publicly owned and operated hospital that enters into a cooperative endeavor agreement with the Department of Health and Hospitals to increase its provision of inpatient Medicaid and uninsured psychiatric hospital services by:

a. assuming the management and operation of services at a facility where such services were previously provided by a state owned and operated facility; or

b. providing services that were previously delivered and terminated or reduced by a state owned and operated facility.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§1703. Reimbursement Methodology

A. Payments to qualifying hospitals shall be made on a quarterly basis in accordance with 42 CFR 447.272.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy 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.

Kathy H. Kliebert
Secretary

1506#039

DECLARATION OF EMERGENCY

**Department of Health and Hospitals
Bureau of Health Services Financing**

Medicaid Eligibility
Louisiana Health Insurance Premium Payment Program
(LAC 50:III.2311)

The Department of Health and Hospitals, Bureau of Health Services Financing repeals LAC 50:III.2311 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, Bureau of Health Services Financing repromulgated and clarified the provisions governing the Group Health Insurance Premium Payment Program for inclusion in the *Louisiana Administrative Code*, and changed the name of the program to the Louisiana Health Insurance Premium Payment

Program (LaHIPP) (*Louisiana Register*, Volume 35, Number 6). The department now proposes to terminate the LaHIPP program and to enroll the program's participants into the comprehensive Managed Care for Physical and Basic Behavioral Health Program. Therefore, the department proposes to repeal the provisions of the June 20, 2009 Rule governing LaHIPP in order to terminate the program.

This Emergency Rule is being promulgated in order to promote the health and welfare of Medicaid recipients by ensuring access to comprehensive health care services. It is anticipated that this Emergency Rule will increase programmatic costs to the Medicaid Program by \$1,144,584 for state fiscal year 2015-2016.

Effective July 1, 2015, the Department of Health and Hospitals, Bureau of Health Services Financing repeals the provisions governing the LaHIPP Program in order to terminate the program.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part III. Eligibility

Subpart 3. Eligibility Groups and Factors

Chapter 23. Eligibility Groups and Medicaid Programs

§2311. Louisiana Health Insurance Premium Payment Program

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1111 (June 2009), repealed LR 41:

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

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy 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.

Kathy H. Kliebert
Secretary

1506#033

DECLARATION OF EMERGENCY

**Department of Health and Hospitals
Bureau of Health Services Financing
and
Office of Aging and Adult Services**

Nursing Facilities—Standards for Payment
Level of Care Determinations
(LAC 50:II.10156)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services amend LAC 50:II.10156 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, Bureau of Health Services Financing and the Office of Aging and Adult Services amended the provisions governing the standards for payment for nursing facilities to clarify level of care determinations (*Louisiana Register*, Volume 39, Number 6). The department promulgated an Emergency Rule which amended the provisions governing level of care pathways in order to clarify the provisions of the June 20, 2013 Rule (*Louisiana Register*, Volume 40, Number 7). This Emergency Rule is being promulgated to continue the provisions of the July 20, 2014 Emergency Rule. This action is being taken to promote the well-being of Louisiana citizens by clarifying the criteria for the level of care determination for nursing facility admission and continued stay.

Effective July 18, 2015, the Department of Health and Hospitals, Bureau of Health Services Financing and Office of Aging and Adult Services amend the provisions governing the level of care pathways for nursing facilities.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part II. Medical Assistance Program

Subpart 3. Standards for Payment

Chapter 101. Standards for Payment for Nursing Facilities

Subchapter G. Levels of Care

§10156. Level of Care Pathways

A. - B. ...

C. The level of care pathways elicit specific information, within a specified look-back period, regarding the individual's:

1. ...

2. receipt of assistance with activities of daily living (ADL);

C.3. - E.2.m. ...

F. Physician Involvement Pathway

1. - 2. ...

3. In order for an individual to be approved under the Physician Involvement Pathway, the individual must have one day of doctor visits and at least four new order changes within the last 14 days or:

a. at least two days of doctor visits and at least two new order changes within the last 14 days; and

F.3.b. - I.1.d. ...

2. In order for an individual to be approved under the behavior pathway, the individual must have:

a. exhibited any one of the following behaviors four to six days of the screening tool's seven-day look-back period, but less than daily:

i. - ii. ...

iii. physically abusive;

iv. socially inappropriate or disruptive; or

b. exhibited any one of the following behaviors daily during the screening tool's seven-day look-back period:

i. - iii. ...

iv. socially inappropriate or disruptive; or

c. experienced delusions or hallucinations within the screening tool's seven-day look-back period that impacted his/her ability to live independently in the community; or

d. exhibited any one of the following behaviors during the assessment tool's three-day look-back period and behavior(s) were not easily altered:

i. wandering;

ii. verbally abusive;

iii. physically abusive;

iv. socially inappropriate or disruptive; or

e. experienced delusions or hallucinations within the assessment tool's three-day look-back period that impacted his/her ability to live independently in the community.

J. - J.3. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:342 (January 2011), amended LR 39:1471 (June 2013), LR 41:

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

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy 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.

Kathy H. Kliebert
Secretary

1506#040

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Outpatient Hospital Services
Public-Private Partnerships
Supplemental Payments
(LAC 50:V.Chapter 67)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:V.Chapter 67 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, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing outpatient hospital services to establish supplemental Medicaid payments to non-state owned hospitals in order to encourage them to take

over the operation and management of state-owned hospitals that have terminated or reduced services (*Louisiana Register*, Volume 38, Number 11). Participating non-state owned hospitals shall enter into a cooperative endeavor agreement with the department to support this public-private partnership initiative. The department promulgated an Emergency Rule which amended the provisions of the November 1, 2012 Emergency Rule to revise the reimbursement methodology in order to correct the federal citation (*Louisiana Register*, Volume 39, Number 3). This Emergency Rule continues the provisions of the March 2, 2013 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by maintaining recipient access to much needed hospital services.

Effective June 27, 2015, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing supplemental Medicaid payments for outpatient hospital services provided by non-state owned hospitals participating in public-private partnerships.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 5. Outpatient Hospital Services

Chapter 67. Public-Private Partnerships

§6701. Qualifying Hospitals

A. Non-State Privately Owned Hospitals. Effective for dates of service on or after November 1, 2012, the department shall provide supplemental Medicaid payments for outpatient hospital services rendered by non-state privately owned hospitals that meet the following conditions.

1. Qualifying Criteria. The hospital must be a non-state privately owned and operated hospital that enters into a cooperative endeavor agreement with the Department of Health and Hospitals to increase its provision of outpatient Medicaid and uninsured hospital services by:

- a. assuming the management and operation of services at a facility where such services were previously provided by a state owned and operated facility; or
- b. providing services that were previously delivered and terminated or reduced by a state owned and operated facility.

B. Non-State Publicly Owned Hospitals. Effective for dates of service on or after November 1, 2012, the department shall make supplemental Medicaid payments for outpatient hospital services rendered by non-state publicly owned hospitals that meet the following conditions.

1. Qualifying Criteria. The hospital must be a non-state publicly owned and operated hospital that enters into a cooperative endeavor agreement with the Department of Health and Hospitals to increase its provision of outpatient Medicaid and uninsured hospital services by:

- a. assuming the management and operation of services at a facility where such services were previously provided by a state owned and operated facility; or
- b. providing services that were previously delivered and terminated or reduced by a state owned and operated facility.

C. Non-State Free-Standing Psychiatric Hospitals. Effective for dates of service on or after November 1, 2012, the department shall make supplemental Medicaid payments for outpatient psychiatric hospital services rendered by non-state privately or publicly owned hospitals that meet the following conditions.

1. Qualifying Criteria. The hospital must be a non-state privately or publicly owned and operated hospital that enters into a cooperative endeavor agreement with the Department of Health and Hospitals to increase its provision of outpatient Medicaid and uninsured psychiatric hospital services by:

- a. assuming the management and operation of services at a facility where such services were previously provided by a state owned and operated facility; or
- b. providing services that were previously delivered and terminated or reduced by a state owned and operated facility.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§6703. Reimbursement Methodology

A. Payments to qualifying hospitals shall be made on a quarterly basis in accordance with 42 CFR 447.321.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy 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.

Kathy H. Kliebert
Secretary

1506#041

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Pharmacy Benefits Management Program
State Supplemental Rebate Agreement Program
(LAC 50:XXIX.Chapter 11)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:XXIX.Chapter 11 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, Bureau of Health Services Financing provides Medicaid coverage of prescription drugs through its Pharmacy Benefits Management Program. The department amended the provisions governing the Pharmacy Benefits Management Program in order to establish provisions for the Medicaid Program's participation in The Optimal PDL Solution (TOPS) State Supplemental Rebate Agreement Program which is a multi-state Medicaid state supplemental drug rebate pooling initiative (*Louisiana Register*, Volume 39, Number 10). This program allows states to leverage their pharmaceutical purchasing power as a group to achieve more supplemental rebates than could be achieved independently. It is anticipated that this program will lower the net cost of brand drugs and the overall dollars spent on pharmacy benefits. The department promulgated an Emergency Rule to assure compliance with the technical requirements of R.S. 49:953, and to continue the provisions of the October 1, 2013 Emergency Rule governing the Pharmacy Benefits Management Program which established provisions for the Medicaid Program's participation in The Optimal PDL Solution (TOPS) State Supplemental Rebate Agreement Program (*Louisiana Register*, Volume 40, Number 3). This Emergency Rule is being promulgated to continue the provisions of the February 22, 2014 Emergency Rule. This action is being taken to avoid a budget deficit in the medical assistance programs.

Effective June 21, 2015, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the Medicaid coverage of prescription drugs to establish provisions for participation in TOPS State Supplemental Rebate Agreement Program.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXIX. Pharmacy

Chapter 11. State Supplemental Rebate Agreement Program

§1101. General Provisions

A. Effective October 1, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing hereby establishes provisions for participation in The Optimal PDL Solution (TOPS) State Supplemental Rebate Agreement (SRA) Program. TOPS is a multi-state Medicaid state supplemental drug rebate pooling initiative approved by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services and administered by Provider Synergies, L.L.C/Magellan Medicaid Administration. The purpose of this program is to allow states the opportunity to leverage their pharmaceutical purchasing power as a group to achieve more supplemental rebates and discounts from prescription drug companies than could be achieved independently.

B. Pursuant to R.S. 46:153.3, the department shall enter into a contractual agreement with Provider Synergies to participate in TOPS. Provider Synergies/Magellan Medicaid Administration will act on the department's behalf to provide the necessary administration services relative to this agreement for the provision of state supplemental drug rebate contracting and preferred drug list administration services.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy 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.

Kathy H. Kliebert
Secretary

1506#042

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Psychiatric Residential Treatment Facilities
Licensing Standards
(LAC 48:I.Chapter 90)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 48:I.Chapter 90 as authorized by R.S. 36:254 and R.S. 40:2009. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the licensing of psychiatric residential treatment facilities (PRTFs) in order to revise the licensing standards as a means of assisting PRTFs to comply with the standards (*Louisiana Register*, Volume 39, Number 9). The department promulgated an Emergency Rule which amended the provisions governing the licensing standards for PRTFs in order to remove service barriers, clarify appeal opportunities, avoid a reduction in occupancy of PRTFs in rural locations, and clarify the process for cessation of business (*Louisiana Register*, Volume 40, Number 8). The department promulgated an Emergency Rule which amended the provisions of the August 20, 2014 Emergency Rule in order to revise the formatting of these provisions to ensure that these provisions are appropriately promulgated in a clear and concise manner (*Louisiana Register*, Volume 41, Number 3). This Emergency Rule is being promulgated to continue the provisions of the March 20, 2015 Emergency Rule. This action is being taken to avoid imminent peril to the public health, safety and welfare of the children and adolescents who are in need of these services.

Effective July 19, 2015, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions of the August 20, 2014 Emergency Rule governing the licensing of psychiatric residential treatment facilities.

Title 48
PUBLIC HEALTH—GENERAL
Part I. General Administration
Subpart 3. Licensing

**Chapter 90. Psychiatric Residential Treatment
Facilities (under 21)**

Subchapter A. General Provisions

§9003. Definitions

A. ...

* * *

Cessation of Business—Repealed.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:54 (January 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:371 (February 2012), LR 39:2510 (September 2013), LR 41:

Subchapter B. Licensing

§9015. Licensing Surveys

A. - D. ...

E. If deficiencies have been cited during a licensing survey, regardless of whether an acceptable plan of correction is required, the department may issue appropriate sanctions, including, but not limited to:

1. civil fines;
2. directed plans of correction;
3. provisional licensure;
4. denial of renewal; and/or
5. license revocations.

F. - F.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:375 (February 2012), amended LR 41:

§9017. Changes in Licensee Information or Personnel

A. - D.2. ...

3. A PRTF that is under provisional licensure, license revocation or denial of license renewal may not undergo a CHOW.

E. - F.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:375 (February 2012), amended LR 41:

§9019. Cessation of Business

A. Except as provided in §9089 of these licensing regulations, a license shall be immediately null and void if a PRTF ceases to operate.

1. - 3. Repealed.

B. A cessation of business is deemed to be effective the date on which the PRTF stopped offering or providing services to the community.

C. Upon the cessation of business, the provider shall immediately return the original license to the department.

D. Cessation of business is deemed to be a voluntary action on the part of the provider. The provider does not have a right to appeal a cessation of business.

E. Prior to the effective date of the closure or cessation of business, the PRTF shall:

1. give 30 days' advance written notice to:
 - a. HSS;
 - b. the prescribing physician; and
 - c. the parent(s) or legal guardian or legal representative of each client; and
2. provide for an orderly discharge and transition of all of the clients in the facility.

F. In addition to the advance notice of voluntary closure, the PRTF shall submit a written plan for the disposition of clients' medical records for approval by the department. The plan shall include the following:

1. the effective date of the voluntary closure;
2. provisions that comply with federal and state laws on storage, maintenance, access, and confidentiality of the closed provider's clients' medical records;
3. an appointed custodian(s) who shall provide the following:
 - a. access to records and copies of records to the client or authorized representative, upon presentation of proper authorization(s); and
 - b. physical and environmental security that protects the records against fire, water, intrusion, unauthorized access, loss and destruction; and
4. public notice regarding access to records, in the newspaper with the largest circulation in close proximity to the closing provider, at least 15 days prior to the effective date of closure.

G. If a PRTF fails to follow these procedures, the owners, managers, officers, directors, and administrators may be prohibited from opening, managing, directing, operating, or owning a PRTF for a period of two years.

H. Once the PRTF has ceased doing business, the PRTF shall not provide services until the provider has obtained a new initial license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:375 (February 2012), amended LR 41:

§9023. Denial of License, Revocation of License, Denial of License Renewal

A. - C.3. ...

D. Revocation of License or Denial of License Renewal. A PRTF license may be revoked or may be denied renewal for any of the following reasons, including but not limited to:

1. - 13. ...
14. bribery, harassment, or intimidation of any resident or family member designed to cause that resident or family member to use or retain the services of any particular PRTF; or
15. failure to maintain accreditation or failure to obtain accreditation.
16. Repealed.

E. If a PRTF license is revoked or renewal is denied, or the license is surrendered in lieu of an adverse action, any owner, officer, member, director, manager, or administrator of such PRTF may be prohibited from opening, managing, directing, operating, or owning another PRTF for a period of two years from the date of the final disposition of the revocation, denial action, or surrender.

F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:376 (February 2012), amended LR 41:

§9025. Notice and Appeal of License Denial, License Revocation, License Non-Renewal, and Appeal of Provisional License

A. - B. ...

1. The PRTF shall request the informal reconsideration within 15 calendar days of the receipt of the notice of the license denial, license revocation, or license non-renewal. The request for informal reconsideration must be in writing and shall be forwarded to the Health Standards Section.

2. - D. ...

E. If a timely administrative appeal has been filed by the facility on a license denial, license non-renewal, or license revocation, the Division of Administrative Law shall conduct the hearing pursuant to the Louisiana Administrative Procedure Act.

E.1. - G.2. ...

3. The provider shall request the informal reconsideration in writing, which shall be received by the Health Standards Section within five days of receipt of the notice of the results of the follow-up survey from the department.

a. Repealed.

4. The provider shall request the administrative appeal within 15 days of receipt of the notice of the results of the follow-up survey from the department. The request for administrative appeal shall be in writing and shall be submitted to the Division of Administrative Law, or its successor.

a. Repealed.

H. - H.1. ...

I. If a timely administrative appeal has been filed by a facility with a provisional initial license that has expired or by an existing provider whose provisional license has expired under the provisions of this Chapter, the Division of Administrative Law shall conduct the hearing pursuant to the Louisiana Administrative Procedure Act.

1. - 2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:377 (February 2012), amended LR 41:

§9027. Complaint Surveys

A. - J.1. ...

a. The offer of the administrative appeal, if appropriate, as determined by the Health Standards Section, shall be included in the notification letter of the results of the informal reconsideration. The right to administrative appeal shall only be deemed appropriate and thereby afforded upon completion of the informal reconsideration.

2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:378 (February 2012), amended LR 41:

§9029. Statement of Deficiencies

A. - C.1. ...

2. The written request for informal reconsideration of the deficiencies shall be submitted to the Health Standards Section and will be considered timely if received by HSS within 10 calendar days of the provider's receipt of the statement of deficiencies.

3. - 5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:379 (February 2012), amended LR 41:

Subchapter H. Additional Requirements for Mental Health PRTFs

§9093. Personnel Qualifications, Responsibilities, and Requirements

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

b. The clinical director is responsible for the following:

i. providing clinical direction for each resident at a minimum of one hour per month, either in person on-site, or via telemedicine pursuant to R.S. 37:1261-1292 et seq., and LAC 46:XLV.408 and Chapter 75 et seq.;

(a). - 3.a.iv. ...

b. A LMHP or MHP shall provide for each resident a minimum weekly total of 120 minutes of individual therapy.

3.c. - B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:397 (February 2012), amended LR 39:2511 (September 2013), LR 41:

Interested persons may submit written comments to Cecile Castello, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821, or by email to MedicaidPolicy@la.gov. Ms. Castello is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Kathy H. Kliebert
Secretary

1506#043

DECLARATION OF EMERGENCY

**Department of Health and Hospitals
Bureau of Health Services Financing**

Targeted Case Management
Foster Care and Family Support Worker Services
(LAC 50:XV.Chapter 115)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:XV.Chapter 115 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, Bureau of Health Services Financing provides reimbursement for case management services rendered to targeted Medicaid populations, including Medicaid eligible children under the age of 21. Foster care and family support workers employed by the Department of Children and Family Services (DCFS) provides case management services that qualify for Medicaid reimbursement under the Targeted Case Management (TCM) Program.

The department now proposes to amend the Rule governing targeted case management in order to adopt provisions for reimbursing DCFS for Medicaid eligible TCM services.

This action is being taken to secure federal funding for Medicaid eligible services rendered to children in the care of DCFS, and to promote the health and welfare of these children by ensuring continued access to Medicaid covered services. It is estimated that implementation of this Emergency Rule will increase expenditures in the Medicaid Program by approximately \$30,800,271 for state fiscal year 2015-2016.

Effective July 1, 2015, the Department of Health and Hospitals, Bureau of Health Services Financing adopts provisions governing the reimbursement of targeted case management services delivered to Medicaid eligible children by foster care and family support workers with the Department of Children and Family Services.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 7. Targeted Case Management

Chapter 115. Foster Care and Family Support Worker Services

§11501. Introduction

A. Effective for dates of service on or after July 1, 2015, the department shall reimburse the Department of Children and Family Services (DCFS) for case management and case management supervision services, provided by DCFS foster care and family support workers, which qualify for Medicaid reimbursement under the Targeted Case Management Program.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§11503. Covered Services

A. The Medicaid Program shall provide reimbursement to DCFS for the following case management services:

1. comprehensive assessment of individual needs;
2. periodic reassessment of individual needs;
3. development and periodic revision of a specific care plan;
4. referral and related activities; and
5. monitoring and follow-up activities.

B. Covered services and activities may be rendered to the child, the foster family, or biological family.

C. Case management functions provided by DCFS family support workers include, but are not limited to:

1. completing a safety and risk assessment of the child;
2. completing assessment of family functioning-initial and on-going to include trauma screening as well as

screenings for mental health, domestic violence and substance abuse issues;

3. developing a written care plan, jointly with the family, within the first 30 days;

4. providing on-going service planning;

5. providing on-going monitoring of the care plan through home visits, phone calls, etc.; and

6. providing a link to community resources for parents and children including:

- a. referrals to substance abuse;
- b. mental health services;
- c. domestic violence;
- d. daycare services;
- e. the Early Steps program;
- f. medical services;
- g. family resource center services;
- h. parenting services;
- i. visit coaching; and
- j. skills building.

D. Case management functions provided by DCFS foster care workers include, but are not limited to:

1. completing a social history and assessment;

2. arranging an initial medical, dental and communicable disease screening upon entry into foster care;

3. obtaining the medical history of child upon entering foster care, as well as immunization records;

4. completing a behavioral health screening within 15 days of child entering foster care;

5. exploring all federal benefits for the child (SSI, death benefits, etc.);

6. developing case plans and objectives with the family;

7. preparing cases for presentation to the multi-disciplinary team for consultation;

8. coordinating with other professionals regarding the needs of the child, family, and/or parent;

9. continuously assessing the safety of the child and service needs of the child(ren) and families through interviews, observations and other information sources; and

10. providing supportive services for clients and arranges for the provision of services from community resources based on the case plan.

E. The following DCFS services shall not be covered:

1. research gathering and completion of documentation for foster care program;

2. assessing adoption placement;

3. recruiting/interviewing foster parents;

4. serving legal papers;

5. home investigations;

6. transportation;

7. administering foster care subsidies; and

8. making placement arrangements.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§11505. Reimbursement

A. The department shall utilize a random moment sampling (RMS) procedure as the cost allocation process to determine the reimbursement for services rendered by DCFS staff.

B. RMS will statistically validate the method for determining the percentage of effort expended by DCFS

foster care and family support workers for case management services rendered to Medicaid eligible children.

C. DCFS foster care and family support workers who render case management services will be randomly selected at a date, time, and frequency designated by the department to participate in a survey, or other process, to determine the amount of time and efforts expended on the targeted population for Medicaid covered services. The RMS responses will be compiled and tabulated using a methodology determined by the department. The results will be used to determine the cost associated with administering the Medicaid covered TCM services, and the final reimbursement to DCFS for the services rendered.

D. As part of its oversight responsibilities, the department reserves the right to develop and implement any audit and reviewing procedures that it deems are necessary to ensure that payments to DCFS for case management services are accurate and are reimbursement for only Medicaid allowable 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, Bureau of Health Services Financing, LR 41:

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

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy 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.

Kathy H. Kliebert
Secretary

1506#034

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

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

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XV.10701 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.

As a result of a budgetary shortfall in state fiscal year 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for targeted case management (TCM) services to reduce the reimbursement

rates and to revise these provisions as a result of the promulgation of the January 2013 Emergency Rules which terminated Medicaid reimbursement of TCM services provided to first-time mothers in the Nurse Family Partnership Program and TCM services rendered to HIV disabled individuals (*Louisiana Register*, Volume 39, Number 12).

The department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for TCM services provided to New Opportunities Waiver (NOW) recipients in order to adopt a payment methodology based on a flat monthly rate rather than 15-minute increments (*Louisiana Register*, Volume 40, Number 6). The department has now determined that it is necessary to amend the provisions of the July 1, 2014 Emergency Rule in order to ensure that these provisions are incorporated into the *Louisiana Administrative Code* in a clear and concise manner. This action is being taken to promote the health and welfare of NOW participants by ensuring continued access to Medicaid covered services.

Effective June 20, 2015, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions of the July 1, 2014 Emergency Rule governing the reimbursement methodology for TCM services for NOW participants.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 7. Targeted Case Management

Chapter 107. Reimbursement

§10701. Reimbursement

A. - J. ...

K. Effective for dates of service on or after July 1, 2014, case management services provided to participants in the New Opportunities Waiver shall be reimbursed at a flat rate for each approved unit of service.

1. The standard unit of service is equivalent to one month and covers both service provision and administrative (overhead) costs.

a. Service provision includes the core elements in:

- i. §10301 of this Chapter;
- ii. the case management manual; and
- iii. contracted performance agreements.

2. All services must be prior authorized.

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), LR 35:73 (January 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1903 (September 2009), LR 36:1783 (August 2010), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Public Health, LR 39:97 (January 2013), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:3302 (December 2013), LR 40:1700,1701 (September 2014), LR 41:

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy 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.

Kathy H. Kliebert
Secretary

1506#035

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Therapeutic Group Homes
Licensing Standards
(LAC 48:I.Chapter 62)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 48:I.Chapter 62 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 40:2009. 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.

In compliance with the directives of R.S. 40:2009, the Department of Health and Hospitals, Bureau of Health Services Financing adopted provisions governing the minimum licensing standards for therapeutic group homes(TGH)in order to prepare for the transition to a comprehensive system of delivery for behavioral health services in the state (*Louisiana Register*, Volume 38, Number 2).

The department promulgated an Emergency Rule which amended the provisions governing TGH licensing standards to revise the current TGH licensing regulations (*Louisiana Register*, Volume 40, Number 7). This Emergency Rule is being promulgated to continue the provisions of the July 20, 2014 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by ensuring sufficient provider participation and recipient access to services.

Effective July 18, 2015, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the licensing standards for TGH providers.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing

Chapter 62. Therapeutic Group Homes

Subchapter A. General Provisions

§6203. Definitions

Active Treatment—implementation of a professionally developed and supervised comprehensive treatment plan that is developed no later than seven days after admission and designed to achieve the client's discharge from inpatient status within the shortest practicable time. To be considered active treatment, the services must contribute to the achievement of the goals listed in the comprehensive treatment plan. Tutoring, attending school, and transportation are not considered active treatment. Recreational activities can be considered active treatment

when such activities are community based, structured and integrated within the surrounding community.

* * *

Therapeutic Group Home (TGH)—a facility that provides community-based residential services to clients under the age of 21 in a home-like setting of no greater than 10 beds under the supervision and oversight of a psychiatrist or psychologist.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:402 (February 2012), amended LR 41:

Subchapter B. Licensing

§6213. Changes in Licensee Information or Personnel

A. - C.1. ...

2. A TGH that is under provisional licensure, license revocation, or denial of license renewal may not undergo a CHOW.

D. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:405 (February 2012), amended LR 41:

§6219. Licensing Surveys

A. - D. ...

E. If deficiencies have been cited during a licensing survey, regardless of whether an acceptable plan of correction is required, the department may issue appropriate sanctions, including, but not limited to:

1. ...
2. directed plans of correction;
3. provisional licensure;
4. denial of renewal; and/or
5. license revocations.

F. - F.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:406 (February 2012), amended LR 41:

§6221. Complaint Surveys

A. - J.1. ...

a. The offer of the administrative appeal, if appropriate, as determined by the Health Standards Section, shall be included in the notification letter of the results of the informal reconsideration results. The right to administrative appeal shall only be deemed appropriate and thereby afforded upon completion of the informal reconsideration.

2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:407 (February 2012), amended LR 41:

§6223. Statement of Deficiencies

A. - C.1. ...

2. The written request for informal reconsideration of the deficiencies shall be submitted to the Health Standards Section and will be considered timely if received by HSS within 10 calendar days of the provider's receipt of the statement of deficiencies.

3. - 5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:407 (February 2012), amended LR 41:

§6225. Cessation of Business

A. Except as provided in §6295 of this chapter, a license shall be immediately null and void if a TGH ceases to operate.

1. - 3. Repealed.

B. A cessation of business is deemed to be effective the date on which the TGH stopped offering or providing services to the community.

C. Upon the cessation of business, the provider shall immediately return the original license to the department.

D. Cessation of business is deemed to be a voluntary action on the part of the provider. The provider does not have a right to appeal a cessation of business.

E. Prior to the effective date of the closure or cessation of business, the TGH shall:

1. give 30 days' advance written notice to:

- a. HSS;
- b. the prescribing physician; and
- c. the parent(s) or legal guardian or legal representative of each client; and

2. provide for an orderly discharge and transition of all of the clients in the facility.

F. In addition to the advance notice of voluntary closure, the TGH shall submit a written plan for the disposition of client medical records for approval by the department. The plan shall include the following:

1. the effective date of the voluntary closure;
2. provisions that comply with federal and state laws on storage, maintenance, access, and confidentiality of the closed provider's clients' medical records;
3. an appointed custodian(s) who shall provide the following:
 - a. access to records and copies of records to the client or authorized representative, upon presentation of proper authorization(s); and
 - b. physical and environmental security that protects the records against fire, water, intrusion, unauthorized access, loss and destruction; and
4. public notice regarding access to records, in the newspaper with the largest circulation in close proximity to the closing provider, at least 15 days prior to the effective date of closure.

G. If a TGH fails to follow these procedures, the owners, managers, officers, directors, and administrators may be prohibited from opening, managing, directing, operating, or owning a TGH for a period of two years.

H. Once the TGH has ceased doing business, the TGH shall not provide services until the provider has obtained a new initial license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:407 (February 2012), amended LR 41:

§6227. Denial of License, Revocation of License, or Denial of License Renewal

A. - C.3. ...

D. Revocation of License or Denial of License Renewal. A TGH license may be revoked or may be denied renewal for any of the following reasons, including but not limited to:

1. - 15. ...

16. failure to repay an identified overpayment to the department or failure to enter into a payment agreement to repay such overpayment;

17. failure to timely pay outstanding fees, fines, sanctions, or other debts owed to the department; or

18. failure to maintain accreditation, or for a new TGH that has applied for accreditation, the failure to obtain accreditation.

19. Repealed.

E. If a TGH license is revoked or renewal is denied or the license is surrendered in lieu of an adverse action, any owner, officer, member, director, manager, or administrator of such TGH may be prohibited from opening, managing, directing, operating, or owning another TGH for a period of two years from the date of the final disposition of the revocation, denial action, or surrender.

F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:408 (February 2012), amended LR 41:

§6229. Notice and Appeal of License Denial, License Revocation, License Non-Renewal, and Appeal of Provisional License

A. - B. ...

1. The TGH provider shall request the informal reconsideration within 15 calendar days of the receipt of the notice of the license denial, license revocation, or license non-renewal. The request for informal reconsideration must be in writing and shall be forwarded to the Health Standards Section.

B.2. - D. ...

E. If a timely administrative appeal has been filed by the provider on a license denial, license non-renewal, or license revocation, the DAL or its successor shall conduct the hearing pursuant to the Louisiana Administrative Procedure Act.

E.1. - G.2. ...

3. The provider shall request the informal reconsideration in writing, which shall be received by the HSS within five days of receipt of the notice of the results of the follow-up survey from the department.

a. Repealed.

4. The provider shall request the administrative appeal within 15 days of receipt of the notice of the results of the follow-up survey from the department. The request for administrative appeal shall be in writing and shall be submitted to the Division of Administrative Law, or its successor.

a. Repealed.

H. - H.1. ...

I. If a timely administrative appeal has been filed by a provider with a provisional initial license that has expired or by an existing provider whose provisional license has expired under the provisions of this Chapter, the DAL or its successor shall conduct the hearing pursuant to the Louisiana Administrative Procedure Act.

1. - 2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:409 (February 2012), amended LR 41:

Subchapter D. Provider Responsibilities

§6247. Staffing Requirements

A. - C.2. ...

3. A ratio of not less than one staff to five clients is maintained at all times; however, two staff must be on duty at all times with at least one being direct care staff when there is a client present.

D. - D.3. ...

4. Therapist. Each therapist shall be available at least three hours per week for individual and group therapy and two hours per month for family therapy.

5. Direct Care Staff. The ratio of direct care staff to clients served shall be 1:5 with a minimum of two staff on duty per shift for a 10 bed capacity. This ratio may need to be increased based on the assessed level of acuity of the youth or if treatment interventions are delivered in the community and offsite.

E. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:413 (February 2012), amended LR 41:

§6249. Personnel Qualifications and Responsibilities

A. - 1.a.ii.(c). ...

b. A supervising practitioner's responsibilities shall include, but are not limited to:

i. reviewing the referral PTA and completing an initial diagnostic assessment at admission or within 72 hours of admission and prior to service delivery;

ii. - iv. ...

v. at least every 28 days or more often as necessary, providing:

1.b.v.(a). - 6.b.viii. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:414 (February 2012), amended LR 41:

Subchapter F. Services

§6267. Comprehensive Treatment Plan

A. Within seven days of admission, a comprehensive treatment plan shall be developed by the established multidisciplinary team of staff providing services for the client. Each treatment team member shall sign and indicate their attendance and involvement in the treatment team meeting. The treatment team review shall be directed and supervised by the supervising practitioner at a minimum of every 28 days.

B. - G.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:418 (February 2012), amended LR 41:

§6269. Client Services

A. - A.4. ...

B. The TGH is required to provide at least 16 hours of active treatment per week to each client. This treatment shall be provided and/or monitored by qualified staff.

C. The TGH shall have a written plan for insuring that a range of daily indoor and outdoor recreational and leisure opportunities are provided for clients. Such opportunities shall be based on both the individual interests and needs of the client and the composition of the living group.

C.1. - G.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:419 (February 2012), amended LR 41:

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

Interested persons may submit written comments to Cecile Castello, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821 or by email to MedicaidPolicy@la.gov. Ms. Castello is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Kathy H. Kliebert
Secretary

1506#044

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office for Citizens with Developmental Disabilities

Certification of Medication Attendants
(LAC 48:IX.Chapter 9)

The Office for Citizens with Developmental Disabilities (OCDD) amends LAC 48:IX.Chapter 9, Guidelines for Certification of Medication Attendants (CMA). R.S. 37:1021-1025 authorizes the establishment of "a medication administration course for the purpose of training and certifying unlicensed personnel to administer certain medication to residents of intermediate care facilities for the mentally retarded (ICFs/MR) and community homes for the mentally retarded either operated by the Office for Citizens with Developmental Disabilities (OCDD) or funded through the Department of Health and Hospitals (DHH); and to individuals in programs/agencies contracting for services with DHH except as prohibited in §911.B.5."

Based on an opinion given by the Louisiana State Board of Medical Examiners, the Department of Health and Hospitals has discontinued the use of physician delegation forms in intermediate care facilities and home and community-based settings. Unlicensed personnel must now complete minimum training requirements in order to administer medication to individuals with intellectual and

developmental disabilities. The termination of physician delegation has resulted in a large influx of individuals seeking CMA training and certification. This has created an administrative burden to providers as well as OCDD to timely process a steadily increasing number of certifications. This is also an unfunded training mandate, which incurs significant costs to provider agencies and requires annual continuing education for re-certification. Due to limited funding, provider agencies who cannot afford to maintain the certification will experience a reduction in unlicensed personnel who are qualified to give medication to clients, thus increasing the risk for medication errors, critical incidents, and mortality for medically compromised and vulnerable clients. The Office for Citizens with Developmental Disabilities, seeks to extend the certification period for certified medication attendants to two years effective June 27, 2015. Provider agencies must determine CMA competency annually during the two-year period.

Also effective June 27, 2015, OCDD will allow CMAs who have not worked directly with medication administration for 12 months or more to be administered the statewide exam and a competency evaluation rather than requiring that they repeat the training. The opportunity for this will also decrease administrative burden and allow qualified individuals to more quickly re-enter the work force which will in turn, help assure client health and safety. 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.

Title 48

PUBLIC HEALTH—GENERAL

Part IX. Mental Retardation/Developmental Services

Chapter 9. Guidelines for Certification of Medication Attendants

§915. Certification Requirements and Process

A. CMA certificates issued after rule promulgation will expire two years from the last day of the month that the certificate was printed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1021-1025.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 21:696 (July 1995), amended LR 23:1147 (September 1997), LR 41:

§917. Re-Certification Requirements and Process

A. Bi-Annual Requirements. On a bi-annual basis each CMA must be recertified. The requirements for re-certification are:

1. completion of a total of nine hours of in service training. Two of the nine hours must directly relate to the agency's medication administration policy and procedure. The remaining seven hours on in-service must relate to medication administration. A CMA working in multiple agencies may combine training to meet these requirements with the exception that the two-hour training on agency medication administration policy and procedure is required for each employer. Each agency must have documentation of each CMA's required nine hours of in service training;

2. pass with proficiency, either by physical or verbal demonstration, the 25 skills on the practical checklist on an annual basis. The annual cycle is based on the last day of the month that the certificate was printed. If a CMA changes employers within the certification period and training records are not available for the first year, the new employer must determine competency by assessing the 25 skills upon hire, in addition to meeting these requirements for re-certification.

B. - C. ...

D. The re-certification requirements must be met prior to the month of expiration of the CMA's certification.

E. A CMA who has not worked directly with medication administration in a facility, program, or agency for the intellectually/developmentally disabled for 12 months or more must take the OCDD CMA state exam again and pass with proficiency the 25 skills checklist. If the CMA does not pass the state exam, then the CMA must repeat the 60-hour course and pass the exam prior to being recertified. Failure to pass the state exam will result in de-certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1021-1025.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 21:697 (July 1995), amended LR 23:1147 (September 1997), LR 41:

§919. De-Certification of Medication Attendants

A. - A.6. ...

B. De-certification may occur under the following conditions:

1. failure of CMA to obtain re-certification requirements. The CMA may be reinstated if the re-certification requirements are met within six months of expiration of the certificate. During this six month period the CMA's authorized functions shall be suspended;

B.2. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1021-1025.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 21:697 (July 1995), amended LR 41:

§925. Provider Responsibility

A. - A.2. ...

3. documentation of annual successful completion of the 25 skills checklist and bi-annual completion of continuing education necessary for re-certification of CMA.

B. The provider is legally responsible for the level of competency of its personnel and for ensuring that unlicensed staff administering medication have successfully completed the medication administration course curriculum. Additionally, the provider is responsible for maintaining re-certification requirements of their CMA's and that their CMA's perform their functions in a safe manner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1021-1025.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 21:699 (July 1995), amended LR 41:

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

Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Mark A. Thomas, Office for Citizens with Developmental Disabilities, P.O. Box 3117, Baton Rouge, LA 70821-3117. He is responsible for responding to inquiries regarding this Rule.

Kathy H. Kliebert
Secretary

1506#012

DECLARATION OF EMERGENCY

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

Recreational and Commercial Fisheries Reopenings

In accordance with the emergency provisions of R.S. 49:953 of the Administrative Procedure Act, which allows the Wildlife and Fisheries Commission to adopt rules on an emergency basis when delay would result in imminent peril to the public health, safety, or welfare and a Declaration of

Emergency adopted by the Wildlife and Fisheries Commission on May 7, 2015 which grants authority to the Secretary to open, close, reopen-reclose, broaden or otherwise modify the areas closed and opened to fishing if biological, environmental and technical data indicate the need to do so, the Secretary hereby opens commercial fishing and recreational fishing in the following state waters:

Those state inside waters located in the upper Barataria Basin and extending a distance of 100 yards from any shoreline and north of 29 degrees 26 minutes 00 seconds north latitude and south of 29 degrees 29 minutes 00 seconds north latitude from -89 degrees 50 minutes 00 seconds west longitude westward to -89 degrees 57 minutes 00 seconds west longitude.

This Declaration of Emergency shall become effective immediately.

Robert Barham
Secretary

1506#019

Rules

RULE

Department of Civil Service Board of Tax Appeals

Tax Appeals—Revenue Department and Local Sales Tax Disputes (LAC 69:I.Chapters 1-11)

The following are administrative rules of the Board of Tax Appeals for the state of Louisiana. The jurisdiction of the board is authorized by R.S. 47:1407. These rules have been promulgated in accordance with R.S. 47:1413, which states: "In all other matters regarding the conduct of its hearings, the board may prescribe and promulgate rules and regulations not inconsistent with law or the provisions of this chapter, which rules and regulations when prescribed, adopted, and promulgated shall be binding upon parties litigant in any cause over which the jurisdiction of this board shall extend." This Title codifies these promulgated rules. The board reserves the right to amend, modify, waive or supplement these rules in the interest of justice.

Title 69

TAX APPEALS (REVENUE DEPARTMENT AND LOCAL SALES TAX DISPUTES)

Part I. Procedure and Practice before the Louisiana Board of Tax Appeals

Chapter 1. Preliminary Provisions

§101. Persons Authorized to Practice before the Board

A. The following persons are authorized to practice before the board:

1. any individual taxpayer or other contestant in a proceeding before the board may appear and act for himself or for a partnership of which he is a member, and a taxpayer corporation may be represented by a bona fide officer of the corporation, upon presentation of adequate identification to the board, in any proceedings to which the jurisdiction of the board shall extend;

2. attorneys at law, duly qualified and registered under the laws of the state, shall be entitled to represent any taxpayer or other contestant in any matter to which the jurisdiction of the board shall extend, provided that the board may, in its discretion, permit attorneys at law, duly qualified and registered under the laws of the several states or the District of Columbia to represent any taxpayer or other contestant in any matter to which the board's jurisdiction shall extend, in the same manner as such attorneys are permitted to practice in the courts of Louisiana certified public accountants, duly qualified and licensed under the laws of this state or public accountants, shall be entitled to represent any taxpayer or other contestant in any matter to which the jurisdiction of the board shall extend, provided that the board may, in its discretion, permit certified public accountants, duly qualified and licensed under the laws of the several states or the District of Columbia, and public accountants to represent any taxpayer or other contestant in any matter to which the board's jurisdiction shall extend, in the same manner as such

certified public accountants and public accountants are permitted to practice in Louisiana;

3. enrolled agents duly qualified and licensed by the U.S. Department of the Treasury to represent taxpayers before all administrative levels of the Internal Revenue Service may represent any taxpayer or other contestant in any matter to which the jurisdiction of the board shall extend.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1413.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Tax Appeals, LR 41:1080 (June 2015).

§103. Attorneys enrolling *Pro Hac Vice*

A. Attorneys appearing *pro hac vice* are instructed to comply with rule XVII, section 13 of the rules of the Louisiana Supreme Court in advance of appearing in any hearing before the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1413.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Tax Appeals, LR 41:1080 (June 2015).

§105. Business Hours

A. The board's office is located at 627 North Fourth Street, Baton Rouge, LA 70802. The board's office will be open each business day, except for legal State and Federal holidays. All pleadings will be accepted and stamped filed between the office hours of 8:30 a.m. and 4:30 p.m.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1413.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Tax Appeals, LR 41:1080 (June 2015).

Chapter 3. Rules Relating to Tax Matters

§301. Pleadings in General

A. An original and six conformed copies of all pleadings and memoranda shall be filed with the board in a state case (for local cases see §1101).

B. All pleadings are to be signed by the individual who files them. The capacity in which he is acting, his mailing address and telephone number shall be stated below the signature.

C. The signing of the pleading will be construed to be the individual's statement that he is duly authorized to represent the taxpayer, that the allegations of the petition are true and correct to the best of his information and belief and that the capacity in which he acts is properly stated.

D. All pleadings filed subsequent to the original petition shall be accompanied by a certificate of service certifying that such pleadings have been served on all opposing parties or parties in interest in the case.

E. All pleadings shall have the following caption:

**BOARD OF TAX APPEALS
STATE OF LOUISIANA**

.....
Petitioner

VS.

Department of Revenue
Respondent

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1413.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Tax Appeals, LR 41:1080 (June 2015).

§303. Fax Filing

A. The board will accept pleadings (not exhibits for trial) by facsimile only as provided for herein.

B. Within seven days, exclusive of legal holidays, after the board has received the facsimile transmission, the board must receive all of the following from the party filing by facsimile:

1. the original signed documents that were fax filed, together with the required six conformed copies;
2. the applicable filing fee, if any, under §329;
3. a fax transmission fee of \$5 per page faxed.

C. If the party complies with all of the requirements of this Rule, the filing shall be deemed complete at the time that the facsimile transmission is received by the board, but if the party fails to comply with all of these requirements then the facsimile filing shall have no force or effect.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1413.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Tax Appeals, LR 41:1081 (June 2015).

§305. Payment under Protest Notice

A. If the petition is an appeal pursuant to a payment under protest, the taxpayer should insert on the transmitting cover letter a bold/all caps/red-font typed "PAYMENT UNDER PROTEST APPEAL" label.

B. The taxpayer should also mail a courtesy copy of the petition to the relevant collector at the same time that it is filed with the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1413.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Tax Appeals, LR 41:1081 (June 2015).

§307. The Petition

A. The petition shall be comprised of numbered paragraphs of facts, and end with a prayer for the relief sought.

B. If the petition is an appeal for a redetermination of an assessment, a copy of the assessment shall accompany the petition and all copies of the petition. If the petition is for a determination of an overpayment, and the secretary has denied the request for a refund of the overpayment, then a copy of the secretary's denial shall accompany the petition and all copies of the petition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1413.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Tax Appeals, LR 41:1081 (June 2015).

§309. The Answer

A. The allegations of the petition must be categorically answered in numbered paragraphs corresponding to those of the petition. The answer shall admit or deny the allegations of the petition and state in short concise terms the material facts upon which the defenses to the action asserted are based, and shall set forth any affirmative defenses. An answer containing a general denial will not be considered sufficient unless the secretary, in good faith, has no information available to the secretary to otherwise respond to the petition.

B. The answer shall contain a signed certificate stating that a copy of the answer has been mailed to the party filing

the petition. Answers shall be filed within a period of 30 days from the date of service of the petition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1413.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Tax Appeals, LR 41:1081 (June 2015).

§311. Exceptions and Motions

A. Motions, rules and exceptions shall be in writing, shall be accompanied by an order or rule setting them for hearing and shall be served in accordance with these rules.

B. Motions, rules and exceptions shall be heard by the board by special setting, or referred to the merits of the case at the discretion of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1413.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Tax Appeals, LR 41:1081 (June 2015).

§313. Service

A. All pleadings or documents filed which are required to be served on the opposing party may be served by first class U.S. mail, or registered (or certified) mail with return receipt. A certificate of such service in accordance with §301 shall be filed concurrently with the filing of such pleadings or documents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1413.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Tax Appeals, LR 41:1081 (June 2015).

§315. Preliminary Matters

A. The board administrator shall preside over the following preliminary matters:

1. case reviews;
2. status conferences;
3. scheduling orders;
4. any other matters assigned by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1413.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Tax Appeals, LR 41:1081 (June 2015).

§317. Hearings

A. The board will hold hearings no less than two days per month on dates set by the board. The hearings will be held at the board's office in Baton Rouge, Louisiana or such other place designated by the board.

B. The board may issue a scheduling order for each case set for hearing before it. The scheduling order shall set dates and deadlines for pre-trial motions, setting/status conferences, and any other necessary matters. Failure to adhere to the provisions of the scheduling order, without the written permission of the board, may result in the dismissal of the appeal or other sanctions.

C. Requests for a continuance shall be by motion, in writing, state the reason for the continuance and state that the opposing party has been contacted and whether opposing party is agreeable to the continuance. If the party requesting the continuance was unable to contact the opposing party then that fact and what efforts were made to contact the opposing party shall be stated in the motion. An order setting the motion for hearing and an order granting the continuance shall be submitted at the same time as the motion requesting the continuance. The chairman, at his discretion, may grant or deny the motion without hearing or set the motion for hearing.

