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Emergency Rules

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of Agricultural Finance Authority

Craft Beverage Logos (LAC 7:V.2901-2905)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to the authority of the commissioner set forth in R.S. 3:4721, and in order to avoid a lapse in coverage until a permanent rule is in effect, notice is hereby given that Department of Agriculture and Forestry is amending these regulations relating to the certified logos for state products program.

While the Certified Logos for State Products program has been in existence since 2016, there exists an imminent need to amend the rule establishing the certified Louisiana craft beverage logo, as it is already in usage, and regulations regarding criteria therefor are necessitous at this time. These revisions also amend the certified Louisiana farm to table logo, rendering that designation immediately applicable to products in addition to the existing regulation for restaurants. These revisions also immediately provide for the usage of the certified Louisiana craft beverage logo for qualifying restaurants setting the criteria for the use of that logo. Furthermore, these amendments provide for the immediate use of an online application for the use of logos, that is available on the department's website, which is already in use.

This Emergency Rule shall have the force and effect of law effective upon signature, March 1, 2019, and will remain in effect for 120 days, unless renewed by the Commissioner of the Louisiana Department of Agriculture and Forestry or until permanent rules are promulgated in accordance with law.

Title 7

AGRICULTURE AND ANIMALS

Part V. Advertising, Marketing and Processing

Chapter 29. Logos for State Products

§2901. Purpose; Definitions

A. ...

B. For purposes of this Chapter, the following terms shall have the meaning hereafter ascribed to them, unless the context clearly indicates otherwise.

Commissioner—the commissioner of the Louisiana Department of Agriculture and Forestry.

Department—the Louisiana Department of Agriculture and Forestry.

License—written authorization from the Louisiana Department of Agriculture and Forestry for the exclusive use of the logo.

Licensee—applicant who applied to the department for a license to use the logo(s) and whose application was approved.

Logo—the logos adopted by the department pursuant to R.S. 3:4721 to promote products made, grown, manufactured, processed, produced or substantially transformed in the state of Louisiana. The logos include:

- a. certified Louisiana;
- b. certified Louisiana Cajun;
- c. certified Louisiana Creole;
- d. certified Louisiana farm to table; and
- e. certified Louisiana craft beverage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4721.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 42:393 (March 2016), repromulgated LR 42:540 (April 2016), amended LR 44:440 (March 2018), amended by the Department of Agriculture and Forestry, Office of Agricultural Finance Authority, LR 45:

§2903. Eligibility

A. ...

B. In order for an agricultural product to be eligible for inclusion in the logo program, it must be made, grown, manufactured, processed, produced or substantially transformed in the state of Louisiana.

C. In order for an agricultural product to be eligible to use the certified Louisiana Creole logo, at least 50 percent of the product must be made, grown, produced, manufactured, processed or packed in Louisiana.

D. ...

E. In order for an agricultural product to be eligible to use certified Louisiana Farm to Table logo, the product must be produced and sourced as locally as possible, within Louisiana, which means going directly from the farm to the table.

F. In order for a craft beverage product to be eligible to use the certified Louisiana Craft Beverage logo, the product must be crafted, bottled, brewed, vinified, and/or distilled in the State of Louisiana. The use of this logo shall be applicable to beer, wine, spirits, and craft beverages.

G. In order for a restaurant to be eligible to use the Certified Louisiana Farm to Table logo, a majority of the restaurant's raw and value added products shall be produced and sourced as locally as possible, within Louisiana and or less than 200 miles from its origin, which means going directly from the farm to the table.

H. In order for an establishment that serves alcoholic beverages to be eligible to use the certified Louisiana Craft Beverage logo, the establishment must serve at least one certified Louisiana Craft Beverage beer, wine, and spirit on a regular basis. If an establishment that serves alcoholic beverages does not serve all three categories (beer, wine, and spirits), it must serve at least three certified Louisiana Craft Beverages from the categories that it does serve in order to be eligible to use the Louisiana Craft Beverage logo.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4721.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 42:393 (March 2016), repromulgated LR 42:540 (April 2016), amended LR 44:440 (March 2018), amended by the Department of Agriculture and Forestry, Office of Agricultural Finance Authority, LR 45:

§2905. Application Process and Product Verification

A. Applications for use of the logos shall be made in writing on a form prescribed by the department or by

completing an online application on the department's website.

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4721.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 42:393 (March 2016), repromulgated LR 42:540 (April 2016), amended LR 44:441 (March 2018), amended by the Department of Agriculture and Forestry