D. Request for consolidation of cases for hearing shall be by motion and in writing. The board, at its discretion, with or without a hearing, may grant a motion for consolidation of cases pending before the board.

E. The attendance of the parties at the hearing on the merits of a case is compulsory, unless excused by the board.

F. The rules of evidence followed by the district courts of Louisiana will be followed in hearings before the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1413.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Tax Appeals, LR 41:1081 (June 2015).

§317. Stipulations

A. Where pertinent facts are in dispute, the parties shall make a diligent effort to agree upon a stipulation of facts to be used in lieu of taking testimony.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1413.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Tax Appeals, LR 41:1082 (June 2015).

§319. Subpoenas

A. Request for the board to issue subpoenas for attendance of witnesses at trial or at a deposition and/or for the production of books, papers and documents pertaining to the matter under inquiry shall be in writing. The subpoena shall be prepared by the party requesting it. The subpoena must be submitted to the board and signed by a member of the board.

B. The party requesting the subpoena is responsible for having the subpoena properly served.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1413.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Tax Appeals, LR 41:1082 (June 2015).

§321. Memoranda

A. Deadlines stating when each party's memoranda is due will be in the board's scheduling order that shall be issued when a case is set for hearing.

B. The board may order, at its discretion, post-hearing memoranda following the hearing of cases by the board. All memoranda must be accompanied by a certificate of service by the party filing such stating that copies have been mailed, postage prepaid, to all opposing parties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1413.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Tax Appeals, LR 41:1082 (June 2015).

§323. Computation of Time

A. Computation of the delays provided herein shall be as provided in LSA-C.C.P article 5059. A petition shall be deemed timely if filed with the board in the same manner and pursuant to the same provisions as those specified in section 5(d) of article X of the rules of the Louisiana Supreme Court or if fax filed in strict compliance with §303.

B. Therefore, a pleading properly mailed shall be deemed timely filed if mailed on or before the last day of the delay for filing. If the mailing is received by mail on the first legal day following the expiration of the delay, there shall be a rebuttable presumption that it was timely filed. In all cases where the presumption does not apply, the timeliness of the mailing shall be shown only by an official United States postmark or by official receipt or certificate of mailing from the United States Postal Service made at the time of mailing

which indicates the date thereof, and shall not include only a self-metered postmark. For the purpose of this rule, the term "by mail" applies only to the United States Postal Service.

C. Anything personally filed or forwarded by private delivery or courier service shall be deemed timely filed only if received on or before the last day of the delay for filing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1413.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Tax Appeals, LR 41:1082 (June 2015).

§325. Judgments

A. Copies of proposed judgments will be mailed to all parties by the party submitting the judgment.

B. Judgments become final as provided by R.S. 47:1438.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1413.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Tax Appeals, LR 41:1082 (June 2015).

§327. Review of Decisions or Judgments of the Board

A. A judicial review of a decision or judgment of the board shall be in accordance with R.S. 47:1434.

B. Any appeal shall be taken in accordance with the law and any applicable Court of Appeal rules.

C. There is no suspension or interruption of the time for appeal by a party filing a motion for new trial.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1413.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Tax Appeals, LR 41:1082 (June 2015).

§329. Filing Fees, Fees and Mileage of Witnesses

A. The board's filing fee schedule is as follows.

1. Initial filing of pleadings:

a. under \$10,000 in controversy (appealing an assessment)—no filing fee;

b. under \$10,000 in controversy (other matters)—\$40;

c. from \$10,000 to \$50,000 in controversy—\$300;

d. over \$50,000 in controversy (and all local tax cases)—\$450 plus \$40 for each additional service requested.

2. All additional, supplemental, and other filings: amendments, motions, oppositions, memoranda, etc.:

a. under \$10,000 in controversy—\$20;

b. from \$10,000 to \$50,000 in controversy—\$40;

c. over \$50,000 in controversy (or local tax case)—\$60.

3. Additional, supplemental, and other filings:

a. state filings—\$2 per page over 25 pages;

b. local filings—\$4 per page over 15 pages.

4. Miscellaneous filings and requests:

a. all paper exhibits—\$2 per page;

b. all non-paper exhibits—\$5 each;

c. conformed or certified copies—\$5 per page;

d. judgment (with 1 certified copy)—\$40;

e. motion to appear *pro hac vice*—\$250;

f. request for a subpoena—\$25;

g. request to approve appeal bond or other security—\$300, but not less than: \$1 per each \$1,000 of security for review of a commercial surety bond, \$3 per each \$1000 of security for review of an irrevocable letter of credit, or \$1 per each \$100 of security for any other authorized means of security;

h. motion to file an *amicus curiae* brief—\$250;

i. motion for a new trial, for an amended judgment, for reconsideration of a judgment, or motion for review by the court of appeals pursuant to R.S. 47:1434—\$165;

j. unless otherwise stated in the case scheduling order, these miscellaneous fees shall not apply in any state case with less than \$10,000 in controversy.

5. Any local collector who files as a petitioner shall pay any amounts payable by a taxpayer in a local tax case, except the initial filing fee in any case filed pursuant to R.S. 47:337.101 shall be \$300. He shall also pay any applicable costs of service in all cases.

6. The chairman, at his discretion, may reduce or waive any fee in the interest of justice, and the board may suspend any fees or costs in a standing order.

7. Any motion, rule, or proposed order seeking to set, re-set, or continue a hearing on any contradictory rule, motion or exception, and all motions to fix, re-fix, or continue a case for trial on the merits shall be accompanied by a filing fee of \$165 plus \$25 per additional service requested. Unless otherwise stated in the case scheduling order, this fee shall not apply in any case filed against the secretary.

8. The board provides service pursuant to R.S. 47:1411. The cost of service by the board is included in the cost specified in §329.A.1-7, but all other matters requesting service or each additional service shall include a service fee of \$25.

9. A party requesting the additional service of a subpoena or other document by a sheriff's office shall remit a separate check payable in the correct amount to the relevant sheriff. Any party requesting service on the Secretary of State shall remit an additional \$50.

B. Any witnesses subpoenaed, or whose deposition is taken under R.S. 47:1409, shall receive the same fees and mileage as witnesses in Louisiana district courts. Such fees and mileage and the expenses of taking such deposition shall be paid as follows.

1. In the case of witnesses for the secretary, such payments shall be the responsibility of the Department of Revenue. In the case of any other witnesses, such payments shall be made, subject to review by the board, by the party at whose instance the witness appears or is deposed.

2. No witness, other than one for the Department of Revenue, may be required to testify in any proceeding before this board until he shall have been tendered the fees and mileage to which he is entitled. The board may only recognize a subpoena issued pursuant to R.S. 47:1408.

C. The board may, on its own motion, issue a rule to show cause to any party concerning the non-payment of any cost or fee due to it pursuant to this rule. Following a hearing on such rule, notice for which has been served pursuant to R.S. 47:1411, the board may render judgment declaring the cost or fee to be a delinquent debt and/or dismissing the party's petition.

1. The board may also consider a motion to tax fees and costs in accordance with the rules of the *Louisiana Code of Civil Procedure* in the same manner as provided for in a civil case in a district court.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1413.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Tax Appeals, LR 41:1082 (June 2015).

Chapter 5. Waiver of Penalties

§501. Approval

A. At the discretion of the board, and as allowed by law, the board may approve penalty waivers submitted for its approval by the secretary of the Louisiana Department of Revenue.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1413.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Tax Appeals, LR 41:1083 (June 2015).

Chapter 7. Claims against the State

§701. Petition

A. Any person who has a claim against the state of Louisiana, as provided by R.S. 47:1481, shall initiate same by petition in the following form. A caption as follows:

**BOARD OF TAX APPEALS
STATE OF LOUISIANA**

.....
Petitioner

VS.

Department of Revenue
Respondent

B. Petition for claim against the State under R.S. 47:1413:

1. proper allegations showing jurisdiction in the board;

2. clear and concise statement of the nature and the amount of the claim;

3. clear and concise statement of the nature and the amount of the claim:

i. a prayer, setting forth the relief sought by the petitioner;

ii. the signature of the petitioner or that of his counsel. The signature of the counsel shall be in individual and not in firm name. The name and mailing address of the petitioner or of counsel shall be typed or printed immediately following the signature;

iii. a verification of the petitioner, a partner, or a bona fide officer of the corporation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1413.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Tax Appeals, LR 41:1083 (June 2015).

§703. Burden of Proof

A. The burden of proof shall always rest with the person presenting the claim.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1413.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Tax Appeals, LR 41:1083 (June 2015).

§705. No Appeal Form Action of the Board

A. As provided by R.S. 47:1486, an action of the board rejecting or refusing to approve a claim under R.S. 47:1481 may not be appealed to the courts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1413.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Tax Appeals, LR 41:1083 (June 2015).

Chapter 9. Board Operations

§901. General Rule

A. Where any of the rules herein adopted are of a general nature they shall be applicable to all matters within the

jurisdiction of this board and apply to all hearings held by the board.

B. The board reserves the right to amend, modify, wave or supplement these rules in the interest of justice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1413.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Tax Appeals, LR 41:1083 (June 2015).

§903. Board Chairman

A. The chairman shall serve as the chief administrative officer of the board, and shall supervise its regular operations.

B. The chairman shall preside over all board meetings or hearings. He shall rule on all evidentiary matters, which may only be overruled by a majority vote of the board upon the motion of any member.

C. The chairman may sign any judgment or order that codifies an action previously agreed at a meeting of the board. The chairman may also grant, without hearing, any motion consented to by all parties.

D. The chairman may exercise all other powers authorized by law, rule, or a majority vote of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1413.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Tax Appeals, LR 41:1084 (June 2015).

§905 Board Vice-Chairman

A. The board member other than the chairman with the longest continuous service on the board shall be its vice-chairman.

B. Whenever the chairman is absent, the vice-chairman shall preside. If the chairman has been recused from consideration of a case, the vice-chairman will assume the chairman's duties in relation to that case.

C. The chairman may, at his discretion, delegate other responsibilities and duties to the vice-chairman.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1413.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Tax Appeals, LR 41:1084 (June 2015).

§907. Administrative Fees and Costs

A. The board's administrative fees or costs are as follows.

1. The appellant is responsible for paying the stenographic fee for preparing a transcript, prepared by the board-approved stenographer at the rate of \$6 per page.

2. The board will furnish a copy of the transcript to the appellee at a cost of \$2 per page.

3. No transcripts or copies will be furnished and a record will not be lodged until all costs are fully paid by the relevant party.

4. The appellant shall pay the board \$3 per page for all regular copies or duplicates of the record sent to the appellate court, \$2 per page for filing of the transcript, the relevant costs for all certified pages, and all other related fees. If an appellee requests that the record be supplemented then it shall bear these fees for the additional pages.

5. Any other copying requests from the board shall be charged at the rate of \$1 per page.

6. The appellant shall pay the board a fee of \$5 per included index page, and a delivery fee of \$25 plus \$5 per volume.

7. The board may, for good cause, waive administrative fees and costs, except for the stenographic fees in §907.A.1.

B. When the board transmits the record of a case to an appellate court, the party seeking judicial review shall pay the board's copying charge for any necessary copies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1413.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Tax Appeals, LR 41:1084 (June 2015).

Chapter 11. Local Tax Division

§1101. General Provisions

A. The rules of the board are hereby made applicable to the Local Tax Division, subject to the provisions of R.S. 47:1403 concerning the authority of the local tax judge over all cases assigned to it by law.

B. For the purposes of a case in the local tax division, "local collector" shall be substituted for the references in §§307 and 309 to the "secretary", and the name of the relevant local collector's agency shall be substituted for the reference to the "Department of Revenue" in the sample caption.

C. For the purposes of a case in the local tax division, only four conformed copies of all pleadings and memoranda shall be required to be filed, together with the original, plus copies for any additional service requested.

D. For the purposes of a case in the local tax division, the parties shall comply with Uniform District Court rules 1.5, 6.1, 9.5, 9.7-9.10, 9.12-9.13, 9.15-9.18 and chapter 10, unless otherwise provided for by the local tax judge pursuant to rule 1.4.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1413.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Tax Appeals, LR 41:1084 (June 2015).

Judge Anthony J. "Tony" Graphia
Chairman

1506#055

RULE

Department of Economic Development Office of Business Development

Quality Jobs Program (LAC 13:I.1107)

The Department of Economic Development, Office of Business Development, as authorized by and pursuant to the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., has amended and reenacted §1107 of the Quality Jobs Program as LAC 13:I.Chapter 11. The regulation maintains the current 60-day period for companies to request renewal of their quality jobs contract but also gives the Board of Commerce and Industry ("board") discretion to approve a late renewal request for participating businesses who failed to request renewal of their quality jobs contract within the requisite 60-day period. In addition to allowing the board to approve a late renewal request, this Rule allows the board to impose a penalty including a reduction in the remaining contract term for the late renewal request.

Title 13
ECONOMIC DEVELOPMENT
Part I. Financial Incentive Programs

Chapter 11. Quality Jobs Program

§1107. Application Fees, Timely Filing

A. The applicant shall submit an advance notification on the prescribed form before locating the establishment or the creation of any new direct jobs in the state. All financial incentive programs for a given project shall be filed at the same time, on the same advance notification form. An advance notification fee of \$100, for each program applied for, shall be submitted with the advance notification form. An advance notification filing shall be considered by the department to be a public record under *Louisiana Revised Statutes*, title 44, chapter 1, Louisiana Public Records Law, and subject to disclosure to the public.

B. An application for the Quality Jobs Program must be filed with the Office of Business Development, Business Incentives Services, P.O. Box 94185, Baton Rouge, LA 70804-9185 on the prescribed forms within 18 months after the first new direct job is hired; however, no more than 24 months after the department has received the advance notification and fee. Failure to file an application within the prescribed timeframe will result in the expiration of the advance notification. An extension to the advance notification of no more than 6 months may be granted if the applicant requests, in writing, the extension prior to the expiration of the advance notification.

C. An application fee shall be submitted with the application based on the following:

1. 0.2 percent (.002) times the estimated total incentive rebates (see application fee worksheet to calculate);

2. the minimum application fee is \$200 and the maximum application fee is \$5,000 for a single project;

3. an additional application fee will be due if a project's employment or investment scope is or has increased, unless the maximum has been paid.

D. An application to renew a contract shall be filed within 60 days of the initial contract expiring. A fee of \$50 must be filed with the renewal contract. The board may approve a request for renewal filed more than 60 days but less than 5 years after expiration of the initial contract, and may impose a penalty for the late filing of the renewal request, including a reduction of the 5-year renewal period.

E. The Office of Business Development reserves the right to return the advance notification, application, or annual certification to the applicant if the estimated exemption or the fee submitted is incorrect. The document may be resubmitted with the correct fee. The document will not be considered officially received and accepted until the appropriate fee is submitted. Processing fees for advance notifications, applications, or annual certification that have been accepted for eligible projects shall not be refundable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry,

Financial Incentives Division, LR 22:963 (October 1996), amended by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:2308 (November 2003), amended by the Office of Business Development, LR 37:2591 (September 2011), LR 41:1085 (June 2015).

Anne G. Villa
Undersecretary

1506#016

RULE

Department of Health and Hospitals
Board of Nursing

Licensure by Endorsement (LAC 46:XLVII.3327)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 37:918, the Louisiana State Board of Nursing (LSBN) has amended Chapter 33 of its rules particular, by amending §3327.A.9. The Rule allows the Louisiana State Board of Nursing the ability to accept transcripts that are provided by third party vendors. Universities across the country utilize the electronic student records exchange system for verifying education transcripts. Using third party contractors allows universities to forego paper systems and frees up their resources for other academic activities related to students' enrollment.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS

Part XLVII. Nurses: Practical Nurses and Registered Nurses

Subpart 2. Registered Nurses

Chapter 33. General

Subchapter C. Registration and Registered Nurse

Licensure

§3327. Licensure by Endorsement

A. - A.8. ...

9. completion of the required application for endorsement, including a criminal records check and the submission of required documents, within one year. School records submitted by the applicant will not be accepted; and

A.10. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918, 920 and 921.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 7:77 (March 1981), amended by the Department of Health and Hospitals, Board of Nursing, LR 21:804 (August 1995), LR 23:960 (August 1997), LR 24:1293 (July 1998), LR 41:1085 (June 2015).

Karen C. Lyon
Executive Director

1506#001

RULE

Department of Health and Hospitals Bureau of Health Services Financing

Adult Residential Care Providers
Licensing Standards
(LAC 48:I.Chapters 68 and 88)

The Department of Health and Hospitals, Bureau of Health Services Financing has repealed and replaced LAC 48:I.Chapter 68 governing the licensing standards for adult residential care providers, and repealed LAC 48:I.Chapter 88 governing the licensing standards for adult residential care homes, in its entirety, as authorized by R.S. 36:254 and R.S. 40:2166.1-2166.8, 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—MEDICAL ASSISTANCE

Part I. Administration

Subpart 3. Licensing

Chapter 68. Adult Residential Care Providers

Subchapter A. General Provisions

§6801. Introduction

A. These rules and regulations contain the minimum licensure standards for adult residential care providers (ARCPs), pursuant to R.S. 40:2166.1-2166.8, and shall become effective on August 15, 2015.

B. An adult residential care provider (ARCP) serves individuals in a congregate setting and is operational 24 hours per day, seven days per week, with a coordinated array of supportive personal services, 24-hour supervision and assistance (scheduled and unscheduled), activities and health-related services that are designed to:

1. allow the individual to reside in the least restrictive setting of his/her choice;
2. accommodate the individual resident's changing needs and preferences;
3. maximize the resident's dignity, autonomy, privacy and independence; and
4. encourage family and community involvement.

C. An ARCP shall have at least one published business telephone number.

D. Adult residential care services include, at a minimum, assistance with activities of daily living, assistance with instrumental activities of daily living, lodging, and meals.

E. The Department of Health and Hospitals (DHH) does not require, and will not issue ARCP licenses for the provision of lodging and meals only or homeless shelters.

1. For the purposes of this Rule, *homeless shelters* shall be defined as entities that provide only temporary or emergency shelter to individuals who would otherwise be homeless and may provide services to alleviate homelessness.

F. There are four levels of adult residential care. The levels differ in the services they are licensed to offer and the physical environment requirements.

G. All levels of ARCPs shall comply with all regulations in this Chapter unless the language of the regulations pertains to a specific level.

H. All currently licensed adult residential care facilities shall be required to apply for an ARCP license at the time of renewal of their current license.

1. Upon approval of the application for renewal of licensure, an existing adult residential care (ARC) provider shall receive a new ARCP license with its level of service, pursuant to R.S. 40:2166.5 (Example: ARCP level 1-personal care homes; ARCP level 2-shelter care homes; ARCP level 3-assisted living facilities; ARCP level 4-adult residential care provider.)

2. An existing ARC provider shall be required to submit to the department a written attestation which certifies that the ARC provider is, and/or shall be in compliance with these provisions by August 15, 2015.

3. If an existing ARC provider is electing to begin providing medication administration after August 15, 2015, the ARC provider shall be required to submit to the department a written attestation which certifies that the licensing requirements to provide such services have been met.

4. Failure of an existing ARC provider to submit the required attestation(s) shall be grounds for either denial of license or revocation of licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1086 (June 2015).

§6803. Definitions and Abbreviations

Abuse—the infliction of physical or mental injury or the causing of the deterioration of a resident by means including, but not limited to:

1. sexual abuse;
2. exploitation; or
3. extortion of funds or other things of value.

Activities of Daily Living—ambulating, transferring, grooming, bathing, dressing, eating, toileting, and for the purposes of this Rule, taking medication.

Adult—a person who has attained 18 years of age.

Adult Residential Care Provider—a facility, agency, institution, society, corporation, partnership, company, entity, residence, person or persons, or any other group which provides adult residential care for compensation to two or more adults who are unrelated to the licensee or operator.

Alterations, Additions, or Substantial Rehabilitation—rehabilitation that involves structural changes in which hard costs are equal to or exceed the per unit cost for substantial rehabilitation as defined by the Louisiana Housing Finance Authority.

Change of Ownership (CHOW)—the sale or transfer of all or a portion of the assets or other equity interest in an ARCP. Examples of actions that constitute a change of ownership include:

1. unincorporated sole proprietorship. Transfer of title and property of another party constitutes change of ownership;

2. corporation. The merger of the provider corporation into another corporation, or the consolidation of two or more corporations, resulting in the creation of a new corporation constitutes change of ownership. Transfer of corporate stock or the merger of another corporation into the provider

corporation does not constitute a change of ownership. Admission of a new member to a nonprofit corporation is not a change of ownership;

3. limited liability company. The removal, addition or substitution of a member in a limited liability company does not constitute a change of ownership;

4. partnership. In the case of a partnership, the removal, addition, or substitution of a partner, unless the partners expressly agree otherwise as permitted by applicable state law, constitutes a change of ownership.

Chemical Restraint—a psychopharmacologic drug that is used for discipline or convenience and not required to directly treat medical symptoms or medical diagnoses. The use of chemical restraints is prohibited in ARCPs.

Common Area (Space)—the interior space(s) made available for the free and informal use by all residents or the guests of the ARCP. Common areas may include activity rooms, libraries, and other areas exclusive of resident's rooms and bathrooms. Corridors, passageways, kitchens and laundry areas are not included as common areas.

Controlled Dangerous Substance (CDS)—a drug, substance, or immediate precursor in schedule I through V of R.S. 40:964.

DAL—Division of Administrative Law or its successor.

Department—the Louisiana Department of Health and Hospitals (DHH).

Direct Care Staff—any employee of the ARCP that provides personal care services to the residents.

Director—the person who is in charge of the daily operation of the ARCP.

Facility Need Review (FNR)—a review conducted for level 4 ARCPs to determine whether there is a need for additional ARCP residential living units to be licensed.

Health Care Services—any service provided to a resident by an ARCP or third-party provider that is required to be provided or delegated by a licensed, registered or certified health care professional. Any other service, whether or not ordered by a physician, that is not required to be provided by a licensed, registered or certified health care professional shall not be considered a health care service.

HSS—the Department of Health and Hospitals, Office of the Secretary, Office of Management and Finance, Health Standards Section.

Incident—any occurrence, situation or circumstance affecting the health, safety or well-being of a resident or residents.

Intermittent Nursing Services—services that are provided episodically or for a limited period of time by licensed nursing staff. Intermittent nursing services may be provided by level 4 ARCPs only.

Instrumental Activities of Daily Living—the functions or tasks that are not necessary for fundamental functioning but assist an individual to be able to live in a community setting. These include activities such as:

1. light house-keeping;
 2. food preparation and storage;
 3. grocery shopping;
 4. laundry;
 5. scheduling medical appointments;
 6. financial management;
 7. arranging transportation to medical appointments;
- and

8. accompanying the client to medical appointments.

Level 1 ARCP—an ARCP that provides adult residential care for compensation to two or more residents but no more than eight who are unrelated to the licensee or operator in a setting that is designed similarly to a single-family dwelling.

Level 2 ARCP—an ARCP that provides adult residential care for compensation to nine or more residents but no more than 16 who are unrelated to the licensee or operator in a congregate setting that does not provide independent apartments equipped with kitchenettes, whether functional or rendered nonfunctional for reasons of safety.

Level 3 ARCP—an ARCP that provides adult residential care for compensation to 17 or more residents who are unrelated to the licensee or operator in independent apartments equipped with kitchenettes, whether functional or rendered nonfunctional for reasons of safety.

Level 4 ARCP—an ARCP that provides adult residential care including intermittent nursing services for compensation to 17 or more residents who are unrelated to the licensee or operator in independent apartments equipped with kitchenettes, whether functional or rendered nonfunctional for reasons of safety.

Licensed Practical Nurse (LPN)—an individual currently licensed by the Louisiana State Board of Practical Nurse Examiners to practice practical nursing in Louisiana.

May—indicates permissible practices or services.

Neglect—the failure to provide the proper or necessary medical care, nutrition, or other care necessary for a resident's well-being.

NFPA—National Fire Protection Association.

Nursing Director—a registered nurse licensed by the state of Louisiana who directs or coordinates nursing services in the ARCP.

OPH—Office of Public Health.

OSFM—Office of the State Fire Marshal.

Person-Centered Service Plan (PCSP)—a written description of the functional capabilities of a resident, the resident's need for personal assistance and the services to be provided to meet the resident's needs.

Personal Assistance—services that directly assist a resident with certain activities of daily living and instrumental activities of daily living.

Physical Restraint—any manual method, physical or mechanical device, material, or equipment attached to or adjacent to a resident's body that the individual cannot easily remove which restricts freedom of movement or normal access to the body and is not used as an assistive device. The use of physical restraints is prohibited in ARCPs.

PRN—commonly used in medicine to mean as needed or as the situation arises.

Registered Nurse (RN)—an individual currently licensed by the Louisiana State Board of Nursing to practice professional nursing in Louisiana.

Resident Apartment—a separate unit configured to permit residents to carry out, with or without assistance, all the functions necessary for independent living, including:

1. sleeping;
2. sitting;
3. dressing;
4. personal hygiene;
5. storing, preparing, serving and eating food;

6. storing clothing and other personal possessions;
 7. handling personal correspondence and paperwork;
- and
8. entertaining visitors.

Resident's Representative—a person who has been authorized by the resident in writing to act upon the resident's direction regarding matters concerning the resident's health or welfare, including having access to personal records contained in the resident's file and receiving information and notices about the overall care, condition and services for the resident. No member of the governing body, administration or staff or an ARCP or any member of their family shall serve as the resident's representative unless they are related to the resident by blood or marriage.

Shall—indicates mandatory requirements.

Specialized Dementia Care Program—as defined in R.S. 40:1300.123, a special program or unit for residents with a diagnosis of probable Alzheimer's disease or a related disorder so as to address the safety needs of such residents, and that advertises, markets, or otherwise promotes the ARCP as providing specialized Alzheimer's/dementia care services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1086 (June 2015).

§6805. Licensure Requirements

A. All ARCPs shall be licensed by the Department of Health and Hospitals. The department is the only licensing authority for ARCPs in the state of Louisiana. It shall be unlawful to operate an ARCP without possessing a current, valid license issued by the department. The license shall:

1. be issued only to the person or entity named in the license application;
2. be valid only for the ARCP to which it is issued and only for the specific geographic address of that ARCP;
3. be valid for one year from the date of issuance, unless revoked, suspended, modified, or terminated prior to that date, or unless a provisional license is issued;
4. expire on the last day of the twelfth month after the date of issuance, unless timely renewed by the ARCP;
5. not be subject to sale, assignment, donation, or other transfer, whether voluntary or involuntary; and
6. be posted in a conspicuous place on the licensed premises at all times.

B. In order for the ARCP to be considered operational and retain licensed status, the ARCP shall meet the following conditions.

1. The ARCP shall always have at least one employee awake and on duty at the business location 24 hours per day, seven days per week.
2. There shall be staff employed, sufficient in number with appropriate training, available to be assigned to provide care and services according to each resident's PCSP.
3. The ARCP shall have provided services that included lodging, meals and activities of daily living to at least two residents unrelated to the licensee or operator within the preceding 12 months prior to their licensure renewal date.

C. The ARCP shall abide by and adhere to any state laws, rules, policies, procedures, manuals, or memorandums issued by the department pertaining to ARCPs.

D. A separately licensed ARCP shall not use a name which is substantially the same as the name of another ARCP licensed by the department.

E. The ARCP shall maintain insurance policies in force at all times with at least the minimum required coverage for general and professional liability and worker's compensation insurance at the levels specified in §6807. Failure to maintain compliance may constitute the basis for license revocation and/or sanction.

F. The ARCP shall market itself only as the level licensed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1088 (June 2015).

§6807. Initial Licensure Application Process

A. An initial application for licensing as an ARCP shall be obtained from the department. A completed initial license application packet for an ARCP shall be submitted to and approved by the department prior to an applicant providing ARCP services. An applicant shall submit a completed initial licensing packet to the department, which shall include:

1. a completed ARCP license application and the appropriate non-refundable licensing fee as established by statute;
2. a copy of the on-site inspection report with approval for occupancy by the OSFM;
3. a copy of the health inspection report from the OPH;
4. a copy of criminal background checks on all owners;
5. proof of financial viability which entails:
 - a. verification of sufficient assets equal to \$100,000 or the cost of three months of operation, whichever is less; or
 - b. a letter of credit issued from a federally insured, licensed lending institution in the amount of at least \$100,000 or the cost of three months of operation, whichever is less;
6. proof of general and professional liability insurance of at least \$300,000;
7. proof of worker's compensation insurance;
8. if applicable, a clinical laboratory improvement amendments (CLIA) certificate or a CLIA certificate of waiver;
9. a completed disclosure of ownership and control information form;
10. a floor sketch or drawing of the premises to be licensed;
11. the days and hours of operation;
12. a facility need review approval for a level 4 ARCP;
13. a copy of the letter approving architectural plans from the OSFM;
14. the organizational chart of the ARCP; and
15. any documentation or information required by the department for licensure.

B. If the initial licensing packet is incomplete, the applicant will be notified of the missing information and shall have 90 days to submit the additional requested information. If the additional requested information is not submitted to the department within 90 days, the application will be closed. After an initial licensing application is closed, an applicant who is still interested in becoming an ARCP must submit a new initial licensing packet with a new initial licensing fee to start the initial licensing process.

C. Once the initial licensing application packet has been approved by the department, the ARCP applicant shall notify the department of readiness for an initial licensing survey within 90 days. If an applicant fails to notify the department of readiness for an initial licensing survey within 90 days of approval, the initial licensing application shall be closed. After an initial licensing application is closed, an applicant who is still interested in becoming an ARCP must submit a new initial licensing packet with a new initial licensing fee to start the initial licensing process subject to any facility need review requirements.

D. Applicants must be in compliance with all appropriate federal, state, departmental, or local statutes, laws, ordinances, rules, regulations and fees before the department will issue the ARCP an initial license to operate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1088 (June 2015).

§6809. Initial Licensing Surveys

A. Prior to the initial license being issued to the ARCP, an initial licensing survey shall be conducted on-site at the ARCP to assure compliance with ARCP licensing standards. No resident shall be provided services by the ARCP until the initial licensing survey has been performed, the ARCP has been found in compliance and the initial license has been issued to the ARCP by the department.

B. In the event that the initial licensing survey finds that the ARCP is compliant with all licensing laws and regulations, and is compliant with all other required statutes, laws, ordinances, rules, regulations, and fees, the department shall issue a full license to the provider. The license shall be valid until the expiration date shown on the license, unless the license is modified, revoked, suspended, or terminated.

C. In the event that the initial licensing survey finds that the ARCP is noncompliant with any licensing laws or regulations or any other required statutes, laws, ordinances, rules or regulations that present a potential threat to the health, safety, or welfare of the residents, the department shall deny the initial license.

D. In the event that the initial licensing survey finds that the ARCP is noncompliant with any licensing laws or regulations, any required statutes, laws, ordinances, rules or regulations, but the department, in its sole discretion, determines that the noncompliance does not present a threat to the health, safety, or welfare of the residents, the department may issue a provisional initial license for a period not to exceed six months.

1. The provider shall submit an acceptable plan of correction to DHH for approval, and the provider shall be required to correct all such noncompliance or deficiencies prior to the expiration of the provisional license.

2. If all such noncompliance or deficiencies are determined by the department to be corrected on a follow-up survey, then a full license may be issued.

3. If all such noncompliance or deficiencies are not corrected on the follow-up survey, or if new deficiencies are cited on the follow-up survey, the provisional license shall expire and the provider shall be required to begin the initial licensing process again by submitting a new initial license application packet, fee and any required facility need review approval.

E. When issued, the initial ARCP license shall specify the maximum number of apartments and/or resident capacity for which the ARCP is licensed.

F. The initial licensing survey of an ARCP shall be an announced survey. Follow-up surveys to the initial licensing surveys are unannounced.

G. Once an ARCP has been issued an initial license, the department shall conduct licensing and other surveys at intervals deemed necessary by the department to determine compliance with licensing standards and regulations, as well as other required statutes, laws, ordinances, rules, regulations, and fees. These surveys shall be unannounced.

1. A plan of correction may be required from an ARCP for any survey where deficiencies have been cited. Such plan of correction shall be approved by the department.

2. A follow-up survey may be conducted for any survey where deficiencies have been cited to ensure correction of the deficient practices.

H. The department may issue appropriate sanctions, including, but not limited to:

1. civil fine;
2. directed plans of correction;
3. denial of license renewal;
4. provisional licensure;
5. license revocation; and/or
6. any sanctions allowed under state law or regulation.

I. The department's surveyors and staff shall be given access to all areas of the ARCP and all relevant files during any licensing or other survey or investigation, and shall be allowed to interview any provider staff or residents as necessary to conduct the on-site investigation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1089 (June 2015).

§6811. Types of Licenses and Expiration Dates

A. The department shall have the authority to issue the following types of licenses.

1. Full License. In the event that the initial licensing survey finds that the ARCP is compliant with all licensing laws and regulations, and is compliant with all other required statutes, laws, ordinances, rules, regulations, and fees, the department shall issue a full license to the provider. The license shall be valid until the expiration date shown on the license, unless the license is modified, revoked, suspended, or terminated.

2. Provisional Initial License. In the event that the initial licensing survey finds that the ARCP is noncompliant with any licensing laws or regulations or any other required statutes, laws, ordinances, rules, regulations or fees, the department is authorized to issue a provisional initial license

pursuant to the requirements and provisions of these regulations.

3. Full Renewal License. The department may issue a full renewal license to an existing licensed ARCP who is in substantial compliance with all applicable federal, state, departmental, and local statutes, laws, ordinances, rules, regulations and fees. The license shall be valid until the expiration date shown on the license, unless the license is modified, revoked, suspended, or terminated.

4. Provisional License

a. The department, in its sole discretion, may issue a provisional license to an existing licensed ARCP for a period not to exceed six months, for any of the following reasons, including but not limited to:

- i. the existing ARCP has more than five deficient practices or deficiencies cited during any one survey;
- ii. the existing ARCP has more than three validated complaints in one licensed year period;
- iii. the existing ARCP has been issued a deficiency that involved placing a participant at risk for serious harm or death;
- iv. the existing ARCP has failed to correct deficient practices within 60 days of being cited for such deficient practices or at the time of a follow-up survey; or
- v. the existing ARCP is not in substantial compliance with all applicable federal, state, departmental, and local statutes, laws, ordinances, rules regulations and fees at the time of renewal of the license.

b. When the department issues a provisional license to an existing licensed ARCP, the department shall conduct a follow-up survey of the ARCP prior to the expiration of the provisional license.

i. If that follow-up survey determines that the ARCP has corrected the deficient practices and has maintained compliance during the period of the provisional license, then the department may issue a full license for the remainder of the year until the anniversary date of the ARCP license.

ii. If that follow-up survey determines that the ARCP has not corrected the deficient practices or has not maintained compliance during the period of the provisional license, the provisional license shall expire and the provider shall be required to begin the initial licensing process again by submitting a new initial license application packet, fee and any required facility need approval.

B. If an existing licensed ARCP has been issued a notice of license revocation, suspension, or termination, and the provider's license is due for annual renewal, the department shall deny the license renewal application.

1. If a timely administrative appeal has been filed by the provider regarding the license revocation, suspension, or termination, the administrative appeal shall be suspensive, and the provider shall be allowed to continue to operate and provide services until such time as the Division of Administrative Law (DAL) or department issues a decision on the license revocation, suspension, or termination.

2. If the secretary of the department determines that the violations of the ARCP pose an imminent or immediate threat to the health, welfare, or safety of a participant, the imposition of such action may be immediate and may be enforced during the pendency of the administrative appeal. If

the secretary of the department makes such a determination, the ARCP will be notified in writing.

3. The denial of the license renewal application does not affect in any manner the license revocation, suspension, or termination.

C. The renewal of a license does not in any manner affect any sanction, civil monetary penalty, or other action imposed by the department against the provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1089 (June 2015).

§6813. Changes in Licensee Information or Personnel

A. Any change regarding the ARCP's entity name, doing business as name, geographical address, mailing address, telephone number, or any combination thereof, shall be reported in writing to the department five business days prior to the change.

B. Any change regarding the ARCP's key administrative personnel shall be reported in writing to the department within 10 business days of the change.

1. Key administrative personnel include the:

- a. director;
- b. assistant director; and
- c. nursing director.

2. The ARCP's notice to the department shall include the individual's:

- a. name;
- b. address;
- c. telephone;
- d. facsimile (fax) number;
- e. e-mail address;
- f. hire date; and
- g. qualifications.

C. A change of ownership (CHOW) of the ARCP shall be reported in writing to the department within five business days of the CHOW. The license of an ARCP is not transferable or assignable; the license of an ARCP cannot be sold. The new owner shall submit the legal CHOW document, all documents required for a new license, and the applicable licensing fee. Level 4 ARCPs shall also submit a facility need review application for approval. Once all application requirements have been completed and approved by the department, a new license shall be issued to the new owner.

D. If the ARCP changes its name without a CHOW, the ARCP shall report such change to the department in writing within five business days prior to the change. The notification of the name change shall include an updated license application and the required fee for such change.

E. Any request for a duplicate license shall be accompanied by the appropriate designated fee.

F. An ARCP that is under provisional licensure, license revocation, or denial of license renewal may not undergo a CHOW.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1090 (June 2015).

§6815. Renewal of License

A. License Renewal Application. The ARCP shall submit a completed license renewal application packet to the department at least 30 days prior to the expiration of the existing current license. The license renewal application packet shall include:

- 1. the license renewal application;
- 2. the days and hours of operation;
- 3. a current fire marshal inspection report;
- 4. a current OPH inspection report;
- 5. the non-refundable license renewal fee;
- 6. proof of financial viability to include:
 - a. verification and maintenance of a letter of credit issued from a federally insured, licensed lending institution in the amount of at least \$100,000 or the cost of three months of operation, whichever is less; or
 - b. affidavit of verification of sufficient assets equal to \$100,000 or the cost of three months of operation, whichever is less;
- 7. general and professional liability insurance of at least \$300,000;
- 8. proof of worker’s compensation insurance; and
- 9. any other documentation required by the department.

B. The department may perform an on-site survey and inspection upon annual renewal of a license.

C. Failure to submit to the department a completed license renewal application packet prior to the expiration of the current license will be considered a voluntary non-renewal of the license and the license shall expire on its face.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1091 (June 2015).

§6817. Denial of License, Revocation of License, Denial of License Renewal, Operation without License, Penalty

A. The department may deny an application for a license, deny a license renewal or revoke a license in accordance with the provisions of the Administrative Procedure Act.

B. Denial of an Initial License

1. The department shall deny an initial license in the event that the initial licensing survey finds that the ARCP is noncompliant with any licensing laws or regulations that present a potential threat to the health, safety, or welfare of the residents.

2. The department shall deny an initial license in the event that the initial licensing survey finds that the ARCP is noncompliant with any other required statutes, laws, ordinances, rules or regulations that present a potential threat to the health, safety, or welfare of the residents.

3. The department shall deny an initial license for any of the reasons stated in §6817.D for which a license may be revoked or a license renewal may be denied.

C. Voluntary Non-Renewal of a License. If a provider fails to timely renew its license, the license expires on its face and is considered voluntarily non-renewed or voluntarily surrendered. There are no appeal rights for such surrender or non-renewal of the license, as this is a voluntary cessation of business.

D. Revocation of License or Denial of License Renewal. An ARCP license may be revoked or may be denied renewal for any of the following reasons, including but not limited to:

- 1. failure to be in substantial compliance with the ARCP licensing laws, rules and regulations;
- 2. failure to be in substantial compliance with other required statutes, laws, ordinances, rules, or regulations;
- 3. failure to comply with the terms and provisions of a settlement agreement or education letter;
- 4. failure to uphold resident rights whereby deficient practices may result in harm, injury, or death of a resident;
- 5. failure to protect a resident from a harmful act of an employee or other resident including, but not limited to:
 - a. abuse, neglect, exploitation, or extortion;
 - b. any action posing a threat to a resident’s health and safety;
 - c. coercion;
 - d. threat or intimidation; or
 - e. harassment;
- 6. failure to notify the proper authorities of all suspected cases of neglect, criminal activity, mental or physical abuse, or any combination thereof;
- 7. knowingly making a false statement in any of the following areas, including but not limited to:
 - a. application for initial license or renewal of license;
 - b. data forms;
 - c. clinical records, resident records, or provider records;
 - d. matters under investigation by the department, Office of the Attorney General, or any law enforcement agency; or
 - e. information submitted for reimbursement from any payment source;
- 8. knowingly making a false statement or providing false, forged, or altered information or documentation to the department’s employees or to law enforcement agencies;
- 9. the use of false, fraudulent or misleading advertising;
- 10. fraudulent operation of an ARCP by the owner, director, officer, member, manager, or other key personnel as defined by §6813;
- 11. an owner, officer, member, manager, director or person designated to manage or supervise resident care who has been convicted of, or has entered a plea of guilty or nolo contendere (no contest) to, or has pled guilty or nolo contendere to a felony, or has been convicted of a felony, as documented by a certified copy of the record of the court:
 - a. for purposes of this Paragraph, conviction of a felony means a felony relating to the violence, abuse, or negligence of a person, or a felony relating to the misappropriation of property belonging to another person;
- 12. failure to comply with all reporting requirements in a timely manner as required by the department;
- 13. failure to allow or refusal to allow the department to conduct an investigation or survey or to interview provider staff or residents;
- 14. failure to allow or refusal to allow access to authorized departmental personnel to records; or

15. bribery, harassment, or intimidation of any resident designed to cause that resident to use the services of any particular ARCP.

E. In the event an ARCP license is revoked or renewal is denied, any owner, officer, member, manager, or director of such ARCP is prohibited from owning, managing, directing or operating another ARCP for a period of two years from the date of the final disposition of the revocation or denial action.

F. Operation Without License and Penalty

1. An adult residential care provider shall not operate without a license issued by the department. Any such provider operating without a license shall be guilty of a misdemeanor and upon conviction shall be fined not more than \$100 for each day of operation without a license up to a maximum of \$1,000 or imprisonment of not more than six months, or both. It shall be the responsibility of the department to inform the appropriate district attorney of the alleged violation to assure enforcement.

2. If an adult residential care provider is operating without a license issued by the department, the department shall have the authority to issue an immediate cease and desist order to that provider. Any such provider receiving such a cease and desist order from the department shall immediately cease operations until such time as that provider is issued a license by the department.

3. The department shall seek an injunction in the Nineteenth Judicial District Court against any provider who receives a cease and desist order from the department under Subsection B of this Section and who does not cease operations immediately. Any such provider against whom an injunction is granted shall be liable to the department for attorney fees, costs, and damages.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1091 (June 2015).

§6819. Notice and Appeal of License Denial, License Revocation and Denial of License Renewal

A. Notice of a license denial, license revocation or denial of license renewal shall be given to the provider in writing.

B. The ARCP has a right to an administrative reconsideration of the license denial, license revocation, or denial of license renewal. There is no right to an administrative reconsideration of a voluntary non-renewal or surrender of a license by the provider.

1. The ARCP shall request the administrative reconsideration within 15 days of the receipt of the notice of the license denial, license revocation, or denial of license renewal. The request for administrative reconsideration shall be in writing and received by the department within 15 calendar days of the provider's receipt of the notice letter from the department.

2. The request for administrative reconsideration shall include any documentation that demonstrates that the determination was made in error.

3. If a timely request for an administrative reconsideration is received by the Health Standards Section (HSS), an administrative reconsideration shall be scheduled and the provider will receive written notification.

4. The provider shall have the right to appear in person at the administrative reconsideration and may be represented by counsel.

5. Correction of a violation or deficiency which is the basis for the license denial, license revocation or denial of license renewal shall not be a basis for reconsideration.

6. The administrative reconsideration process is not in lieu of the administrative appeals process.

7. The provider will be notified in writing of the results of the administrative reconsideration.

C. The ARCP has a right to an administrative appeal of the license denial, license revocation, or denial of license renewal. There is no right to an administrative appeal of a voluntary non-renewal or surrender of a license by the provider.

1. The ARCP shall request the administrative appeal within 30 days of the receipt of the results of the administrative reconsideration. The ARCP may forego its rights to an administrative reconsideration, and if so, the ARCP shall request an administrative appeal within 30 days of the receipt of the notice of the license denial, license revocation, or denial of license renewal. The request for administrative appeal shall be in writing and shall be submitted to the Division of Administrative Law (DAL) or its successor.

2. The request for administrative appeal shall include any documentation that demonstrates that the determination was made in error and shall include the basis and specific reasons for the appeal.

3. If a timely request for an administrative appeal is received by the DAL or its successor, the administrative appeal of the license revocation or denial of license renewal shall be suspensive, and the provider shall be allowed to continue to operate and provide services until such time as the DAL or its successor issues a final administrative decision.

4. If the secretary of the department determines that the violations of the ARCP pose an imminent or immediate threat to the health, welfare, or safety of a resident, the imposition of the license revocation or denial of license renewal may be immediate and may be enforced during the pendency of the administrative appeal. If the secretary of the department makes such a determination, the ARCP will be notified in writing.

5. Correction of a violation or a deficiency which is the basis for the license denial, license revocation, or denial of license renewal, shall not be a basis for the administrative appeal.

D. If an existing licensed ARCP has been issued a notice of license revocation and the provider's license is due for annual renewal, the department shall deny the license renewal application.

1. The denial of the license renewal application does not affect in any manner the license revocation.

2. If the final decision by DAL or its successor is to reverse the license denial, the denial of license renewal, or the license revocation, the provider's license will be reinstated or granted upon the payment of any licensing or other fees due to the department.

E. There is no right to an administrative reconsideration or an administrative appeal of the issuance of a provisional

initial license to a new ARCP. An existing provider who has been issued a provisional license remains licensed and operational and also has no right to an administrative reconsideration or an administrative appeal. The issuance of a provisional license to an existing ARCP is not considered to be a denial of license, a denial of license renewal, or a license revocation.

1. A follow-up survey may be conducted prior to the expiration of a provisional initial license to a new ARCP or the expiration of a provisional license to an existing provider.

2. A new provider that is issued a provisional initial license or an existing provider that is issued a provisional license shall be required to correct all noncompliance or deficiencies at the time the follow-up survey is conducted.

3. If all noncompliance or deficiencies have not been corrected at the time of the follow-up survey, or if new deficiencies that are a threat to the health, safety, or welfare of residents are cited on the follow-up survey, the provisional initial license or provisional license shall expire on its face and the provider shall be required to begin the initial licensing process again by submitting a new initial license application packet and fee.

4. The department shall issue written notice to the provider of the results of the follow-up survey.

5. A provider with a provisional initial license or an existing provider with a provisional license that expires due to noncompliance or deficiencies cited at the follow-up survey, shall have the right to an administrative reconsideration and the right to an administrative appeal of the deficiencies cited at the follow-up survey.

a. The correction of a violation, noncompliance, or deficiency after the follow-up survey shall not be the basis for the administrative reconsideration or for the administrative appeal.

b. The administrative reconsideration and the administrative appeal are limited to whether the deficiencies were properly cited at the follow-up survey.

c. The provider must request the administrative reconsideration of the deficiencies in writing, which shall be received by the HSS within five calendar days of receipt of the notice of the results of the follow-up survey from the department. The request for an administrative reconsideration must identify each disputed deficiency or deficiencies and the reason for the dispute and include any documentation that demonstrates that the determination was made in error.

d. The provider must request the administrative appeal within 15 calendar days of receipt of the notice of the results of the follow-up survey from the department. The request for administrative appeal shall be in writing and shall be submitted to the DAL or its successor. The request for an administrative appeal must identify each disputed deficiency or deficiencies and the reason for the dispute and include any documentation that demonstrates that the determination was made in error.

e. A provider with a provisional initial license or an existing provider with a provisional license that expires under the provisions of this section must cease providing services unless the DAL or its successor issues a stay of the expiration. The stay may be granted by the DAL or its successor upon application by the provider at the time the

administrative appeal is filed and only after a contradictory hearing, and only upon a showing that there is no potential harm to the residents being served by the provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1092 (June 2015).

§6821. Complaint Investigations

A. The department shall conduct complaint investigations in accordance with R.S. 40:2009.13 et seq.

B. Complaint investigations shall be unannounced.

C. Upon request by the department, an acceptable plan of correction must be submitted to the department for any complaint investigation where deficiencies have been cited.

D. A follow-up survey may be conducted for any complaint investigation where deficiencies have been cited to ensure correction of the deficient practices.

E. The department may issue appropriate sanctions, including but not limited to, civil fines, directed plans of correction, provisional licensure, denial of license renewal, and license revocation for non-compliance with any state law or regulation.

F. The department's surveyors and staff shall be given access to all areas of the ARCP and all relevant files during any complaint investigation. The department's surveyors and staff shall be allowed to interview any provider staff or resident as necessary or required to conduct the investigation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1093 (June 2015).

§6823. Statement of Deficiencies

A. Any statement of deficiencies issued by the department to the ARCP must be posted in a readily accessible place on the licensed premises.

B. Any statement of deficiencies issued by the department to an ARCP must be available for disclosure to the public 30 days after the provider receives the statement of deficiencies or after the receipt of an acceptable plan of correction, whichever occurs first.

C. Unless otherwise provided in statute or in this licensing rule, a provider shall have the right to an administrative reconsideration of any deficiencies cited as a result of a survey or investigation.

1. Correction of the violation, noncompliance or deficiency shall not be the basis for the reconsideration.

2. The administrative reconsideration of the deficiencies shall be requested in writing and received by the department within 10 calendar days of receipt of the statement of deficiencies.

3. The request for an administrative reconsideration must identify each disputed deficiency or deficiencies and the reason for the dispute and include any documentation that demonstrates that the determination was made in error.

4. The request for administrative reconsideration of the deficiencies must be made to the department's Health Standard Section.

5. Except as provided for complaint surveys pursuant to R.S. 40:2009.13 et seq., and as provided for license denials, license revocations and denials of license renewals,

the decision of the administrative reconsideration team shall be the final administrative decision regarding the deficiencies. There is no administrative appeal right of such deficiencies.

6. The provider shall be notified in writing of the results of the administrative reconsideration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1093 (June 2015).

§6825. Cessation of Business

A. Except as provided in §6881 of these licensing regulations, a license shall be immediately null and void if an ARCP ceases to operate.

B. A cessation of business is deemed to be effective the date on which the ARCP stopped offering or providing services to the community.

C. Upon the cessation of business, the provider shall immediately return the original license to the Department.

D. Cessation of business is deemed to be a voluntary action on the part of the provider. The provider does not have a right to appeal a cessation of business.

E. Prior to the effective date of the closure or cessation of business, the ARCP shall:

1. give 30 days' advance written notice to:
 - a. HSS;
 - b. each resident's physician; and
 - c. each resident or resident's legal representative, if applicable; and
2. provide for an orderly discharge and transition of all of the residents in the ARCP.

F. In addition to the advance notice of voluntary closure, the ARCP shall submit a written plan for the disposition of all resident medical records for approval by the department. The plan shall include the following:

1. the effective date of the voluntary closure;
2. provisions that comply with federal and state laws on storage, maintenance, access, and confidentiality of the closed ARCP's residents' medical records;
3. an appointed custodian(s) who shall provide the following:
 - a. access to records and copies of records to the resident or authorized representative, upon presentation of proper authorization(s); and
 - b. physical and environmental security that protects the records against fire, water, intrusion, unauthorized access, loss and destruction; and
4. public notice regarding access to records, in the newspaper with the largest circulation in close proximity to the closing provider, at least 15 days prior to the effective date of closure.

G. If an ARCP fails to follow these procedures, the owners, managers, officers, directors, and administrators may be prohibited from opening, managing, directing, operating, or owning an ARCP for a period of two years.

H. Once the ARCP has ceased doing business, the ARCP shall not provide services until the provider has obtained a new initial license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1094 (June 2015).

Subchapter B. Administration and Organization

§6827. Governing Body

A. Each ARCP shall have an identifiable governing body with responsibility for, and authority over, the policies and activities of the ARCP and ultimate authority for:

1. the overall operation of the ARCP;
2. the adequacy and quality of care;
3. the financial solvency of the ARCP and the appropriate use of its funds;
4. the implementation of the standards set forth in these regulations; and
5. the adoption, implementation and maintenance, in accordance with the requirement of state and federal laws and regulations and these licensing standards, of adult residential care and administrative policies governing the operation of the ARCP.

B. The ARCP shall have documents identifying the following information regarding the governing body:

1. names and addresses of all members;
2. terms of membership;
3. officers of the governing body; and
4. terms of office of all officers.

C. The governing body shall be composed of one or more persons. When the governing body is composed of only one person, this person shall assume all of the responsibilities of the governing body.

D. When the governing body is composed of two or more persons, the governing body shall hold formal meetings at least twice a year. There shall be written minutes of all formal meetings and bylaws specifying frequency of meetings and quorum requirements.

E. Responsibilities of a Governing Body. The governing body of an ARCP shall:

1. ensure the ARCP's compliance and conformity with the provider's charter or other organizational documents;
2. ensure the ARCP's continual compliance and conformity with all relevant federal, state, local, and municipal laws and regulations;
3. ensure that the ARCP is adequately funded and fiscally sound;
4. review and approve the ARCP's annual budget;
5. designate a person to act as director and delegate sufficient authority to this person to manage the ARCP;
6. formulate and annually review, in consultation with the director, written policies concerning the provider's philosophy, goals, current services, personnel practices, job descriptions and fiscal management;
7. annually evaluate the director's performance;
8. have the authority to dismiss the director; and
9. meet with designated representatives of the department whenever required to do so.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1094 (June 2015).

§6829. Policy and Procedures

A. The ARCP shall have written policies and procedures approved by the governing body that, at a minimum, address the following:

1. confidentiality and security of files;
2. publicity and marketing;
3. personnel;
4. resident's rights;
5. grievance procedures;
6. resident's funds;
7. emergency preparedness planning procedures to include plans for evacuation and sheltering in place;
8. abuse and neglect;
9. incidents and accidents;
10. pre-residency screening and residency criteria and limitations;
11. medication management;
12. nursing services;
13. smoking;
14. pet policy;
15. resident responsibilities;
16. record-keeping;
17. infection control; and
18. any other area required in accordance with memorandums issued by the department's Health Standards Section.

B. Personnel Policies. An ARCP shall have written personnel policies that include:

1. a plan for recruitment, screening, orientation, ongoing training, development, supervision, and performance evaluation of staff members;
2. written job descriptions for each staff position;
3. policies which provide for staff, upon offer of employment, to have a health assessment as defined by the provider and in accordance with state *Sanitary Code*;
4. an employee grievance procedure;
5. abuse reporting procedures that require all employees to report any incidents of abuse or mistreatment whether that abuse or mistreatment is done by another staff member, a family member, a resident or any other person; and
6. a policy to prevent discrimination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1095 (June 2015).

Subchapter C. Residency Criteria, Person-Centered Service Plans, and Residency Agreements

§6833. Pre-Residency and Continued Residency

A. Information to prospective residents. The ARCP shall provide to prospective residents written information regarding conditions for residency, services, costs, fees and policies/procedures. This written information shall include, but is not limited to the following:

1. the application process and the possible reasons for rejection of an application;
2. types of residents suitable to the ARCP;
3. services offered and allowed in the ARCP;
4. resident's responsibilities;
5. policy regarding smoking;
6. policy regarding pets;

7. fee structure, including but not limited to any additional costs for providing services to residents during natural disasters (e.g. tropical storms, hurricanes, floods, etc.):

a. the ARCP shall develop and provide a formula with cost parameters for any additional charges incurred due to disasters; and

8. criteria for termination of residency agreement.

B. The ARCP shall complete and maintain a pre-residency screening of the prospective resident to assess the applicant's needs and appropriateness for residency.

1. The pre-residency screening shall include:

- a. the resident's physical and mental status;
- b. the resident's need for personal assistance;
- c. the resident's need for assistance with activities of daily living and instrumental activities of daily living; and
- d. the resident's ability to evacuate the ARCP in the event of an emergency.

2. The pre-residency screening shall be completed and dated before the residency agreement is signed.

C. Prohibited Health Conditions. There are individuals who are not eligible for residency in ARCPs because their conditions and care needs are beyond the scope of the ARCP's capacity to deliver services and ensure residents' health, safety, and welfare. ARCPs may not enter into agreements with residents with such conditions. These prohibited health conditions include:

1. stage 3 or stage 4 pressure ulcers;
2. nasogastric tubes;
3. ventilator dependency;
4. dependency on BiPAP, CPAP or other positive airway pressure device without the ability to self-administer at all times:
 - a. exception. The resident may remain in the ARCP when a third party is available at all times to administer the positive airway pressure device during the hours of use;
5. coma;
6. continuous IV/TPN therapy (TPN—total parental nutrition, intravenous form of complete nutritional sustenance);
7. wound vac therapy (a system that uses controlled negative pressure, vacuum therapy, to help promote wound healing);
8. active communicable tuberculosis; and
9. any condition requiring chemical or physical restraints.

D. ARCP residents with a prohibited condition may remain in residence on a time limited basis provided that the conditions listed below are met. Time limited is defined as 90 days.

1. The resident, the resident's representative, if applicable, the resident's physician and the provider shall agree that the resident's continued residency is appropriate.

2. The resident's physician has certified that the condition is time limited and not permanent.

3. The ARCP is prepared to coordinate with providers who may enter the ARCP to meet time limited needs. Level 4 ARCPs may deliver or contract for the additional services to meet time limited needs pursuant to this Section.

4. In accordance with the terms of the residency agreement, the resident or the resident's representative, if applicable, shall provide for or contract with a third party

provider for the delivery of services necessary to meet the residents' increased health and service needs which are beyond the scope of the services of the ARCP.

a. It is the responsibility of the ARCP to assure that needed services are provided, even if those services are provided by the resident's family or by a third party or contracted provider. A copy of such third party contract shall be verifiable, in writing, and retained in the resident's record. The ARCP retains responsibility for notifying the resident or the resident's representative, if applicable, if services are not delivered or if the resident's condition changes.

5. The ARCP or an affiliated business owned in full or in part by the owner or any member of the board of directors shall not be the third party providing the services.

6. The care provided, as allowed under this section, shall not interfere with ARCP operations or create a danger to others in the ARCP.

E. In level 4 ARCPs, residents whose health needs increase may continue to reside in the ARCP and receive intermittent nursing services from the ARCP in accordance with the PCSP if the services are within the scope provided for in these regulations.

F. In accordance with the terms of the residency agreement, residents who are receiving hospice services may continue to reside in all levels of the ARCP as long as the resident's physician, the ARCP, the resident and/or resident's legal representative, if applicable, deem that the resident's needs can be met.

G. Residency Agreement. The ARCP shall complete and maintain individual residency agreements with all persons who move into the ARCP or with the resident's representative where appropriate.

1. The ARCP residency agreement shall specify the following:

a. clear and specific criteria for residency, continued residency and termination of residency agreements and procedures for termination of residency agreements;

b. basic services provided;

c. optional services;

d. payment provisions for both basic and optional services, including the following:

i. service packages and any additional charges for services;

ii. regular/ordinary and extra fees;

iii. payer source;

iv. due dates; and

v. deposits;

e. procedures for the modification of the residency agreement, including provision of at least 30 days prior written notice to the resident of any rate change;

f. requirements around notice before voluntarily terminating the residency agreement;

g. refund policy;

h. the delineation of responsibility among the following parties: the ARCP, the resident, the family, the resident's representative and/or others;

i. residents' rights; and

j. grievance procedures.

2. The ARCP shall allow review of the residency agreement by an attorney or other representative chosen by the resident.

3. The residency agreement shall be signed by the director, or designee, and by the resident or the resident's representative if applicable.

4. The residency agreement shall conform to all relevant federal, state and local laws and requirements.

5. The residency agreement shall provide a process for involuntary termination of the residency agreement that includes, at a minimum, the following:

a. written notice of any adverse action for violation(s) of the terms of the residency agreement that includes the following:

i. notice shall allow the resident a minimum of 30 calendar days from date of delivery of written notice to vacate the ARCP premises; however, the advance notice period may be shortened to 15 calendar days for nonpayment of a bill for a stay at the ARCP; and

ii. the notice shall allow a minimum of 10 calendar days for resident's corrective action.

6. The residency agreement shall include provisions for the opportunity for a formal appeal to the DAL for any involuntary termination of the residency agreement in accordance with §6837.B.2-4, including but not limited to, contact information for the DAL.

7. A request for appeal shall be made within 30 calendar days of receipt of the written notice and the hearing shall be conducted by the DAL in accordance with the Administrative Procedure Act.

H. When the resident moves in, the ARCP shall:

1. obtain from the resident or if appropriate, the resident's representative, the resident's plan for both routine and emergency medical care which shall include:

a. the name of physician(s); and

b. provisions and authorization for emergency medical care;

2. provide the resident with a copy of the ARCP's emergency and evacuation procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1095 (June 2015).

§6835. Person-Centered Service Plan

A. An assessment shall be initiated upon entry to the ARCP and completed within seven calendar days of the date that the resident moves into the ARCP to determine the service needs and preferences of the resident.

1. This assessment shall be kept in the resident's record.

2. If the resident's person-centered service plan includes staff administration of medication or intermittent nursing services, the assessment for those services shall be completed by a registered nurse.

B. Within 30 calendar days after the date the resident moves in, the ARCP designated staff in conjunction with the resident or the resident's representative, if applicable, shall develop a PCSP using information from the assessment. The PCSP shall include:

1. the services required to meet the resident's individual needs;

2. the scope, frequency, and duration of services;
3. monitoring that will be provided; and
4. who is responsible for providing the services, including contract or arranged services.

C. If the resident is enrolled in a home and community-based services waiver that includes ARCP as a service, a comprehensive plan of care prepared in accordance with policies and procedures established by Medicaid, or by a department program office, for reimbursement purposes may be substituted for the PCSP. If the resident needs services beyond those provided for in the comprehensive plan of care, the PCSP must be coordinated with the comprehensive plan of care.

D. A documented review of the PCSP shall be made at least every 90 calendar days and on an ongoing basis to determine its continued appropriateness and to identify when a resident's condition or preferences have changed. Changes to the plan may be made at any time, as necessary.

E. All plans, reviews and updates shall be signed by the resident or the resident's representative, if applicable, and the ARCP staff. If the resident's PCSP includes staff administration of medication or intermittent nursing services, a registered nurse shall also sign the plans, reviews and updates.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1096 (June 2015).

§6837. Termination of Residency Agreements

A. Voluntary Termination of Residency Agreement

1. The residency agreement shall specify:
 - a. the number of days and the process for notice required for voluntary termination of the residency agreement; and
 - b. the circumstances under which prepaid service charges and deposits are not refundable to the individual.

B. Involuntary Termination of Residency Agreements

1. The resident shall be allowed to continue residency in the ARCP unless one of the following occurs:
 - a. the resident's mental or physical condition deteriorates to a level requiring services that cannot be provided in accordance with these licensing regulations;
 - b. the resident's mental or physical condition deteriorates to a level requiring services that exceed those agreed upon in the residency agreement and PCSP;
 - c. the safety of other residents or staff in the ARCP is endangered;
 - d. the health of other residents or staff in the ARCP would otherwise be endangered;
 - e. the resident or resident's representative has failed to pay or has paid after timely notice in accordance with the residency agreement for a resident's stay at the ARCP; or
 - f. the ARCP ceases to operate.

2. Involuntary Termination Process

- a. The resident, the resident's representative, if applicable, and the state and local long-term care ombudsman shall be notified in writing of the intent to terminate the residency agreement.
- b. The notice shall be written in a language and in a manner that the resident and the resident's representative, if applicable, understand.

c. The written notice shall be given no less than 30 calendar days in advance of the proposed termination; however, the advance notice period may be shortened to 15 days for nonpayment of a bill for a stay at the ARCP.

d. The written notice shall contain:

- i. the reason for the involuntary termination of the residency agreement;
- ii. the right to formally appeal the involuntary termination of the residency agreement to the DAL; and
- iii. contact information for the state and local long-term care ombudsman and for the DAL.

3. The resident and/or the resident's representative, if applicable, shall have the right to dispute any involuntary termination of the residency agreement in accordance with §6833.G.5-6.

4. The involuntary termination of the residency agreement shall be suspended until a final determination is made by the DAL.

5. If the involuntary termination of the residency agreement is upheld, the ARCP shall provide assistance in locating an appropriate residence and services.

C. Emergencies. If an emergency arises whereby the resident presents a direct threat of serious harm, serious injury or death to the resident, another resident, or staff, the ARCP shall immediately contact appropriate authorities to determine an appropriate course of action.

1. The resident's removal from the premises in response to an emergency does not constitute termination of the residency agreement. Required notice as described above shall be provided if the ARCP wishes to terminate the residency agreement.

2. The ARCP shall document the nature of the emergency and the ARCP's response to it.

3. The ARCP shall notify the resident's representative of all emergencies immediately after notification of the appropriate authorities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1097 (June 2015).

Subchapter D. Adult Residential Care Provider Services

§6839. General Provisions

A. The services provided by the ARCP are dependent in part upon the level for which they are licensed and in part upon the optional services that the ARCP elects to provide.

B. An ARCP shall ensure that services meet a resident's personal and health care needs as identified in the resident's PCSP, meet scheduled and unscheduled care needs, and make emergency assistance available 24 hours a day. These services shall be provided in a manner that does not pose an undue hardship on residents.

1. An ARCP shall respond to changes in residents' needs for services by revising the PCSP and, if necessary, by adjusting its staffing.

2. The ARCP shall provide adequate services and oversight/supervision including adequate security measures, 24 hours per day as needed for any resident.

3. The ARCP shall provide a sanitary environment to avoid sources and transmission of infections and communicable diseases with its policy meeting or exceeding

the latest criteria established by the Centers for Disease Control and state *Sanitary Code*.

C. Number of Residents. The maximum number of residents that an ARCP shall serve will be based upon the level and plan as approved by the OSFM and/or the department's Health Standards Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1097 (June 2015).

§6841. Required and Optional Services

A. Required Services. The ARCP must provide or coordinate, to the extent needed or desired by each resident, the following required services:

1. assistance with activities of daily living and instrumental activities of daily living;
2. meals;
3. basic personal laundry services or laundry facilities;
4. opportunities for individual and group socialization including regular access to the community resources;
5. transportation either provided or arranged by the ARCP;
6. housekeeping services essential for health and comfort of the resident (e.g., floor cleaning, dusting, changing of linens); and
7. a recreational program.

B. Optional Services

1. All levels of ARCPs may provide the services listed below. If these optional services are provided, they must be provided in accordance with the PCSP:

- a. medication administration;
- b. financial management; and
- c. specialized dementia care programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1098 (June 2015).

§6843. Medication Administration

A. The ARCP shall have written policies and procedures on medication administration including self-administration, assistance with self-administration, gratuitous administration or third party administration, and staff administration of medications. There shall also be policies regarding obtaining and refilling medications, storing and controlling medications, disposing of medications, and documentation of medication administration.

B. The ARCP shall record in the resident's PCSP whether the resident can self-administer medication, needs assistance with self-administration, has gratuitous administration, or third party administration or requires staff administration of medication. The determination of the need for staff administration of medication will be made by the resident's physician after assessment of the resident, and after consultation with the resident, resident's legal representative if applicable, and the ARCP staff. The PCSP shall also include how the medication will be obtained and stored.

C. Levels of Administration

1. Self-Administration. Unless otherwise indicated in the PCSP, residents shall have the option to self-administer

their own medications. Residents who are appropriate for this service will be aware of what the medication is, what it is for and the need for the medication. Self-medication means residents can maintain possession and control of their medications. However, the ARCP shall require the resident to undertake reasonable precautions to ensure the safety of other residents.

2. Assistance with Self-Administration. Unless otherwise indicated in the PCSP, residents may elect assistance with self-medication if it is a service offered by the ARCP. Residents who are appropriate for this service will be aware of what the medication is, what it is for and the need for the medication.

a. Assistance with self-administration may be provided by staff members who hold no professional licensure, as long as that employee has documented training on the policies and procedures for medication assistance, including the limitations of assistance. This training must be repeated at least annually.

b. Assistance with self-administration of medication shall be limited to the following:

i. reminding residents that it is time to take medication(s), where such medications have been prescribed for a specific time of day, a specific number of times per day, specific intervals of time or for a specific time in relation to mealtimes or other activities such as arising from bed or retiring to bed;

ii. reading the medication regimen as indicated on the container to the resident;

iii. physically assisting residents who are familiar with their medications by opening a medication container and/or providing assistance with pouring medications;

iv. offering liquids to residents who are familiar with their medications to assist that resident in ingesting oral medications; and

v. physically bringing a container of oral medications to residents.

c. Assistance with self-administration of medications shall not include:

i. administering injections of any kind;

ii. administering any prescription medications including, but not limited to, eye drops, ear drops, nose drops, liquid medications, inhalers, suppositories, or enemas;

iii. prompting or reminding a resident that it is time to take a PRN, or as-needed medication;

iv. crushing or splitting medications;

v. placing medications in a feeding tube; or

vi. mixing medications with foods or liquids.

3. Staff Administration of Medication

a. The ARCP shall administer medications to ARCP residents in accordance with their PCSP. Staff administration of medications may be provided by all levels of ARCPs.

b. Medications shall be administered only by an individual who is currently licensed to practice medicine or osteopathy by the appropriate licensing agency for the state, or by an individual who is currently licensed as an RN or LPN by the appropriate state agency.

c. In level 4 ARCPs only, staff administration of medication may include intravenous therapy. Intravenous therapy is permitted on a time limited basis and must be under the supervision of a licensed RN, physician, or advanced practice nurse.

d. The ARCP shall require pharmacists to perform a monthly review of all ordered medication regimens for possible adverse drug interactions and to advise the ARCP and the prescribing health care provider when adverse drug interactions are detected. The ARCP shall notify the prescribing health care provider of the pharmacist's review related to possible adverse drug interactions, and shall have documentation of this review and notification in the resident's record.

e. Medication Orders and Records

i. Medications, including over-the-counter medications, may be administered to a resident of an ARCP only after the medications have been prescribed specifically for the resident by an individual currently licensed to prescribe medications. All orders for medications shall be documented, signed and dated by the resident's licensed practitioner.

ii. Only an authorized licensed medical professional shall accept telephone orders for medications from a physician or other authorized practitioner. All telephone orders shall be documented in the resident's record. The telephone order shall be signed by the prescriber within 14 days of the issuance of the order.

iii. The ARCP is responsible for:

- (a) complying with the physician orders, associated with medication administration;
- (b) clarifying orders as necessary;
- (c) notifying the physician of resident refusal of the medication or treatment; and
- (d) notifying the physician of any adverse reactions to medications or treatments.

iv. All medications administered by staff to residents in an ARCP, including over the counter medications, shall be recorded on a medication administration record at the same time or immediately after the medications are administered;

v. The medication administration record shall include at least the following:

- (a) the name of the resident to whom the medication was administered;
- (b) the name of the medication administered (generic, brand or both);
- (c) the dosage of the medication administered;
- (d) the method of administration, including route;
- (e) the site of injection or application, if the medication was injected or applied;
- (f) the date and time of the medication administration;
- (g) any adverse reaction to the medication; and
- (h) the printed name and written or electronic signature of the individual administering the medication.

vi. Medication administration records and written physician orders for all over-the-counter medications, legend drugs and controlled substances shall be retained for period of not less than five years. They shall be available for inspection and copying on demand by the state regulatory agency.

vii. The most current edition of drug reference materials shall be available.

viii. All medication regimes and administration charting shall be reviewed by a licensed RN at least monthly to:

- (a) determine the appropriateness of the medication regime;
- (b) evaluate contraindications;
- (c) evaluate the need for lab monitoring;
- (d) make referrals to the primary care physician for needed monitoring tests;
- (e) report the efficacy of the medications prescribed; and
- (f) determine if medications are properly being administered in the ARCP.

4. Contracted Third Party Administration

a. The ARCP or the resident or the resident's representative, if applicable, may contract with an individual or agency to administer resident's prescribed medications. The ARCP shall ensure that medications shall be administered by an individual who is currently professionally licensed in Louisiana to administer medications.

b. A copy of such third party contract shall be verifiable in writing and retained in resident's record. The ARCP retains responsibility for notifying the resident or resident's legal representative, if applicable, if services are not delivered or if the resident's conditions changes.

D. Storage of Medications

1. An ARCP shall not stock or dispense resident medications. Where medications are kept under the control or custody of an ARCP, the medications shall be packaged by the pharmacy and shall be maintained by the ARCP as dispensed by the pharmacist.

2. Medication stored by the ARCP shall be stored in an area inaccessible to residents and accessible only to authorized personnel. This area must be kept locked. Any other staff (e.g., housekeeping, maintenance, etc.) needing access to storage areas must be under the direct visual supervision of authorized personnel.

3. All medications must be stored in accordance with industry standards or according to manufacturer's recommendations.

4. If controlled substances prescribed for residents are kept in the custody of the ARCP, they shall be stored in a manner that is compliant with local, state and federal laws. At a minimum, controlled substances in the custody of the ARCP shall be stored using a double lock system, and the ARCP shall maintain a system to account for the intake, distribution, and disposal of all controlled substances in its possession and maintain a written policy and procedure regarding such.

5. All other medications in the ARCP shall be stored using at least a single lock mechanism. This shall include medications stored in a resident's room whereby the staff and the resident have access to the medications. When residents self-administer their medications, the medications shall be stored in a locked area or container accessible only to the resident, resident's family and staff or may be stored in the resident's living quarters, if the room is single occupancy and has a locking entrance.

6. Any medication stored by the ARCP requiring refrigeration shall be kept separate from foods in separate containers within a refrigerator and shall be stored at appropriate temperatures according to the medication specifications. A daily temperature log must be maintained at all times for the refrigerator. No lab solutions or lab specimens may be stored in refrigerators used for the storage of medications or food.

7. The medication preparation area shall have an operable hand washing sink with hot and cold water, paper towels and soap or an alternative method for hand sanitization.

8. Medications shall be under the direct observation of the person administering the medications or locked in a storage area.

E. Labeling of Medications

1. All containers of medications shall be labeled in accordance with the rules of the Board of Pharmacy and any local, state, and federal laws.

2. Medication labels shall include appropriate cautionary labels (e.g., shake well, take with food, or for external use only).

3. Medications maintained in storage must contain the original manufacturer's label with expiration date or must be appropriately labeled by the pharmacy supplying the medications.

4. Any medications labeled for single resident use may not be used for more than one resident. One resident's medications cannot be used for another resident.

5. Any medication container with an unreadable label shall be returned to the issuing pharmacy for relabeling. Conditions that might affect readability include but are not limited to detachment, double labeling, excessive soiling, wear or damage.

F. Disposal of Medications

1. All medications and biologicals disposed of by the ARCP shall be according to ARCP policy and subject to all local, state and federal laws.

2. Expired medications shall not be available for resident or staff use. They shall be destroyed no later than 30 days from their expiration/discontinuation date.

3. Medications awaiting disposition must be stored in a locked storage area.

4. Medications of residents who no longer reside in the ARCP shall be returned to the resident or the resident's representative, if applicable. The resident or the resident's representative shall sign a statement that these medications have been received. The statement shall include the pharmacy, prescription number, date, resident's name, name and strength of the medication and amount returned. This statement shall be maintained in the resident's termination of services record.

5. When medication is destroyed on the premises of the ARCP, a record shall be made and filed at the ARCP according to ARCP policy.

- a. This record shall include, but is not limited to:
 - i. name of ARCP;
 - ii. name of the medication;
 - iii. method of disposal;
 - iv. pharmacy;
 - v. prescription number;
 - vi. name of the resident;

- vii. strength of medication;
- viii. dosage of medication;
- ix. amount destroyed; and
- x. reason for disposition.

b. This record shall be signed and dated by the individual performing the destruction and by at least one witness.

c. The medication must be destroyed by a licensed pharmacist, RN or physician.

6. Controlled dangerous substances shall be destroyed in accordance with the provisions of LAC 46:LIII.2749.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1098 (June 2015).

§6845. Intermittent Nursing Services

A. Intermittent nursing services may be provided by level 4 ARCPs only. At no time shall an ARCP serve as provider for a resident whose condition is so unstable as to require continuous monitoring by licensed professional staff.

B. Where intermittent nursing services are provided, the following provisions shall apply.

1. All nursing services shall be provided in accordance with acceptable standards of practice and shall be delivered as prescribed by the resident's physician and in accordance with the PCSP.

2. The ARCP shall have written policies and procedures governing intermittent nursing services, including but not limited to the following:

- a. responding to medical emergencies on all shifts;
- b. ensuring that there is sufficient nursing staff to meet the needs of the residents;
- c. ensuring that the ARCP's licensed nurse is notified of nursing needs as identified in the PCSP for each resident;
- d. defining the duties, responsibilities and limitations of the ARCP licensed nurse in policy and procedures;
- e. defining the policy for conducting nursing assessments;
- f. delegating and training of ARCP staff to assist with nursing services;
- g. coordinating with other third party contracted health service providers;
- h. documentation by nursing personnel; and
- i. infection control.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1100 (June 2015).

§6847. Transportation

A. If the resident's condition is such that they are unable to manage their own transportation needs, the ARCP shall provide or arrange transportation for the following:

1. all medical services, including ancillary services for medically-related care;
2. scheduled personal services, including barber/beauty services;
3. scheduled personal errands; and
4. social/recreational opportunities.

B. The ARCP shall ensure and document that any vehicle used in transporting residents, whether such vehicles are operated by a staff member or any other person acting on behalf of the provider, is inspected and licensed in accordance with state law. The ARCP shall also have current commercial liability insurance.

C. When transportation services are provided by the ARCP, whether directly or by third party contract the provider shall:

1. document and ensure that drivers have a valid driver's license;

2. document and ensure that drivers have a valid chauffeur's license or commercial driver's license with passenger endorsement upon hire, if applicable.

D. When transportation services are provided by the ARCP, the ARCP shall:

1. ensure drivers are trained in assisting residents in accordance with the individual resident's needs;

2. obtain documentation to ensure a safe driving record from the Louisiana Department of Motor Vehicles (DMV) upon hire and annually; and

3. ensure drivers meet personnel and health qualifications of other staff and receive necessary and appropriate training to ensure competence to perform duties assigned.

E. Vehicles shall be handicapped accessible or otherwise equipped to meet the needs of residents served.

F. Verifications by the ARCP shall not be required if the ARCP utilizes a third party transportation company that is authorized by the department to participate as an NEMT provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1100 (June 2015).

§6849. Meals Provided by the ARCP

A. For meals that are prepared and/or served by the ARCP, the ARCP shall offer to residents who choose to participate, a minimum of three varied, palatable meals per day, seven days a week.

1. Foods shall be prepared and served in a way that assures that they are appetizing, attractive, and nutritious and that promotes socialization among the residents.

2. The ARCP is permitted to offer liberalized diets. The nutritionist or licensed dietician may recommend to the physician to temporarily abate dietary restrictions and liberalize the diet to improve the resident's food intake.

B. The ARCP shall make reasonable accommodations, as stated in the residents' PCSP to:

1. meet dietary requirements, including following medically prescribed diets; however, nothing herein shall be construed to prohibit the ARCP from offering liberalized diets as recommended by the nutritionist or licensed dietician;

2. meet religious and ethnic preferences;

3. meet the temporary need for meals delivered to the resident's living area;

4. meet residents' personal routines and preferences; and

5. ensure snacks, fruits and beverages are available to residents at all times.

C. Staff shall be available in the dining area to assist with meal service, meal set up and to give individual attention as needed.

1. Dietary staff shall not store personal items within the food preparation and storage areas.

2. The kitchen shall not be used for dining of residents or unauthorized personnel.

3. Dietary staff shall use good hygienic practices.

4. Dietary employees engaged in the handling, preparation and serving of food shall use effective hair restraints to prevent the contamination of food or food contact surfaces.

5. Staff with communicable diseases or infected skin lesions shall not have contact with food if that contact will transmit the disease.

6. Garbage and refuse shall be kept in durable, easily cleanable, covered containers that do not leak and do not absorb liquids.

7. Containers used in food preparation and utensil washing areas shall be kept covered when meal preparation is completed and when full.

D. If a licensed dietitian is not employed full-time, the ARCP shall designate a full-time person to serve as the dietary manager.

1. The dietary manager who oversees food preparation may also fulfill other staff roles in the ARCP.

2. The dietary manager shall have Servsafe® certification.

E. Serving times for meals prepared and/or served by the ARCP shall be posted.

F. The menus for meals prepared and/or served by the ARCP, at a minimum, shall be reviewed and approved by a nutritionist or licensed dietician to assure their nutritional appropriateness for the setting's residents.

1. Menus shall be planned and written at least one week in advance and dated as served. The current week's menu shall be posted in one or more prominent place(s) for the current week in order to facilitate resident's choices about whether they wish to join in the meals prepared and/or served by the ARCP.

2. The ARCP shall furnish medically prescribed diets to all residents for which it is designated in the service plan.

3. Records of all menus as serviced shall be kept on file for at least 30 days.

4. All substitutions made on the master menu shall be recorded in writing.

G. Medically prescribed diets, prepared and/or served by the ARCP, shall be documented in the resident's record. There shall be a procedure for the accurate transmittal of dietary orders to the dietary manager when the resident does not receive the ordered diet or is unable to consume the diet, with action taken as appropriate.

H. Food shall be in sound condition, free from spoilage, filth, or other contamination and shall be safe for human consumption.

I. All food preparation areas (excluding areas in residents units) shall be maintained in accordance with LAC Title 51 *Sanitary Code*. Pets are not allowed in food preparation and serving areas.

J. If food is prepared in a central kitchen and delivered to separate physical sites, provision shall be made for proper

maintenance of food temperatures and a sanitary mode of transportation.

K. Refrigeration

1. The ARCP's refrigerator(s) shall be maintained at a temperature of 41 degrees Fahrenheit or below.

2. The ARCP shall maintain daily temperature logs for all refrigerators and freezers.

3. Food stored in the refrigerator shall be covered, labeled, and dated.

L. The water supply shall be adequate, of a safe sanitary quality and from an approved source. Clean sanitary drinking water shall be available and accessible in adequate amounts at all times.

M. The ice scoop for ice machines shall be maintained in a sanitary manner with the handle at no time coming in contact with the ice.

N. Poisonous and toxic materials shall be appropriately identified, labeled and placed in locked cabinets which are used for no other purpose.

O. Written reports of inspections by OPH shall be kept on file in the ARCP.

P. If meals are provided by a third party service, the ARCP retains the responsibility to ensure that all regulations of this part are met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1101 (June 2015).

§6851. Specialized Dementia Care Programs

A. Scope and Purpose. The ARCP may establish a separate and distinct program to meet the needs of residents with Alzheimer's disease or a related disorder. The ARCP shall provide a program of individualized care based upon an assessment of the cognitive and functional abilities of residents who have been included in the program.

B. Any ARCP that offers such a program shall disclose this program to the department upon establishing the program or upon its discontinuance.

C. Policies and Procedures

1. An ARCP that advertises, promotes or markets itself as offering a specialized dementia care program shall have written policies and procedures for the program that are retained by the administrative staff and available to all staff, to members of the public, and to residents, including those participating in the program.

2. The ARCP shall have established criteria for inclusion in the specialized dementia care program.

3. Guidelines for inclusion shall be provided to the resident, his/her family, and his/her legal representative.

4. Door locking arrangements to create secured areas may be permitted where the clinical needs of the residents require specialized protective measures for their safety, provided that such locking arrangements are approved by the OSFM and satisfy the requirements established by the OSFM and in accordance with R.S. 40:1300.121 et seq.

a. If the services are provided in a secured area where special door locking arrangements are used, the ARCP shall comply with the requirements established for limited health care occupancies in accordance with the laws, rules and codes adopted by the OSFM.

b. The secured areas shall be designed and staffed to provide the care and services necessary for the resident's needs to be met.

c. There shall be sufficient staff to respond to emergency situations in the locked unit at all times.

d. PCSPs shall address the reasons for the resident being in the unit and how the ARCP is meeting the resident's needs.

e. There must be documentation in the resident's record to indicate the unit is the least restrictive environment possible, and placement in the unit is needed to facilitate meeting the resident's needs.

f. Inclusion in a program on the unit must be in compliance with R.S. 40:1299.53.

D. Staff Training. Training in the specialized care of residents who are diagnosed by a physician as having Alzheimer's disease, or a related disorder, shall be provided to all persons employed by the ARCP in accordance with the provisions established in §6867 of this Chapter.

E. Disclosure of Services. An ARCP that advertises or markets itself as offering a specialized dementia care program shall provide in writing the following to any member of the public seeking information about the program:

1. the form of care or treatment provided that distinguishes it as being especially applicable to or suitable for such persons;

2. the philosophy and mission reflecting the needs of residents living with dementia;

3. the criteria for inclusion in the program and for discontinuance of participation should that become appropriate;

4. the assessment, care planning and the processes for ensuring the care plan's responsiveness to the changes in the resident's condition;

5. the staffing patterns, training and continuing education;

6. the physical environment and design features appropriate to support the functioning of residents living with dementia;

7. the involvement of families and the availability of family support programs;

8. the activities that are specifically directed toward residents diagnosed with Alzheimer's or a related disorder including, but not limited to, those designed to maintain the resident's dignity and personal identity, enhance socialization and success, and accommodate the cognitive and functional ability of the resident;

9. the frequency of the activities that will be provided to such residents;

10. the safety policies and procedures and any security monitoring system that is specific to residents diagnosed with Alzheimer's or a related disorder including, but not limited to safety and supervision within the secured unit and within the secured exterior area; and

11. the program fees.

F. An ARCP that advertises or markets itself as having a specialized dementia care program shall provide a secured exterior area for residents to enjoy the outdoors in a safe and secure manner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8 and R.S. 40:1300.121-125.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1102 (June 2015).

Subchapter E. Resident Protection

§6855. Resident Rights

A. ARCPs shall have a written policy on resident rights and shall post and distribute a copy of those rights. In addition to the basic civil and legal rights enjoyed by other adults, residents shall have the rights listed below. ARCP policies and procedures must be in compliance with these rights. Residents shall:

1. be encouraged in the exercise of their civil or legal rights, benefits or privileges guaranteed by the Constitution of the United States and the Constitution of the State of Louisiana including the right to be free of discrimination or segregation based upon race, sex, handicap, religion, creed, national background or ancestry with respect to residency;

2. be treated as individuals in a manner that supports their dignity;

3. be assured choice and privacy and the opportunity to act autonomously, take risks to enhance independence and share responsibility for decisions;

4. participate and have family participate, if desired, in the planning of activities and services;

5. receive care and services that are adequate, appropriate, and in compliance with contractual terms of residency, relevant federal and state laws, rules and regulations and shall include the right to refuse such care and services;

6. receive upon moving in, and during his or her stay, a written statement of the services provided by the ARCP and the charges for these services;

7. be free from mental, emotional, and physical abuse and neglect, from chemical or physical restraints, and from financial exploitation and misappropriation of property;

8. have records and other information about the resident kept confidential and released only with the written consent of the resident or resident's representative or as required by law;

9. expect and receive a prompt response regarding requests (service, information, etc.) from the director and/or staff;

10. have the choice to contract with a third-party provider for ancillary services for medically related care (e.g., physician, pharmacist, therapy, podiatry, hospice,) and other services necessary as long as the resident remains in compliance with the contractual terms of residency;

11. be free to receive visitors of their choice without restriction except where the residents share bedrooms or apartments:

a. where residents do share bedrooms or apartments, reasonable restrictions that provide for the health, safety, and privacy of other residents shall be allowed;

12. manage their personal funds unless this authority has been delegated to the ARCP or to a third party by the resident, the resident's legal representative, or an agency that has the authority to grant representative payee status or fiscal management authority to a third party;

13. be notified, along with their representative in writing by the ARCP when the ARCP's license status is modified, suspended, revoked or denied renewal and to be informed of the basis of the action;

14. have choices about participation in community activities and in preferred activities, whether they are part of the formal activities program or self-directed;

15. share a room with a spouse or other consenting adult if they so choose;

16. voice grievances and suggest changes in policies and services to staff, advocates or outside representatives without fear of restraint, interference, coercion, discrimination, or reprisal and the ARCP shall make prompt efforts to address grievances including with respect to the behavior of other residents;

17. remain in their personal living area unless a change in the area is related to resident preference or to conditions stipulated in their contract, or necessitated by situations or incidents that create hazardous conditions in the living area;

18. live in a physical environment which ensures their physical and emotional security and well-being;

19. bring service animals into the ARCP;

20. bring pets into the ARCP if allowed by the ARCP and kept in accordance with the policies of the ARCP;

21. contact their advocates as provided by law;

22. be fully informed of all residents' rights and all rules governing resident conduct and responsibilities;

23. be informed of how to lodge a complaint with the Health Standards Section, the Office of Civil Rights, the Americans with Disabilities Act, the Office of the State Ombudsman, and the Advocacy Center. Contact information including telephone numbers and addresses for these entities shall be posted in a prominent location which is easily accessible to residents; and

24. have the right to privacy in his/her apartment or room(s), including the right to have:

a. a closed apartment or room door(s); and

b. the ARCP personnel knock before entering the apartment or room(s) and not enter without the resident's consent, except in case of an emergency or unless medically contraindicated.

B. Publicity. No resident shall be photographed or recorded without the resident's prior informed, written consent.

1. Such consent cannot be made a condition for joining, remaining in, or participating fully in the activities of the ARCP.

2. Consent agreements shall clearly notify the resident of his/her rights under this regulation and shall specify precisely what use is to be made of the photograph or recordings. Residents are free to revoke such agreements at any time, either orally or in writing.

3. All photographs and recordings shall be used in a way that respects the dignity and confidentiality of the resident. Recordings from security cameras placed in common areas of the building are not subject to publicity requirements for consent and shall not be used for publicity purposes.

C. Each resident shall be fully informed of their rights and responsibilities, as evidenced by written acknowledgment, prior to or at the time of occupancy and

when changes occur. Each resident's file shall contain a copy of the written acknowledgment, which shall be signed and dated by the director and the resident and/or the resident's representative, if applicable.

D. The ARCP shall prominently post the grievance procedure, resident's rights, and abuse and neglect procedures in an area accessible to all residents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1103 (June 2015).

§6857. Restraints

A. ARCPs are prohibited from the use of physical and chemical restraints. The ARCP shall establish and maintain a restraint free environment by developing individual approaches to the care of the resident as determined by resident assessments and PCSPs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1104 (June 2015).

§6859. Resident Representation and Grievance Procedures

A. Resident Association

1. The provider shall have a formal process and structure by which residents, in representative groups and/or as a whole, are given the opportunity to advise the director regarding resident services and life at the ARCP.

a. Any resident association requests, concerns or suggestions presented through this process shall be addressed by the director within a reasonable time frame, as necessitated by the concern, request or suggestion.

2. Staff may attend the residency association meetings only upon invitation made by the residents of the ARCP.

B. Grievance Procedure. A provider shall establish and have written grievance procedures to include, but not limited to:

1. a formal process to present grievances;
2. a formal appeals process for grievances;
3. a process to respond to residents and resident association requests and written grievances within seven days; and
4. the maintenance of a log to record grievances, investigation and disposition of grievances.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1104 (June 2015).

§6861. Resident Personal Property and Funds

A. Personal Possessions. The ARCP may, at its discretion, offer safekeeping of valuable possessions. The ARCP shall have a written statement of its policy regarding the safekeeping of valuable possessions.

1. If the ARCP offers such a service, a copy of the written policy and procedures shall be given to a resident at the time of his/her occupancy.

2. The ARCP shall give the resident a receipt listing each item that the ARCP is holding in trust for the resident. A copy of the receipt shall be placed in the resident's record. The list shall be revised as items are added or removed.

B. Resident Funds

1. An ARCP may offer to safe keep residents' readily accessible personal funds up to \$200 and/or assist with management of funds in excess of \$200. The ARCP shall ensure that the resident's funds are readily available upon resident's request.

2. The residency agreement shall include the resident's rights regarding access to the funds, limits on incremental withdrawals, and the charges for the service, if any.

3. The ARCP shall provide a surety bond or otherwise provide assurance satisfactory to the secretary to assure the security of all personal funds entrusted to the ARCP.

4. If an ARCP offers the service of safekeeping readily accessible personal funds up to \$200, and if a resident wishes to entrust funds, the ARCP shall:

a. obtain written authorization from the resident and/or the resident's representative, if applicable, as to safekeeping of funds;

b. provide each resident with a receipt listing the amount of money the ARCP is holding in trust for the resident;

c. maintain a current balance sheet containing all financial transactions to include the signatures of staff and the resident for each transaction; and

d. afford the resident the right to examine the account during routine business hours.

5. If an ARCP offers the service of assisting with management of funds in excess of \$200, the following shall apply.

a. The ARCP shall obtain written authorization to manage the resident's funds from the resident and the representative if applicable.

b. The resident shall have access through quarterly statements and, upon request, financial records.

c. The ARCP shall keep funds received from the resident for management in an individual account in the name of the resident.

d. Unless otherwise provided by state law, upon the death of a resident, the ARCP shall provide the executor or director of the resident's estate, or the resident's representative, if applicable, with a complete accounting of all the resident's funds and personal property being held by the ARCP. The ARCP shall release the funds and property in accordance with all applicable state laws.

6. If ARCP staff is named as representative payee by Social Security or the Railroad Retirement Board or as fiduciary by the US Department of Veterans Affairs, in addition to meeting the requirements of those agencies, the ARCP shall hold, safeguard, manage and account for the personal funds of the resident as follows.

a. The ARCP shall deposit any resident's personal funds in excess of \$50 in an interest bearing account (or accounts) separate from the ARCP's operating accounts, and that credits all interest earned on the resident's funds to that account. In pooled accounts, there shall be a separate accounting for each resident's share.

b. The ARCP shall maintain a resident's personal funds that do not exceed \$50 in a non-interest bearing account, interest bearing account, or petty cash fund.

c. The ARCP shall establish and maintain a system that assures a full and complete and separate accounting,

according to generally accepted accounting principles, of each resident's personal funds entrusted to the ARCP on the resident's behalf.

i. The system shall preclude any comingling of resident funds with ARCP funds or with the funds of any person other than another resident.

ii. The individual financial record shall be available through quarterly statements and on request to resident and/or the resident's representative, if applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1104 (June 2015).

Subchapter F. Requirements Related to Staff, Record-Keeping and Incident Reports

§6863. General Provisions

A. The ARCP shall have qualified staff sufficient in number to meet the scheduled and unscheduled needs of residents and to respond in emergency situations.

B. Sufficient direct care staff shall be employed or contracted to ensure provision of personal assistance as required by the resident's PCSP.

C. Additional staff shall be employed as necessary to perform office work, cooking, house cleaning, laundering, and maintenance of buildings, equipment and grounds.

D. A staff member trained in the use of cardio pulmonary resuscitation (CPR) and first aid shall be on duty at all times.

E. Staff shall have sufficient communication and language skills to enable them to perform their duties and interact effectively with residents and staff.

F. The ARCP shall maintain a current work schedule for all employees showing actual coverage for each 24-hour day.

G. Criminal history checks and offers of employment shall be completed in accordance with R.S. 40:1300.52.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1105 (June 2015).

§6865. Staffing Requirements

A. At a minimum the following staff positions are required. For ARCPs level 2 through 4, one person may occupy more than one position in the ARCP but shall not be in this position on the same shift. In a level 1 ARCP, one person may occupy more than one staff position on the same shift.

1. Director. Each ARCP shall have a qualified director who is responsible for the day-to-day management, supervision, and operation of the ARCP and who shall be on-site no less than 20 hours per week.

a. During periods of temporary absence of the director, there shall be a responsible staff person designated to be in charge 24 hours per day, seven days per week that has the knowledge and responsibility to handle any situation that may occur.

b. The director shall be at least 21 years of age and have the responsibility and authority to carry out the policies of the provider.

c. Director Qualifications

i. For levels 1 and 2, the director shall meet one of the following criteria upon date of hire:

(a). have at least an associate's degree from an accredited college plus one year of experience in the fields of health, social services, geriatrics, management or administration; or

(b). in lieu of an associate's degree from an accredited college three years of experience in health, social services, geriatrics, management, administration; or

(c). a bachelor's degree in geriatrics, social services, nursing, health care administration or related field.

ii. For levels 3 and 4, the director shall meet one of the following criteria upon date of hire:

(a). a bachelor's degree plus two years of administrative experience in the fields of health, social services, or geriatrics;

(b). in lieu of a bachelor's degree, six years of administrative experience in health, social services, or geriatrics;

(c). a master's degree in geriatrics, health care administration, or in a human service related field; or

(d). be a licensed nursing facility administrator.

iii. Additionally, for level 4 ARCPs the director shall have successfully completed an adult residential care/assisted living director certification/training program consisting of, at a minimum, 12 hours of training that has been approved by any one of the following organizations:

(a). Louisiana Board of Examiners of Nursing Facility Administrators;

(b). Louisiana Assisted Living Association (LALA);

(c). LeadingAge Gulf States;

(d). Louisiana Nursing Home Association (LNHA); or

(e). any of the national assisted living associations, including the:

(i). National Center for Assisted Living (NCAL);

(ii). Assisted Living Federation of America (ALFA); or

(iii). LeadingAge.

iv. Training shall begin within six months and completed within 12 months of being appointed director.

v. Two years of experience as an assisted living director may be substituted in lieu of the certification requirements.

vi. Documentation of the director's qualifications shall be maintained on file at the ARCP.

2. Designated Recreational/Activity Staff. There shall be an individual designated to organize and oversee the recreational and social programs of the ARCP.

3. Direct Care Staff

a. The ARCP shall demonstrate that sufficient and trained direct care staff is scheduled and on-site to meet the 24-hour scheduled and unscheduled needs of the residents.

b. The ARCP shall be staffed with direct care staff to properly safeguard the health, safety and welfare of clients.

c. The ARCP shall employ direct care staff to ensure the provision of ARCP services as required by the PCSP.

d. Staff shall not work simultaneously at more than one ARCP on the same shift.

e. A direct care staff person who is not in the ARCP, but who is scheduled on the shift as on call shall not be included as direct care staff on any shift.

f. The ARCP shall maintain a current work schedule for all employees indicating adequate coverage for each 24-hour day.

B. Nursing Staff

1. In ARCPs that offer staff medication administration and level 4 ARCPs, the ARCP shall provide a sufficient number of RNs and LPNs to provide services to all residents in accordance with each resident's PCSP 24 hours per day.

2. Nursing Director

a. Level 4 ARCPs shall employ or contract with at least one RN who shall serve as the nursing director and who shall manage the nursing services. The nursing director need not be physically present at all times at the ARCP; however, the nursing director or his or her designee shall be on call and readily accessible to the ARCP 24 hours a day.

b. The nursing director, in conjunction with the resident's physician, shall be responsible for the preparation, coordination and implementation of the health care services section of the resident's PCSP.

c. The nursing director shall review and oversee all LPNs and direct care personnel with respect to the performance of health related services.

d. The nursing director shall be licensed by, and in good standing with, the Louisiana State Board of Nursing, and shall comply with all applicable licensing requirements.

3. Licensed Practical Nurses (LPNs). LPNs employed by or contracted with shall be licensed by, and in good standing with, the Louisiana State Board of Practical Nursing, and shall comply with all applicable nursing requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1105 (June 2015).

§6867. Staff Training

A. All staff shall receive the necessary and appropriate training to assure competence to perform the duties that are assigned to them.

1. All staff shall receive any specialized training required by law or regulation to meet resident's needs.

2. The ARCP shall maintain documentation that orientation and annual training has been provided for all current employees.

3. Orientation shall be completed within seven days of hire and shall include, in addition to the topics listed in §6867.B, the following topics:

- a. the ARCP's policies and procedures; and
- b. general overview of the job specific requirements.

B. The following training topics shall be covered in orientation and annually thereafter for all staff and ARCP contracted providers having direct contact with residents:

1. residents' rights;
2. procedures and requirements concerning the reporting of abuse, neglect, exploitation, misappropriation and critical incidents;
3. building safety and procedures to be followed in the event of any emergency situation including instructions in

the use of fire-fighting equipment and resident evacuation procedures including safe operation of fire extinguishers and evacuation of residents from the building;

4. basic sanitation and food safety practices;

5. requirements for reporting changes in resident's health conditions; and

6. infection control.

C. Training for Direct Care Staff

1. In addition to the topics listed in §6867.A.3 and §6867.B, orientation for direct care staff shall include five days of direct observation of the performance of ADL and IADL assistance. A new employee shall not be assigned to carry out a resident's PCSP until competency has been demonstrated and documented.

2. In addition to the required dementia training in §6867.F, direct care staff shall receive 12 hours of annual training which shall be recorded and maintained in the employee personnel file.

3. Annual training shall address the special needs of individual residents and address areas of weakness as determined by the direct care staff performance reviews.

4. All direct care staff shall receive certification in cardiac pulmonary resuscitation and adult first aid within the first 90 days of employment. The ARCP shall maintain the documentation of current certification in the staff's personnel file.

5. Orientation and five days of supervised training may qualify as the first year's annual training requirements. However, normal supervision shall not be considered to meet this requirement on an annual basis.

D. Continuing Education for Directors. All directors shall obtain 12 continuing education units per year. Topics shall include, but shall not be limited to:

1. person-centered care;
2. specialty training in the population served;
3. supervisory/ management techniques; and/or
4. geriatrics.

E. Third-Party Providers. A general orientation and review of ARCP policies and procedures is required to be provided to third-party providers entering the building to serve residents.

F. Dementia Training

1. All employees shall be trained in the care of persons diagnosed with dementia and dementia-related practices that include or that are informed by evidence-based care practices. New employees must receive such training within 90 days from the date of hire.

2. All employees who provide care to residents in a specialized dementia care Program shall meet the following training requirements.

- a. Employees who provide direct face-to-face care to residents shall be required to obtain at least eight hours of dementia-specific training within 90 days of employment and eight hours of dementia-specific training annually. The training shall include the following topics:
 - i. an overview of Alzheimer's disease and other forms of dementia;
 - ii. communicating with persons with dementia;
 - iii. behavior management;
 - iv. promoting independence in activities of daily living; and
 - v. understanding and dealing with family issues.

b. Employees who have regular contact with residents, but who do not provide direct face-to-face care, shall be required to obtain at least four hours of dementia-specific training within 90 days of employment and two hours of dementia training annually. This training shall include the following topics:

- i. an overview of dementias; and
- ii. communicating with persons with dementia.

c. Employees who have only incidental contact with residents shall receive general written information provided by the ARCP on interacting with residents with dementia.

3. Employees who do not provide care to residents in a special dementia care program shall meet the following training requirements.

a. Employees who provide direct face-to-face care to residents shall be required to obtain at least two hours of dementia-specific training annually. This training shall include the following topics:

- i. an overview of Alzheimer's disease and related dementias; and
- ii. communicating with persons with dementia.

b. All other employees shall receive general written information provided by the ARCP on interacting with residents with dementia.

4. Any dementia-specific training received in a nursing or nursing assistant program approved by the department or its designee may be used to fulfill the training hours required pursuant to this Section.

5. ARCPs may offer a complete training curriculum themselves, or they may contract with another organization, entity, or individual to provide the training.

6. The dementia-specific training curriculum shall be approved by the department or its designee. To obtain training curriculum approval, the organization, entity, or individual shall submit the following information to the department or its designee:

- a. a copy of the curriculum;
- b. the name of the training coordinator and his/her qualifications;
- c. a list of all instructors;
- d. the location of the training; and
- e. whether or not the training will be web-based.

7. A provider, organization, entity, or individual shall submit any content changes to an approved training curriculum to the department, or its designee, for review and approval.

a. Continuing education undertaken by the ARCP does not require the department's approval.

8. If a provider, organization, entity, or individual, with an approved curriculum, ceases to provide training, the department shall be notified in writing within 30 days of cessation of training. Prior to resuming the training program, the provider, organization, entity, or individual shall reapply to the department for approval to resume the program.

9. Disqualification of Training Programs and Sanctions. The department may disqualify a training curriculum offered by a provider, organization, entity, or individual that has demonstrated substantial noncompliance with training requirements including, but not limited to:

- a. the qualifications of training coordinators; or
- b. training curriculum requirements.

10. Compliance with Training Requirements

a. The review of compliance with training requirements will include, at a minimum, a review of:

- i. the documented use of an approved training curriculum; and
- ii. the provider's adherence to established training requirements.

b. The department may impose applicable sanctions for failure to adhere to the training requirements outlined in this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1106 (June 2015).

§6869. Record Keeping

A. Administrative Records. The ARCP shall have an administrative record that includes:

1. the articles of incorporation or certified copies thereof, if incorporated, by-laws, operating agreements, or partnership documents, if applicable;
2. the written policies and procedures approved annually by the owner/governing body that address the requirements listed in this Subchapter;
3. the minutes of formal governing body meetings;
4. the organizational chart of the ARCP;
5. all leases, contracts, and purchase of service agreements to which the ARCP is a party, which includes all appropriate credentials;
6. insurance policies; and
7. copies of incident/accident reports.

B. Personnel Records. An ARCP shall maintain a personnel record for each employee. At a minimum, this file shall contain the following:

1. the application for employment, including the resume of education, training, and experience, if applicable;
2. a criminal history check, prior to an offer of employment, in accordance with state law;
3. evidence of applicable professional or paraprofessional credentials/certifications according to state law, rule or regulation;
4. documentation of any state or federally required medical examinations or medical testing;
5. employee's hire and termination dates;
6. documentation of orientation and annual training of staff;
7. documentation of a valid driver's license, documentation of a valid chauffeur's or commercial driver's license with passenger endorsement, if applicable, and Louisiana DMV record for any employee that transports residents;
8. documentation of reference checks; and
9. annual performance evaluations. An employee's annual performance evaluation shall include his/her interaction with residents, family, and other providers.

C. Resident Records. An ARCP shall maintain a separate record for each resident. Such record shall be current and complete and shall be maintained in the ARCP in which the resident resides and readily available to ARCP staff and department staff. Each record shall contain the information below including but not limited to:

1. resident's name, marital status, date of birth, sex, Social Security number, and previous home address;
2. date of initial residency and date of termination of residency;
3. location of new residence following move-out;
4. name, address and telephone number of the resident's representative;
5. names, addresses, and telephone numbers of individuals to be notified in case of accident, death, or other emergency;
6. name, address, and telephone number of a physician to be called in an emergency;
7. ability to ambulate;
8. resident's plan/authorization for routine and emergency medical care;
9. the pre-residency assessment and service agreement;
10. assessment and any special problems or precautions;
11. individual PCSP, updates, and quarterly reviews;
12. continuing record of any illness, injury, or medical or dental care when it impacts the resident's ability to function without assistance with ADLs and IADLs or impacts the services the resident requires, including but not limited to all orders received from licensed medical practitioners;
13. a record of all personal property and funds which the resident has entrusted to the ARCP;
14. written and signed acknowledgment that the resident has been informed and received verbal explanation and copies of his/her rights, the house rules, written procedures for safekeeping of his/her valuable personal possessions, written statement explaining his/her rights regarding personal funds, and the right to examine his/her record;
15. advance directives and requirements for assistance in emergency evacuation; and
16. documentation of any third party services provided and documentation of any notifications provided to the resident's representative regarding services.

D. Maintenance and Storage of Records. All records shall be maintained in an accessible, standardized order and format and shall be retained and disposed of in accordance with state laws. An ARCP shall have sufficient space, facilities, and supplies for providing effective storage of records. The ARCP shall maintain the resident's records in the following manner.

1. Each resident and/or resident's legal representative, if applicable, upon written or oral request, shall have the right to inspect and/or copy his or her records during normal business hours in accordance with state and federal law.
 - a. After receipt of his/her records for inspection, the ARCP shall provide, upon request and two working days' notice, at a cost consistent with the provisions of applicable state law, photocopies of the records or any portions thereof.
2. The ARCP shall not disclose any resident records maintained by the ARCP to any person or agency other than the ARCP personnel, law enforcement, the department, or the attorney general's office, except upon expressed written consent of the resident or his or her legal representative, or when disclosure is required by state or federal law or regulations.

3. The ARCP shall maintain the original records in an accessible manner for a period of five years following a resident's death or vacating the ARCP.

4. The original resident records, while the resident maintains legal residence at the ARCP, shall be kept on the ARCP premises at all times, unless removed pursuant to subpoena.

5. In the event of a change of ownership, the resident records shall remain with the ARCP.

6. An ARCP which is closing shall notify the department of the plan for the disposition of residents' records in writing within 30 days prior to closure. The plan shall include where the records will be stored and the name, address and phone number of the person responsible for the resident and personnel records.

7. If the ARCP closes, the ARCP owner(s) shall store the resident records for five years from the date of closure within the state of Louisiana.

E. Confidentiality and Security of Records

1. The ARCP shall have written procedures for the maintenance and security of records specifying:

- a. who shall supervise the maintenance of records;
- b. who shall have custody of records; and
- c. to whom records may be released. Release shall

be made in accordance with any and all federal and state laws.

2. The ARCP shall have a written procedure for protecting clinical record information against loss, destruction, or unauthorized use.

3. The ARCP shall ensure the confidentiality of all resident records, including information in a computerized record system, except when release is required by transfer to another health care institution, law, third-party payment contractor, or the resident. Information from, or copies of, records may be released only to authorized individuals, and the ARCP shall ensure that unauthorized individuals cannot gain access to or alter resident records.

4. Employees of the ARCP shall not disclose or knowingly permit the disclosure of any information concerning the resident or his/her family, directly or indirectly, to any unauthorized person.

5. The ARCP shall obtain the resident's, and if applicable, the resident's representative's written, informed permission prior to releasing any information from which the resident or his/her family might be identified, except to the department. Identification information may be given to appropriate authorities in case of an emergency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1107 (June 2015).

§6871. Incident and Accident Reports

A. An ARCP shall have written procedures for the reporting and documentation of accidents, incidents and other situations or circumstances affecting the health, safety or well-being of a resident or residents. The procedures shall include:

1. a provision that the director or his/her designee shall be immediately verbally notified of accidents, incidents and other situations or circumstances affecting the health, safety or well-being of a resident or residents; and

2. a provision that staff shall be trained on the reporting requirements.

B. An ARCP shall report to HSS any incidents suspected of involving:

1. abuse;
2. neglect;
3. misappropriation of personal property regardless of monetary value; or

4. injuries of unknown origin. Injuries of unknown origin are defined as:

a. the source of the injury was not observed by any person or the source of the injury could not be explained by the resident; or

b. the injury is suspicious because of the extent of the injury or the location of the injury (e.g., the injury is located in an area not generally vulnerable to trauma).

C. The initial report of the incident or accident is due within 24 hours of occurrence or discovery of the incident.

D. After submission of the initial 24-hour report, a final report shall be submitted within five business days regardless of the outcome.

E. Report Contents. The information contained in the incident report shall include, but is not limited to the following:

1. circumstances under which the incident occurred;
2. date and time the incident occurred;
3. where the incident occurred (bathroom, apartment, room, street, lawn, etc.);
4. immediate treatment and follow-up care;
5. name and address of witnesses;
6. date and time family or representative was notified;
7. symptoms of pain and injury discussed with the physician; and
8. signatures of the director, or designee, and the staff person completing the report.

F. When an incident results in death of a resident, involves abuse or neglect of a resident, or entails any serious threat to the resident's health, safety or well-being, an ARCP director or designee shall:

1. immediately report verbally to the director and submit a preliminary written report within 24 hours of the incident to the department;

2. notify HSS and any other appropriate authorities, according to state law and submit a written notification to the above agencies within 24 hours of the suspected incident;

3. immediately notify the family or the resident's representative and submit a written notification within 24 hours;

4. immediately notify the appropriate law enforcement authority in accordance with state law;

5. take appropriate corrective action to prevent future incidents and provide follow-up written report to all the above persons and agencies as per reporting requirements; and

6. document its compliance with all of the above procedures for each incident and keep such documentation (including any written reports or notifications) in the resident's file. A separate copy of all such documentation shall be kept in the provider's administrative file.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1108 (June 2015).

Subchapter G. Emergency Preparedness

§6875. Emergency Preparedness Plan

A. The ARCP shall have an emergency preparedness plan designed to manage the consequences of all hazards, declared disasters or other emergencies that have the potential to disrupt the ARCP's ability to provide care and treatment and/or threatens the lives or safety of the residents. The ARCP shall follow and execute its emergency preparedness plan in the event or occurrence of a disaster or emergency.

1. Emergency events include, but are not limited to hurricanes, floods, fires, chemical or biological hazards, power outages, tornados, tropical storms and severe weather.

B. The ARCP will work in concert with the local parish Office of Emergency Preparedness (OEP) in developing plans.

C. Upon the department's request, an ARCP shall present its plan for review. At a minimum, the plan shall include and address the elements listed below.

1. The plan shall be individualized and site specific. All information contained in the plan shall be current and correct. The ARCP's plan shall follow all current applicable laws, standards, rules or regulations.

2. Upon request, the plan shall be made available to representatives of the following offices:

- a. OSFM;
- b. OPH; and
- c. local Office of Homeland Security.

3. The plan shall contain census information, including transportation needs for current census and available capacity.

4. The plan shall contain a clearly labeled and legible master floor plan(s) that indicates the following:

a. the areas in the ARCP, either in the resident's apartment or the other areas of the ARCP, that are to be used by residents as shelter or safe zones during emergencies;

b. the location of emergency power outlets, if available (if none are powered or all are powered, this shall be stated as such on the plan); and

c. the locations of posted, accessible, emergency information.

5. The plan shall provide for floor plans or diagrams to be posted and those plans or diagrams shall clearly indicate:

a. that specific room or apartment's location, the fire exits, the fire evacuation routes, locations of alarm boxes and fire extinguishers, and written fire evacuation procedures shall be included on one plan; and

b. a separate floor plan or diagram with safe zones or sheltering areas for non-fire emergencies shall indicate areas of building, apartments, or rooms that are designated as safe or sheltering areas.

6. The plan shall include a detailed list of what will be powered by emergency generator(s), if the ARCP has a generator.

7. The plan shall be viable and promote the health, safety and welfare of the residents.

8. The plan shall include a procedure for monitoring weather warnings and watches and evacuation orders from

local and state emergency preparedness officials. This procedure will include:

- a. who will monitor;
- b. what equipment will be used; and
- c. procedures for notifying the director or responsible persons.

9. The plan shall provide for the delivery of essential care and services to meet the needs of the residents during emergencies, who are housed in the ARCP or by the ARCP at another location, during an emergency.

10. The plan shall contain information about staffing when the ARCP is sheltering in place or when there is an evacuation of the ARCP. Planning shall include documentation of staff that have agreed to work during an emergency and contact information for such staff. The plan shall include provisions for adequate, qualified staff as well as provisions for the assignment of responsibilities and duties to staff.

11. The plan shall include procedures to notify each resident's family or responsible representative whether the ARCP is sheltering in place or evacuating to another site. The plan shall include which staff is responsible for providing this notification. If the ARCP evacuates, notification shall include:

- a. the date and approximate time that the ARCP is evacuating;
- b. the place or location to which the ARCP is evacuating, including the:
 - i. name;
 - ii. address; and
 - iii. telephone number.

12. The plan shall include the procedure or method whereby each ARCP resident has a manner of identification that is provided to them to be attached to his/her person. Residents shall be instructed to keep the identification on their person at all times in the event of sheltering in place or evacuation. The following minimum information shall be included with the resident:

- a. current and active diagnosis;
- b. medications, including dosage and times administered;
- c. allergies;
- d. special dietary needs or restrictions; and
- e. next of kin or responsible person and contact information.

13. The plan shall include an evaluation of the building and necessary systems to determine the ability to withstand wind, flood, and other local hazards that may affect the ARCP. If applicable, the plan shall also include an evaluation of each generator's fuel source(s), including refueling plans and fuel consumption.

14. The plan shall include an evaluation of the ARCP's surroundings to determine lay-down hazards, objects that could fall on the ARCP, and hazardous materials in or around the ARCP, such as:

- a. trees;
- b. towers;
- c. storage tanks;
- d. other buildings;
- e. pipe lines;
- f. chemicals;
- g. fuels; or

h. biologics.

15. For ARCPs that are geographically located south of Interstate 10 or Interstate 12, the plan shall include the determinations of when the ARCP will shelter in place and when the ARCP will evacuate for a storm or hurricane and the conditions that guide these determinations.

16. If the ARCP shelters in place, the ARCP's plan shall include provisions for seven days of necessary supplies to be provided by the ARCP prior to the emergency event, to include:

- a. drinking water or fluids;
- b. non-perishable food; and
- c. other provisions as needed to meet the contractual obligations and current level of care requirements of each resident.

17. The plan shall include a posted communications plan for contacting emergency services and monitoring emergency broadcasts and whose duty and responsibility this will be. The communications plan will include a secondary plan in the event primary communications fail.

18. The plan shall include how the ARCP will notify the local Office of Emergency Preparedness and the department when the decision is made to shelter in place or evacuate and whose responsibility it is to provide this notification.

D. The ARCP shall have transportation or arrangements for transportation for evacuation, hospitalization, or any other services which are appropriate and to meet the contractual obligations and current level of care requirements of each resident.

1. Transportation or arrangements for transportation shall be adequate for the current census and meet the ambulatory needs of the residents.

2. Transportation or arrangements for transportation shall be for the evacuation from and return to the ARCP or as needed to meet the contractual obligations or current level of care requirements of each resident.

E. The ARCP director, or designee, shall make the decision to evacuate or shelter in place after reviewing all available and required information on the storm, the ARCP, the ARCP's surroundings, and in consultation with the local office of Emergency Preparedness. In making the decision to shelter in place or evacuate, the ARCP shall consider the following:

1. under what conditions the ARCP will shelter in place;
2. under what conditions the ARCP will close or evacuate; and
3. when will these decisions be made.

F. The ARCP accepts all responsibility for the health and well-being of all residents that shelter with the ARCP before, during, and after the storm.

G. The ARCP shall have a plan for an on-going safety program to include:

1. inspection of the ARCP for possible hazards with documentation;
2. monitoring of safety equipment and maintenance or repair when needed and/or according to the recommendations of the equipment manufacturer, with documentation;
3. investigation and documentation of all accidents or emergencies;

4. fire control and evacuation planning with documentation of all emergency drills; and

5. all aspects of the ARCP's plan, planning, and drills which shall meet the requirements of the OSFM.

H. The ARCP shall inform the resident and/or the resident's representative of the ARCP's emergency plan and ongoing safety plan and the actions to be taken. Current emergency preparedness plan information shall be available for review by the resident or the resident's representative.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1109 (June 2015).

§6877. Emergency Plan Activation, Review and Summary

A. Following an event or occurrence of a disaster or emergency, whether the ARCP shelters in place or evacuates, upon request by the department the ARCP shall submit a written summary attesting how the ARCP's emergency preparedness plan was followed and executed. The initial summary shall contain, at a minimum:

1. pertinent plan provisions and how the plan was followed and executed;
2. plan provisions that were not followed;
3. reasons and mitigating circumstances for failure to follow and execute certain plan provisions;
4. contingency arrangements made for those plan provisions not followed; and
5. a list of all injuries and deaths of residents that occurred during the execution of the plan, including the date, time, causes and circumstances of these injuries and deaths.

B. The ARCP's emergency plan(s) shall be activated at least annually, either in response to an emergency or in a planned drill. All staff shall be trained and have knowledge of the emergency plan.

C. All ARCPs must conduct egress and relocation drills in accordance with the requirements of the OSFM and the applicable edition of the NFPA 101 Life Safety Code published by the NFPA.

1. All staff shall participate in at least one drill annually.

2. Fire extinguishers shall be conspicuously hung, kept easily accessible, shall be visually examined monthly and the examination shall be recorded on a tag which is attached to the fire extinguisher. Fire extinguishers shall also be inspected and maintained in accordance with manufacturers' and applicable NFPA requirements. Each fire extinguisher shall be labeled to show the date of such inspection and maintenance.

D. In addition to the exercises for emergencies due to fire, the ARCP plan shall be activated at least once per year for emergencies due to a disaster other than fire, such as storm, flood, and other natural disasters. The activation(s) shall include an exercise for shelter-in-place and an exercise for evacuation. The ARCP shall document the exercise for shelter-in-place and the exercise for evacuation.

E. The ARCP's performance during the activation of the plan shall be evaluated annually by the ARCP and the findings shall be documented in the plan. Records shall be kept to document the evacuation times and participation. Such records shall be maintained at the ARCP and shall be readily available to the OSFM upon request.

F. The plan shall be revised if indicated by the ARCP's performance during the emergency event or the planned drill.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1111 (June 2015).

§6879. Notification

A. The emergency preparedness plan shall specify the following:

1. list of all persons, agencies, authorities to be notified and routinely updated contact information;
2. process of notification;
3. verification or documentation of attempted notification; and
4. back-up communication plans and procedures.

B. An ARCP shall immediately notify the HSS program desk and other appropriate agencies of any fire, disaster or other emergency that may present a danger to residents or require their evacuation from the ARCP.

C. In the event that an ARCP evacuates, temporarily relocates or temporarily ceases operations at its licensed location as a result of an evacuation order issued by the state, local or parish Office of Homeland Security Emergency Preparedness (OHSEP), the ARCP must immediately give notice to the HSS and Governor's Office of Homeland Security Emergency Preparedness (GOHSEP) by facsimile or e-mail of the following:

1. the date and approximate time of the evacuation; and
2. the locations of where the residents have been placed, whether this location is a host site for one or more of the ARCP residents.

D. In the event that an ARCP evacuates, temporarily relocates or temporarily ceases operations at its licensed location for any reason other than an evacuation order, the ARCP must immediately give notice to the HSS by facsimile or e-mail of the following:

1. the date and approximate time of the evacuation; and
2. the location of where the residents have been placed, whether this location is a host site for one or more of the ARCP residents.

E. If there are any deviations or changes made to the locations of the residents that was given to the HSS and the local OEP, then both HSS and the local OEP shall be notified of the changes within 48 hours of their occurrence.

F. Effective immediately upon notification of an emergency declared by the Secretary, all ARCPs licensed in Louisiana shall file an electronic report with the ESF-8 Portal and its applications during a declared emergency, disaster, or a public health emergency.

1. The electronic report shall be filed as prescribed by the department throughout the duration of the disaster or emergency event.

2. The electronic report shall include but not be limited to the following:

- a. status of operation;
- b. availability of beds;
- c. generator status, if applicable;
- d. evacuation destination(s) and status;
- e. shelter in place status;

- f. current census;
- g. emergency evacuation transportation needs categorized by the following types:
 - i. red—high risk patients that need to be transported by advanced life support ambulance due to dependency on mechanical or electrical life sustaining devices or very critical medical condition;
 - ii. yellow—residents who are not dependent on mechanical or electrical life sustaining devices, but cannot be transported using normal means (buses, vans, cars), may need to be transported by an ambulance; however, in the event of inaccessibility of medical transport, buses, vans or cars may be used as a last resort; or
 - iii. green—residents who need no specialized transportation may be transported by car, van, bus or wheelchair accessible transportation; and
- h. any other information as requested by the department.

3. There shall be a plan and procedures to file the report if primary communications fail.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1111 (June 2015).

§6881. Authority to Re-open After an Evacuation, Temporary Relocation or Temporary Cessation of Operation

A. The following applies to any ARCP that evacuates, temporarily relocates or temporarily ceases operation at its licensed location due to an emergency.

1. The ARCP must immediately give written notice to HSS by hand delivery, facsimile or e-mail of the following information:

- a. the date and approximate time of the evacuation;
- b. the sheltering host site(s) to which the ARCP is evacuating; and
- c. a list of residents being evacuated, which shall indicate the evacuation site for each resident.

2. Within 48 hours, the ARCP must notify HSS of any deviations from the intended sheltering host site(s) and must provide HSS with a list of all residents and their locations.

3. If there was no damage to the licensed location due to the emergency event, and there was no power outage of more than 48 hours at the licensed location due to the emergency event, the ARCP may reopen at its licensed location and shall notify HSS within 24 hours of reopening. For all other evacuations, temporary relocations, or temporary cessation of operations due to an emergency event, an ARCP must submit to HSS a written request to reopen, prior to reopening at the licensed location. The request to reopen shall include:

- a. a damage report;
- b. the extent and duration of any power outages;
- c. the re-entry census;
- d. staffing availability;
- e. access to emergency or hospital services; and
- f. availability and/or access to food, water, medications and supplies.

B. Upon receipt of a reopening request, the department shall review and determine if reopening will be approved. The department may request additional information from the

ARCP as necessary to make determinations regarding reopening.

C. After review of all documentation, in order to assure that the ARCP is in compliance with the licensing standards including, but not limited to, the structural soundness of the building, the sanitation code, staffing requirements and the execution of emergency plans, the department shall issue a notice of one of the following determinations:

- 1. approval of reopening without survey;
- 2. surveys required before approval to reopen will be granted. Surveys may include OPH, Fire Marshall and Health Standards; or
- 3. denial of reopening.

D. The HSS, in coordination with state and parish OHSEP, will determine the ARCP's access to the community service infrastructure, such as hospitals, transportation, physicians, professional services and necessary supplies.

E. The HSS will give priority to reopening surveys.

F. Upon request by the department, the ARCP shall submit a written summary attesting how the ARCP's emergency preparedness plan was followed and executed. The initial summary shall contain, at a minimum:

- 1. pertinent plan provisions and how the plan was followed and executed;
- 2. plan provisions that were not followed;
- 3. reasons and mitigating circumstances for failure to follow and execute certain plan provisions;
- 4. contingency arrangements made for those plan provisions not followed;
- 5. a list of all injuries and deaths of residents that occurred during execution of the plan, evacuation and temporary relocation including the date, time, causes and circumstances of the injuries and deaths; and
- 6. a summary of all request for assistance made and any assistance received from the local, state, or federal government.

G. Sheltering in Place. If an ARCP shelters in place at its licensed location during an emergency event, the following will apply.

1. The ARCP must immediately give written notice to the HSS by hand delivery, facsimile or e-mail that the ARCP will shelter in place.

2. Upon request by the department, the ARCP shall submit a written summary attesting how the ARCP's emergency preparedness plan was followed and executed. The initial summary shall contain, at a minimum:

- a. pertinent plan provisions and how the plan was followed and executed;
- b. plan provisions that were not followed;
- c. reasons and mitigating circumstances for failure to follow and execute certain plan provisions;
- d. contingency arrangements made for those plan provisions not followed;
- e. a list of all injuries and deaths of residents that occurred during the execution of the plan, including the date, time, causes and circumstances of these injuries and deaths; and
- f. a summary of all request for assistance made and any assistance received from the local, state, or federal government.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1112 (June 2015).

Subchapter H. Physical Environment

§6885. General Requirements and Authority

A. The standards in this Subchapter shall apply to any ARCP constructed after the effective date of this rule, alterations, additions or substantial rehabilitation to an existing ARCP, or adaptation of an existing building to create an ARCP. Cosmetic changes to the ARCP such as painting, flooring replacement or minor repairs shall not be considered an alteration or substantial rehabilitation.

B. An ARCP shall submit architectural plans and construction documents to the OSFM. The regulations and codes governing new ARCPs also apply if and when the ARCP proposes to begin operation in a building not previously and continuously used as an ARCP licensed under these regulations.

C. Design Criteria. The project shall be designed in accordance with the following criteria:

1. the requirements of the OSFM;
2. Part XIV (Plumbing) of the *Sanitary Code* (LAC 51), state of Louisiana; and
3. the current department licensing regulations for adult residential care providers.

D. Life Safety Code Occupancy Requirements. Any ARCP that provides services to four or more residents who are not capable of taking action for self-preservation under emergency conditions without the assistance of others shall meet the construction requirements established for limited care health care occupancies and codes adopted by the OSFM. All level 4 ARCPs shall meet limited care health care occupancies and codes adopted by the OSFM.

E. During power outages or other emergencies, level 4 ARCPs shall have the ability to generate power for emergency lighting, designated power outlets and temperature control.

F. Waivers. The secretary may, within his or her sole discretion, grant waivers to physical environment requirements insofar as they do not conflict with the requirements of the OSFM or OPH. Requests for waivers are considered on the following basis.

1. The ARCP must demonstrate how resident health and safety and the maintenance of a homelike environment are not compromised.

2. No waiver shall be approved that results in an ARCP that is not physically distinct from any residential care facility, nursing home or hospital.

3. No waiver shall be approved which results in a living environment that does not provide all required physical features and/or does not provide sufficient space to permit residents to carry out, with or without assistance, all the functions necessary for independent living.

4. The ARCP shall demonstrate its ability to completely fulfill all other requirements of the service.

5. The department shall make a written determination of the request.

6. Waivers are not transferable in an CHOW and are subject to review or revocation upon any change in circumstances to the waiver.

G. All ARCPs licensed under these regulations shall be designed and constructed to substantially comply with pertinent local and state laws, codes, ordinances and

standards. All new construction shall be in accordance with Louisiana *Uniform Construction Code* in effect at the time of original licensure.

H. Practices that create an increased risk of fire are prohibited. This includes, but is not limited to:

1. space heaters;
2. the accumulation or storage within the ARCP of combustible materials such as rags, paper items, gasoline, kerosene, paint or paint thinners; or
3. the use of extension cords or multi-plug adapters for electrical outlets, except ARCPs may utilize transient voltage surge protectors or surge suppressors with microprocessor electronic equipment such as computers or CD/DVD recorders or players. Any transient voltage surge protectors or surge suppressors shall have a maximum UL rating of 330v and shall have a functioning protection indicator light. ARCPs may not use transient voltage surge protectors or surge suppressors that do not function completely or for which the protection indicator light does not work.

I. Safety Standards for Smoking

1. Adult residential care providers may elect to prohibit smoking in the ARCP or on the grounds or both. If an ARCP elects to permit smoking in the ARCP or on the grounds, the ARCP shall include the following minimal provisions, and the ARCP shall ensure the following.

a. In ARCPs equipped with sprinkler systems, the ARCP may designate a smoking area or areas within the ARCP. The designated area or areas shall have a ventilation system that is separate from the ventilation system for non-smoking areas of the ARCP. ARCPs lacking a sprinkler system are prohibited from designating smoking areas within the ARCP.

b. Smoking shall be prohibited in any room or compartment where flammable liquids, combustible gases or oxygen is used or stored, and any general use/common areas of the ARCP. Such areas shall be posted with "no smoking" signs.

c. Smoking by residents assessed as not capable of doing so without assistance shall be prohibited unless the resident is under direct supervision.

d. Ashtrays of noncombustible material and safe design shall be placed in all areas where smoking is permitted.

e. Metal containers with self-closing cover devices into which ashtrays may be emptied shall be placed in all areas where smoking is permitted.

J. Kitchen/Food Service

1. Each ARCP shall comply with all applicable regulations relating to food service for sanitation, safety and health as set forth by state, parish and local health departments.

2. The ARCP shall have a central or a warming kitchen.

3. The kitchen of an ACRP shall be in compliance with the requirements of Part XXIII of the Louisiana *Sanitary Code* (LAC 51).

4. Level 3 and 4 ARCPs may opt out of having a central kitchen if meals are prepared in an off-site location.

a. ARCPs opting out shall have a kitchen area to hold, warm and serve food prepared at the off-site location.

This kitchen area shall meet the Louisiana *Sanitary Code* requirements for food safety and handling.

b. Meals and snacks provided by the ARCP but not prepared on-site shall be obtained from or provided by an entity that meets the standards of state and local health regulations concerning the preparation and serving of food.

c. Opting out does not exempt ARCPs from meeting dining room space that is separate and distinct as referenced above in physical separation standards.

5. In ARCPs that have commercial kitchens with automatic extinguishers in the range hood, the manufacturer's recommendations regarding portable fire extinguishers shall be followed.

6. The kitchen and food preparation area shall be well lit, ventilated, and located apart from other areas to prevent food contamination in accordance with the state *Sanitary Code*.

7. An adequate supply of eating utensils (e.g., cups, saucers, plates, glasses, bowls, and flatware) will be maintained in the ARCP's kitchen to meet the needs of the communal dining program. Eating utensils shall be free of chips or cracks.

8. An adequate number of pots and pans shall be provided for preparing meals.

9. Each ARCP shall have adequate storage space. All storage space shall be constructed and maintained to prevent the invasion of rodents, insects, sewage, water leakage or any other contamination. Shelving shall be of sufficient height from the floor to allow cleaning of the area underneath the bottom shelf. All items shall be stored in accordance with state *Sanitary Code*.

10. Food waste shall be placed in garbage cans with airtight fitting lids and bag liners. Garbage cans shall be emptied daily.

K. Laundry

1. Each ARCP shall have laundering facilities unless commercial laundries are used.

a. The laundry shall be located in a specifically designed area that is physically separate and distinct from residents' rooms and from areas used for dining and food preparation and service.

b. There shall be adequate rooms and spaces for sorting, processing and storage of soiled material.

c. Laundry rooms shall not open directly into a resident's personal living area or food service area.

2. Domestic washers and dryers for the use by residents may be provided in resident areas provided they are installed and maintained in such a manner that they do not cause a sanitation problem, offensive odors, or fire hazard.

3. Supplies and equipment used for housekeeping and laundry will be stored in a separate locked room. All hazardous chemicals will be stored in compliance with OPH requirements.

L. Lighting

1. All in-door areas of an ARCP shall be well lighted to ensure residents' safety and to accommodate need.

2. Night-lights for corridors, emergency situations and the exterior shall be provided as needed for security and safety.

3. All rooms shall have working light switches at the entrance to each room.

4. Light fixtures in resident general use or common areas shall be equipped with covers to prevent glare and hazards to the residents.

M. HVAC/Ventilation

1. The ARCP shall provide safe HVAC systems capable of maintaining a temperature range of 71-81 degrees Fahrenheit.

2. Filters for heaters and air conditioners shall be provided as needed and maintained in accordance with manufacturer's specifications.

N. If the ARCP uses live-in staff, staff shall be provided with adequate, separate living space with a private bathroom. This private bathroom is not to be counted as available to residents.

O. An ARCP shall have space that is distinct from residents' living areas to accommodate administrative and record-keeping functions.

P. An ARCP shall have a designated space to allow private discussions with individual residents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1113 (June 2015).

§6887. Physical Appearance and Conditions

A. The ARCP shall be constructed, equipped, and maintained in good repair and free of hazards.

1. Potentially hazardous areas include, but are not limited to:

- a. steep grades;
- b. cliffs;
- c. open pits;
- d. swimming pools;
- e. high voltage boosters; or
- f. high speed roads.

2. Potentially hazardous areas shall be fenced off or have natural barriers to protect residents.

B. An accessible outdoor recreation area is required and shall be made available to all residents and include walkways suitable for walking and benches for resting. Lighting of the area shall be equal to a minimum of five foot-candles.

C. ARCPs shall have an entry and exit drive to and from the main building entrance that will allow for picking up and dropping off residents and for mail deliveries. ARCPs licensed after the effective date of this Rule shall have a covered area at the entrance to the building to afford residents protection from the weather.

D. If the ARCP maintains a generator on the grounds of the ARCP, it shall be fenced off or have natural barriers to protect residents.

E. Waste Removal and Pest Control

1. Garbage and rubbish that is stored outside shall be stored securely in covered containers and shall be removed on a regular basis.

2. Trash collection receptacles and incinerators shall be separate from outdoor recreational space and located as to avoid being a nuisance to neighbors.

3. The ARCP shall have an effective pest control program through a pest control contract.

F. Signage. The ARCP's address shall be displayed so as to be easily visible from the street.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1114 (June 2015).

§6889. Resident Dining and Common Areas

A. The ARCP shall provide common areas to allow residents the opportunity for socialization. Common areas shall not be confined to a single room.

B. The ARCP shall meet the following requirements for resident dining and common areas.

1. The common areas shall be maintained to provide a clean, safe and attractive environment for the residents.

2. Each ARCP shall have dining room and common areas easily accessible to all residents.

3. Dining rooms and common areas shall be available for use by residents at appropriate times to provide periods of social diversion and individual or group activities.

4. Common areas and dining rooms shall not be used as bedrooms.

C. Square Footage. Square footage requirements for common areas and dining room(s) are as follows.

1. Common areas shall be separate from the dining room with a combined total square footage of at least 60 square feet per resident as based on licensed capacity. Common areas do not include corridors and lobby areas for the purposes of calculation.

2. The ARCP shall have at least 20 square feet of designated dining space per resident if dining will be conducted in one seating. If dining will be conducted in two seatings, 10 square feet per resident will be required. ARCPs will document their dining seating plan, and maintain the documentation for review by the department.

D. Residents of the ARCP shall have access to the outdoors for recreational use. The parking lot shall not double as recreational space.

E. If the ARCP accepts residents that have dementia or cognitive impairments that make it unsafe for them to leave the building or grounds without supervision, an enclosed area shall be provided adjacent to the ARCP so that such residents may go outside safely.

F. With the exception of level 1 ARCPs, the ARCP shall provide public restrooms of sufficient number and location to serve residents and visitors. Public restrooms shall be located close enough to common areas to allow residents to participate comfortably in activities and social opportunities.

G. For every 40 residents, there shall be, at a minimum, one dedicated telephone available for use in common areas when a telephone line is not provided in each apartment.

1. The telephone shall allow unlimited local calling without charge.

2. Long distance calling shall be possible at the expense of the resident or the resident's representative via personal calling card, pre-paid telephone card, or similar methods.

3. The telephone shall be located away from frequently used areas so that residents shall be able to make telephone calls in an at least auditory privacy.

H. In ARCPs housing residents in more than one building, covered walkways with accessible ramps are required for buildings that house residents and areas intended for resident use, such as laundry facilities, dining rooms or common areas.

I. An ARCP shall not share common living, or dining space with another entity licensed to care for individuals on a 24-hour basis.

J. Space used for administration, sleeping, or passage shall not be considered as dining or common areas.

K. Adult Residential Care Providers in Shared Businesses

1. Physical and Programmatic Separation. If more than one business occupies the same building, premises, or physical location, the ARCP shall be both physically and programmatically distinct from the business to which it is attached or of which it is a part. ARCPs shall comply with R.S. 40:2007.

2. Entrance. If more than one business occupies the same building, premises, or physical location, the ARCP shall have its own entrance. This separate entrance shall not be accessed solely through another business or health care provider. This separate entrance shall have appropriate signage and shall be clearly identifiable as belonging to the ARCP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1115 (June 2015).

§6891. Resident Personal Space

A. Level 1 ARCP Bedroom Requirements

1. A level 1 ARCP shall ensure that each single occupancy bedroom space has a floor area of at least 100 net square feet and that each multiple occupancy bedroom space has a floor area of at least 70 net square feet for each resident. Bathrooms and closets/wardrobes shall not be included in the calculation of square footage.

2. There shall be no more than two residents per bedroom. All shared living arrangements shall be agreed to in writing by both parties.

3. A room where access is through a bathroom or another bedroom shall not be approved or used as a resident's bedroom.

4. Privacy of residents shall be maintained in residents' personal space.

B. Level 2 ARCP Bedroom Requirements

1. A level 2 ARCP shall ensure that each single occupancy bedroom space has a floor area of at least 100 net square feet and that each multiple occupancy bedroom space has a floor area of at least 70 net square feet for each resident. Bathrooms and closets/wardrobes shall not be included in the calculation of square footage.

2. There shall be no more than two residents per bedroom. All shared living arrangements shall be agreed to in writing by both parties.

3. A room where access is through a bathroom or another bedroom shall not be approved or used as a resident's bedroom.

4. Privacy of residents shall be maintained in resident's personal space.

C. Requirements for Resident Bathrooms in level 1 and 2 ARCPs

1. There shall be at least one bathroom for every four residents.

2. Bathrooms shall be equipped with one toilet, bathtub or shower, and a washbasin.

3. Grab bars and non-skid surfacing or strips shall be installed in all showers and bath areas.

4. Bathrooms shall have floors and walls of impermeable, cleanable, and easily sanitized materials.

5. Resident bathrooms shall not be utilized for storage or purposes other than those indicated by this Subsection.

6. Hot and cold-water faucets shall be easily identifiable and be equipped with scald control.

a. Hot water temperatures shall not exceed 120 degrees Fahrenheit.

7. Each bathroom shall be supplied with toilet paper, soap and towels.

8. Mirrors shall be provided and secured to the wall at convenient heights to allow residents to meet basic personal hygiene and grooming needs.

9. Bathrooms shall be located so that they open into the hallway, common area, or directly into the bedroom. If the bathroom opens directly into a bedroom, it shall be for the use of the occupants of that bedroom only.

D. Requirements for Resident Apartments in levels 3 and 4

1. All apartments in levels 3 and 4 shall be independent and shall contain at a minimum the following areas:

a. a bedroom/sleeping area that can be distinguished by sight from other areas in the apartment;

b. a bathroom;

c. a kitchenette that can be distinguished by sight from other areas in the apartment;

d. a dining/living area; and

e. a closet/wardrobe.

2. Square Footage in Level 3 and 4 ARCPs

a. Efficiency/ studio apartments shall have a minimum of 250 net square feet of floor space, excluding bathrooms and closets and/or wardrobes.

b. Resident apartments with separate bedrooms shall be at minimum 190 square feet in living area excluding bathrooms and 100 square feet for each bedroom excluding closets and/or wardrobes.

3. Privacy of residents shall be maintained in all apartments.

4. Each apartment shall have an individual lockable entrance and exit. All apartments shall be accessible by means of a master key or similar system that is available at all times in the ARCP and for use by designated staff.

5. No apartment shall be occupied by more than two residents regardless of square footage. All shared living arrangements shall be agreed to in writing by both residents.

a. It is recognized that there may be more individuals in an ARCP due to husbands and wives sharing a living unit than is listed as the total licensed capacity.

6. Each apartment shall contain an outside window. Skylights are not acceptable to meet this requirement.

7. In new ARCPs licensed after the effective date of these regulations, the ARCP shall provide HVAC thermostats that can be individually controlled by the resident, with a locking mechanism provided, if required, to prevent harm to a resident.

8. Each apartment shall have a call system, either wired or wireless, monitored 24 hours a day by the ARCP staff.

9. Each apartment shall be equipped for telephone and television cable or central television antenna system.

10. Each apartment shall have access to common areas and dining room(s).

11. Kitchenettes

a. Each apartment shall contain, at a minimum, a small refrigerator, a wall cabinet for food storage, a small bar-type sink, and a counter with workspace and electrical outlets, a small cooking appliance, for example, a microwave or a two-burner cook top.

b. If the resident's assessment indicates that having a cooking appliance in the apartment endangers the resident, no cooking appliance shall be provided or allowed in the apartment or the cooking appliance may be disconnected.

12. Bathrooms. Each apartment shall have a separate and complete bathroom with a toilet, bathtub or shower, and sink. The bathrooms shall be ADA accessible.

a. Entrance to a bathroom from one bedroom shall not be through another bedroom.

b. Grab bars and non-skid surfacing or strips shall be installed in all showers and bath areas.

c. Bathrooms shall have floors and walls of impermeable, cleanable, and easily sanitized materials.

d. Resident bathrooms shall not be utilized for storage or purposes other than those indicated by this Subsection.

e. Hot and cold-water faucets shall be easily identifiable and be equipped with scald control.

i. Hot water temperatures shall not exceed 120 degrees Fahrenheit.

f. Each bathroom shall be equipped with an emergency call system that is monitored 24 hours a day by the ARCP staff.

13. Storage. The ARCP shall provide adequate portable or permanent closet(s) in the apartment for clothing and personal belongings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1115 (June 2015).

§6893. Furnishings and Equipment

A. Common Areas

1. Furniture for shared living rooms and sitting areas shall include comfortable chairs, tables, and lamps.

2. All furnishings and equipment shall be durable, clean, and appropriate to its function. Furnishings shall be tested in accordance with the provisions of the applicable edition of the *NFPA 101 Life Safety Code*.

3. Windows shall be kept clean and in good repair and supplied with curtains, shades or drapes. Each window that can be opened shall have a screen that is clean and in good repair.

4. All fans located within seven feet of the floor shall be protected by screen guards.

5. Throw or scatter rugs, or bath rugs or mats shall have a non-skid backing.

6. Wastepaper baskets and trash containers used in the common areas shall be metal or approved washable plastic baskets.

B. Furnishings and Supplies

1. Each Facility shall strive to maintain a residential environment and encourage residents to use their own furnishings and supplies. However, if the resident does not bring their own furniture, the ARCP shall assist in planning and making arrangements for obtaining:

a. a bed, including a frame and a clean mattress and pillow;

b. basic furnishings, such as a private dresser or similar storage area for personal belongings that is readily accessible to the resident;

c. a closet, permanent or portable, to store clothing and aids to physical functioning, if any, which is readily accessible to the resident;

d. a minimum of two chairs;

e. blankets and linens appropriate in number and type for the season and the individual resident's comfort;

f. towels and washcloths; and

g. provisions for dining in the living unit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1116 (June 2015).

Chapter 88. Adult Residential Care Home

§8801. Authority; Purpose/Intent; Policy

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 14:27 (January 1988), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 24:2326 (December 1998), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1117 (June 2015).

§8803. Licensing Procedure

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 14:27 (January 1988), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 24:2327 (December 1998), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1117 (June 2015).

§8805. License and Other Fees

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 14:27 (January 1988), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 24:2328 (December 1998), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 26:2632 (November 2000), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1117 (June 2015).

§8807. Denial, Revocation or Nonrenewal of License, Appeal Procedure

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 14:27 (January 1988), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 24:2328 (December 1998), amended by the Department of Social Services, Office of Family Support, LR 36:831 (April 2010), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1117 (June 2015).

§8809. Operating Without a License or in Violation of Departmental Regulations; Penalty; Injunctive Relief

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 14:27 (January 1988), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 24:2329 (December 1998), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1117 (June 2015).

§8811. General Authority and Regulations

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 14:27 (January 1988), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 24:2329 (December 1998), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1117 (June 2015).

§8813. Definitions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 14:27 (January 1988), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 24:2329 (December 1998), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1117 (June 2015).

§8815. Organization and Administration

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 14:27 (January 1988), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 24:2331 (December 1998), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1117 (June 2015).

§8817. Management Responsibilities

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 14:27 (January 1988), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 24:2331 (December 1998), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1117 (June 2015).

§8819. Required Staffing

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 14:27 (January 1988), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 24:2333 (December 1998), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1118 (June 2015).

§8821. Resident Protection

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 14:27 (January 1988), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 24:2334 (December 1998), LR 30:92 (January 2004), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1118 (June 2015).

§8823. Admission

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 14:27 (January 1988), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 24:2336 (December 1998), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1118 (June 2015).

§8825. Discharge

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 14:27 (January 1988), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 24:2337 (December 1998), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1118 (June 2015).

§8827. Services

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 14:27 (January 1988), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 24:2338 (December 1998), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1118 (June 2015).

§8829. Environment

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 14:27 (January 1988), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 24:2340 (December 1998), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1118 (June 2015).

§8831. Assisted Living

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 14:27 (January 1988), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 24:2341 (December 1998), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1118 (June 2015).

§8833. Personal Care Home

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 14:27 (January 1988), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 24:2343 (December 1998), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1118 (June 2015).

§8835. Shelter Care Facility

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 14:27 (January 1988), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 24:2344 (December 1998), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1118 (June 2015).

Kathy H. Kliebert
Secretary

1506#047

RULE

**Department of Health and Hospitals
Bureau of Health Services Financing**

Medicaid Eligibility
Provisional Medicaid Program
(LAC 50:III.2305)

The Department of Health and Hospitals, 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. Provisional Medicaid Program

A. The Provisional Medicaid Program provides Medicaid-only coverage to individuals who:

- 1. are aged or have a disability; and

2. meet income and resource requirements for supplemental security income (SSI) cash assistance.

B. The Provisional Medicaid Program provides coverage to individuals with income equal to or less than the federal benefit rate (FBR), and resources that are equal to or less than the resource limits of the SSI cash assistance program.

C. A certification period for the Provisional Medicaid Program shall not exceed 12 months.

D. Retroactive coverage up to three months prior to the receipt of the Medicaid application shall be available to recipients in the Provisional Medicaid Program.

1. Any retroactive coverage period shall not be prior to the implementation date of the Provisional Medicaid Program.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1118 (June 2015).

Kathy H. Kliebert
Secretary

1506#049

RULE

Department of Health and Hospitals Bureau of Health Services Financing

Professional Services Program
Physician Services
Reimbursement Rate Adjustment
(LAC 50:IX.15113)

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 50:IX.15113 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 IX. Professional Services Program

Subpart 15. Reimbursement

Chapter 151. Reimbursement Methodology

Subchapter B. Physician Services

§15113. Reimbursement

A. - L.3. ...

M. Effective for dates of service on or after June 20, 2015, the reimbursement for the physician-administered drug, 17 Hydroxyprogesterone (17P), shall increase to \$69 per dose.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1252 (June 2010), amended LR 36:2282 (October 2010), LR 37:904 (March 2011), LR 39:3300, 3301 (December 2013), LR 41:541 (March 2015), LR 41:1119 (June 2015).

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

Kathy H. Kliebert
Secretary

1506#048

RULE

Board of Supervisors of Louisiana State University and Agricultural and Mechanical College Office of Procurement and Property Management

Public Notification and Right to Audit
(LAC 34:XIII.511 and 1902)

The Board of Supervisors of Louisiana State University and Agricultural and Mechanical College has amended LAC 34:XIII.511 and 1902, in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., and the Louisiana Granting Resources and Autonomy for Diplomas Act, R.S. 17:3139 et seq.

The purpose of the change to §511 is that it replaces the permissive “may” with a mandatory “shall.” The criteria set forth by this Section will be required elements of any public notification for solicitation.

The purpose of the change to §1902 is that it adds a section that requires the “right to audit” as a required contract clause so the audit language will be included in all contracts. Subsection A is renumbered in order to remove the right to audit as a permissive clause.

Title 34

GOVERNMENT CONTRACTS, PROCUREMENT, AND PROPERTY CONTROL

Part XIII. University Pilot Procurement Code

Chapter 5. Competitive Solicitations

§511. Public Notice for Procurements; Submission Deadline

A. Public Notification. Public notification of solicitations for bids/proposals/offers/auctions/quotations shall be made through a centralized electronic interactive environment. The notice for each solicitation shall contain the name, address, email address and telephone number of the university contact person from whom detailed information may be obtained, shall describe the goods or services sought, and shall designate the forms to be used and the date, time and place for the receipt of bids/proposals/offers/auctions/quotations.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3139-3139.7 as amended by Act 749 of 2014.

HISTORICAL NOTE: Promulgated by the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, Office of Procurement and Property Management, LR 41:546 (March 2015), amended LR 41:1119 (June 2015).

Chapter 19. Contracts

§1902. Contract Clauses; Administration

A. ...

1. termination of the contract for default;
2. the right to suspend or terminate a contract based on the absence of budgeted funds for the acquisition of goods or services;
3. prohibiting illegal discrimination by the contractor;
4. requiring that Louisiana law shall apply to all disputes, and that venue for any actions brought against university arising out of the contract shall be only in the Nineteenth Judicial District Court in East Baton Rouge Parish;
5. liquidated damages as appropriate;
6. specified reasons for delay or nonperformance;
7. termination of the contract in whole or in part for the convenience of the university;
8. for cost reimbursement-based contracts, an itemized budget;
9. a description of reports or other deliverables to be received, when applicable;
10. a schedule when reports or other deliverables are to be received, when applicable;
11. responsibility for payment of taxes, when applicable;
12. assignability of the contract or rights to payments under the contract;
13. indemnification;
14. payment terms in accordance to R.S. 13:4202(B) for the applicable time period.

B. Required Contract Clauses. Clauses providing for the following requirement shall be included in contracts.

1. All contracts will contain audit language to comply with R.S. 39:1629.1.

C. Contract Clauses. May permit or require the inclusion of clauses providing for appropriate equitable adjustments in prices, time for performance, or other contract provisions.

D. Documentation. If it is determined by the university that additional evidence of the validity of a claim for payment is required, such evidence shall be requested within 10 days, excluding Saturdays, Sundays and postal holidays from the receipt of the bill. In instances where additional evidence is required, the bill shall be reviewed and payment or rejection made within 30 days from receipt of the evidence requested by the university.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3139-3139.7 as amended by Act 749 of 2014.

HISTORICAL NOTE: Promulgated by the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, Office of Procurement and Property Management, LR 41:552 (March 2015), amended LR 41:1120 (June 2015).

Sally McKechnie
Director

1506#024

RULE

**Department of Natural Resources
Office of Conservation**

**Plug and Abandonment of Oil and Gas Wells,
Financial Security, Utility Review Status
(LAC 43:XIX.Chapter 1)**

Editor's Note: Section 137 of this Rule is being repromulgated to correct citation/codification errors. The original Rule may be viewed in its entirety on pages 951-954 of the May 20, 2015 *Louisiana Register*.

The Department of Natural Resources, Office of Conservation has amended LAC 43: XIX, Subpart 1 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the power delegated under the laws of the state of Louisiana. The amendment was made to implement recommendations of the Legislative Auditor in the performance audit issued May 28, 2014. The amendment removed any exemptions from financial security, increased financial security amounts to be consistent with actual plug and abandonment costs and established periods for review of wells in future utility status.

Title 43

NATURAL RESOURCES

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

Chapter 1. General Provisions

§137. Plugging and Abandonment

A. Schedule of Abandonment

1. Dry Holes. All wells drilled for oil or gas and found to be dry prior to or after the effective date of this order shall be plugged within 90 days after operations have been completed thereon or 90 days after the effective date of this order, whichever is later, unless an extension of time is granted by the commissioner of conservation.

2. Inactive, Future Utility Wells. All inactive wells classified as having future utility shall be plugged within five years of the date of the well becoming inactive. Failure to accurately report wells on the inactive well report shall be subject to the provisions of R.S. 30:17.

a. For wells that have been inactive for a period of four years or more on the effective date of this rule, the well shall be plugged within one year of the effective date of this Rule.

b. If an operator chooses not to plug an inactive well in accordance with this Section for reasons of future utility, an annual assessment of \$250 per well per year shall be assessed until the well is plugged.

c. For all inactive wells not already covered by financial security as required in §104, financial security shall be provided within one year of the promulgation of this Rule.

d. The commissioner of conservation may grant an extension of time or other exemption for cause.

e. An operator may submit a request to the commissioner for a schedule of abandonment as described in §137(A)(4) to assist with meeting its plugging obligations.

f. All inactive wells shall be subject to the above provisions until the well has reported production for three consecutive months.

3. Other Wells on or after Effective Date of Order

a. All wells wherein production operations or use as a service well have ceased on or after the effective date of this order shall continue to be reported on the Form DM-1-R or Form DT-1 with the appropriate notation that the well is off production or no longer in use as a service well along with the date of last production or date the service well ceased to be used; and, after six months, if such a well has not been restored to production or use as a service well, it shall thereafter be reported by the operator on the semiannual inactive well report, Form INACT WR-1 (1974) which report shall be filed with the Department of Conservation showing the status of such well as of April 1 and October 1 of each year (report to be filed no later than April 25 and October 25). Such wells shall continue to be reported on the Form DM-1-R or Form DT-1 showing the date of last production or the date the well ceased to be used as a service well, together with a notation showing the well is carried on the Form INACT WR-1 (1974), Inactive Well Report, until the well is plugged and abandoned.

b. The inactive well report shall list the field, well name, well number and other pertinent data and provide an appropriate column to classify such well as having either future utility, or no future utility. If the well is classified as having future utility, operator shall specify such utility by completing the appropriate column on the form. Wells so classified shall be reviewed periodically by the district manager who, at his discretion, may require an operator to supply additional information to justify the classification.

c. All such wells classified on the inactive well report by either the operator or the district manager as having no future utility shall be plugged within 90 days from the date of such classification unless any such well is included in a schedule of abandonment approved or promulgated by the commissioner of conservation or an extension of time is otherwise granted by the commissioner of conservation. The date any schedule of abandonment is approved or promulgated or an extension of time expires shall be shown in the appropriate column on the form.

4. Schedule of Abandonment. A schedule of abandonment submitted in accordance with Subparagraph 2.e or 3.c above shall include a schedule or program for the orderly plugging of wells which should be consistent with prudent operating practices and take into account any economic considerations and other circumstances which would affect such a program of plugging wells. Any schedule of abandonment approved or promulgated by the commissioner of conservation shall be followed unless modified by the operator with approval of the commissioner. Reference to the approved schedule of abandonment shall be made on the inactive well report for each well which is included in such a program and has not yet been plugged.

5. Administrative Interpretation. For purposes of administering the heretofore mentioned paragraphs, it is understood that:

a. a wellbore which is completed in more than one common source of supply (multiple completions) shall not be considered as ceasing to produce and shall not be reported on the inactive well report as long as there is production from or operations in any completion in the wellbore;

b. wells classified as having future utility may be off production or shut-in but are considered to have future utility for producing oil or gas, or for use as a service well;

B. The responsibility of plugging any well over which the commissioner of conservation has jurisdiction shall be the owner(s) of record.

C. In the event any owner(s) responsible for plugging any well fails to do so, and after a diligent effort has been made by the department to have said well plugged, then the commissioner may call a public hearing to show cause why said well was not plugged.

D. The commissioner or his agent may require the posting of a reasonable bond with good and sufficient surety in order to secure the performance of the work of proper abandonment.

E. The district manager shall be notified immediately by the new operator whenever a change of operator occurs. This must be accomplished by submitting Department of Conservation Form MD-10-RA (application for amended permit to drill for minerals) to reflect the new operator.

F. Plugging Procedures

1. Notification of intention to plug any well or wells over which the commissioner of conservation has jurisdiction, shall be given to the appropriate district manager prior to the plugging thereof. Notification shall be made in writing to the district office in the form of a WORK PERMIT (Form DM-4 Rev.) for which an original and three copies are required. Where plugging involves a well with a rig on location, the district manager may grant verbal approval to plug and abandon the well provided the work permit is subsequently submitted. Any operator who fails to comply with this requirement may be required by the district manager to place additional cement plug(s) and/or prove the plug(s) are placed as the operator states they are.

2. Once an operator has issued a work permit to plug and abandon a well by the appropriate district manager, then said operator shall be required to contact the appropriate oil and gas inspector a minimum of 12 hours prior to beginning the plugging operations. During drilling and/or workover operations, the requirement to contact the appropriate oil and gas inspector a minimum of 12 hours prior to beginning the plugging operations shall be waived at the time verbal notification is made to the district office.

3. In plugging wells, it is essential that all oil or gas bearing formations be protected.

a. Sufficient cement shall be used to adequately isolate each perforated pool, one from the other. A cement plug of at least 100 feet shall be placed immediately above or across the uppermost perforated interval of the pool. If he deems it advisable, the district manager may allow a bridge plug with a minimum of 10 feet of cement on top to be placed immediately above each producing pool.

b. In wells completed with screen or perforated liners, if it is impractical for the operator to remove the screen or perforated liner, he shall place a cement plug of at

least 100 feet with the bottom as near as practical to the top of the screen or liner. If the district manager deems it advisable, a bridge plug with a minimum of 10 feet of cement on top and placed as near as practical to the top of the screen or liner may be used in lieu of the cement plug.

c. When production casing is not run or is removed from the well, a cement plug of at least 100 feet shall be placed from at least 50 feet below the shoe of the surface casing to at least 50 feet above. In lieu of the above, the operator shall have the option of using a cement retainer placed at least 50 feet above the surface casing shoe and a sufficient amount of cement shall be squeezed below the retainer to form a cement plug from the base of the retainer to 50 feet below the base of the surface casing. A 10-foot cement plug shall be placed on top of the retainer.

d. If fresh-water horizons are exposed when production casing is removed from the well, or as a result of production casing not being run, a cement plug shall be placed from at least 100 feet below the base of the deepest fresh-water sand to at least 150 feet above the base of the sand. A cement plug of at least 100 feet shall also be placed from at least 50 feet below the shoe of the surface casing to at least 50 feet above it. In lieu of the above, the operator shall have the option of using a cement retainer placed at least 50 feet above the surface casing shoe and a sufficient amount of cement shall be squeezed below the retainer to form a cement plug from the base of the retainer to 50 feet below the base of the surface casing. A 10-foot cement plug shall be placed on top of the retainer.

e. The setting and location of the first plug below the top 30-foot plug shall be verified by tagging. In the event a retainer is used, tagging will not be necessary

f. Additional cement plugs shall be placed to adequately contain any high pressure oil, gas or water sands or as may be required by the district manager.

g. A 30-foot cement plug minimum shall be placed in the top of the well.

h. Mud laden fluid of not less than 9 pounds per gallon shall be placed in all portions of the well not filled with cement, unless otherwise approved by the district manager.

i. All cement plugs shall be placed by the circulation or pump down method unless otherwise authorized by the district manager. The hole must be in a static condition at the time the plugs are placed.

j. After placing the top plug, the operator shall be required on all land locations to cut the casing a minimum of two feet below plow depth. On all water locations, the casing shall be cut a minimum of 10 feet below the mud line. If an operator contemplates reentering the well at some future date for saltwater disposal or other purpose, the district manager may approve after receiving written request from an operator not to cut off the casing below plow depth or mud line.

k. The plan of abandonment may be altered if new or unforeseen conditions arise during the well work but only after approval by the district manager.

4. Upon plugging any well for any cause, a complete record thereof shall be made out, duly verified and filed in triplicate on Form P&A in the district office within 20 days

after the plugging of such well. A cementing report shall be filed with the plugging report.

G. Well to be Used for Fresh Water. When the well to be plugged may be safely used as a fresh-water well and the owner or owners of the well have, by a mutual written agreement with the landowner, agreed to turn the well over to the landowner for that purpose, then the well need not be filled above the plug set below the fresh-water formation; provided, however, that the signed agreement or (if recorded in the public records) a certified copy thereof be filed with the appropriate district manager, which shall relieve the owner or owners who turn the well over to the landowner from responsibility above the plug. The plugging report shall indicate that the well has been or will be converted to a fresh water well.

H. Temporary Abandonment of Drilling Wells. Any drilling well which is to be temporarily abandoned and the rig moved away, shall be mudded and cemented as it would be for permanent abandonment, except a cement plug at the surface may be omitted.

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

HISTORICAL NOTE: Adopted by the Department of Conservation (August 1943), amended (March 1974), amended by the Department of Natural Resources, Office of Conservation, LR 40:2597 (December 2014), LR 41:953 (May 2015), repromulgated LR 41:1120 (June 2015).

James H. Welsh
Commissioner

1506#005

RULE

Department of Transportation and Development Professional Engineering and Land Surveying Board

Experience Credit for Graduate-Level Engineering Degree
(LAC 46:LXI.1503)

Under the authority of the Louisiana professional engineering and land surveying licensure law, R.S. 37:681 et seq., and in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana Professional Engineering and Land Surveying Board has amended its rules contained in LAC 46:LXI.1503.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXI. Professional Engineers and Land Surveyors Chapter 15. Experience

§1503. Graduate-Level Engineering Degree

A. An applicant who has obtained a master's degree in engineering which has followed a baccalaureate degree in engineering from an EAC/ABET accredited engineering curriculum may use the master's degree for credit for one year's experience. An applicant who has obtained an earned doctoral degree in engineering which has followed a baccalaureate degree in engineering from an EAC/ABET accredited engineering curriculum may use the doctoral degree for credit for two years' experience. The two-year's credit for the doctoral degree includes the one year for a master's degree.

B. An applicant who has obtained an earned doctoral degree in engineering which has followed either a baccalaureate degree in engineering from a non-accredited engineering curriculum or a baccalaureate degree in a related science or engineering technology curriculum may use the doctoral degree for credit for one year's experience.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 3:502 (December 1977), amended LR 5:112 (May 1979), LR 6:735 (December 1980), LR 7:647 (December 1981), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1031 (July 2001), LR 30:1715 (August 2004), LR 41:1122 (June 2015).

Donna D. Sentell
Executive Director

1506#013

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Deer Management Assistance Program (DMAP)
(LAC 76:V.111)

The Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission has amended the regulations for the Deer Management Assistance Program.

Title 76

WILDLIFE AND FISHERIES

Part V. Wild Quadrupeds and Wild Birds

Chapter 1. Wild Quadrupeds

§111. Rules and Regulations for Participation in the Deer Management Assistance Program

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

b. Each hunter must have a tag in his possession while hunting on DMAP land in order to harvest an antlerless deer (or antlered deer if antlered deer tags are issued). Antlerless deer may be harvested any day of the deer season on property enrolled in DMAP provided a DMAP tag is possessed by the hunter at time of harvest. The tag shall be attached through the hock in such a manner that it cannot be removed before the deer is transported. The DMAP tag will remain with the deer so long as the deer is kept in the camp or field, is enroute to the domicile of its possessor, or until it has been stored at the domicile of its possessor, or divided at a cold storage facility and has become identifiable as food rather than as wild game. The DMAP number shall be recorded on the possession tag of the deer or any part of the animal when divided and properly tagged.

A.2.c. - B.1.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:110.1 and R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 17:204 (February 1991), amended LR 25:1656 (September 1999), LR 26:2011 (September 2000), LR 30:2496 (November 2004), LR 34:1427 (July 2008), LR 35:1910 (September 2009), LR 37:2187

(July 2011), repromulgated LR 37:2753 (September 2011), amended LR 39:2292 (August 2013), LR 41:1123 (June 2015).

Billy Broussard
Chairman

1506#020

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Port Eads Possession Limit (LAC 76:VII.383)

The Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission has adopted a Rule that increases the possession limit on the water for recreational saltwater finfish landed by individuals lodging at the Port Eads Marina facility.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic life

Chapter 3. Saltwater Sport and Commercial Fishery

§383. Possession Limits for Saltwater Recreational Finfish Landed at Port Eads Marina

A. Purpose. The Wildlife and Fisheries Commission recognizes that the Port Eads Marina in Plaquemines Parish is a remote fishing destination, only accessible by water, and that recreational fishermen may fish out of that facility for several consecutive days. In order to transport fish from the remote Port Eads Marina facility back to a location accessible by land, a recreational fisherman may have a need to possess a limit on the water greater than what is allowed by general statewide possession limits for saltwater recreational finfish.

B. Possession Limit. Notwithstanding possession limits established elsewhere in this Chapter, for the purpose of transporting fish in Louisiana territorial waters to a land-based facility located within the state, the possession limit for saltwater finfish caught recreationally in Louisiana territorial waters or in the adjacent federal exclusive economic zone and landed at Port Eads Marina shall be equal to the daily take limit for the number of consecutive days, up to three times the daily creel limit, that a fisherman has been lodging at the Port Eads Marina facility, provided the fisherman is in compliance with the following requirements.

1. The fisherman holds and is in possession of all current recreational fishing licenses required.

2. The fisherman is in possession of and can provide a lodge receipt or slip rental receipt issued by the Port Eads Marina facility that demonstrates, to the satisfaction of the department, the number of consecutive days that the fisherman has been lodging or docking at the Port Eads Marina facility.

3. Upon landing his or her daily catch at the Port Eads Marina, the fisherman shall notify the Wildlife and Fisheries employee or agent on duty at the facility, and provide his or her catch for inspection and certification that the species, size and daily creel are within legal limits.

a. To maximize the efficiency and productivity of Wildlife and Fisheries staff, the Secretary may, at his discretion, or upon request of the operator of the Port Eads Marina facility provide on-duty personnel at the facility. The request for LDWF personnel to be made available shall be made no later than 72 hours in advance of when their presence is requested at the facility.

4. The fish are kept in separate bags for each daily take limit. The bags are marked with the date fish were taken, the species and number of fish contained in the bag, and the name and recreational fishing license number of the person taking the fish. The contents of the bags have been certified by the Wildlife and Fisheries employee or agent on duty at the facility.

5. The fisherman is only in possession of his or her fish and shall not transport fish taken by another person back to the boat landing.

6. No person aboard the vessel may be engaged in or actively fishing.

C. The commission shall review the efficacy of the possession limit on an annual basis beginning one year from the date the rule becomes final.

AUTHORITY NOTE: Promulgated in accordance R.S. 56:6(25)(a), R.S. 56:325.1, and R.S. 56:326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 41:1123 (June 2015).

Pat Manuel
Chairman

1506#021

Notices of Intent

NOTICE OF INTENT

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

Dissolved Oxygen Criteria Revisions for Eastern Lower Mississippi River Alluvial Plains (LMRAP) Ecoregion (LAC 33:IX.1123)(WQ091)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Water Quality regulations, LAC 33:IX.1123.Table 3 (WQ091).

The dissolved oxygen (DO) criteria are being revised, where appropriate, in water quality subsegments in the eastern Lower Mississippi River Alluvial Plains (LMRAP) Ecoregion based on an ecoregion approach; Table 3 in LAC 33:IX.1123 is being revised accordingly. The proposed DO criteria revisions are the result of the findings presented in the Use Attainability Analysis of Inland Rivers and Streams in the Eastern Lower Mississippi River Alluvial Plains Ecoregion for Review of Dissolved Oxygen Water Quality Criteria, which was technically approved by EPA Region 6 on November 25, 2013. Except where the DO criteria have previously been revised, the current Louisiana DO water quality standards are the nationally-recommended criteria of 5 mg/L for freshwater and marine waters, and 4 mg/L for estuarine waters. However, natural, physical conditions (e.g., lack of slope, low flow, and high temperature) in Louisiana prevent many Louisiana water bodies from attaining the nationally-recommended DO standards. The eastern LMRAP Ecoregion is one such area where levels of DO in surface waters are naturally low and the nationally-recommended DO criteria are not attainable throughout the year. Therefore, based on the findings presented in the above referenced Use Attainability Analysis (UAA), the DO criteria for inland streams are being revised to 2.3 mg/L for the months of March through November; for the months of December through February the DO criteria for inland streams will remain as 5.0 mg/L.

Boundaries for 42 subsegments within the eastern LMRAP, the Southern Plains Terrace and Flatwoods, the Terrace Uplands, and the Coastal Deltaic Marshes Ecoregions are being refined based on watersheds; these boundary refinements resulted in the delineation of 21 new subsegments. In addition, descriptions to some subsegments are also being revised, as necessary. These changes are reflected in the revisions to Table 3 in LAC 33:IX.1123.

Supporting documentation for the proposed rule consists of two documents: 1) Use Attainability Analysis of Inland Rivers and Streams in the Eastern Lower Mississippi River Alluvial Plains Ecoregion for Review of Dissolved Oxygen Water Quality Criteria; and 2) Louisiana Water Quality Standards Ecoregions: For Use in Ecologically-Driven Water Quality Standards. The supporting documents for the proposed rule can be viewed at <http://www.deq.louisiana.gov/portal/DIVISIONS/WaterPermits/WaterQualityStandardsAssessment.aspx>. Subsegment delineations can be viewed using the LDEQ Interactive Mapping Application (LIMA) at <http://map.deq.state.la.us/>. Additionally, at this time a potpourri is being noticed in the *Louisiana Register* to announce an update to the Water Quality Management Plan Volume 4: Basin and Subsegment Boundaries. Inaccurate water quality criteria can result in erroneous use impairment decisions that impact many of the state's water quality programs (i.e., assessments, total maximum daily load determinations, wastewater permitting, and implementation of best management practices). Therefore, it is important to establish appropriate and protective dissolved oxygen (DO) criteria that support fish and wildlife propagation. A Use Attainability Analysis (UAA) was conducted to inform the development of ecoregion-based DO criteria in the eastern portion of the Lower Mississippi River Alluvial Plains (LMRAP) Ecoregion. The eastern LMRAP UAA is a continuation of the process which began with a Memorandum of Agreement (MOA) in 2008 between the U.S. Environmental Protection Agency and LDEQ that resulted in the Use Attainability Analysis of Barataria and Terrebonne Basins for Revision of Dissolved Oxygen Water Quality Criteria. The basis and rationale for this proposed rule are to protect waters of the state by establishing appropriate and protective dissolved oxygen criteria that support fish and wildlife propagation. 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 IX. Water Quality

Subpart 1. Water Pollution Control

Chapter 11. Surface Water Quality Standards

§1123. Numerical Criteria and Designated Uses

A. Water Quality Management Basins and Ecoregions

1. Basins

Basin Name	Basin Number

2. Ecoregions

Ecoregion Name	Abbreviation
Atchafalaya River Ecoregion	AR
Coastal Chenier Marshes Ecoregion	CCM
Coastal Deltaic Marshes Ecoregion	CDM
Gulf Coastal Prairie Ecoregion	GCP
Lower Mississippi River Alluvial Plains Ecoregion	LMRAP
Mississippi River Ecoregion	MR
Pearl River Ecoregion	PR
Red River Alluvium Ecoregion	RRA

Ecoregion Name	Abbreviation
Sabine River Ecoregion	SR
South Central Plains Flatwoods Ecoregion	SCPF
South Central Plains Southern Tertiary Uplands Ecoregion	SCPSTU
South Central Plains Tertiary Uplands Ecoregion	SCPTU
Southern Plains Terrace and Flatwoods Ecoregion	SPTF
Terrace Uplands Ecoregion	TU
Upper Mississippi River Alluvial Plains Ecoregion	UMRAP

B. - E. ...

Table 3. Numerical Criteria and Designated Uses									
A-Primary Contact Recreation; B-Secondary Contact Recreation; C-Fish And Wildlife Propagation; L-Limited Aquatic Life and Wildlife Use; D-Drinking Water Supply; E-Oyster Propagation; F-Agriculture; G-Outstanding Natural Resource Waters									
Code	Stream Description	Designated Uses	Numerical Criteria						
			CL	SO4	DO	pH	BAC	°C	TDS
Atchafalaya River Basin (01)									

Lake Pontchartrain Basin (04)									
040101	Comite River—From Little Comite Creek and Comite Creek at Mississippi state line to Wilson-Clinton Highway	A B C	25	10	5.0	6.0-8.5	1	32	150
040102	Comite River—From Wilson-Clinton Highway to White Bayou (Scenic)	A B C G	25	10	5.0	6.0-8.5	1	32	150

040201	Bayou Manchac—From headwaters to Amite River	A B C	25	10	2.3 Mar.-Nov.; 5.0 Dec.-Feb.	6.0-8.5	1	32	150
040202	Ward Creek—From headwaters to confluence with Dawson Creek	A B C	25	10	5.0	6.0-8.5	1	32	150
040301	Amite River—From Mississippi state line to La. Highway 37 (Scenic)	A B C G	25	10	5.0	6.0-8.5	1	32	150
040302	Amite River—From La. Highway 37 to LMRAP Ecoregion boundary	A B C	25	10	5.0	6.0-8.5	1	32	150
040303	Amite River—From Amite River Diversion Canal to Lake Maurepas	A B C	25	10	2.3 Mar.-Nov.; 5.0 Dec.-Feb.	6.0-8.5	1	32	150

040305	Colyell Bay; includes Colyell Creek and Middle Colyell Creek—From Hood Road to Colyell Bay	A B C	25	10	2.3 Mar.-Nov.; 5.0 Dec.-Feb.	6.0-8.5	1	32	150
040306	Amite River—From LMRAP Ecoregion boundary to Amite River Diversion Canal	A B C	25	10	2.3 Mar.-Nov.; 5.0 Dec.-Feb.	6.0-8.5	1	32	150
040307	West Colyell Creek—From headwaters to Hood Road	A B C	25	10	5.0	6.0-8.5	1	32	150
040308	Middle Colyell Creek—From headwaters to Hood Road	A B C	25	10	5.0	6.0-8.5	1	32	150
040309	Colyell Creek—From headwaters to confluence with, and including, Little Colyell Creek	A B C	25	10	5.0	6.0-8.5	1	32	150
040401	Blind River—From Amite River Diversion Canal to mouth at Lake Maurepas (Scenic)	A B C G	250	75	2.3 Mar.-Nov.; 4.0 Dec.-Feb. [9]	6.0-8.5	1	30	500
040402	Amite River Diversion Canal—From Amite River to Blind River	A B C	25	10	2.3 Mar.-Nov.; 5.0 Dec.-Feb.	6.0-8.5	1	32	150

Table 3. Numerical Criteria and Designated Uses

A-Primary Contact Recreation; B-Secondary Contact Recreation; C-Fish And Wildlife Propagation; L-Limited Aquatic Life and Wildlife Use; D-Drinking Water Supply; E-Oyster Propagation; F-Agriculture; G-Outstanding Natural Resource Waters									
Code	Stream Description	Designated Uses	Numerical Criteria						
			CL	SO4	DO	pH	BAC	°C	TDS
040403	Blind River--From headwaters to Amite River Diversion Canal (Scenic)	A B C G	250	75	2.3 Mar.-Nov.; 3.0 Dec.-Feb. [9]	6.0-8.5	1	30	500
040404	New River--From headwaters to New River Canal	A B C	250	75	2.3 Mar.-Nov.; 5.0 Dec.-Feb.	6.0-8.5	1	30	500
040501	Tickfaw River--From Mississippi state line to La. Highway 42 (Scenic)	A B C G	10	5	5.0	6.0-8.5	1	30	55
040502	Blood River--From headwaters to George White Road	A B C	10	5	5.0	6.0-8.5	1	30	55
040503	Natalbany River--From headwaters to La. Highway 22	A B C	30	20	5.0	6.0-8.5	1	30	150
* * *									
040505	Ponchatoula Creek--From headwaters to La. Highway 22	A B C	30	20	5.0	6.0-8.5	1	30	150
040506	Tickfaw River--From La. Highway 42 to Lake Maurepas	A B C	10	5	2.3 Mar.-Nov.; 5.0 Dec.-Feb.	6.0-8.5	1	30	55
040507	Natalbany River--From La. Highway 22 to Tickfaw River	A B C	30	20	2.3 Mar.-Nov.; 5.0 Dec.-Feb.	6.0-8.5	1	30	150
040508	Ponchatoula Creek--From La. Highway 22 to Natalbany River	A B C	30	20	2.3 Mar.-Nov.; 5.0 Dec.-Feb.	6.0-8.5	1	30	150
040601	Pass Manchac--From Lake Maurepas to Lake Pontchartrain; includes interlacustrine waters from North Pass to Mississippi River levee	A B C	1,600	200	2.3 Mar.-Nov.; 5.0 Dec.-Feb.	6.5-9.0	1	32	3,000
* * *									
040603	Selsers Creek--From headwaters to Sisters Road	A B C	30	20	5.0	6.0-8.5	1	30	150
040604	South Slough; includes Anderson Canal to Interstate Highway 55 borrow pit canal	A B C	30	20	2.3 Mar.-Nov.; 5.0 Dec.-Feb.	6.0-8.5	1	30	150
040604-001	South Slough Wetland--Forested freshwater and brackish marsh located 1.4 miles south of Ponchatoula, directly east of Interstate Highway 55, extending to North Pass to the south and Tangipahoa River to the east	B C	[23]	[23]	[23]	[23]	2	[23]	[23]
040605	Mississippi Bayou and associated canals; includes Dutch Bayou, Reserve Relief Canal and Hope Canal	A B C	1,600	200	2.3 Mar.-Nov.; 5.0 Dec.-Feb.	6.0-8.5	1	32	3,000
040606	Selsers Creek--From Sisters Road to South Slough	A B C	30	20	2.3 Mar.-Nov.; 5.0 Dec.-Feb.	6.0-8.5	1	30	150
040701	Tangipahoa River--From Mississippi state line to Interstate Highway 12 (Scenic)	A B C G	30	10	5.0	6.0-8.5	1	30	140
040702	Tangipahoa River--From Interstate Highway 12 to Lake Pontchartrain	A B C	30	10	2.3 Mar.-Nov.; 5.0 Dec.-Feb.	6.0-8.5	1	30	140
* * *									
040704	Chappepeela Creek--From La. Highway 1062 to Tangipahoa River	A B C G	20	20	5.0	6.0-8.5	1	30	140

Table 3. Numerical Criteria and Designated Uses

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Code	Stream Description	Designated Uses	Numerical Criteria						
			CL	SO4	DO	pH	BAC	°C	TDS
040705	Bedico Creek–From headwaters to Tangipahoa River	A B C	30	10	2.3 Mar.-Nov.; 5.0 Dec.-Feb.	6.0-8.5	1	30	140
040801	Tchefuncte River–From headwaters to US Highway 190; includes tributaries (Scenic)	A B C G	20	10	5.0	6.0-8.5	1	30	110
040802	Ponchitolawa Creek–From headwaters to US Highway 190 (Scenic)	A B C G	850	135	5.0	6.0-8.5	1	30	1,850
040803	Tchefuncte River–From La. Highway 22 to Lake Pontchartrain (Estuarine)	A B C	850	135	4.0	6.0-8.5	1	30	1,850
* * *									
040806	East Tchefuncte Marsh Wetland–Freshwater and brackish marsh located just west of Mandeville, bounded on the south by Lake Pontchartrain, the west by Tchefuncte River, the north by La. Highway 22, and the east by Sanctuary Ridge	B C	[23]	[23]	[23]	[23]	2	[23]	[23]
040807	Tchefuncte River–From US Highway 190 to Bogue Falaya River; includes tributaries (Scenic)	A B C G	20	10	2.3 Mar.-Nov.; 5.0 Dec.-Feb.	6.0-8.5	1	30	110
040808	Tchefuncte River–From Bogue Falaya River to La. Highway 22 (Scenic)	A B C G	850	135	2.3 Mar.-Nov.; 5.0 Dec.-Feb.	6.0-8.5	1	30	1,850
040809	Black River–From headwaters to La. Highway 22	A B C	850	135	2.3 Mar.-Nov.; 5.0 Dec.-Feb.	6.0-8.5	1	30	1,850
040901	Bayou LaCombe–From headwaters to Interstate Highway 12 (Scenic)	A B C G	30	30	5.0	6.0-8.5	1	30	150
040902	Bayou LaCombe–From CDM Ecoregion boundary to Lake Pontchartrain (Scenic) (Estuarine)	A B C G	835	135	4.0	6.0-8.5	1	32	1,850
040903	Bayou Cane–From headwaters to US Highway 190 (Scenic)	A B C G	30	30	2.3 Mar.-Nov.; 5.0 Dec.-Feb.	6.0-8.5	1	30	150
040904	Bayou Cane–From CDM Ecoregion boundary to Lake Pontchartrain (Scenic) (Estuarine)	A B C G	N/A	N/A	4.0	6.0-8.5	1	32	N/A
040905	Bayou Liberty–From headwaters to LMRAP Ecoregion boundary	A B C	250	100	5.0	6.0-8.5	1	32	500
040906	Bayou Liberty–From La. Highway 433 to Bayou Bonfouca; includes Bayou de Chien (Estuarine)	A B C	N/A	N/A	4.0	6.0-8.5	1	32	N/A
040907	Bayou Bonfouca–From headwaters to La. Highway 433	A B C	250	100	2.3 Mar.-Nov.; 5.0 Dec.-Feb.	6.0-8.5	1	32	500
040908	Bayou Bonfouca–From CDM Ecoregion boundary to Lake Pontchartrain (Estuarine)	A B C	N/A	N/A	4.0	6.0-8.5	1	32	N/A
* * *									
040912	Bayou LaCombe–From Interstate Highway 12 to US Highway 190 (Scenic)	A B C G	30	30	2.3 Mar.-Nov.; 5.0 Dec.-Feb.	6.0-8.5	1	30	150

Table 3. Numerical Criteria and Designated Uses									
A-Primary Contact Recreation; B-Secondary Contact Recreation; C-Fish And Wildlife Propagation; L-Limited Aquatic Life and Wildlife Use; D-Drinking Water Supply; E-Oyster Propagation; F-Agriculture; G-Outstanding Natural Resource Waters									
Code	Stream Description	Designated Uses	Numerical Criteria						
			CL	SO4	DO	pH	BAC	°C	TDS
040913	Bayou LaCombe–From US Highway 190 to CDM Ecoregion boundary (Scenic) (Estuarine)	A B C G	835	135	2.3 Mar.-Nov.; 4.0 Dec.-Feb.	6.0-8.5	1	32	1850
040914	Bayou Cane–From US Highway 190 to CDM Ecoregion boundary (Scenic) (Estuarine)	A B C G	N/A	N/A	2.3 Mar.-Nov.; 4.0 Dec.-Feb.	6.0-8.5	1	32	N/A
040915	Bayou Liberty–From LMRAP Ecoregion boundary to La. Highway 433	A B C	250	100	2.3 Mar.-Nov.; 5.0 Dec.-Feb.	6.0-8.5	1	32	500
040916	Bayou Paquet–From headwaters to Bayou Liberty (Estuarine)	A B C	N/A	N/A	2.3 Mar.-Nov.; 4.0 Dec.-Feb.	6.0-8.5	1	32	N/A
040917	Bayou Bonfouca–From La. Highway 433 to CDM Ecoregion boundary (Estuarine)	A B C	N/A	N/A	2.3 Mar.-Nov.; 4.0 Dec.-Feb.	6.0-8.5	1	32	N/A

041002	Lake Pontchartrain–East of US Highway 11 bridge (Estuarine)	A B C E	N/A	N/A	4.0	6.5-9.0	4	32	N/A
041101	Bonnet Carre Spillway	A B C	250	75	2.3 Mar.-Nov.; 5.0 Dec.-Feb.	6.0-8.5	1	30	500
041201	Bayou Labranche From headwaters to Lake Pontchartrain (Scenic) (Estuarine)	A B C G	N/A	N/A	2.3 Mar.-Nov.; 4.0 Dec.-Feb.	6.0-8.5	1	32	N/A
041202	Bayou Trepagnier–From Norco to Bayou Labranche (Scenic)(Estuarine)	A B C G	N/A	N/A	2.3 Mar.-Nov.; 4.0 Dec.-Feb.	6.0-8.5	1	32	N/A

041204	Bayou Traverse–From headwaters to LMRAP Ecoregion boundary (Estuarine)	A B C	N/A	N/A	4.0	6.0-8.5	1	32	N/A

ENDNOTES:

[1] - [8] ...

[9] The site-specific DO criterion has been revised to incorporate ecoregionally-based critical period DO criteria.

[10] - [24] ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 15:738 (September 1989), amended LR 17:264 (March 1991), LR 20:431 (April 1994), LR 20:883 (August 1994), LR 21:683 (July 1995), LR 22:1130 (November 1996), LR 24:1926 (October 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2405 (December 1999), LR 27:289 (March 2001), LR 28:462 (March 2002), LR 28:1762 (August 2002), LR 29:1814, 1817 (September 2003), LR 30:1474 (July 2004), amended by the Office of Environmental Assessment, LR 30:2468 (November 2004), LR 31:918, 921 (April 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:815, 816, 817 (May 2006), LR 33:832 (May 2007), LR 34:1901 (September 2008), LR 35:446 (March 2009), repromulgated LR 35:655 (April 2009), amended LR 36:2276 (October 2010), amended by the Office of the Secretary, Legal Division, LR 41:

Family Impact Statement

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Poverty Impact Statement

This Rule has no known impact on poverty as described in R.S. 49:973.

Provider Impact Statement

This Rule has no known impact on providers as described in HCR 170 of 2014.

Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by WQ091. Such comments must be received no later than August 5, 2015, at 4:30 p.m., and should be sent to Deidra Johnson, Attorney Supervisor, Office of the Secretary, Legal Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-4068 or by e-mail to deidra.johnson@la.gov. Copies of these proposed regulations can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of WQ091. These proposed regulations are available on the

Public Hearing

A public hearing will be held on July 29, 2015, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 North 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 Deidra Johnson at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

These proposed regulations are available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 North Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

Herman Robinson, CPM
Executive Counsel

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Dissolved Oxygen Criteria Revisions for Eastern Lower Mississippi River Alluvial Plains (LMRAP) Ecoregion

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no significant implementation costs or savings to state or local governmental units resulting from the proposed rule. The rulemaking is necessary in order to incorporate the revised dissolved oxygen (DO) criteria into the water quality regulations. The proposed revisions are the result of the findings presented in the Use Attainability Analysis (UAA) of Inland Rivers and Streams in the Eastern Lower Mississippi River Alluvial Plains Ecoregion for Review of Dissolved Oxygen Water Quality Criteria.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections of state or local governmental units resulting from the proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no significant costs and/or economic benefits to directly affected persons or non-governmental groups resulting from the proposed rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition or employment due to the proposed rule.

Herman Robinson, CPM
Executive Counsel
1506#028

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality Office of the Secretary Legal Division

Emission Offsets
(LAC 33:III.504)(AQ354)

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.504.F (AQ354).

This rulemaking will allow for increases of one ozone precursor (NOX or VOC) to be offset with decreases of the other ozone precursor at the ratio dictated by photochemical modeling, subject to approval of LDEQ and the Environmental Protection Agency (EPA). However, the approved ratio must be no less stringent than as specified in Table 1 of LAC 33:III.504 (currently 1.10 to 1 for marginal ozone nonattainment areas).

In order to construct a new major stationary source or major modification in a nonattainment area, LDEQ's Nonattainment New Source Review (NNSR) procedures under LAC 33:III.504 require the owner or operator to offset the increase in emissions of the nonattainment pollutant(s) resulting from the new construction or modification.

Currently, for all regulated pollutants other than PM_{2.5}, emission reductions claimed as offset credit must be from decreases of the same regulated pollutant or pollutant class (e.g., VOC) for which the offset is required. For example, increases in NOX emissions must be offset with decreases in NOX emissions; increases in VOC emissions must be offset with decreases in VOC emissions.

However, in ozone nonattainment areas, both NOX and VOC are regulated as precursors to ozone. Accordingly, when a project triggers NNSR for ozone, reductions in either NOX or VOC emissions can satisfy the requirement that offsets provide a net air quality benefit, provided they are applied at the proper ratio as determined by photochemical models such as the Comprehensive Air Quality Model with Extensions (CAMx).

This rulemaking will allow for increases of one ozone precursor (NOX or VOC) to be offset with decreases of the other ozone precursor at the ratio dictated by photochemical modeling, subject to approval of LDEQ and EPA. However, the approved ratio must be no less stringent than as specified in Table 1 of LAC 33:III.504 (currently 1.10 to 1 for marginal ozone nonattainment areas). The basis and rationale for this rule are to allow for increases of one ozone precursor (NOX or VOC) to be offset with decreases of the other ozone precursor at the ratio dictated by photochemical modeling, subject to approval of LDEQ and EPA. 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 III. Air

Chapter 5. Permit Procedures

§504. Nonattainment New Source Review (NNSR) Procedures and Offset Requirements in Specified Parishes

A. - E.5. ...

F. Emission Offsets. All emission offsets approved by the department shall be surplus, permanent, quantifiable, and enforceable in accordance with LAC 33:III.Chapter 6 and shall meet the following criteria.

1. Offsets shall be required at the ratio specified in Subsection L, Table 1 of this Section unless a higher ratio is required to justify substitution of a precursor pollutant as described in Subparagraphs F.2.a and b of this Section.

2. All emission reductions claimed as offset credit shall be from decreases of the same regulated pollutant or pollutant class (e.g., VOC) for which the offset is required, except that:

a. direct PM_{2.5} emissions or emissions of PM_{2.5} precursors may be offset by reductions in direct PM_{2.5} emissions or emissions of any PM_{2.5} precursor, if such offsets comply with the interprecursor trading hierarchy and ratio established in the approved SIP for a particular nonattainment area; and

b. one ozone precursor (NO_x and VOC) may be substituted for another at the ratio dictated by photochemical modeling, subject to approval of the department and the U.S. Environmental Protection Agency. This ratio shall be no less stringent than as specified in Subsection L, Table 1 of this Section.

F.3. - M.4. ...

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 19:176 (February 1993), repromulgated LR 19:486 (April 1993), amended LR 19:1420 (November 1993), LR 21:1332 (December 1995), LR 23:197 (February 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2445 (November 2000), LR 27:2225 (December 2001), LR 30:752 (April 2004), amended by the Office of Environmental Assessment, LR 30:2801 (December 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2436 (October 2005), LR 31:3123, 3155 (December 2005), LR 32:1599 (September 2006), LR 33:2082 (October 2007), LR 34:1890 (September 2008), LR 37:1568 (June 2011), LR 38:1232 (May 2012), amended by the Office of the Secretary, Legal Division, LR 38:2766 (November 2012), LR 41:

Family Impact Statement

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Poverty Impact Statement

This Rule has no known impact on poverty as described in R.S. 49:973.

Provider Impact Statement

This Rule has no known impact on providers as described in HCR 170 of 2014.

Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ354. Such

comments must be received no later than August 5, 2015, at 4:30 p.m., and should be sent to Deidra Johnson, Attorney Supervisor, Office of the Secretary, Legal Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-4068 or by e-mail to deidra.johnson@la.gov. Copies of these proposed regulations can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ354. These proposed regulations are available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

Public Hearing

A public hearing will be held on July 29, 2015, 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 Deidra Johnson at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

These proposed regulations are available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

Herman Robinson, CPM
Executive Counsel

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Emission Offsets**

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 the proposed rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections of state or local governmental units as a result of the proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Permit applicants seeking to construct a new major stationary source or major modification in an ozone nonattainment area and desiring to offset increases in NO_x emissions with decreases in VOC emissions (or increases in VOC emissions with decreases in NO_x emissions) will be affected by the proposed rule. The offset ratio needed to ensure that a net air quality benefit is achieved must be verified using photochemical modeling. LDEQ estimates that the cost to conduct the required modeling and prepare the supporting documentation will range from \$15,000 to \$25,000 per project and permit applicants will be responsible for these costs.

If the necessary offsets for a new major stationary source or major modification cannot be secured, a permit for the project cannot be issued. Thus, if the supply of NO_x or VOC offsets (i.e., emission reduction credits, or ERC) in a given ozone

nonattainment area is limited, the permit applicant may benefit by being able to apply offsets of the other precursor pollutant.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition or employment in the public or private sector as a result of the proposed rule.

Herman Robinson
Executive Counsel
1506#029

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality Office of the Secretary Legal Division

Emission Reduction Credits (ERC) Banking Program (LAC 33:III.603)(AQ353)

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.603 (AQ353).

LAC 33:III.Chapter 6 currently precludes sources located in EPA-designated attainment areas from participating in the emissions banking program. This rulemaking will allow owners or operators of stationary sources located in certain attainment areas to apply for emission reduction credits (ERC).

On December 17, 2014, the Environmental Protection Agency (EPA) proposed to revise the primary and secondary national ambient air quality standards (NAAQS) for ozone to a level within the range of 0.065 to 0.070 parts per million (ppm) (79 FR 75234). EPA is required by a federal court order to finalize its proposal no later than October 1, 2015.

Based on current (i.e., 2012-2014) design values, LDEQ anticipates that up to 17 parishes would be designated as ozone nonattainment areas should the standard be set at 0.070 ppm. If the final standard is less than 0.070 ppm, as many as 13 additional parishes could receive a nonattainment designation.

LAC 33:III.Chapter 6 currently precludes sources located in EPA-designated attainment areas from participating in the emissions banking program. Owners or operators of stationary sources located in the five parishes described above (i.e., Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge) have had the ability to bank creditable reductions in NOX and VOC emissions.

In order to encourage prompt reductions in NOX and VOC emissions that will be needed to comply with the revised ozone NAAQS (and to address future scenarios analogous to this), LDEQ will amend Chapter 6 to allow an owner or operator of a stationary source located in an area currently designated as attainment, but which is not in compliance with a new or revised NAAQS, to bank creditable reductions in emissions of the noncompliant pollutant(s) realized on or after the date the new or revised NAAQS is promulgated. The basis and rationale for this rule are to allow owners or operators of stationary sources located in certain attainment areas to apply for ERC. 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 III. Air

Chapter 6. Regulations on Control of Emissions through the Use of Emission Reduction Credits (ERC) Banking

§603. Applicability

A. Major stationary sources are subject to the provisions of this Chapter for the purpose of utilizing emission reductions as offsets in accordance with LAC 33:III.504. Minor stationary sources located in nonattainment areas may submit ERC applications for purposes of banking. Sources located in EPA-designated attainment areas may not participate in the emissions banking program, except as specified in Subsection C of this Section. Any stationary point source at an affected facility is eligible to participate.

B. ...

C. The owner or operator of a stationary source located in an EPA-designated attainment area, but which is not in compliance with a new or revised national ambient air quality standard, may apply to bank reductions in emissions of the noncompliant pollutant(s) realized on or after promulgation of the new or revised standard.

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 20:874 (August 1994), amended LR 24:2239 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1622 (September 1999), LR 28:301 (February 2002), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2068 (October 2007), amended by the Office of the Secretary, Legal Division, LR 38:2767 (November 2012), LR 41:

Family Impact Statement

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Poverty Impact Statement

This Rule has no known impact on poverty as described in R.S. 49:973.

Provider Impact Statement

This Rule has no known impact on providers as described in HCR 170 of 2014.

Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ353. Such comments must be received no later than August 5, 2015, at 4:30 p.m., and should be sent to Deidra Johnson, Attorney Supervisor, Office of the Secretary, Legal Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-4068 or by e-mail to deidra.johnson@la.gov. Copies of these proposed regulations can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ353. These proposed regulations are available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

Public Hearing

A public hearing will be held on July 29, 2015, 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 Deidra Johnson at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

These proposed regulations are available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

Herman Robinson, CPM
Executive Counsel

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Emission Reduction Credits (ERC)
Banking 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 the proposed rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections of state or local governmental units as a result of the proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule will allow owners or operators of stationary sources located in parishes that will be designated as nonattainment, with respect to the forthcoming revision to the national ambient air quality standard (NAAQS) for ozone, to apply for emission reduction credits (ERC). However, this action does not compel any stationary source to participate in the ERC banking program—it simply expands the areas in which such sources meet eligibility requirements. Therefore, it will have no effect on costs, including workload adjustments or additional paperwork.

After the effective date of the nonattainment designation, a stationary source that has banked creditable reductions as ERC may benefit in two ways. First, the source could use the ERC to offset the emissions increases associated with a major modification, as required by the nonattainment new source review (NNSR) program, LAC 33:III.504. Second, the source could sell the ERC to another source located (or proposing to locate) in the same nonattainment area.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition or employment in the public or private sector as a result of the proposed rule.

Herman Robinson, CPM
Executive Counsel
1506#030

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Board of Certified Public Accountants**

Maintenance of Competency and
Continuing Professional Education (CPE)
(LAC 46:XIX.Chapter 13)

Notice is hereby given that in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority vested in the state Board of Certified Public Accountants of Louisiana (board) by the Louisiana Accountancy Act, R.S. 37:71 et seq., the board intends to amend its rules governing continuing professional education (CPE) of certified public accountants (CPAs), LAC 46:XIX.1301-1311. Currently, the board's CPE rules require CPAs to earn and report 120 CPE hours triennially (every three years). There is no requirement for obtaining a minimum number of CPE hours in any one of the three years or reporting other than on a triennial basis. In order to promote greater compliance and insure more current and relevant maintenance of professional competency, the proposed changes require CPAs to earn a minimum of 20 CPE hours annually, with at least 80 CPE hours within a rolling two calendar-year period (§1301.A). The proposed changes also require CPAs to report CPE hours to the board in connection with their annual certificate renewal (§1301.A.4).

Other proposed changes clarify and update existing rules generally and align them with corresponding CPE standards of other state and national regulatory authorities and organizations for CPAs. Among others, these changes: clarify that any amount of participation in attest work requires 20 percent accounting and auditing CPE of the total hours required (§1301.A.1); provide flexibility in the number of hours for board-approved ethics courses (§1301.A.2); increase personal development hours from 25 percent to 50 percent in the current compliance period and provide a 20 hour maximum during a calendar year effective January 1, 2016 (§1301.A.3); allow flexibility in the reporting methods for CPE (§1301.A.4); extend the due date for CPE from December 31 to January 31 (§1301.A.5); require documentation of a CPE hardship extension or request (§1301.D); provide for monitoring and verification of CPE attendance (§1303.B.5-7); eliminate the prohibition on fractions of CPE credit and allow half-credits of 25 minutes (§1305.B); provide for courses that may not comply with all CPE requirements (§1305.F); update §1307.A.1 for consistency with the statute defining attest functions; modify the requirements for qualifying CPE hours for self-study programs to permit credit for any method identified in the statement on standards for CPE (§1309.B); provide for archived and re-broadcast CPE programs (§1309.B.4-5); identify maximum CPE credits for serving as a lecturer or speaker (§1309.C.3), writing books or articles (§1309.D) and successfully completing a board-approved exam (§1309.F); eliminate CPE for exam reviewers, which is no longer applicable, and identify a method for CPE for board-approved research and other programs (§1309.G); require verification of completion of CPE to include the name and

signature of a program sponsor and participant's name (§1311.B); and delete §1311.D so as to clarify that CPAs are responsible for maintaining their CPE records. The proposed amendments are set forth below.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XIX. Certified Public Accountants

Chapter 13. Maintenance of Competency; Continuing Professional Education (CPE)

§1301. Basic Requirements

A. Each certificate holder shall participate in a minimum of 20 hours of continuing professional education (CPE) annually, and at least 80 hours of continuing professional education (CPE) within a rolling two-calendar-year period defined as the compliance period in §1301.F.1. Prior to January 1, 2016, each certificate holder shall participate in at least 120 hours of continuing professional education (CPE) every three years.

1. Accounting and Auditing Requirements. Certificate holders who participate in one or more attest engagements during the calendar year shall complete at least 20 percent of the required hours in the subject area described in §1307.A.1 in fulfilling the above requirements. Certificate holders participating in attest engagements include those responsible for conducting substantial portions of the procedures and those responsible for planning, directing, or reporting on attest engagements. Persons who "plan, direct, and report" generally include the in-charge accountant, the supervisor or manager, and the firm owner who signs or authorizes someone to sign the attest engagement report on behalf of the firm.

2. Professional Ethics Requirements. All certificate holders who are required to complete CPE shall complete a course in professional ethics, the contents of which must have been pre-approved by the board.

3. Personal Development Limitations. Personal development hours in excess of 20 hours during a calendar year will be disallowed and cannot be used for CPE credit. Prior to January 1, 2016, personal development hours cannot exceed 50 percent of the total qualifying CPE.

4. Reporting Method. Each certificate holder shall, when applying for certificate renewal, report CPE information in the manner approved by the board.

5. Reporting. The CPE must be reported to the board no later than January 31 after the end of each December 31 calendar year. Prior to February 1, 2016, the CPE must be reported to the board no later than January 31 after the end of the December 31 compliance period.

B. ...

C. An individual who held a license on June 17, 1999, or was issued a certificate on or after June 18, 1999, who applies to reinstate a license after having allowed such license or certificate to lapse must present proof, documented in a form satisfactory to the board, that he has satisfied the requirements for continuing professional education for the preceding compliance period as specified by §1301.F.

D. Extensions/Waivers. The board may at its sole discretion grant extensions of time or waivers to complete the continuing education requirements for hardship situations or for medical reasons. The hardship or incapacity

must be sufficiently documented (for example, by appropriate third parties, or by medical providers in the case of a medical issue) in order for the board to consider granting an extension or waiver.

E. Effective Date for Compliance of Initial Licenses and Reinstatements

1. Any individual who obtains an initial certificate or who reinstates his license will not be required to obtain current continuing professional education until the following full calendar year, which will also start the compliance period for that individual as defined in §1301.F.

2. Prior to January 1, 2016, as to any individual who obtains an initial certificate or who reinstates his license, the effective date of these requirements shall be January 1 of the first calendar year of the then current CPE compliance period. The hours required are reduced pro rata for the then current CPE compliance period, as follows.

a. An individual initially licensed or reinstating a license during the first calendar year of the then current CPE compliance period shall have an 80 hour requirement.

b. An individual initially licensed or reinstating a license during the second calendar year of the then current CPE compliance period shall have a 40 hour requirement.

c. An individual initially licensed or reinstating a license during the third calendar year of the then current CPE compliance period shall not have any hours required.

F. Compliance Period

1. The compliance period for continuing professional education is defined as the two-year period starting January 1, 2016 and ending December 31, 2017. Subsequent compliance periods shall be defined as a rolling two-year period ending on December 31 of each year thereafter (i.e. two-year period ending on December 31, 2018 including years 2017 and 2018, then two-year period ending on December 31, 2019 including years 2018 and 2019, and so forth.)

2. Prior to January 1, 2016, the first compliance period for continuing professional education was the three-year period ended December 31, 1982, and subsequent compliance periods shall end on December 31 each third year thereafter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Certified Public Accountants, LR 6:4 (January 1980), amended LR 9:2081 (April 1983), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 15:614 (August 1989), LR 23:1116 (September 1997), LR 26:1976 (September 2000), amended by the Office of the Governor, Board of Certified Public Accountants, LR 32:2249 (December 2006), LR 41:

§1303. Standards for Program

A. - A.6. ...

B. Program Presentation

1. - 4. ...

5. There must be a reasonable method for the CPE sponsor to monitor group programs in order to verify attendance for the duration of the program.

6. In cases of group programs that are presented online, or via the Internet, there must be a process to monitor and verify participation. Monitoring must be of sufficient frequency and lack predictability in order to verify that participants are engaged for the duration of the program. If

polling questions are used as the monitoring process, at least three polling questions must be used per CPE credit hour.

7. In cases where a small group is allowed to participate in an online program, and the sponsor allows one participant to facilitate by logging in and/or to submit questions on behalf of the group of participants, the attendance must be documented and verified by the small group facilitator or administrator in order to verify participation for the duration of the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Certified Public Accountants, LR 6:5 (January 1980), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 15:614 (August 1989), LR 23:1116 (September 1997), LR 26:1976 (September 2000), amended by the Office of the Governor, Board of Certified Public Accountants, LR 41:

§1305. Programs which Qualify

A. ...

B. Continuing education programs qualify if they meet the above standards and if:

1. ...

2. group programs are at least 50 minutes in length and self-study programs are at least 25 minutes in length; and

B.3. - E. ...

F. If a certificate holder claims credit on a subject related to his practice or employment as a CPA for an education or training program which does not comply with all applicable CPE requirements, he must retain all relevant information regarding the program in order to provide documentation, in the event that the board requests it, that demonstrates that the program is equivalent to one which meets these CPE requirements. (Examples of such programs are as follows: a specialized or technical program offered through an industry sponsor; a course or training program offered by a governmental agency to various interested groups; and, a program primarily directed to another licensed profession which has its own types of continuing education.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated LR 6:5 (January 1980), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 15:614 (August 1989), LR 17:1068 (November 1991), LR 23:1116 (September 1997), LR 26:1977 (September 2000), amended by the Office of the Governor, Board of Certified Public Accountants, LR 34:2561 (December 2008), LR 41:

§1307. Subjects which Qualify

A. The following general subject matters are acceptable as long as they contribute to the professional knowledge and professional competence of the individual certificate holder and are relevant to the services rendered or to be rendered by the individual certificate holder in public practice, industry, academia or government.

1. Accounting and Auditing. This field of study includes accounting and financial reporting subjects, pronouncements of authoritative accounting principles issued by the standard-setting bodies and any other related subject generally classified within the accounting discipline. It also includes auditing subjects related to the examination

of financial statements, operations systems, and programs; the review of internal and management controls; the reporting on the results of audit findings; compilations, reviews, and preparations. It also includes assurance services that relate to standards for attest engagements.

A.2. - B.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated as LR 6:5 (January 1980), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 15:615 (August 1989), LR 23:1117 (September 1997), LR 26:1977 (September 2000), amended by the Office of the Governor, Board of Certified Public Accountants, LR

§1309. Credit Hours Granted

A. Class Hours

1. ...

2. Continuing education credit will be given with a minimum of 50 minutes constituting one hour. For continuous conferences, conventions and other programs when individual segments are less than 50 minutes, the sum of the segments will be considered equal to one total program. Under the following conditions, one-half credits (equal to 25 minutes each) may be permitted:

a. for group programs, after at least one 50-minute hour credit has been earned, half credits (of 25 minutes) are permitted.

b. for self-study programs, half credits (of 25 minutes) are permitted.

3. When the total minutes of the total program are greater than 50, but not equally divisible by 50, the CPE credits granted must be rounded down to the nearest one-half credit. (For example, CPE with segments totaling 140 minutes would be granted two and one-half CPE credits.)

4. Credit courses at accredited universities or colleges shall earn 15 hours of continuing education for each semester hour of credit. A quarter hour credit shall equal 10 hours.

5. Continuing education credit allowable for noncredit short courses at accredited universities or colleges shall equal time in class in accordance with §1309.A.2.

B. Self-Study Program. The amount of credit to be allowed for correspondence and formal self-study programs is to be recommended by the program developer, and based on one of the methods identified in the statement on standards for continuing professional education (CPE) programs. Credit will be allowed in the period in which the course is completed as indicated on the certificate of completion.

1. Interactive self-study programs shall receive CPE credit provided the course satisfies the following criteria:

a. - b. ...

2. Self-study courses developed by or registered with the AICPA, NASBA, or a state society of CPAs are acceptable as continuing education.

3. CPE program developers shall keep appropriate records of how the recommended amount of credit for self-study programs was determined.

4. A recorded group program is considered as a group program only when a qualified instructor is available for interaction.

5. A group program that is recorded or archived by the sponsor for future presentations which does not include a qualified instructor available for interaction is considered a self-study program and must satisfy all the self-study requirements in order to be claimed as continuing education.

C. Service as Lecturer or Speaker

1. - 2. ...

3. The maximum credit allowed for teaching and preparation cannot exceed 20 hours of continuing professional education earned in a calendar year; excess hours in a calendar year cannot be used for CPE credit. Prior to January 1, 2016, the maximum credit for teaching and preparation, cannot exceed 50 percent of the three-year requirement under these rules.

D. Writing of Published Articles, Books, CPE Programs, etc.

1. Credit for writing published articles, books, and CPE programs will be awarded in an amount determined by a board representative provided the writing contributes to the professional competence of the certificate holder. The board and author may choose to mutually approve a third party representative. CPAs requesting a third party representative will be charged a fee; the fee is to be negotiated and agreed upon prior to the engagement.

2. The maximum credit allowed for preparation of articles and books cannot exceed 10 hours of continuing professional education earned in a calendar year; excess hours in a calendar year cannot be used for CPE credit. Prior to January 1, 2016, the maximum credit for preparation of articles and books cannot exceed 25 percent of the three-year requirement under these rules.

D.3. - E.2. ...

F. Completion of Board-Approved Exams

1. CPE credit may be allowed for the successful completion of exams as may be approved by the board from time-to-time.

2. Credit will be awarded one time only at a rate of 5 times the length of each exam passed (or exam section passed). The maximum credit allowed for the successful completion of board approved exams will be limited to 20 hours of continuing professional education earned in a calendar year; excess hours in a calendar year cannot be used for CPE credit. Prior to January 1, 2016, credit will be limited to 50 percent of the three-year requirement.

G. Board Approved Research and Other Programs

1. Credit may be granted from time to time on completion of specific research or programs as approved by the board.

2. Credits may be awarded upon demonstration of achieving an increased level of competency that contributes directly to the professional knowledge and competence of an individual certificate holder.

3. Evidence of completion of such programs or research must be provided in the manner required by the board for evaluation and approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated LR 6:5 (January 1980), amended LR 11:757 (August 1985), LR 13:13 (January 1987), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 15:615 (August 1989), LR 17:1068 (November 1991), LR

23:1117 (September 1997), LR 26:1978 (September 2000), amended by the Office of the Governor, Board of Certified Public Accountants, LR 34:2562 (December 2008), LR 41:

§1311. Maintenance of Records and Control

A. Participants in CPE programs shall retain the documentation of their participation in CPE programs for a period of five years after the end of the calendar year in which the program is completed. Participants in CPE programs shall also retain advance materials, which should include the requirements set forth in §1303.B.1, and other promotional material which reflects the content of a course and the name of the instructor(s) in the event the participant is requested by the board to substantiate the course content.

B. Acceptable evidence of completion includes, but is not limited to, the following:

1. for group programs, a certificate of attendance or other verification supplied by the sponsor which includes:

- a. ...
- b. name and signature of a sponsor representative;
- c. participant's name;
- d. location of course;
- e. title and/or description of content;
- f. dates attended; and
- g. the qualifying hours recommended by the course sponsor;

2. for individual study programs, a certificate supplied by the sponsor after satisfactory completion of a workbook, an examination, or an interactive course that confirms the name of the sponsor, name and signature of a sponsor representative, participant's name, the title and/or description of the course contents, the date of completion and the qualifying hours recommended by the course sponsor;

B.3. - C. ...

D. Each sponsoring organization shall maintain records of programs sponsored which shall show:

1. that the programs were developed and presented in accordance with the standards set forth in §§1303-1305. If a program is developed by one organization and sponsored by another, the sponsoring organization shall not be responsible for program development standards and related record maintenance if:

a. it has reviewed the program and has no reason to believe that program development standards have not been met; and

b. it has on record certification by the developing organization that the program development standards have been met and that the developing organization will maintain the required records relative thereto.

E. The CPE program sponsor shall maintain records and information required under these rules for a minimum of five years after the end of the calendar year in which the CPE course was completed. Such information may be kept in electronic or paper form.

F. Records required under this rule shall be maintained for five years and shall be made available to the board or its designee(s) for inspection at the board's request.

G. Failure of a CPE program sponsor to comply with the CPE standards shall be cause for the board to deny credit for courses offered by the CPE sponsor until such time as the CPE sponsor can demonstrate to the board that the compliance standards are being met.

H. The board specifically reserves the right to approve or disapprove credit for all continuing education under this state board's rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Certified Public Accountants, LR 6:6 (January 1980), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 15:615 (August 1989), LR 23:1118 (September 1997), LR 26:1979 (September 2000), amended by the Office of the Governor, Board of Certified Public Accountants, LR 41:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of the proposed amendments on the family has been considered. It is not anticipated that the proposed amendments will have any impact on family, formation, stability or autonomy, as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the impact of the proposed amendments on those that may be living at or below 100 percent of the federal poverty line has been considered. It is not anticipated that the proposed amendments will have any impact on child, individual or family poverty in relation to individual or community asset development, as described in R.S. 49:973.

Small Business Statement

The proposed amendments are not anticipated to have an adverse impact on small businesses as defined in R.S. 49:965.2 et seq.

Provider Impact Statement

In compliance with HCR 170 of the 2014 Regular Session of the Louisiana Legislature, the impact of the proposed amendments on organizations that provide services for individuals with development disabilities has been considered. It is not anticipated that the proposed amendments will have any impact on the staffing, costs or overall ability of such organizations to provide the same level of services, as described in HCR 170.

Public Comments

Interested persons may submit written data, views, arguments, information or comments on the proposed amendments to Darla M. Saux, CPA, CGMA, Executive Director, State Board of Certified Public Accountants of Louisiana, 601 Poydras Street, Suite 1770, New Orleans, LA 70130, (504) 566-1244. She is responsible for responding to inquiries. Written comments will be accepted until 4:00 p.m., July 20, 2015.

Public Hearing

A request pursuant to R.S. 49:953(A)(2) for a public hearing must be made in writing and received by the Board within 20 days of the date of this notice. If a public hearing is requested to provide data, views, arguments, information or comments in accordance with the Louisiana Administrative Procedure Act, the hearing will be held on July 27, 2015, at 3 p.m. at the office of the State Board of Certified Public Accountants of Louisiana, 601 Poydras

Street, Suite 1770, New Orleans, LA 70130. Any person wishing to attend should call to confirm that a hearing is being held.

Darla M. Saux, CPA, CGMA
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Certified Public Accountants; Maintenance of Competency; Continuing Professional Education (CPE)

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Other than one-time costs for notice and rule publication estimated at a total of \$1,625, the proposed rule changes will not result in any significant additional costs or savings to the State Board of Certified Public Accountants of Louisiana (Board) or any other state or local governmental unit. Currently, the Board's Continuing Professional Education (CPE) Rules require certified public accountants (CPAs) to earn and report 120 CPE hours every three years (triennial). There is no requirement for obtaining a minimum number of CPE hours in any one of the three years or reporting other than on a triennial basis. The proposed rule changes would require all CPAs to earn a minimum of 20 CPE hours annually and at least 80 CPE hours within a rolling two calendar year period. The proposed changes also require CPAs to annually report their CPE hours to the Board. The Board anticipates devoting some administrative resources to processing the annual reporting of CPE by CPAs, which would be required under the proposed changes. However, because this information will be included in and processed with existing systems for annual certificate renewal, the Board anticipates it can absorb any such modest increase in administrative workload with existing personnel and resources.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes will not have any impact on revenue collections of the Board or any other state or local governmental unit.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Given that reporting of continuing professional education will be a component of the annual CPA certificate renewal application process, the Board does not anticipate that the proposed rule changes will have a material effect on the workload of CPAs. Other proposed rule changes clarify existing rules, provide a means of reporting CPE other than by paper, and update and align the rules with corresponding CPE standards of other state and national regulatory authorities and organizations for CPAs.

The proposed rule change may increase annual costs due to the proposed yearly minimum CPE hour requirement. However, overall total costs should remain static as the average number of CPE hours earned over a three year period will remain the same. The proposed rule changes may also impact the timing of CPA receipts and/or income due to the need to annually devote some time to CPE hours that could otherwise be spent working. The Board is not in a position to estimate such impacts; however, any such costs or impact on receipts

and/or income should be off-set in the subsequent year by the costs and time devoted to obtaining CPE hours in the preceding year. Nongovernmental groups, such as third-party CPE vendors, may also experience less income fluctuation over a three-year time period for the same reason and may, to that extent, realize an economic benefit which cannot be determined by this agency.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no impact on competition or employment in either the public or private sector.

Darla M Saux, CPA. CGMA
Executive Director
1506#018

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Committee on Parole**

Ameliorative Penalty Consideration
(LAC 22:XI.Chapter 8)

In accordance with the provisions of the Administrative Procedure Act (R.S.49:950), the Committee on Parole hereby gives notice of its intent to amend LAC 22:XI.802, repeal §807 and adopt §809. This rulemaking provides for notification to the victim and prosecuting district attorney that an application has been docketed for ameliorative penalty consideration by the Committee on Parole, provides for input by the victim and prosecuting district attorney into the ameliorative penalty consideration process. In LAC 22:XI.809, the Rule provides that upon receipt of a recommendation for ameliorative review consideration from the Committee on Parole, the procedure for such consideration shall follow the procedures outlined in LAC 22:V.211.

Title 22

**CORRECTIONS, CRIMINAL JUSTICE AND LAW
ENFORCEMENT**

Part XI. Committee on Parole

Chapter 8. Ameliorative Penalty Consideration

**§802. Victim and District Attorney Notification
[Formerly §807]**

A. The victim and district attorney shall be invited to provide written input into the ameliorative penalty consideration process.

B. The committee shall ensure victims registered with the Crime Victims Services Bureau of the department receive written notification of the date and time an offender is docketed for review by a parole panel. A copy of the letter to the victim shall also be sent to the prosecuting district attorney. Such notice shall be made no less than 30 days prior to the scheduled docket date for administrative review.

C. In any case where there is no registered victim, the prosecuting district attorney shall be provided notice as set forth above.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Pardons, Committee on Parole, LR 41:46 (January 2015), amended by the Office of the Governor, Committee on Parole, LR 41:

§807. Victim Notification

Repealed.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Pardons, Committee on Parole, LR 41:46 (January 2015), repealed by the Office of the Governor, Committee on Parole, LR 41:

§809. Consideration by the Board of Pardons

A. Upon receipt of a recommendation for ameliorative review consideration from the Committee on Parole, the Board of Pardons shall notify the offender in writing of the requirement to place advertisement in the official journal of the parish where the offense occurred. The ad must state: "I, (applicant's name), (DOC number), have applied for ameliorative penalty consideration for my conviction of (crime). If you have any comments, contact the Board of Pardons (225) 342-5421."

B. The applicant shall provide the board office with proof of advertisement within 60 days from the date of notice that a hearing has been granted.

C. After receipt of the clemency investigation from the appropriate probation and parole district and any other documents requested by the board, the board shall set the matter for public hearing.

D. The procedure for hearings conducted for the purpose of ameliorative penalty consideration shall follow the procedures outlined in LAC 22:V.211 and Board Policy 02-209, "Hearings before the Board of Pardons."

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Committee on Parole, LR 41:

Family Impact Statement

Amendment to the rules has no known impact on family formation, stability or autonomy, as described in R.S. 49-972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relations to individual or community asset development as described in R.S. 49:973.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2012 Regular Legislative Session.

Public Comments

Written comments may be addressed to Linda Landry, Principal Assistant, Board of Pardons and Parole, P.O. Box 94304, Baton Rouge, LA 70804 until 4:30 p.m. on July 10, 2015.

Sheryl M. Ranatza
Board Chair

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Ameliorative Penalty Consideration

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will not have a material fiscal impact on state or local governmental unit expenditures.

The purpose of this rule change is to promulgate LAC 22:XI.802. It provides for notification to the victim and prosecuting district attorney that an application was docketed for ameliorative penalty consideration by the Committee on Parole. This rule also invites the victim and prosecuting district attorney to provide written input into the ameliorative penalty consideration process. LAC 22:XI.802 will include the current language in LAC 22:XI.807; therefore, LAC 22:XI.807 is no longer needed and will be deleted.

The Committee on Parole also gives notice of its intent to promulgate rule LAC 22:XI.809. This rule provides that upon receipt of a recommendation for ameliorative review consideration from the Committee on Parole to the Board of Pardons, the procedure for such consideration shall follow the procedures outlined in LAC 22:V.211.

Note: The Board of Pardons determined that the adoption of an Emergency Rule was necessary for the aforementioned changes. The Declaration of Emergency was effective on April 14, 2015 in accordance with R.S. 49:953. The Emergency Rule shall be in effect for 120 days or until adoption of the final Rule, whichever occurs first.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units as a result of the proposed rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There is no estimated cost and/or economic benefit to directly affected persons or non-governmental groups as a result of the proposed rule change.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment as a result of the proposed rule change.

Thomas C. Bickham, III
Undersecretary
1506#053

Evan Basseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Examiners in Dietetics and Nutrition**

Registered Dietitians/Nutritionists
(LAC 46:LXIX.Chapters 1-5)

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 37:3085, that the Board of Examiners in Dietetics and Nutrition proposes to amend its current regulations to make technical changes and clarifications, conform with recent Centers for Medicare and Medicaid Services rulings, and provide that military

applicants currently registered by the Commission on Dietetic Registration (CDR) are deemed qualified for licensure.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXIX. Registered Dietitians/Nutritionists

Chapter 1. Dietitians/Nutritionists

§101. Definitions

A. As used in this Chapter, the following terms and phrases, which have not already been defined in the Practice Act, and R.S. 37:3081-3094 are defined as following.

Academy—the Academy of Nutrition and Dietetics (AND), formerly the American Dietetic Association (ADA). Accreditation Council for Education in Nutrition and Dietetics (ACEND) is the AND's accrediting agency for education programs preparing students for careers as dietetic or nutrition practitioners. It is recognized by the Board as the approved credentialing evaluation agency for dietitians/nutritionists.

Act—Louisiana Dietetic/Nutrition Practice Act of 1987.

Applicant—any person who has applied to the board for a regular license or provisional license to use the title dietitian or nutritionist and to engage in the practice of dietetics/nutrition in the state of Louisiana.

Application—a written request directed to and received by the board, upon forms supplied by the board, for a license or provisional license to practice dietetics/nutrition in the state of Louisiana, together with all information, certificates, documents, and other materials required by the board.

Commission on Dietetic Registration (CDR)—the Commission on Dietetic Registration that is a member of the National Commission for Health Certifying Agencies and is responsible for registering and/or credentialing dietetic practitioners.

Degree—a degree of baccalaureate or higher received from a college or university granted by a U.S. regionally accredited college or university, or foreign equivalent with a major course of study in human nutrition, food and nutrition, dietetics, or food systems management.

Dietetic Practice, Nutrition Counseling, and Medical Nutrition Therapy—terms that may be used interchangeably.

Dietetic Practitioner—dietitian/nutritionist licensee practicing dietetics and nutrition according to R.S. 37:3081 to R.S. 37:3093, of the Louisiana Dietetic/Nutrition Practice Act.

Examination—satisfactory completion of an examination in order to be licensed is required by the Dietetic/Nutrition Practice Act. The board recognizes the registration examination administered by CDR and the passing score set by CDR as the board's examination.

Incidental to the Practice of their Profession—as specified in that profession's practice act or licensure law in the state of Louisiana as interpreted by that profession's regulatory board or agency as referred to in R.S. 37:3093.

Licensed Dietitian/Nutritionist—a person licensed under R.S. 37:3081-3093. The terms "dietitian", "dietician", and "nutritionist" may be used interchangeably.

Louisiana Association—Louisiana Dietetic Association (LDA) dba Louisiana Academy of Nutrition and Dietetics

(LAND), an affiliate of the Academy of Nutrition and Dietetics (AND).

Nutrition Care Process—as defined by the AND, as nutrition assessment, nutrition diagnosis, nutrition intervention/plan of care, and nutrition monitoring and evaluation.

Nutrition Counseling (also referred to as *medical nutrition therapy (MNT)*)—a therapeutic approach to treating medical conditions and their associated symptoms via the use of a specifically tailored diet devised and monitored by a licensed and/or registered dietitian/nutritionist. Nutrition counseling provides individualized guidance on appropriate food and nutrient intake for those with special metabolic needs, taking into consideration health, cultural, socioeconomic, functional and psychological facts from the nutrition assessment. Nutrition counseling may include advice to increase or decrease nutrients in the diet; to change the timing, size or composition of meals; to modify food textures; and in extreme instances, to change the route of administration.

Nutrition Education—imparts information about food and nutrients, diet lifestyle factors, community nutrition resources and services to the general public in order to facilitate and promote healthy eating and physical activity.

Nutritional Assessment—the evaluation of the nutritional needs of individuals and groups based upon appropriate biochemical, anthropometric, physical and dietary data to determine nutrient needs including enteral and parenteral nutrition regardless of setting, including but not limited to ambulatory settings, hospitals, nursing homes and other extended care facilities.

Provisionally Licensed Dietitian/Nutritionist—a person provisionally licensed under the Louisiana Dietitian/Nutritionist Act.

Registered Dietitian/Nutritionist—a person registered by the CDR.

Scope of Dietetic/Nutrition Practice—the integration and application of principles derived from the sciences of nutrition, biochemistry, food, physiology, management, behavioral, and social sciences to achieve and maintain client health through the provision of nutrition care services, which shall include:

- a. assessing the nutritional needs of individuals and groups based upon appropriate biochemical, anthropometric, physical, and dietary data to determine nutrient needs and recommend appropriate nutritional intake including enteral and parenteral nutrition;
- b. establishing priorities, goals and objectives that meet nutritional needs and are consistent with available resources;
- c. providing nutrition counseling by advising and assisting individuals or groups on appropriate nutritional intake by integrating information from the nutritional assessment with information on food and other sources of nutrients and meal preparation consistent with cultural background and socioeconomic status;
- d. developing, implementing, and managing nutrition care systems; and
- e. evaluating, making changes in, and maintaining standards of quality in food and nutrition care services.

Title—any use of the titles “dietitian”, “dietician”, or “nutritionist”, or any abbreviation or facsimile cannot be used unless the person is licensed in accordance with the provisions of the Louisiana Dietetic/Nutrition Practice Act. The board may cause to issue a writ of injunction enjoining any person from violating this provision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3081-3093 and R.S. 36:259(Q).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 10:12 (January 1984), repromulgated by the Department of Health and Hospitals, Board of Examiners in Dietetics and Nutrition, LR 14:435 (July 1988), amended LR 25:1094 (June 1999), LR 37:2152 (July 2011), LR 40:302 (February 2014), LR 41:

§103. Qualifications for Licensure

A. Regular Licensure

1. **Academic Requirements.** Persons applying for licensure must have earned a baccalaureate or post-baccalaureate degree granted by a U.S. regionally accredited college or university, or foreign equivalent and meet minimum academic requirements approved by the Accreditation Council for Education in Nutrition and Dietetics (ACEND) of the AND. Applicant must present verification statement from an ACEND accredited program dated no later than five years after completion of the academic requirements.

2. **Professional Experience.** An applicant for licensure shall submit to the board evidence of having successfully completed a planned continuous supervised practice program approved by the board of not less than 900 hours under the supervision of a registered dietitian or a licensed dietitian/nutritionist. The board has designated a supervised practice program accredited by ACEND of the AND as the board-approved program of planned supervised practice program.

3. **Examination for Licensure.** An applicant for licensure shall pass an examination approved by the board. The board recognizes the registration examination for dietitians administered by the CDR as the board approved exam.

4. **Continuing Education Requirements.** The board recognizes the CDR Professional Development Portfolio (PDP) system as fulfilling the continuing education requirement for license renewal. Requirements for continuing education are considered to be met if a current CDR card is provided by the licensee to the board annually.

5. Applicants who are currently registered by CDR are deemed to meet the academic, professional experience, examination, and continuing education requirements for licensure.

6. Applicants who hold a doctoral degree granted prior to July 1, 1988, in addition to a baccalaureate or higher degree from a regionally accredited college or university with a major course of study in human nutrition, food and nutrition, dietetics, food systems management or biochemistry shall have met the requirements for licensure, as long as the person’s application was approved by the board, and license and fees have been renewed as prescribed by the board.

B. Provisional Licensure

1. Applicants who are not registered by CDR but who present evidence to the board of successful completion of the

academic and professional experience requirements of §103.A.1-2 for licensure no later than five years after completion of the academic and professional experience requirements may apply for a provisional license.

2. A provisional license may be issued to such a person before he/she has successfully completed the licensure examination prescribed by the board.

3. A provisional license may be issued for a period not exceeding one year and may be renewed annually for a period not to exceed five years upon payment of a fee and documentation of evidence that the provisional license holder is practicing only under the supervision of a licensed dietitian/nutritionist and also provides evidence of at least 15 hours of continuing education per license year.

C. Licensing of Qualified Military Commissioned Applicants and Spouses of Military Personnel

1. A military-trained dietitian/nutritionist is eligible for licensure as a dietitian/nutritionist as provided for in Subsections A-B of this Section provided the applicant:

a. has completed a military program of training in dietetics and nutrition and has been awarded a military occupational specialty or similar official designation as a dietitian/nutritionist with qualifications which are substantially equivalent to or exceed the requirements of the applicable license (including the provisional license authorized by R.S. 37:3087) which is the subject of the application;

b. has performed dietetics and nutritionist services in active practice at a level that is substantially equivalent to or exceeds the requirements of the applicable license which is the subject of the application;

c. has not been disciplined in any jurisdiction for an act which would have constituted grounds for refusal, suspension, or revocation of a license to practice dietetics/nutrition in this state at the time the act was committed; and

d. has not received a dishonorable discharge from military service.

2. A military-trained dietitian/nutritionist, who has not been awarded a military occupational specialty or other official designation as a dietitian/nutritionist, who nevertheless holds a current license as a dietitian or nutritionist in another state, District of Columbia or territory of the United States, which jurisdiction's requirements are substantially equivalent to or exceed the requirements for the license for which he or she is applying, is eligible for licensure, by reciprocity or endorsement pursuant to §105 provided the applicant:

a. has not been disciplined in any jurisdiction for an act which would have constituted grounds for refusal, suspension, or revocation of a license to practice dietetics/nutrition in this state at the time the act was committed; and

b. has not received a dishonorable discharge from military service.

3. A spouse of a member of the active-duty military forces or a spouse of a former member of the military forces who has not received a dishonorable discharge and who holds a current license as a dietitian or nutritionist in another state, District of Columbia or territory of the United States, which jurisdiction's requirements are substantially equivalent to or exceed the requirements of Subsections A-B

of this Section for the applicable license for which he or she is applying, is eligible for licensure by reciprocity or endorsement pursuant to §105 provided the applicant:

a. has not been disciplined in any jurisdiction for an act which would have constituted grounds for refusal, suspension, or revocation of a license to practice dietetics/nutrition in this state at the time the act was committed; and

b. is in good standing and has not been disciplined by the agency that issued the license.

4. The procedures governing the applications of military-trained applicants and applicants who are spouses of military personnel, including the issuance and duration of temporary practice permits and priority processing of applications, are provided for in §109.J.

5. Military applicants who are currently registered by CDR are deemed qualified for licensure and may provide verification of CDR registration to the board in lieu of options listed above if this will expedite the licensure process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3081-3093 and R.S. 36:259(Q).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 10:12 (January 1984), repromulgated by the Department of Health and Hospitals, Board of Examiners in Dietetics and Nutrition, LR 14:435 (July 1988), amended LR 37:2152 (July 2011), LR 40:302 (February 2014), LR 41:

§107. Licensing of Dietitians/Nutritionists Trained in a Foreign Country

A. Any person who has been trained as a dietitian/nutritionist in a foreign country and who desires to be licensed under the act may make application if the individual:

1. holds a degree from an education program which has been evaluated by an approved credentialing evaluation agency, ACEND as equivalent to the baccalaureate or higher degree conferred by universities or colleges regionally accredited by the council on post-secondary accreditation and the U.S. Department of Education and meets equivalent academic requirements;

a. submits to the board any diploma or other document required for a foreign graduate applicant. A diploma or other document which is not in the English language must be accompanied by a certified translation thereof in English by an approved credentials evaluation service;

2. submits documentary evidence to the board that he or she has completed a course of professional experience as described in §103.A.2 of this Part;

3. successfully completed the prescribed examination for licensure;

4. demonstrates satisfactory proof of proficiency in the English language;

5. applicants who are currently registered by CDR are deemed to meet the academic, professional experience, examination, and continuing education requirements for licensure;

6. applications for licensure shall be upon the form and in the manner prescribed by the board, accompanied by the appropriate fees;

7. at the time of making such application, the applicant shall pay the fee prescribed by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3081-3093 and R.S. 36:259(Q).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 10:12 (January 1984), repromulgated by the Department of Health and Hospitals, Board of Examiners in Dietetics and Nutrition, LR 14:435 (July 1988), amended LR 41:

§109. Application for Licensure and/or Provisional Licensure

A. Application for license or provisional license must be upon the form and in the manner and fee prescribed by the board.

B. - E. ...

F. The board will send a notice to an applicant who does not fully complete the application, listing the additional materials required.

G. - H. ...

I. An applicant who meets all the requirements of R.S. 37:3086 or 3087 and who has worked more than 30 days as a dietitian/nutritionist in the state of Louisiana and who has not otherwise violated any part of R.S. 37:3081-3093 or its rules and regulations, may be offered the following options in the form of a consent agreement and order to resolve the situation:

1. applicant is reprimanded for practicing as a dietitian and/or nutritionist in Louisiana without a license;

2. - 3. ...

4. the consent agreement and order shall not be considered disciplinary action, but will be published by LBEDN.

J. - J.5. ...

6. Military applicants and/or military spouse applicants who are currently registered by the CDR are deemed to meet all requirements for licensure. Such applicants may provide evidence of CDR registration in lieu of other documentation listed above if this is more expedient to the licensure process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3081-3093 and R.S. 36:259(Q).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 10:12 (January 1984), repromulgated by the Department of Health and Hospitals, Board of Examiners in Dietetics and Nutrition, LR 14:435 (July 1988), amended LR 37:2153 (July 2011), LR 40:302 (February 2014), LR 41:

§111. Issuance and Renewal of Licensure

A. The board recognizes two distinct types of licensure. Applicants may be issued a regular license or a provisional license based on compliance with requirements stated in the Louisiana Dietitian/Nutritionist Practice Act and described in these regulations. The board shall issue a license to any person who meets the requirements upon payment of the license fee prescribed.

B. Regular License. The board may issue a regular license to any dietitian/nutritionist who qualifies in accordance with the requirements of R.S. 37:3086(A), (B) or (C), and who practices in Louisiana, whether resident or nonresident, unless otherwise exempted as stated in R.S. 37:3093 of the Dietetic/Nutritionist Practice Act and these regulations. The board will send each applicant whose credentials have been approved a license.

C. Provisional License

1. A provisional license shall permit the holder to practice only under the direct supervision of a licensed dietitian/nutritionist. The board may issue a provisional license to any dietitian/nutritionist who meets the following requirements:

a. shall have earned a baccalaureate or post-baccalaureate degree granted by a U.S. regionally accredited college or university, or foreign equivalent, and meet minimum academic requirements accredited by ACEND;

b. the board may issue a provisional license to a person before he has taken the examination prescribed by the board;

c. a provisional license may be issued for a period not exceeding one year and may be renewed annually for a period not to exceed five consecutive years upon payment of an annual fee and presentation of evidence satisfactory to the board that applicant is meeting the supervision requirements and the continuing education requirement of at least 15 hours of continuing education per license year.

D. Supervision of Provisional Licensed Dietitian

1. The purpose of this Section is to set out the nature and scope of the supervision provided for provisional licensed dietitians/nutritionists.

2. To meet initial licensure and license renewal requirements, a provisionally licensed dietitian/nutritionist shall practice under the direct supervision of a licensed dietitian/nutritionist. *Direct supervision* is defined as a licensed dietitian/nutritionist providing sufficient guidance and direction to enable a provisional licensed dietitian/nutritionist to perform competently. The supervising licensee needs to be readily available in person or by telecommunications and will review the provisionally licensed dietitian/nutritionist's work quarterly and submit to the board annually on a form provided by the board a written report that the applicant is in the process of meeting the experience requirements in anticipation of taking the examination.

E. Upgrading a Provisional License

1. In order to upgrade to a regular license, the provisionally licensed dietitian/nutritionist shall submit to the board a written request, proof of successful completion of the registration examination administered by CDR or evidence of current registration with CDR, as well as the upgrade fee.

2. When the upgrade occurs, the licensee shall become subject to the renewal requirements for a regular licensed dietitian/nutritionist.

F. License Certificates

1. The board shall prepare and provide to each licensee a license certificate and license identification card.

2. Official license certificates shall be signed by the board chairman, vice-chairman, and secretary-treasurer and be affixed with the seal of the board.

3. Any license certificate and license identification card issued by the board remains the property of the board and must be surrendered to the board on demand.

4. The license certificate must be displayed in an appropriate and public manner as follows:

a. shall be displayed in the primary place of employment of the licensee; or

b. in the absence of a primary place of employment or when the licensee is employed at multiple locations, the licensee shall carry a current, board issued license identification card.

5. Neither the licensee nor anyone else shall display a photocopy of a license certificate or carry a photocopy of a license identification card in lieu of the original license certificate or license identification card.

6. Neither the licensee nor anyone else shall make any alteration on a license certificate or license identification card issued by the board.

7. The board shall replace a lost, damaged or destroyed license certificate or ID card upon receipt of a written request from the licensee and payment of the license replacement fee.

8. The board, upon receipt of a written request, shall reissue a license certificate and/or license identification card in the case of name changes. Requests shall be accompanied by payment of the license replacement fee and appropriate documentation reflecting the change.

G. Abandonment of Application. An applicant shall be deemed to have abandoned the application if the requirements for licensure are not completed within one year of the date on which the application is received. An application submitted subsequently to an abandoned application shall be treated as a new application.

H. Disapproved Applications. The board shall disapprove the application if the applicant:

1. has not completed the requirements of §103 of these regulations including academic and experience requirements;

2. has failed to pass the examination prescribed by the board;

3. has failed to remit any applicable fees;

4. has failed to comply with requests for supporting documentation prescribed by the board;

5. has deliberately presented false information on application documents required by the board to verify the applicant's qualifications for licensure;

6. has been convicted of a felony.

I. Renewal of Licensure

1. At least 30 days prior to the expiration date of the license, the licensee shall be sent written notice of the amount of renewal fee due, which must be returned with the required fee.

2. Licensee's application for renewal must be postmarked on or prior to the expiration date in order to avoid the late renewal fee. Failure to receive renewal notice shall not be justification for late or non-renewal.

3. The board shall not renew the license of a person who is in violation of the act, or board rules at the time of application for renewal.

4. Licensed Dietitian/Nutritionist

a. Licenses will expire annually on June 30.

b. Applicants receiving an initial license in the last quarter of the fiscal year (April, May, June) are not required to renew or provide proof of continuing education until the following licensing one year period.

5. Provisional License

a. Licenses will expire annually on June 30.

b. Applicants receiving an initial license in the last quarter of the fiscal year (April, May, June) will not be required to renew or provide proof of continuing education until the following one year licensing period.

6. Continuing Education Requirement for Renewing License

a. For renewal of a regular dietitian/nutritionist license, licensees must submit proof of holding current CDR registration. The board recognizes the CDR PDP system as fulfilling the continuing education requirement for licensure renewal.

b. For renewal of provisional license, provisional licensees must submit proof of at least 15 hours of continuing education per license year.

7. Renewal license identification cards and/or renewal validation documents shall be furnished to each licensee who meets all renewal requirements by the expiration date.

8. The board may provide for the late renewal of a license upon the payment of a late fee within 60 days of the expiration date, July 1 through August 31.

a. If the license has been expired for 60 days or less, the license may be renewed by returning the license renewal form with all appropriate fees and documentation to the board, postmarked on or before the end of the 60-day grace period.

9. A person whose license has expired may not use the title of dietitian or nutritionist or facsimile or present or imply that he or she has the title of "licensed dietitian/nutritionist" or "provisional licensed dietitian/nutritionist" or any abbreviation or facsimile of these titles. Additionally, the person with an expired license may not continue to engage in the practice of dietetics and/or nutrition until the expired license has been renewed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3081-3093 and R.S. 36:259(Q).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 10:12 (January, 1984); amended by the Department of Health and Hospitals, Board of Examiners in Dietetics and Nutrition, LR 14:436 (July, 1988), LR 26:2613 (November 2000), LR 37:2153 (July 2011), LR 41:

§112. Gratuitous Service during a Declared Public Health Emergency

A. - B. ...

C. A licensed dietitian/nutritionist or provisional licensed dietitian/nutritionist not licensed in Louisiana, whose licenses and CDR registrations are current and unrestricted in another jurisdiction of the United States, may gratuitously provide dietetic/nutrition services if:

C.1. - D. ...

E. All interested licensed dietitian/nutritionists or provisional licensed dietitian/nutritionists shall submit a copy of their respective current and unrestricted licenses, or CDR registrations issued in other jurisdictions of the United States and photographic identification, as well as other requested information, to the Louisiana Board of Examiners in Dietetics and Nutrition for registration with this agency prior to gratuitously providing dietetic/nutrition services in Louisiana.

F. Should a qualified licensed dietitian/nutritionist or provisional licensed dietitian/nutritionist registered with the board thereafter fail to comply with any requirement or

condition established by this Rule, the board may terminate his or her board registration upon notice and hearing.

G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3081-3093 and R.S. 36:259(Q).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners in Dietetics and Nutrition, LR 37:2153 (July 2011), amended LR 41:

§113. Code of Ethics for Professional Conduct

A. Licensees under the act shall perform their professional duties using the code of ethics adopted by the board.

B. The board has adopted the following American Dietetic Association/Commission on Dietetic Registration:

1. *Code of Ethics for the Profession of Dietetics and Process for Consideration of Ethics Issues* as published: Am Diet Assoc. 2009;109 (8):1461-1467.

PRINCIPLES OF ETHICS

Fundamental Principles

1. The dietetics practitioner conducts himself/herself with honesty, integrity, and fairness.
2. The dietetics practitioner supports and promotes high standards of professional practice. The dietetics practitioner accepts the obligation to protect clients, the public, and the profession by upholding the Code of Ethics for the Profession of Dietetics and by reporting perceived violations of the Code through the processes established by ADA and its credentialing agency, CDR.

Responsibilities to the Public

3. The dietetics practitioner considers the health, safety, and welfare of the public at all times. The dietetics practitioner will report inappropriate behavior or treatment of a client by another dietetics practitioner or other professionals.
4. The dietetics practitioner complies with all laws and regulations applicable or related to the profession or to the practitioner's ethical obligations as described in this Code.
 - a. The dietetics practitioner must not be convicted of a crime under the laws of the United States, whether a felony or a misdemeanor, an essential element of which is dishonesty.
 - b. The dietetics practitioner must not be disciplined by a state for conduct that would violate one or more of these principles.
 - c. The dietetics practitioner must not commit an act of misfeasance or malfeasance that is directly related to the practice of the profession as determined by a court of competent jurisdiction, a licensing board, or an agency of a governmental body.
5. The dietetics practitioner provides professional services with objectivity and with respect for the unique needs and values of individuals.
 - a. The dietetics practitioner does not, in professional practice, discriminate against others on the basis of race, ethnicity, creed, religion, disability, gender, age, gender identity, sexual orientation, national origin, economic status, or any other legally protected category.
 - b. The dietetics practitioner provides services in a manner that is sensitive to cultural differences.
 - c. The dietetics practitioner does not engage in sexual harassment in connection with professional practice.
6. The dietetics practitioner does not engage in false or misleading practices or communications.
 - a. The dietetics practitioner does not engage in false or deceptive advertising of his or her services.
 - b. The dietetics practitioner promotes or endorses specific goods or products only in a manner that is not false and misleading.
 - c. The dietetics practitioner provides accurate and truthful information in communicating with the public.

7. The dietetics practitioner withdraws from professional practice when unable to fulfill his or her professional duties and responsibilities to clients and others.

- a. The dietetics practitioner withdraws from practice when he/she has engaged in abuse of a substance such that it could affect his or her practice.
- b. The dietetics practitioner ceases practice when he or she has been adjudged by a court to be mentally incompetent.
- c. The dietetics practitioner will not engage in practice when he or she has a condition that substantially impairs his or her ability to provide effective service to others.

Responsibilities to Clients

8. The dietetics practitioner recognizes and exercises professional judgment within the limits of his or her qualifications and collaborates with others, seeks counsel, or makes referrals as appropriate.

9. The dietetics practitioner treats clients and patients with respect and consideration.

- a. The dietetics practitioner provides sufficient information to enable clients and others to make their own informed decisions.
- b. The dietetics practitioner respects the client's right to make decisions regarding the recommended plan of care, including consent, modification, or refusal.

10. The dietetics practitioner protects confidential information and makes full disclosure about any limitations on his or her ability to guarantee full confidentiality.

11. The dietetics practitioner, in dealing with and providing services to clients and others, complies with the same principles set forth above in "Responsibilities to the Public" (Principles #3-7).

Responsibilities to the Profession

12. The dietetics practitioner practices dietetics based on evidence-based principles and current information.

13. The dietetics practitioner presents reliable and substantiated information and interprets controversial information without personal bias, recognizing that legitimate differences of opinion exist.

14. The dietetics practitioner assumes a life-long responsibility and accountability for personal competence in practice, consistent with accepted professional standards, continually striving to increase professional knowledge and skills and to apply them in practice.

15. The dietetics practitioner is alert to the occurrence of a real or potential conflict of interest and takes appropriate action whenever a conflict arises.

- a. The dietetics practitioner makes full disclosure of any real or perceived conflict of interest.
- b. When a conflict of interest cannot be resolved by disclosure, the dietetics practitioner takes such other action as may be necessary to eliminate the conflict, including recusal from an office, position, or practice situation.

16. The dietetics practitioner permits the use of his or her name for the purpose of certifying that dietetics services have been rendered only if he or she has provided or supervised the provision of those services.

17. The dietetics practitioner accurately presents professional qualifications and credentials.

- a. The dietetics practitioner, in seeking, maintaining, and using credentials provided by CDR, provides accurate information and complies with all requirements imposed by CDR. The dietetics practitioner uses CDR-awarded credentials ("RD" or "Registered Dietitian"; "DTR" or "Dietetic Technician, Registered"; "CS" or "Certified Specialist"; and "FADA" or "Fellow of the American Dietetic Association") only when the credential is current and authorized by CDR.
- b. The dietetics practitioner does not aid any other person in violating any CDR requirements, or in representing himself or herself as CDR-credentialed when he or she is not.

18. The dietetics practitioner does not invite, accept, or offer gifts, monetary incentives, or other considerations that affect or reasonably give an appearance of affecting his/her professional judgment.

Clarification of Principle:

a. Whether a gift, incentive, or other item of consideration shall be viewed to affect, or give the appearance of affecting, a dietetics practitioner's professional judgment is dependent on all factors relating to the transaction, including the amount or value of the consideration, the likelihood that the practitioner's judgment will or is intended to be affected, the position held by the practitioner, and whether the consideration is offered or generally available to persons other than the practitioner.

b. It shall not be a violation of this principle for a dietetics practitioner to accept compensation as a consultant or employee or as part of a research grant or corporate sponsorship program, provided the relationship is openly disclosed and the practitioner acts with integrity in performing the services or responsibilities.

c. This principle shall not preclude a dietetics practitioner from accepting gifts of nominal value, attendance at educational programs, meals in connection with educational exchanges of information, free samples of products, or similar items, as long as such items are not offered in exchange for or with the expectation of, and do not result in, conduct or services that are contrary to the practitioner's professional judgment.

d. The test for appearance of impropriety is whether the conduct would create in reasonable minds a perception that the dietetics practitioner's ability to carry out professional responsibilities with integrity, impartiality, and competence is impaired.

Responsibilities to Colleagues and Other Professionals

19. The dietetics practitioner demonstrates respect for the values, rights, knowledge, and skills of colleagues and other professionals.

a. The dietetics practitioner does not engage in dishonest, misleading, or inappropriate business practices that demonstrate a disregard for the rights or interests of others.

b. The dietetics practitioner provides objective evaluations of performance for employees and coworkers, candidates for employment, students, professional association memberships, awards, or scholarships, making all reasonable efforts to avoid bias in the professional evaluation of others.

C. All licensees shall be responsible for reporting any and all alleged misrepresentation or violation of the AND/CDR code of ethics and/or board rules to the board.

D. A failure to adhere to the above code of ethics, constitutes unprofessional conduct and a violation of lawful rules and regulations adopted by the board and further constitutes grounds for disciplinary action specified in R.S. 37:3090 of the Dietitian/Nutritionist Practice Act and these rules and regulations and also constitutes grounds for a denial of licensure or a renewal of licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3081-3093 and R.S. 36:259(Q).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary LR 12:12 (January 1984, repromulgated by the Department of Health and Hospitals, Board of Examiners in Dietetics and Nutrition, LR 14:435 (July 1988), LR 25:1095 (June 1999), LR 41:

§115. Denial, Suspension or Revocation of License

A. - B. ...

C. A suspended license shall be subject to expiration and may be renewed as provided in this section, but such renewal shall not entitle the licensee, while the license remains suspended and until he or she is reinstated, to

engage in the practice of dietetics and/or nutrition, or in any other conduct or activity in violation of the order of judgment by which the license was suspended. If a license is revoked on disciplinary grounds and is reinstated, the licensee, as a condition of reinstatement, shall pay the renewal fee and any late fee that may be applicable.

D. Disciplinary Options for Licensees Available to the Board. In accordance with R.S. 37:3085, R.S. 37:3088, and R.S. 37:3090, the following disciplinary options are available to the board.

1. - 4. ...

5. Censure. The board makes an official statement of censure concerning the individual.

6. ...

7. Restitution. Requirement imposed upon the licensee that he or she makes financial or other restitution to a client, the board, or other injured party.

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3081-3093 and R.S. 36:259(Q).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 10:12 (January 1984), promulgated by the Department of Health and Hospitals, Board of Examiners in Dietetics and Nutrition, LR 14:438 (July 1988), amended LR 25:1095 (June 1999), LR 37:2154 (July 2011), LR 41:

§117. Exemptions

A. No person shall engage in the practice of dietetics/nutrition in the state of Louisiana unless he or she has in his or her possession a current license or provisional license duly issued by the board under the provisions of Chapter 1 of these rules, unless exempted as defined in R.S. 37:3093 of the act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3081-3093 and R.S. 36:259(Q).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 10:12 (January 1984), repromulgated by the Department of Health and Hospitals, Board of Examiners in Dietetics and Nutrition LR 14:435 (July 1988), amended LR 41:

Chapter 3. Board Members

§301. Board Members

A. Officers. The board shall elect annually at the last meeting of the calendar year, a chairman, vice-chairman, and secretary/treasurer whose responsibilities are included in the policy and procedure manual.

B. - B.1. ...

2. A schedule of meeting dates shall be published on the board's website.

3. ...

4. Special travel requests, other than regular monthly meetings, must be approved by the board.

C. - C.2.d. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3081-3093 and R.S. 36:259(Q).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners in Dietetics and Nutrition, LR 37:2155 (July 2011), amended LR 41:

Chapter 5. Procedural Rules

§503. Investigation of Complaints

A. The board is authorized to receive complaints from any person against dietitian/nutritionist licensees or applicants or against persons engaged in the unauthorized and unlicensed practice of dietetics and nutrition. Any

complaint bearing on a licensee's professional competence, conviction of a crime, unauthorized practice, violation of provisions of the Dietitian/Nutritionist Practice Act or board rules and regulations, mental competence, neglect of practice or violation of the state law or ethical standards where applicable to the practice of dietetics and nutrition, should be submitted to the board.

B. Once a written and signed complaint is received from an individual, the board will initiate a review of the allegations. The board may dispose of the complaint informally through correspondence or conference with the individual and/or the complainant which may result in a consent agreement and order. If the party stipulates to the complaint and waives his or her right to formal hearing, the board may impose appropriate sanctions without delay. If the board finds that a complaint cannot be resolved informally, the written complaint will be forwarded to the board's designated complaint investigation officer (hereinafter referred to as the CIO) for investigation.

C. The board's CIO shall have authority to investigate the nature of the complaint against a licensee through conference and correspondence directed to those parties or witnesses involved. The officer shall send the involved licensee notice of the investigation, containing a short summary of the complaint. All letters to the involved licensee, the complainant, or any other witness, shall be sent by certified mail, with the designation "personal and confidential" clearly marked on the outside of the envelope.

D. The CIO shall conclude the investigation as quickly as possible without compromising thoroughness. Unless good cause is shown by the CIO satisfactory to the board, which may extend the time for the investigation, the investigation and recommended action shall be completed within 60 days of the date the CIO first receives the complaint.

E. The CIO shall make a recommendation to the board for disposition by informal hearing, formal hearing or dismissal of the complaint. When the CIO's recommended action might lead to denial, suspension, or revocation of the certificate, the board shall immediately convene a formal adjudication hearing, pursuant to R.S. 37:3090(B) of the Dietetic/Nutrition Practice Act and §501 and §503 of these regulations. The CIO may determine that the licensee's explanation satisfactorily answers the complaint and may recommend to the board that the matter be dismissed. The recommended remedial action or dismissal of the complaint shall be forwarded to the involved complainant and licensee.

F. The CIO may also recommend to resolve the complaint through a consent agreement and order entered into by the licensee and the complainant. If the order contains any agreement by the licensee to some remedial course of action, the agreement must be signed by the complainant, the licensee and the board. The CIO will make note of any settlement arrived at between the complainant and the licensee, but such a settlement does not necessarily preclude further disciplinary action by the board.

G. If the CIO's recommendation for informal hearing is accepted by the board, the officer shall notify the licensee of the time and place of the conference and of the issues to be discussed. The licensee shall appear on a voluntary basis. The licensee shall be advised that the hearing will be informal, no lawyers will be utilized and no transcript of the

hearing made. Any witnesses used will not be placed under oath, and no subpoenas will be issued. The licensee shall be informed that any statements made at the informal hearing may not be used or introduced at a formal hearing, unless all parties consent, in the event the complaint cannot be resolved informally. If the licensee notifies the CIO that he does not wish such an informal hearing, none shall be held. In that event, the CIO shall recommend to the board the initiation of a formal disciplinary hearing.

H. If the investigation disclosed any of the following:

1. that the complaint is sufficiently serious to require formal adjudication;

2. the licensee fails to respond to the CIO's correspondence concerning the complaint;

3. the licensee's response to the CIO's letter discloses that further action is necessary; an informal hearing is held but does not resolve all the issues; or the licensee refuses to comply with the recommended remedial action, the CIO shall recommend to the board the initiation of a formal disciplinary hearing.

I. In any recommended action submitted to the board by the CIO, the recommended action should be submitted in brief, concise language, without any reference to the particulars of the investigation, or any findings of fact or conclusions of law arrived at during the investigative process.

J. The board shall also have authority to delegate to the CIO the investigation of any alleged violations of R.S. 37:3090(A), prior to board action on such alleged violations. In that event, the CIO shall submit to the board the complete details of the investigation, including all facts and the complete investigation file, if requested by the board. Final authority for appropriate action rests solely with the board.

K. At no time shall the CIO investigate any case as authorized by the board or §503 where said officer has any personal or economic interest in the outcome of the investigation, or is personally related to or close friends with the complainant, the individual, or any of the involved witnesses. In such event, the officer shall immediately contact the board, who shall have authority to appoint a CIO ad hoc for disposition of that case.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3081-3093 and R.S. 36:259(Q).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 10:12 (January 1984), promulgated by the Department of Health and Hospitals, Board of Examiners in Dietetics and Nutrition, LR 25:1096 (June 1999), amended LR 37:2155 (July 2011), LR 41:

§505. Conduct of Hearing

A. - A.1.d. ...

e. In any compliance hearing, the burden shall be on the applicant or licensee to establish that he or she meets the criteria for licensure or that his or her certificate was timely renewed.

1.f. - 2.d. ...

e. When the licensee receives notice, he or she may file an answer to the notice denying some or all of the charges, or offering any explanation or assert whatever defense is deemed applicable.

f. - k. ...

1. The burden of proof rests upon the attorney general who is bringing the charge before the board. No sanctions shall be imposed or order be issued, except upon

consideration of the whole record, as supported by and in accordance with reliable, probative and substantial evidence as cited in R.S. 49:957.

m. Any party or person deemed to be governed by or under the jurisdiction of R.S. 37:3081-3093, may apply to the board for a declaratory order or ruling in order to determine the applicability of a statutory provision or rule of this board to said party or person. The board shall issue the declaratory order or ruling in connection with the request by majority vote of the board, signed and mailed to the requesting party within 30 days of the request, except that the board may seek legal counsel or an attorney general's opinion in connection with the request, in which case the declaratory order or ruling may be issued within 60 days of its request.

n. Judicial review and appeal of any decision or order of the board shall be governed by R.S. 49:964, 965.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3081-3093 and R.S. 36:259(Q).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 10:12 (January 1984), promulgated by the Department of Health and Hospitals, Board of Examiners in Dietetics and Nutrition, LR 25:1097 (June 1999), amended LR 41:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Jolie Jones, Louisiana Board of Examiners in Dietetics and Nutrition, 18550 Highland Rd, Suite B, Baton Rouge, LA 70809. Mrs. Jones is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the day of the hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Friday, July 10, 2015 at 2 p.m. in the conference room at the board office, 18550 Highland Rd, Suite B, Baton Rouge, LA 70809 At that time all interested persons will be afforded an

opportunity to submit data, views or arguments either orally or in writing.

Jolie Jones
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Registered Dietitians/Nutritionists

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no estimated implementation saving to state or local governmental units through promulgation of the proposed rules changes. The estimated cost to the Louisiana Board of Examiners in Dietetics and Nutrition (LBEDN) paid to the State Register for publishing the Notice of Intent is \$1,500. The estimated cost to upload the new rules to the website is \$100. All implementation expenditures will be made in state FY 15. The proposed rule changes: update certain definitions to conform with recent Centers for Medicare and Medicaid Services ruling regarding dieticians writing therapeutic diet orders; make technical changes, updates and clarifications to various sections contained within LAC 46:LXIX (Professional Occupational Standards: Registered Dieticians); provide clarification regarding requirements for provisional and regular licensure; provide that military applicants currently registered by the Commission on Dietetic Registration (CDR) are deemed qualified for licensure; replace current Rules for Personal Conduct by adopting the American Dietetic Association/Commission on Dietetic Registration Code of Ethics; an clarify those from whom the board will accept formal complaints against licensed and unlicensed practitioners.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes will have no effect of revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change will allow dieticians and nutritionists direct authority to write therapeutic diet orders without having to first recommend it to the primary health care provider. Military applicants currently registered by the CDR may realize an expedited path to licensure in Louisiana.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Military applicants currently registered by the CDR may realize an expedited path to licensure in Louisiana.

Jolie Jones
Executive Director
1506#015

John D. Carpenter
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Board of Veterinary Medicine

License Procedures (LAC 46:LXXXV.303)

The Louisiana Board of Veterinary Medicine proposes to adopt LAC 46:LXXXV.303.E in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953

et seq., and the Louisiana Veterinary Practice Act, R.S. 37:1518(A)(9) and 37:1533. The board is vested with the authority to regulate the practice of veterinary medicine to insure the health, welfare, and protection of the animals and the public.

The proposed Rule is being adopted to require a faculty license when a veterinarian faculty member engages in the direct (hands-on) practice of veterinary medicine on an animal owned by a member of the public whether by referral from a private practice veterinarian, or by direct patient solicitation/access without referral, as part of his employment at the school. Administrative regulatory accountability is required to insure the health, welfare, and protection of the animals and the public.

This proposed Rule regarding the veterinary faculty license shall become effective for the 2016-2017 annual license period (beginning October 1, 2016), and for every annual license renewal period thereafter.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXXXV. Veterinarian

Chapter 3. Licensure Procedures

§303. Examinations

A. - D. ...

E. Veterinary Faculty License

1. Pursuant to section 1533 of the Veterinary Practice Act, a faculty license to practice veterinary medicine issued by the board to a veterinarian member of the faculty at LSU-SVM is required when the conduct extends to the direct (hands-on) practice of veterinary medicine on an animal owned by the public whether by referral from another veterinarian, or by direct patient access without referral, as part of his employment at the school. The licensed faculty veterinarian shall be ultimately responsible for the proper veterinary care of the animal and held administratively accountable by the board per its regulatory authority.

2. A faculty license shall not be used to practice veterinary medicine beyond the holder's employment at the school. A faculty license cannot be used to practice veterinary medicine at a private or another public facility where veterinary care is provided, or to practice veterinary medicine at an emergency veterinary care facility. However, an active license to practice veterinary medicine issued by the board to a qualified faculty veterinarian may be used by the holder for all aspects of his employment and practice at the school.

3. Further criteria for issuance of a faculty license is when the applicant:

a. provides proof of graduation from a school of veterinary medicine with a degree of doctor of veterinary medicine or its equivalent and:

i. has possessed an active license in good standing issued by another state, territory, or district in the United States at some time within the five years prior to the date of application for a faculty license; or

ii. has a current certificate or other documentation indicating successful completion of a residency or program in a specialty field of veterinary medicine accepted by the board at the time of application for a faculty license; or

iii. has a current certification, or is in the process of attaining certification, in a specialty area of veterinary medicine by the American Board of Veterinary Specialty Colleges, or its international equivalents accepted by the board;

b. prior to commencement of practice at the school, the submission of the board approved application for a faculty license and the payment of the initial application fee of \$100 for issuance of the license to the board are applicable; and thereafter, for annual renewal, the submission of the renewal application with the payment of the annual renewal fee of \$100 are required.

4. The faculty license shall be subject to cancellation for any of the reasons and under the same conditions and costs set forth in R.S. 37:1526 and the board's rules, or if the holder permanently moves out of Louisiana, or leaves the employment of LSU-SVM.

5. Pending issuance of a faculty license or an active license, an intern, who is a graduate of a board approved school of veterinary medicine, may practice veterinary medicine at LSU-SVM, provided the practice is limited to such duties as intern, and is under the supervision of a veterinarian who holds a faculty license issued by the board (or a faculty veterinarian with an active license issued by the board). *Supervision* as used in this rule shall mean the supervising, faculty licensed veterinarian (or a faculty veterinarian with an active license issued by the board) is on the premises or available by telephone for prompt consultation and treatment. The supervising, faculty licensed veterinarian (or a faculty veterinarian with an active license issued by the board) shall be ultimately responsible for and held accountable by the board for the duties, actions, or work performed by the intern.

6. For purposes of this rule, an *intern* is an employee of LSU-SVM, who is a graduate from a school of veterinary medicine with a degree of doctor of veterinary medicine or its equivalent as accepted by the board, and is undergoing training at the school for a one year period, and rotates in various specialties during such period. For purposes of this rule, a *resident* is an employee of LSU-SVM, who is a graduate from a school of veterinary medicine with a degree of doctor of veterinary medicine or its equivalent as accepted by the board, and has satisfied the one year internship requirement, or was in private practice for at least one year, and is thereafter working towards a certification in a specialty area of veterinary medicine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Veterinary Medicine, LR 8:66 (February 1982), amended LR 8:144 (March 1982), amended by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:343 (March 1993), LR 19:1327 (October 1993), LR 23:964 (August 1997), LR 25:2232 (November 1999), LR 28:1982 (September 2002), LR 38:1592 (July 2012), LR 40:308 (February 2014), LR 41:

Family Impact Statement

In accordance with section 953 of title 49 of the *Louisiana Revised Statutes*, the following family impact statements will be published in the *Louisiana Register* with the Rules.

1. The Effect on the Stability of the Family. We anticipate no effect on the stability of the family.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. We anticipate no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect on the Functioning of the Family. We anticipate no effect on the functioning of the family.

4. The Effect on Family Earnings and Family Budget. The Rules regarding application and renewal fees should have no significant adverse effect on family earnings and family budget.

5. The Effect on the Behavior and Personal Responsibility of Children. We anticipate no effect on the behavior and personal responsibility of children.

6. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rules. We anticipate no effect on the ability of the family or a local government to perform the function as contained in the Rules.

Poverty Impact Statement

In accordance with section 973 of title 49 of the *Louisiana Revised Statutes*, the following poverty impact statements will be published in the *Louisiana Register* with the rules.

1. The Effect on Household Income, Assets, and Financial Security. The Rule regarding application and renewal fees should have no significant adverse effect on household income, assets, and financial security.

2. The Effect on Early Childhood Development and Pre-school through Post-secondary Education Development. We anticipate no effect on early childhood development and pre-school through post-secondary education development regarding the Rule.

3. The Effect on Employment and Workforce Development. The Rule regarding application and renewal fees should have no significant effect on employment and workforce development.

4. The Effect on Taxes and Tax Credits. We anticipate no effect on taxes and tax credits regarding the Rule.

5. The Effect on Child and Dependent Care, Housing, Health Care, Nutrition, Transportation, and Utilities Assistance. We anticipate no effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance regarding the Rule.

Small Business Statement

In accordance with section 965 of title 49 of the *Louisiana Revised Statutes*, the following regulatory flexibility analysis will be published in the *Louisiana Register* with the rules.

1. The Establishment of Less Stringent Compliance or Reporting Requirements for Small Businesses. There are no changes in record keeping or reporting requirements for small businesses.

2. The Establishment of Less Stringent Schedules or Deadlines for Compliance or Reporting Requirements for Small Businesses. There are no changes in the deadlines for compliance or reporting requirements for small businesses.

3. The Consolidation or Simplification of Compliance or Reporting Requirements for Small Businesses. The rules regarding application and renewal fees have no adverse effect on compliance or reporting requirements for small businesses.

4. The Establishment of Performance Standards for Small Businesses to Replace Design or Operational Standards in the Proposed Rules. There are no design or operational standards in the Rule.

5. The Exemption of Small Businesses from All or Any Part of the Requirements Contained in the Rules. There are no exemptions for small businesses in the Rule, however, the Rule does not apply to small businesses.

Provider Impact Statement

In accordance with HCR 170 of the 2014 Regular Legislative Session, the following provider impact statement will be published in the *Louisiana Register* with the Rule.

1. Staffing Level Requirements or Qualifications. It is not anticipated that the Rule will have any significant impact on the effect on the staffing level requirements or qualifications required to provide the same level of service.

2. Direct and Indirect Effect of Costs. It is not anticipated that the Rule will have any significant impact on the total direct and indirect effect on the cost to providers to provide the same level of service.

3. Ability to Provide Same Level of Service. It is not anticipated that this Rule will have any significant impact on the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested parties may submit written comments to Wendy D. Parrish, Executive Director, Louisiana Board of Veterinary Medicine, 301 Main Street, Suite 1050, Baton Rouge, LA 70801, or by facsimile to (225) 342-2142. Comments will be accepted through the close of business on Friday, July 24, 2015.

Public Hearing

If it becomes necessary to convene a public hearing to receive comments in accordance with the Administrative Procedure Act, the hearing will be held on Monday, July 27, 2015, at 10 a.m. at the office of the Louisiana Board of Veterinary Medicine, 301 Main St., Suite 1050, Baton Rouge, LA (new office address effective 7/6/2015).

Wendy Parrish
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: License Procedures

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes will result in an expenditure of approximately \$800 Fees and Self-Generated Revenues in FY 15 for the Board of Veterinary Medicine and will result in no estimated costs (savings) to other state or local governmental units. This cost is routinely included in the board's annual operating budget. The proposed rules amend Louisiana Administrative Code (LAC) Title 46, Part LXXXV, Section 303.E regarding clarification of the Louisiana veterinary faculty license. The proposed rule creates a veterinary faculty license, requires licensure for veterinary school faculty, and details permissible practices under such license as well as requirements for licensure.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The Board of Veterinary Medicine anticipates an increase of approximately \$5,500 in self-generated revenues in FY 16, and increasing to approximately \$7,000 above current revenue levels beginning in FY 17 and beyond. The proposed increase in annual license renewal fees shall become effective for the 2016-2017 license renewal period (October 1, 2016-September 30, 2017) and annually thereafter.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed fees regarding faculty license application, original license and license renewal will create an annual cost of \$100 for each faculty veterinarian. The proposed rule will create administrative oversight by the Board regarding the treatment of animals at veterinary schools by faculty veterinarians. There will be no costs and/or economic benefits to non-governmental groups with regards to the proposed Rules.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rules are anticipated to have no effect on competition and employment in the public and private sectors.

Wendy D. Parrish
Executive Director
1506#014

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Bureau of Health Services Financing**

**Managed Care for Physical and Basic Behavioral Health
Timely Filing of Claims
(LAC 50:I.3511)**

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:I.3511 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, Bureau of Health Services Financing promulgated a Rule which amended the provisions governing the coordinated care network in order to change the name in this Subpart to Managed Care for Physical and Basic Behavioral Health, incorporate other necessary programmatic changes, and also incorporate provisions to permit Medicaid eligible children identified in the *Melanie Chisholm, et al vs. Kathy Kliebert* class action litigation (hereafter referred to as Chisholm class members) to have the option of voluntarily enrolling into a participating health plan under the Bayou Health program (*Louisiana Register*, Volume 41, Number 5).

The department now proposes to amend the provisions governing managed care for physical and basic behavioral health in order to revise the timely filing requirements for provider claims.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part I. Administration

Subpart 3. Managed Care for Physical and Basic Behavioral Health

Chapter 35. Managed Care Organization Participation Criteria

§3511. Prompt Pay of Claims

A. - B.1.c. ...

2. The provider shall submit all claims for payment in accordance with the timely filing requirements contained in the provider's contract.

a. The provider may not submit an original claim for payment more than 365 days from the date of service, except for claims which involve retroactive eligibility.

B.3. - E.1. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1589 (June 2011), amended LR 41:938 (May 2015), LR 41:

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

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability or autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Thursday, July 30, 2015 at 9:30 a.m. in Room 173, 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.

Kathy H. Kliebert
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: **Managed Care for Physical and Basic Behavioral Health—Timely Filing of Claims**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 14-15. It is anticipated that \$432 (\$216 SGF and \$216 FED) will be expended in FY 14-15 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 revenue collections other than the federal share of the promulgation costs for FY 14-15. It is anticipated that \$216 will be collected in FY 14-15 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule amends the provisions governing managed care for physical and basic behavioral health in order to revise the timely filing requirements for provider claims. This procedural change will have no impact on the amount budgeted or expenditures for managed care claims. It is anticipated that implementation of this proposed rule will not have economic cost or benefits to managed care organizations or providers for FY 14-15, FY 15-16 and FY 16-17.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

J. Ruth Kennedy
Medicaid Director
1506#050

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Bureau of Health Services Financing

Targeted Case Management
Foster Care and Family Support Worker Services
(LAC 50:XV.Chapter 115)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt LAC 50:XV.Chapter 115 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, Bureau of Health Services Financing provides reimbursement for case management services provided to targeted Medicaid populations, including Medicaid eligible children under the age of 21. Foster care and family support workers employed by the Department of Children and Family Services (DCFS) provides case management services that qualify for Medicaid reimbursement under the Targeted Case Management Program.

The department promulgated an Emergency Rule which amended the Rule governing targeted case management in order to adopt provisions for reimbursing DCFS for Medicaid eligible TCM services (*Louisiana Register*, Volume 41, Number 6). This proposed Rule is being promulgated in order to continue the provisions of the July 1, 2015 Emergency Rule.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 7. Targeted Case Management

Chapter 115. Foster Care and Family Support Worker Services

§11501. Introduction

A. Effective for dates of service on or after July 1, 2015, the department shall reimburse the Department of Children and Family Services (DCFS) for case management and case management supervision services, provided by DCFS foster care and family support workers, which qualify for Medicaid reimbursement under the Targeted Case Management Program.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§11503. Covered Services

A. The Medicaid Program shall provide reimbursement to DCFS for the following case management services:

1. comprehensive assessment of individual needs;
2. periodic reassessment of individual needs;
3. development and periodic revision of a specific care plan;
4. referral and related activities; and
5. monitoring and follow-up activities.

B. Covered services and activities may be rendered to the child, the foster family, or biological family.

C. Case management functions provided by DCFS family support workers include, but are not limited to:

1. completing a safety and risk assessment of the child;
2. completing assessment of family functioning-initial and on-going to include trauma screening as well as screenings for mental health, domestic violence and substance abuse issues;
3. developing a written care plan, jointly with the family, within the first 30 days;
4. providing on-going service planning;
5. providing on-going monitoring of the care plan through home visits, phone calls, etc.; and
6. providing a link to community resources for parents and children including:

- a. referrals to substance abuse;
- b. mental health services;
- c. domestic violence;
- d. daycare services;
- e. the Early Steps program;
- f. medical services;
- g. family resource center services;
- h. parenting services;
- i. visit coaching; and
- j. skills building.

D. Case management functions provided by DCFS foster care workers include, but are not limited to:

1. completing a social history and assessment;
2. arranging an initial medical, dental and communicable disease screening upon entry into foster care;
3. obtaining the medical history of child upon entering foster care, as well as immunization records;
4. completing a behavioral health screening within 15 days of child entering foster care;
5. exploring all federal benefits for the child (SSI, death benefits, etc.);
6. developing case plans and objectives with the family;
7. preparing cases for presentation to the multi-disciplinary team for consultation;
8. coordinating with other professionals regarding the needs of the child, family, and/or parent;
9. continuously assessing the safety of the child and service needs of the child(ren) and families through interviews, observations and other information sources; and
10. providing supportive services for clients and arranges for the provision of services from community resources based on the case plan.

E. The following DCFS services shall not be covered:

1. research gathering and completion of documentation for foster care program;
2. assessing adoption placement;
3. recruiting/interviewing foster parents;
4. serving legal papers;
5. home investigations;
6. transportation;
7. administering foster care subsidies; and
8. making placement arrangements.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§11505. Reimbursement

A. The department shall utilize a random moment sampling (RMS) procedure as the cost allocation process to determine the reimbursement for services rendered by DCFS staff.

B. RMS will statistically validate the method for determining the percentage of effort expended by DCFS foster care and family support workers for case management services rendered to Medicaid eligible children.

C. DCFS foster care and family support workers who render case management services will be randomly selected at a date, time, and frequency designated by the department to participate in a survey, or other process, to determine the amount of time and efforts expended on the targeted population for Medicaid covered services. The RMS responses will be compiled and tabulated using a

methodology determined by the department. The results will be used to determine the cost associated with administering the Medicaid covered TCM services, and the final reimbursement to DCFS for the services rendered.

D. As part of its oversight responsibilities, the department reserves the right to develop and implement any audit and reviewing procedures that it deems are necessary to ensure that payments to DCFS for case management services are accurate and are reimbursement for only Medicaid allowable 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, Bureau of Health Services Financing, LR 41:

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

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability or autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, but may reduce the total direct and indirect cost to the provider to provide the same level of service, and may enhance the provider's ability to provide the same level of service as described in HCR 170 since these provisions establish reimbursement to the provider for the same services they already render.

Public Comments

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Thursday, July 30, 2015 at 9:30 a.m. in Room 173, 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.

Kathy H. Kliebert
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Targeted Case Management
Foster Care and Family Support Worker Services**

**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 estimated state general fund programmatic costs of \$378 for FY 14-15, \$11,651,743 for FY 15-16 and \$12,001,295 for FY 16-17. It is anticipated that \$756 (\$378 SGF and \$378 FED) will be expended in FY 14-15 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.17 in FY 15-16.

**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 \$378 for FY 14-15, \$19,148,528 for FY 15-16 and \$19,722,984 for FY 16-17. It is anticipated that \$378 will be expended in FY 14-15 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.17 in FY 15-16.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

This proposed Rule continues the provisions of the July 1, 2015 Emergency Rule which amended the provisions governing targeted case management (TCM) services in order to adopt provisions for reimbursing the Department of Children and Family Services for services rendered to Medicaid eligible children. It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact in FY 14-15, but will increase program expenditures for targeted case management services by approximately \$30,800,271 for FY 15-16 and \$31,724,279 for FY 16-17.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

It is anticipated that the implementation of this proposed rule will not have an effect on competition and employment.

J. Ruth Kennedy
Medicaid Director
1506#051

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Corrections Services**

Offender Visitation (LAC 22:I.316)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950), the Department of Public Safety and Corrections, Corrections Services, hereby gives notice of its intent to amend the contents of Section 316, Offender Visitation.

Title 22

**CORRECTIONS, CRIMINAL JUSTICE AND LAW
ENFORCEMENT**

Part I. Corrections

Chapter 3. Adult Services

§316. Offender Visitation

A. Purpose—to state the secretary's policy regarding offender visitation and to set forth the process through which offenders may receive visits from persons outside the department in order to maintain contact and relationships in the community. The visiting process shall be conducted at each facility with as much uniformity and consistency as possible while considering the physical limitations and security needs of each facility.

B. Applicability—deputy secretary, chief of operations, regional wardens and wardens. Each warden is responsible for ensuring that appropriate unit written policy and procedures are in place to comply with the provisions of this regulation and for conveying its content to all offenders, affected employees and visitors.

C. Policy. The department understands the importance of visitation in the maintenance of an offender's family ties; visitation is an integral component of institutional management. The department recognizes that the majority of offenders will be released into the community and that the offender's eventual reintegration will be more effective if a visitation program permits the maintenance of social relationships. Visiting can improve public safety and encourage offender accountability. Authorized visitation is permitted by the department to facilitate an offender's institutional adjustment in accordance with the department's goals and mission. The visiting process shall be conducted in an atmosphere that is conducive for the safe, secure and orderly management and operation of the institution. Thus, the visiting process will not overly tax the institution's resources or its ability to maintain adequate control and supervision. In this matter, as in all others affecting institutional operations, safety and security are primary considerations. Any restrictions placed on visiting privileges pursuant to this regulation are rationally related to legitimate penological interests.

D. Definitions

Attorney Visit—visit by an attorney or authorized representative, such as a paralegal, legal assistant, law clerk and investigator whose credentials have been verified.

Contact Visit—a visit in which the offender and visitor(s) are not physically separated.

Contraband—

a. For the purpose of this regulation, includes possession of any weapon, firearm, ammunition or any other item detrimental to the security of the facility, cellular phone or component hardware or other electronic communications device, whether operational or not, (including but not limited to beepers, pagers, subscriber identity module (SIM) cards, portable memory chips, batteries for these devices, chargers, or global satellite system equipment), illegal drug or alcohol, a positive drug screen, failure to provide a urine sample

within three hours of being ordered to do so, a positive breathalyzer test or refusal to submit to a drug or alcohol test.

b. In addition, any offender who attempts to destroy or hide contraband or in any way interferes in a correctional officer's attempt to seize contraband (i.e., flushing drugs down the toilet, pushing an officer to pass contraband to another offender, throwing the contraband over a fence or out of a window, etc.) will be deemed to be in possession of contraband for the purpose of this regulation. (In such cases, the correctional officer must explain the evasive conduct and the presumed contraband in precise and specific detail in the unusual occurrence report (UOR)).

Court Ordered Visit—provides for visitation rights of an incarcerated parent with a minor child.

Disrespect—hostile, sexual, abusive, threatening language or gestures, verbal or written, towards or about another person by a visitor.

Disturbance—conduct or activity which unnecessarily interferes with visitation operations, and/or which advocates, encourages, promotes or otherwise creates or poses a threat to the safety, security, health and good order of the institution, and/or the safety and security of offenders, staff or visitors. A visitor commits a disturbance if the visitor advocates, creates, engages in, maintains or promotes an annoying condition or disorder characterized by unruly, noisy or violent conduct.

Employee—any person employed full-time, part-time or on temporary appointment by the department.

Excessive Contact—prolonged or frequent physical contact between a visitor and an offender that exceeds the brief embrace and kiss upon meeting and leaving and hand-holding. Excessive is not casual contact, but rather a pattern of contact beyond rule limits.

Immediate Family Member—includes the offender's father, mother, siblings, legal spouse, children, grandparents, grandchildren, aunts, uncles, and legal guardians including those with a "step," "half" or adoptive relationship and those persons with the same relationship of the offender's legal spouse and any others indicated on the offender's master record as having raised the offender.

Intake Status—the 30-day period of time following delivery of an offender to the custody of the department. During this time, staff conducts intake processing of the offender including, but not limited to, medical and mental health assessments, custody classification and identification of programming needs and assignments.

Minor Child—anyone under the legal age of majority (18 years).

Non-Contact Visit—a type of visitation whereby an offender and an approved visitor on the offender's visiting list are not permitted to be in physical contact during visitation and are generally separated by a physical barrier. Non-contact visit may also include video visitation (see video visitation definition below).

Picnic Visit—a type of visitation in an area of the institution set aside for picnicking.

Regular Visit—visitation whereby an offender and an approved visitor on the offender's visiting list are permitted to see and talk with each other on a scheduled basis for a reasonable period of time with limited physical contact,

consisting of a brief embrace and kiss upon meeting and leaving, hand-holding and holding of children.

Sex Crime Involving a Minor Child—any conviction of a sexual crime committed, attempted or conspired in which a minor child was involved, victimized or was the intended victim.

Special Visits—

a. a visit that is permitted at an hour and/or place at which visits are not normally permitted;

b. an extra visit by an offender and a person who is on the offender's approved visiting list that is permitted beyond the limits of the number of visits established by this regulation and institutional policy and procedures;

c. a visit with a person who is not on the offender's approved visiting list, such as out-of-state family members or friends;

d. a visit that is authorized for hospitalized or terminally ill offenders.

Suspension of Visiting Privileges—the taking away of visiting privileges for a determinate period of time due to either the visitor's conduct (which may include denial of the visitor at all department facilities) and/or due to the offender's conduct (which may include denial of all visits to that offender, excluding approved clergy, attorney visits and special visits).

Video Visitation—a method of visitation which allows offenders to visit through electronic media.

E. Treatment of Visitors

1. There shall be no discrimination in visiting. All visitors and offenders shall be provided equal opportunities in visiting in accordance with the offender's security classification and housing assignment.

2. Visitors shall be treated with courtesy at all times and shall not be subjected to unnecessary delay or inconvenience in accomplishing a visit.

3. All visitors with disabilities shall have readily accessible facilities and shall be reasonably accommodated as appropriate and to the extent possible within the context of the department's fundamental mission to preserve the safety of the public, staff and offenders. Advance notice of the accommodation requested shall be necessary to ensure its availability at the time of the visit.

F. Designated Visiting Areas

1. Visiting Room

a. Each facility, except reception centers (for offenders in intake status see Subparagraph H.1.b), shall designate at least one location that shall be used for offender visitation. This area(s) shall be in a location(s) that ensures the safety and security of the facility and the persons involved.

2. Visiting Children's Area

a. Wardens shall take into consideration the impact that visits with parents or grandparents in a correctional setting may have on young children, especially pre-school age children. When possible and taking into consideration the physical environment and space capabilities, the visiting area(s) shall make special accommodations to entertain and occupy the minds of these children. These accommodations may include a separate room adjoining the main visiting area which is bright, inviting and comfortable or a similar space within the main visiting room. Appropriate age books,

games and toys may be available in these areas. At all times, children must be supervised by the offender who is being visited or the adult visitor who brought the children. The use of this type of area shall be accomplished without the need for additional staff to supervise the area.

3. Contact or Non-Contact Visiting Areas

a. Unit-specific operational procedures shall designate the location(s) for offender visitation and whether the areas shall permit "contact" or "non-contact" visits.

G. Application for Visitation

1. Application Process

a. In order for family members and friends to visit offenders, they must complete an application for visiting privileges. Offenders shall be responsible for sending applications to family members and friends they want to visit. It is the offender's responsibility to provide the correct name, address, date of birth, race and sex of all prospective visitors. Each warden shall designate a staff person to receive and process these applications.

b. All prospective visitors must complete the application and mail it to the facility the visitor wishes to visit. Parents/legal guardians shall be required to complete the application for minor children (under the age of 18) and shall sign the application on behalf of the minor child. Faxes of the application are not acceptable. It is important that the application be completed fully and all questions answered honestly. Failure to provide all requested information may result in a delay in the processing of the application or a denial of visiting privileges.

2. Criminal History Screening

a. A criminal history background check shall be conducted on each adult applying to visit an offender. In addition, approved adult visitors shall be re-screened for criminal history every two years in accordance with the provisions of this section. Screening may be conducted through one of the following methods:

- i. criminal history background questionnaire to local law enforcement;
- ii. CAJUN 2 inquiry;
- iii. National Crime Information Center (NCIC); or
- iv. Louisiana computerized criminal history (LACCH).

b. The warden retains the option of choosing the method of obtaining the criminal history that best meets the needs of the institution.

c. When an active criminal warrant is found, the application shall be reviewed and local law enforcement shall be notified of the information provided. The information on the applicant's criminal history is treated as confidential and shall not be released to the offender.

3. Notification of Approval/Denial

a. Once a decision is made either approving or denying the application, the offender shall be notified. The offender is responsible for advising applicants that their applications have been approved or denied. The applicant's approved application must be on file prior to visiting.

H. Eligibility for Visitation Privileges

1. Offenders

a. All offenders, (except those offenders in intake status see Subparagraph H.1.b) or as specifically provided herein, are eligible to apply for visits while confined in a departmental facility.

b. Offenders in Intake Status

i. Visitation will not be allowed while an offender is in intake status. If the intake process exceeds 30 days, the offender may request a special visit with immediate family members in accordance with the reception center's visiting procedures. Once an offender is removed from intake status, visitation with immediate family members may be authorized by the receiving facility at the request of an offender.

c. Offenders With No Established Visiting Record

i. Offenders entering an institution with no established visiting record should be granted tentative approval to visit immediate family members upon the request of the offender. Verification of relationship may be required. Exceptions must be approved by the warden or designee and be based upon legitimate security considerations.

d. Offenders Transferred to Another Facility

i. Offenders transferring to another institution should be authorized to visit with their approved visitors at the receiving institution unless it is demonstrated that the requirements/restrictions of this regulation were not previously adhered to in the approval process or unless the warden or designee at the receiving institution identifies the need to apply restrictions based upon current security considerations. (An offender shall be allowed to request a change in his visiting list when he first arrives at the receiving institution and at four-month intervals thereafter.)

2. Prospective Visitors

a. All persons, except as specifically prohibited in accordance with this regulation, are eligible to be considered for approval to visit an offender confined in a departmental facility upon application and request by the offender.

b. Visitation by Individuals with Criminal Conviction/Pending Criminal Charges

i. A person is ineligible to visit if the individual has been convicted of, and/or has criminal charges pending against him for the following crimes/criminal activities:

- (a). introduction and/or supplying, attempting or conspiring to introduce or supply contraband;
- (b). possession, control or delivery of an explosive device or substance, including attempt or conspiracy to do the same; or
- (c). assisting an offender in an escape or unlawful departure from a correctional facility, including an attempt or conspiracy.

c. Visitation by Victims

i. Visits from the offender's direct victim(s) are prohibited except in accordance with established procedures. At the warden's discretion, this policy may be waived on a case-by-case basis.

d. Visitation by Ex-Offenders/Parolees/Probationers

i. A person who has been convicted of a felony, who has not been finally discharged from an institution or from probation or parole supervision for more than two years without an intervening criminal record shall be denied approval to be placed on an offender's visiting list. In addition, any person who in the previous five years had three or more felony charges (regardless of disposition) shall be considered ineligible to visit or, if already an approved visitor, shall have visiting privileges revoked.

e. Visitation by Staff/Ex-Employees

i. Visitation by employees of the department is reserved for immediate family members only. Requests to visit an incarcerated family member shall be submitted to the requesting employee's warden or designee for consideration. A departmental employee or an ex-employee may be denied approval to visit if such denial is deemed by the warden or designee to be in the best interest of the institution.

f. Exceptions

i. Exceptions to the provisions of this Section, including the approval of former offenders as visitors, may be specifically authorized by the warden or designee.

I. Visits with Minors

1. Restriction on Visits with Minors

a. Offenders who have a current or prior conviction for a sex crime involving a minor child family member, or who have a documented history of sex abuse with a minor child family member, are ineligible to visit with any minor child, including their own biological or step-child (see Subparagraph I.1.c and Paragraph 2 for possible exceptions).

b. Offenders who have a current or prior conviction for a sex crime involving a minor child who is not a family member are ineligible to visit with any minor child. However, at the warden's discretion, such offenders may be authorized to visit with their own biological child. The legal guardian shall submit a written request and shall accompany the minor child during the visit. If approved by the warden, the visit may be contact or non-contact at the warden's discretion. The legal guardian may be permitted to name another individual (other than the legal guardian) who is on the offender's visiting list to accompany the minor child for a visit. The legal guardian shall provide a written, notarized statement authorizing a specific individual to accompany the minor child. If approved by the warden, the visit may be contact or non-contact at the warden's discretion (see Subparagraph I.1.c and Paragraph 2 for possible exceptions).

c. Visits for offenders who have successfully completed or are participating satisfactorily in sex offender treatment may be considered by the warden. (Treatment staff who teach the sex offender class shall be involved in the decision-making process for this type of visit.) The legal guardian shall submit a written request and shall accompany the minor child during the visit. The legal guardian may be permitted to name another individual (other than the legal guardian) who is on the offender's visiting list to accompany the minor child for a visit. The legal guardian shall provide a written, notarized statement authorizing a specific individual to accompany the minor child. If approved by the warden, the visit may be contact or non-contact at the warden's discretion.

d. Minor children may be prohibited from participating in non-contact visits at the discretion of the warden.

e. Each visit with a minor child shall be documented in the offender's visiting record.

2. Court-Ordered Visitation

a. Pursuant to the provisions of Act No. 383 of the 2014 Regular Session, a court may authorize visitation with an incarcerated parent. As part of such visitation order, the court shall include restrictions, conditions and safeguards as are necessary to protect the mental and physical health of the child and minimize the risk of harm to the child. In

considering the supervised visitation of a minor child with an incarcerated parent, the court shall consider the best interests of the child.

b. In cases of court ordered visitation, the department cannot deny the visit. However, such visitation shall be in conformance with all other rules and regulations that pertain to visiting.

c. For the purpose of this Section, "court" means any district court, juvenile court or family court having jurisdiction over the parents and/or child at issue.

J. Establishing and Maintaining Visiting Lists

1. Approved Visitors

a. Offenders may be permitted a maximum of 10 approved visitors on their respective visiting lists. The initial request for visitors shall be used by offenders to request visitors.

b. At the discretion of the warden or designee, an offender participating in a special recognition program may be allowed to have up to a maximum of 15 approved visitors placed on his visiting list.

c. The name of each approved visitor shall appear on the offender's visiting list; however, legal advisors, one approved religious advisor and minor children shall not be counted toward the maximum number of approved visitors, although the names of the legal advisors and one approved religious advisor shall still appear on the list. The names of the minor children need not appear on the list.

d. Except as noted in Paragraph I.1 relative to offenders who have a current or prior conviction for a sex crime, minor children may visit on any of the regular visiting days when accompanied by an adult visitor on the offender's approved visiting list. Both visitors must be visiting the same offender at the same time. Exceptions to being accompanied by an adult may be specifically authorized by the warden or designee, including, but not limited to, the following:

- i. minor spouse;
- ii. emancipated minors (judgment of emancipation required as proof); or
- iii. minors visiting as part of approved institutional programs such as school groups, church groups, parenting groups, etc.

2. Changing the Visiting List

a. Each offender shall be allowed to request changes (additions, deletions, substitutions) to his approved visiting list every four months.

b. A request for changes to approved visiting list shall be made available to offenders to request changes to their approved visiting list.

K. Visiting Rules

1. Visiting Privileges

a. Visitation is a privilege and not a right. Violation of rules may result in termination of the visit, loss of the offender's visiting privileges, banning of the visitor from entering the institution or its grounds and/or criminal charges as circumstances warrant.

2. Unit-Specific Visiting Procedures

a. This regulation and the department's standard guidelines for visitors are available on the department's website at www.doc.louisiana.gov. Information specific to each facility is also posted on the department's website (i.e., driving directions, visiting days/hours, special visits, etc.).

b. Each warden shall be responsible for ensuring written information regarding unit specific visiting procedures is made available to offenders within 24 hours following the offender's arrival at the institution. At a minimum, the information shall include, but is not limited to, the following:

- i. address and phone number of the institution;
- ii. directions to the institution;
- iii. information regarding local transportation;
- iv. days and hours of visitation;
- v. approved dress code;
- vi. authorized items;
- vii. rules for children and special visits.

3. Visitor Identification Requirements

a. All visitors age 18 years and older shall be required to produce valid picture identification before entering the visiting area each time they visit. The only forms of identification accepted by the department are:

- i. a valid driver's license from the state of residence;
- ii. a valid state photo identification card from the state of residence;
- iii. a valid military photo identification card (active duty only);
- iv. a valid passport.

4. Refusal/Requests for Removal

a. Offender Refusal to Visit

i. An offender may refuse to see a visitor; however, the offender shall be required to sign a statement to that effect and the statement shall be filed in the offender's master record. Should the offender refuse to sign a statement, documentation of the refusal shall be placed in the offender's master record.

b. Requests for Removal

i. A person may be removed from the offender's approved visiting list at his own request or at the request of the offender. If a visitor requests such removal, the visitor must wait six months before applying to visit the same or another offender. Exceptions may be made for immediate family members.

5. Visitors may only be on one offender's visiting list.

a. A visitor can be on only one offender's visiting list per institution unless that visitor is a family member of more than one offender. The burden of proof and documentation shall be the responsibility of the offender and his family. Visitors may request that they be removed from one offender's visitor's list and placed on another offender's list in accordance with this regulation.

6. Number, Duration and Conditions of Visits

a. Approved visitors should be allowed to visit the offender at least two times per month.

b. While a two-hour visit is optimum, each warden or designee retains the discretion to determine the duration of visits, as well as the days and hours on which they may occur. Available space and staff shall determine visiting lengths.

c. Each warden or designee retains the discretion to determine the number of visitors who may visit an offender at one time. Family visiting and contact visits are to be permitted to the extent possible.

d. All visitors are to be informed in writing of the rules governing visiting (see "Guidelines for Visitors").

Visiting guidelines shall be conspicuously posted in the visiting areas and are made available to prospective visitors on the department's website at www.doc.louisiana.gov.

e. Visitors are allowed to bring only enough cash money for vending machines and/or concessions into the visiting area. Financial transactions for offenders shall be in the form of cash and/or credit or debit card payments made at the unit's visitor center kiosk machines provided by the department's contractor for offender services for use by the offender's approved visitors. All other money from permissible sources may be accepted and processed in accordance with established procedures.

NOTE: Contractor fees shall apply to this transaction.

f. Any visit may be terminated if the offender or visitor violates the rules governing visiting.

g. Where available, picnic visits are authorized as approved by the warden or designee. The warden or designee shall authorize foods that will be allowed for picnics.

7. Special Visits

a. Special visits may be granted, with the prior approval of the warden or designee, on a case-by-case basis. Unit operational procedures shall specify the parameters for such approval, with consideration given to sources of transportation, accessibility to the facility by visitors, the distance a visitor must travel and any special circumstances.

8. Dress Code for Visitors

a. Visitors shall be made aware that visiting areas are designed to cultivate a family atmosphere for family and friends of all ages. Visitors shall dress and act accordingly. Visitors shall wear clothing that poses no threat to the safety, security, good order and administrative manageability of the facility. See "Guidelines for Visitors" for specific dress standards.

L. Video Visitation

1. Video visitation is considered a special visit and shall be requested and approved in accordance with Paragraph K.7 and shall be in conformance with all other rules and regulations that pertain to visiting.

2. When transportation is provided during emergencies and extreme circumstances, offenders may be allowed to visit via video connection capabilities.

3. The warden or designee shall ensure that all laptops, laptop connection cards or wireless internet connection cards are maintained in a secure location that is not accessible to offenders and other unauthorized or untrained persons when not in use.

4. The warden or designee may approve the set-up and use of video visitation and shall ensure that a staff member or approved volunteer is assigned to monitor the visit at an appropriate, conducive visitation area.

5. The warden or designee shall be responsible for ensuring that staff and/or volunteers are present at the remote location. Staff and/or volunteers at the remote location shall document that they and the approved visitor(s) are the only individuals present for the video visitation.

6. Any other person present is required to have written permission from the warden or designee to participate in the video visitation process.

7. Violations occurring during video visitation are subject to disciplinary action, suspension of visiting privileges and/or possible civil or criminal prosecution, depending on the nature of the offense.

8. This form of visiting involves open internet capability requiring on-site supervision at both locations when in use and does not involve or allow connection to the department's network.

M. Visitation Records

1. Each facility shall maintain a record for each offender documenting all of the offender's visits. All visiting records/information obtained on an offender by institutional staff shall be transferred with the offender when the offender is reassigned to another institution within the department. This includes transfers to transitional work programs. The offender's current visiting information shall be utilized by the transitional work program to allow for visitation.

N. Visitor Searches

1. Without warning, visitors are subject to a search of their vehicles, possessions and persons. This is necessary to preclude the introduction of weapons, ammunition, explosives, cell phones, alcohol, escape devices, drugs, drug paraphernalia or other prohibited items or contraband into the prison environment. All searches of visitors shall be conducted in accordance with established procedures.

2. Signs shall be posted in the area(s) where visitors are initially processed and in the visiting rooms/areas that advises visitors that drug detection dogs (K-9's) may be in use at the facility and visitors shall be subject to search by these dogs. The sign shall state:

NOTICE: Drug detection dogs (K-9's) may be in use today in the visiting room. These dogs are non-aggressive. All visitors will be searched prior to entering the visiting room and/or during the visit. If you do not wish to be searched, you may choose not to visit today.

O. Supervision of Visiting Areas

1. Facilities shall provide direct visual supervision of the entire visitation area at all times. Staff shall position themselves throughout the visitation area to maintain a direct line of sight on interactions between offenders and visitors. While mirrors and cameras can augment direct supervision and compensate for blind spots, staff shall position themselves with a direct line of sight on interactions between offenders and visitors.

2. Staff shall immediately intervene on inappropriate behavior, which may include behavior outside the bounds of permitted intimacy or involve any violation of visiting regulations that may prove uncomfortable, disruptive, or offensive to other offenders and visitors.

3. Notices shall be posted informing visitors of the potential for monitoring anywhere in the visiting area. Staff of the same gender as the visitor shall monitor the restrooms during visits if there is reasonable suspicion that a visitor or offender may engage or be engaging in some form of prohibited behavior.

P. Visitation at Special Offender Organization Functions/Events

1. The warden may authorize offender organizations to hold special functions or events when those programs can be adequately supervised by staff. When such a special function is approved by the warden, visitors to the event shall be subject to the normal security processing as would occur during normal hours of visitation. Special guests (speakers/presenters) invited to the special function shall be processed at the direction of the warden.

Q. Emergency Situations

1. When the warden or designee determines that an emergency situation exists at the facility, any or all visits shall be suspended. Any visits in progress shall be terminated and the visitors escorted from the facility. Any person may be denied permission to visit during the time of a disturbance at the institution. All visiting shall be suspended during an emergency.

R. Limitation or Suspension of Visiting Privileges

1. Non-Contact Visits

a. Offenders who are housed in administrative segregation or disciplinary units shall be placed on non-contact visitation status if physical plant space is available.

b. Any offender who pleads guilty or has been found guilty of a schedule B disciplinary rule violation for one or more of the following reasons shall be subject to non-contact visits for a minimum of six months:

- i. possession of any drug or drug paraphernalia;
- ii. producing a positive or adulterated urine sample;
- iii. refusal or substantial delay to provide a urine sample;
- iv. introduction of contraband into the institution;
- v. positive breathalyzer test;
- vi. repeated (defined as more than two in a two year time period) violations of disciplinary rule no. 21; or
- vii. any major rule violation that occurs in the visitation area.

c. Such restriction must be formally reviewed by an appropriate board at a minimum of every six months.

d. Restriction of contact visiting is not a disciplinary penalty.

2. Suspension of an Offender's Visiting Privileges (No Visiting)

a. Any offender who pleads guilty or has been found guilty of a contraband charge (as defined in Subsection D of this regulation) for the first time shall have all visiting privileges suspended for a maximum of six months, excluding approved clergy, attorney visits and special visits.

b. Any offender who pleads guilty or has been found guilty of a contraband charge within the past five years (as defined in Subsection D of this regulation) for a subsequent offense shall have all visiting privileges suspended for a maximum of one year, excluding approved clergy, attorney visits and special visits.

c. Suspended visiting privileges cannot consist of more than two simultaneous suspensions (i.e., the original suspension and any subsequent suspension).

d. At the end of the suspension, the offender shall submit to the warden or designee a written request to have visitation reinstated and shall also submit a new request for changes to approved visiting list.

e. A review of the circumstances of the applicable contraband UOR(s) and the offender's current conduct record shall be conducted by an appropriate board at a minimum of every six months.

f. Restriction of no visiting is not a disciplinary penalty.

3. Suspension of a Visitor's Visiting Privileges

a. Any person may be refused approval to visit an offender and removed from an approved visiting list if the visitor does not comply with the rules of the institution. (Such removal may be temporary or permanent, depending upon the severity of the violation.)

b. Any person causing or participating in a disturbance or one that is disrespectful may be refused approval to visit an offender. If an offense is such that it is the warden or designee's desire to remove the visitor from the visitor list (either permanently or for a fixed period of time), the following procedures shall be followed.

i. The warden or designee shall notify the visitor in writing that he has been removed from all applicable visiting lists, the reason why and that the removal will be reviewed after a specified amount of time. The visitor shall also be notified in writing that he may appeal the warden's decision to the secretary by sending a letter within 15 days of the date of the notice.

ii. If the visitor exercises this appeal right, the secretary or designee shall review the appeal and investigate, as appropriate, within 30 days of notice. If necessary, a hearing shall be scheduled and the visitor shall be notified of the time, date and location of the hearing.

iii. The warden or designee may submit a report to the secretary setting forth any information that he feels may assist in making the decision. If a hearing is held, the secretary or designee may determine that the warden or designee should attend this hearing; in this case, the warden shall be so advised. Otherwise, the hearing shall consist of a meeting between the visitor and the secretary or designee and shall be preserved by minutes.

iv. The secretary shall render a written decision granting or denying the appeal and shall notify the visitor and the warden of the decision without undue delay. Brief reasons for the decision shall be given.

c. Reinstatement of visiting privileges for visitors who are removed for a fixed period of time may only be considered upon written request from the offender following the procedures detailed in Paragraph J.2 of this Section and only after the fixed period of time for the removal has elapsed. Should reinstatement be denied, the offender shall be notified in writing of the denial and that reconsideration will only be given at the next opportunity for changes to the offender's visiting list.

S. Guidelines for Visitors. Visitation with offenders committed to the Louisiana Department of Public Safety and Corrections (DPS and C) is a privilege. Visitation may be restricted, denied or suspended if an offender and/or visitor does not follow the department's visitation rules. Prospective visitors may refer to www.doc.louisiana.gov for the department's regulation governing offender visitation. The regulation may also be obtained by requesting a copy from the facility. Items considered to be contraband, including any type of weapon, firearm, ammunition or any other item detrimental to the security of the facility are never allowed to be brought onto the grounds of a correctional facility. Some prohibited items and personal possessions (wallet, purse, cash, etc.) must be left in the visitor's locked vehicle for the duration of the visit. The following are rules that a visitor must follow in order to be allowed to visit with an offender.

1. Visiting List. In order to visit an offender, the visitor must be on the offender's approved visiting list. The offender has been given information on how to put someone on their visiting list. If you are uncertain as to whether you are on the offender's approved visiting list, please contact the offender you wish to visit. Do not call the facility for this information; it will not be provided over the phone.

2. Searches. All visitors, including minors, are subject to searches of their property, automobile and person. This is necessary to preclude the introduction of contraband into the prison environment. These searches shall be conducted by trained staff in a professional manner that minimizes indignity to the visitor while still accomplishing the objective of the search. Additionally, visitors shall be subject to additional searches using metal detectors and ion scanning equipment. Specially trained search dogs (K-9's) may be used as a part of the search process both prior to a visitor entering the visiting area and in the actual visiting room during visits. Any person refusing to be searched at any time shall not be permitted to enter the facility and a visit may be terminated if a visitor refuses to be searched, or if contraband or other prohibited property or items are found on the visitor or in the visitor's property. If a visitor does not wish to be searched either by hand or by using other means, the visitor should not attempt to enter a DPS and C facility.

3. Registration. Visitors must register with staff prior to entering the visiting area.

4. Identification. All visitors who are 18 years old or older shall be required to show a picture identification each time they visit. The forms of identification accepted by the DPS and C are:

- a. valid driver's license from the state of residence;
- b. valid state photo identification card from the state of residence;
- c. valid military photo identification card (active duty only);
- d. valid passport.

5. Children. Visitors under the age of 18 years of age must be accompanied by their parent or legal guardian at all times while on facility grounds. Children shall not be left alone at any time while on facility grounds. Parents or legal guardians shall be responsible for the behavior of their children and a visit may be terminated if the children become disruptive.

6. Dress Standards. Visitors shall wear clothing that poses no threat to the security or maintenance of order at the facility. The following standards are to be met.

- a. Clothing that is similar in appearance to the clothing worn by the prison's offender population is prohibited.
- b. Clothing that is similar in appearance to the clothing worn by correctional officers, i.e. camouflage, blue BDU's, etc. is prohibited.
- c. Sheer or transparent clothing is not permitted.
- d. Swim suits are not permitted.
- e. Skirts, shorts, skorts, culottes and dresses must be no shorter than three inches above the kneecap and not have deep or revealing slits.
- f. Strapless, tube and halter tops, tank tops and strapless dresses are not permitted.
- g. Tops that expose the midriff are not permitted.

h. Tight fitting pants, such as stirrup, spandex, lycra or spandex-like athletic pants, aerobic/exercise tights or leotards shall not be worn.

i. Undergarments must be worn at all times and cannot be exposed.

j. Clothing with revealing holes or tears higher than one inch above the kneecap is not permitted.

k. Clothing or accessories with obscene or profane writing, images or pictures is not permitted.

l. Gang or club-related clothing or insignia indicative of gang affiliation is not permitted.

m. Shoes must be worn at all times, except for infants who are carried. House slippers or shower shoes are not allowed.

n. Hats or other head coverings are not permitted, except as required by religious beliefs.

7. Items not Permitted. Visitors shall not be permitted to possess or carry the following items into the visiting area:

a. any weapon, firearm, ammunition or any other item detrimental to the security of the facility;

b. cameras, video and audio recording equipment and electronic devices, including but not limited to cellular phone or component hardware or other electronic communications device, whether operational or not, (including but not limited to beepers, pagers, subscriber identity module (SIM) cards, portable memory chips, batteries for these devices, chargers or global satellite system equipment) etc.;

c. controlled substances or illegal drugs;

d. alcohol;

e. tobacco and tobacco related items.

8. Medication. Only prescribed medication that is life-saving or life-sustaining (such as nitroglycerine pills, inhalers, oxygen, etc.) shall be permitted. Medication shall be limited in quantity to no more than that required for the duration of the visit. Visitors must advise the staff at the visiting desk that they are in possession of such medication.

9. Infants. If the visitor has an infant child, the following items shall be permitted: four diapers; two jars vacuum sealed baby food; two plastic bottles milk or juice; one change of clothing; one baby blanket (maximum width and length not to exceed 48 inches) and one clear plastic bag of baby wipes. These items (except the baby blanket) must be stored in a single clear plastic container (i.e., gallon size zip-lock bag.) All items are subject to search.

10. Money. See www.doc.louisiana.gov for facility-specific limitations on the amount a visitor is permitted for vending machines and/or concessions. Visitors shall not give any money to an offender. Financial transactions for offenders shall be in the form of cash and/or credit or debit card payments made at the unit's visitor center kiosk machines provided by the department's contractor for offender services for use by the offender's approved visitors. All other money from permissible sources may be accepted and processed in accordance with established procedures.

11. Contact between Offenders and Visitors. Offenders who have "contact" visits may embrace (hug) and exchange a brief kiss (briefly to indicate fondness, not a lingering kiss) with their visitor at beginning and end of the visit. During the visit, the only contact permitted is holding hands. Excessive displays of affection or sexual misconduct between offenders and visitors is strictly prohibited. Small

children may be permitted to sit on the lap of the visitor or offender. Any improper contact between an offender and visitor shall be grounds for stopping the visit immediately. Some offenders are restricted to "non-contact" visits. In these cases, there shall be no physical contact (touching) between the offender and the visitors. Restroom breaks may be authorized; however, visitors will be subject to the entire search process.

12. Restrictions on Visits with Minors. Offenders who have a current or prior conviction for a sex crime involving a minor child family member, or who have a documented history of sex abuse with a minor child family member, are ineligible to visit with any minor child, including their own biological or step-child. Offenders who have a current or prior conviction for a sex crime involving a minor child who is not a family member are ineligible to visit with any minor child. The offenders affected by these restrictions have been informed of possible exceptions that may only be approved by the warden. See www.doc.louisiana.gov for additional information on restriction of visits with minors.

13. Court Ordered Visitation. Pursuant to the provisions of Act No. 383 of the 2014 Regular Session, a court may authorize visitation with an incarcerated parent. In cases of court ordered visitation, the department cannot deny the visit. However, such visitation shall be in conformance with all other rules and regulations that pertain to visiting.

14. Generally Prohibited. The giving or receiving of any item(s) to/from an offender without the prior approval of staff is prohibited. Violators are subject to arrest and criminal prosecution and suspension of visiting privileges either permanently or for a fixed period of time. The only exception is that the visitor may purchase soft drinks, snacks or concessions in the visiting area and share them with the offender. The offender is not permitted to take anything out of the visiting area when the visit is finished, other than with approval as noted above.

15. Visiting Hours. See www.doc.louisiana.gov for visiting hours at a specific facility.

16. Public Transportation. Some DPS and C facilities have public transportation available to the facility. Information is provided at the facility to the offender population if public transportation is available. There may be a cost for use of this transportation and the DPS and C does not endorse or claim any liability for the use of the transportation provider. The visitor may contact the offender they wish to visit to obtain specific information regarding any types of transportation that may be available to the facility where the offender is housed.

17. Directions. Driving directions may be found under the name of the facility the visitor wishes to visit at www.doc.louisiana.gov.

18. Termination of Visits. The warden of the facility or staff designated by the warden may terminate a visit at any time if they believe that ending the visit is in the best interest of the safety and security of the facility or the persons involved.

19. Other Specific Information Provided by the Offender or Facility. Other permissible items, special visit procedures and availability of picnic visits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:833(A).

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 5:2 (January 1979),

amended LR 11:1096 (November 1985), repromulgated LR 29:2851 (December 2003), amended by the Department of Public Safety and Corrections, Corrections Services, LR 32:406 (March 2006), LR 35:1248 (July 2009), LR 37:2177 (July 2011), LR 38:835 (March 2012), LR 41:

Family Impact Statement

Amendment to the current Rule has no known impact on family formation, stability or autonomy, as described in R.S. 49:972.

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session.

Public Comments

Written comments may be addressed to 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 July 10, 2015.

James M. LeBlanc
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Offender Visitation**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will not have an impact on state or local government expenditures. The proposed rule changes amend the current regulations to reflect circumstances involving offenders and visitors. The proposed rule stipulates that each facility's visitation process shall be conducted with as much uniformity and consistency as possible. In addition, the proposed rule defines Contraband, Court Ordered Visitation, and Suspension of Visitation Privileges. It also revises guidelines for Court Ordered Visits, and Limitation or Suspension of Visiting Privileges in accordance with Act 383 of the 2014 Regular Session of the Legislature.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units as a result of the proposed rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There is no estimated cost and/or economic benefit to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment as a result of the proposed rule change.

Thomas C. Bickham, III
Undersecretary
1506#023

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Office of State Police
Transportation and Environmental Safety Section**

Underground Utilities Committee
(LAC 55:1.2101)

The Department of Public Safety and Corrections, Office of State Police, in accordance with R.S. 49:950 et seq., and R.S. 40:1749.11 et seq., gives notice of its intent to amend its rules pertaining to underground utilities and facilities damage prevention by designating the membership of the Underground Utilities and Facilities Damage Prevention Advisory Committee.

Title 55

PUBLIC SAFETY

Part I. State Police

Chapter 21. Underground Utilities

§2101. Purpose

A. ...

B. The advisory committee referenced in Subsection A above is hereby established and shall be composed of the following members:

1. a representative of each certified Louisiana regional notification center;
2. a representative of the Department of Public Safety;
3. a representative of the Department of Environmental Quality;
4. a representative of the Right-to-Know Unit, Office of State Police;
5. a representative of the Department of Natural Resources-Pipeline Division;
6. a representative of the Office of the State Fire Marshal;
7. a representative of the Public Service Commission;
8. a representative of the Louisiana Chemical Association;
9. a representative of the Louisiana Gas Association;
10. a representative of the Louisiana Municipal Association;
11. a representative of the Louisiana Forestry Association;
12. a representative of the Louisiana Home Builders Association;
13. a representative of the Louisiana Rural Water Association;
14. a representative of the Louisiana Cable and Telecommunications Association;
15. a representative of the Louisiana Electric Cooperatives Association;
16. A representative of the Mid Continent Oil and Gas Association;
17. a representative of the Louisiana Farm Bureau Federation;
18. a representative of the Louisiana Associated General Contractors;

19. a representative of the Louisiana Common Ground Alliance;

20. a representative of offshore facility owners and operators.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1749.11 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 26:92 (January 2000), amended by the Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, LR 41:

Family Impact Statement

1. The Effect of this Rule on the Stability of the Family. This Rule should not have any effect on the stability of the family.

2. The Effect of this Rule on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. This Rule should not have any effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect of this Rule on the Functioning of the Family. This Rule should not have any effect on the functioning of the family.

4. The Effect of this Rule on Family Earnings and Family Budget. This Rule should not have any effect on family earnings and family budget.

5. The Effect of this Rule on the Behavior and Personal Responsibility of Children. This Rule should not have any effect on the behavior and personal responsibility of children.

6. The Effect of this Rule on the Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rule. This Rule should not have any effect on the ability of the family or local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

The impact of the proposed Rule on child, individual, or family poverty has been considered and it is estimated that the proposed action is not expected to have a significant adverse impact on poverty in relation to individual or community asset development as provided in R.S. 49:973. The agency has considered economic welfare factors and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on poverty.

Small Business Statement

The impact of the proposed Rule on small businesses has been considered and it is estimated that the proposed action is not expected to have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act.

The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the

proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments to Paul Schexnayder, P.O. Box 66614, Baton Rouge, LA 70896. Written comments will be accepted through July 15, 2015.

Jill Boudreaux
Undersecretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Underground Utilities Committee

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will not result in any estimated implementation costs or savings to state or local governmental units. The proposed rule designates the membership of the Louisiana Underground Utilities and Facilities Damage Prevention advisory committee. The proposed rule codifies current practice. The committee meets to discuss potential rule changes related to underground utilities.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change is not anticipated to have an effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change is not anticipated to have an effect on the costs and/or benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment as a result of the proposed rule change.

Jill Boudreaux
Undersecretary
1506#008

Evan Brasseaux
Staff Director
Legislative Fiscal Office

Potpourri

POTPOURRI

Department of Environmental Quality
Office of Environmental Services
Air Permits Division

Baton Rouge Nonattainment Area Redesignation Request
and 2008 8-hour ozone National Ambient Air Quality
Standard Maintenance Plan

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., the secretary gives notice that the Office of Environmental Services, Air Permits Division will submit a proposed redesignation request and ozone maintenance plan for the 2008 8-hour ozone national ambient air quality standard for the Baton Rouge nonattainment area, which includes Ascension, East Baton Rouge, Iberville, Livingston and West Baton Rouge Parishes. The redesignation request is being submitted as required under section 107(d)(3)(E) of the 1990 Clean Air Act amendments; the ozone maintenance plan is being submitted as required under section 175A of the 1990 CAAA. (1506Pot2)

Public Comments

All interested parties are invited to submit written comments concerning the redesignation request and maintenance plan for the Baton Rouge area no later than 4:30 p.m., July 31, 2015, to Vivian Aucoin, Office of Environmental Services, P.O. Box 4313, Baton Rouge, LA 70821-4313, or by email to vivian.aucoin@la.gov.

Public Hearing

A public hearing will be held at 1:30 p.m. on July 29, 2015, at the Galvez Building, Oliver Pollock Conference Room located at 602 North Fifth Street, Baton Rouge, LA 70802. Should individuals with a disability need an accommodation in order to participate, please contact Vivian Aucoin at the number or address listed below. Interested persons are invited to attend and submit oral comments on the proposal.

A copy of the proposal may be viewed on the LDEQ website or at LDEQ headquarters at 602 North Fifth Street, Baton Rouge, LA 70802.

Herman Robinson, CPM
Executive Counsel

1506#026

POTPOURRI

Department of Environmental Quality
Office of the Secretary
Legal Division

Louisiana Water Quality Management Plan
Volume 4: Basin and Subsegment Boundaries

Under the authority of the Environmental Quality Act, R.S. 30:2071 et seq., the secretary gives notice that procedures have been initiated to amend volume 4 of the Louisiana water quality management plan (WQMP). (1506Pot1)

The WQMP, required by sections 208 and 303 of the Clean Water Act, must be periodically reviewed and updated according to federal regulations. The Louisiana Department of Environmental Quality (LDEQ) reports on water quality in the state by basin subsegment. Volume 4 of the WQMP, which describes the subsegment delineations, hydrology, and geography of the state, has been reviewed and revised to ensure that subsegments are distinct and consistent representations of the state's hydrology.

A use attainability analysis (UAA) was conducted in the eastern Lower Mississippi River Alluvial Plains (LMRAP) ecoregion for review of the dissolved oxygen (DO) water quality criteria. An ecoregion-based approach was used for the refinement of the DO criteria and the findings are presented in the supporting documentation for WQ091, which is being proposed concurrently with this potpourri. The ecoregion-based approach resulted in 21 new subsegments based on watersheds. In addition, some subsegments within the eastern LMRAP, Southern Plains Terrace and Flatwoods, and Coastal Deltaic Marshes ecoregions underwent boundary and description revisions. Other errors and inconsistencies in subsegment boundaries were addressed. These include correcting topological errors and updating boundaries to more closely match current physical conditions. The changes are being incorporated into LAC 33:IX.1123, Table 3. The purpose of this revision to volume 4 of the WQMP is to update the subsegment descriptions and delineations to be consistent with LAC 33:IX.Chapter 11. The draft documents are available for review from LDEQ's website, <http://www.deq.louisiana.gov/portal/divisions/waterpermits/waterqualitystandardsassessment.aspx>.

All interested persons are invited to submit written comments regarding the proposed revision. Comments are due no later than 4:30 p.m., August 5, 2015, and should be sent to Sandy Stephens, Office of Environmental Services, Water Permits Division, P.O. Box 4314, Baton Rouge, LA 70821-4314.

Herman Robinson, CPM
Executive Counsel

1506#027

POTPOURRI

Office of the Governor Coastal Protection and Restoration Authority

Proposed RESTORE Act Multiyear
Implementation and Expenditure Plan

Invitation to Comment: The Coastal Protection and Restoration Authority (CPRA) seeks public review and comment on the draft Multiyear Implementation and Expenditure Plan under the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012 (RESTORE Act).

Obtaining Documents: A copy of the draft RESTORE Act Multiyear Implementation and Expenditure Plan is available at coastal.la.gov under “What’s New.”

Submitting Comments: Written comments on the draft RESTORE Act Multiyear Implementation and Expenditure Plan may be submitted via email to coastal@la.gov, or mail to CPRA, Attn: Jenny Kurz, P.O. Box 44027, Baton Rouge, LA 70804.

Comments Due Date: CPRA will consider public comments received in writing on or before Monday, July 6, 2015.

Chip Kline
Chairman

1506#006

POTPOURRI

Department of Health and Hospitals Bureau of Health Services Financing

Substantive Changes and Public Hearing Notification
Behavioral Health Services Providers
Licensing Standards
(LAC 48:I.Chapters 56-57 and 74
and LAC 48:III.Chapter 5)

In accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Bureau of Health Services Financing published a Notice of Intent in the February 20, 2015 edition of the *Louisiana Register* (LR 41:439-481) to repeal LAC 48:I.Chapter 74 and LAC 48:III.Chapter 5, and to adopt LAC 48:I.Chapters 56-57. This Notice of Intent proposed to repeal and adopt the provisions governing the licensing standards for behavioral health service providers in order to comply with the directives of Act 308 of the 2013 Regular

Session of the Louisiana Legislature. Therefore, the provisions of LAC 48:I.Chapter 74 and LAC 48:III.Chapter 5 would be repealed in their entirety and all of the provisions governing the licensing standards for behavioral health service providers will be repromulgated under LAC 48:I.Chapters 56-57.

The department conducted a public hearing on this Notice of Intent on March 31, 2015 to solicit comments and testimony on the proposed Rule. As a result of the comments received, the department proposes to revise the Notice of Intent to further clarify these provisions.

Taken together, all of these proposed revisions will closely align the proposed Rule with the Department’s original intent and the concerns brought forth during the comment period for the Notice of Intent as originally published. No fiscal or economic impact will result from the amendments proposed in this notice.

Title 48

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part I. Administration

Subpart 3. Licensing

Chapter 56. Behavioral Health Service Providers

Subchapter A. General Provisions

§5603. Definitions

* * *

Facility Need Approval (FNA)—the letter of approval from the Office of Behavioral Health which is required for licensure applicants for opioid treatment programs prior to applying for a BHS provider license.

* * *

Take-Home Dose(s)—a dose of opioid agonist treatment medication dispensed by a dispensing physician or pharmacist to a client for unsupervised use, including for use on Sundays, state and federal holidays, and emergency closures per DHH directive.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§5607. Initial Licensure Application Process

A. ...

B. The completed initial licensing application packet shall include:

1. - 11. ...

12. any other documentation or information required by the department for licensure including, but not limited to documentation for opioid treatment programs, such as a copy of the OBH FNA letter.

C. - J.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

Subchapter O. Additional Requirements for Opioid

Treatment Programs

§5725. Treatment

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

3. Maintenance Treatment. In the maintenance treatment phase that follows the end of early stabilization and lasts for an indefinite period of time, the provider shall provide:

a. random monthly drug screen tests until the client has negative drug screen tests for 90 consecutive days, as well as random testing for alcohol when indicated;

b. thereafter, monthly testing to clients who are allowed six days of take-home doses, as well as random testing for alcohol when indicated;

3.c. - D.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

Public Comments

Interested persons may submit written comments to Cecile Castello, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821 or by email to MedicaidPolicy@la.gov. Ms. Castello is responsible for responding to inquiries regarding these substantive amendments to the proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on these substantive changes to the proposed Rule is scheduled for Thursday, July 30, 2015 at 9:30 a.m. in Room 173, 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.

Kathy H. Kliebert
Secretary

1506#052

POTPOURRI

Department of Health and Hospitals Office of Public Health Bureau of Family Health

Public Notice—Title V MCH Block Grant

The Department of Health and Hospitals (DHH) intends to apply for title V maternal and child (MCH) block grant federal funding for FY 2015-2016 in accordance with Public Law 97-35 and the Omnibus Budget Reconciliation Act of 1981. The Office of Public Health, Bureau of Family Health is responsible for program administration of the grant.

The block grant application describes in detail the goals and planned activities of the Bureau of Family Health and Children's Special Health Services for the next year. Program priorities are based on the results of a statewide needs assessment conducted in 2015, 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
Bureau of Family Health
1450 Poydras Street, Room 2032
New Orleans, LA 70112

Or view a summary of the application at:
<http://www.dhh.louisiana.gov/index.cfm/page/935>.

Additional information may be gathered by contacting ChrisAnn McKinney at (504) 568-5014.

J.T. Lane
Assistant Secretary

1506#004

POTPOURRI

Department of Insurance Office of Health Insurance

Annual HIPPA Assessment Rate

Pursuant to *Louisiana Revised Statute 22:1071(D)(2)*, the annual HIPAA assessment rate has been determined by the Department of Insurance to be .00022 percent.

James J. Donelon
Commissioner

1506#009

POTPOURRI

Workforce Commission Rehabilitation Services

Substantive Changes and Public Hearing Notification Vocational Rehabilitation Program (LAC 67:VII.115 and 519)

The Louisiana Workforce Commission, Louisiana Rehabilitation Services (LRS) published a Notice of Intent to promulgate a rule removing the agency's out-of-date basic living requirement (BLR) chart and proposed to use the current U.S. Department of Health and Human Services' poverty guidelines in the April 20, 2015 edition of the *Louisiana Register* (LR Vol. 41, No. 04). The Notice of Intent solicited comments. As a result, LRS received a comment regarding §115, Financial, the removal of the out-of-date basic living requirement chart and the use of the U.S. Department of Health and Human Services' poverty guidelines. After review and consideration of the comment received, LRS will amend §115, Financial, of the original Notice of Intent through the use of this Potpourri to provide the following clarification. LRS will utilize a multiple of 250 percent of the current U.S. Department of Health and Human Services poverty guidelines, which is updated annually. This same method was used in the out-of-date basic living requirement chart that was removed from policy, but not from the financial needs analysis form the agency uses to determine a consumer's financial need for certain vocational rehabilitation services.

Title 67

SOCIAL SERVICES

Part VII. Rehabilitation Services

Chapter 1. General Provisions

§115. Financial

A. - B.a.vii. ...

- viii. on-the-job training;
- ix. assistive technology devices and services (except hearing aids);
- x. personal assistance services provided simultaneously with any of the above-listed vocational rehabilitation services; (Examples include attendant, reader, scribe, interpreter, ASL, braille, notetaker, and adjustment/orientation and mobility training services.)

2.b. - 3.d.ii. ...

C. LRS shall determine an individual's financial need for certain vocational rehabilitation services based on the individual's disability related expenses, available assets, and a multiple of 250 percent of the current U.S. Department of Health and Human Services' poverty guidelines.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23-3001.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 17:891 (September 1991), amended LR 20:317 (March 1994), LR 21:837 (August 1995), LR 24:959 (May 1998), LR 25:1273 (July 1999),

LR 27:212 (February 2001), LR 27:1561 (September 2001), LR 29:47 (January 2003), LR 30:1488 (July 2004), LR 34:1038 (June 2008), amended by Workforce Commission, Rehabilitation Services, LR 41:

Public Hearing

A public hearing on this proposed revision will be held on July 30, 2015 at the LRS Baton Rouge regional office, 3651 Cedarcrest Avenue, Baton Rouge, LA, beginning at 9 a.m. Individuals with disabilities who require special services should contact Judy Trahan, Program Coordinator, Louisiana Rehabilitation Services, at least 14 working days prior to the hearing if special services are needed for their attendance. For information or assistance, call (225) 219-2225 or (800) 737-2958 (V/TDD).

Curt Eysink
Executive Director

1506#017

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N—Notice of Intent
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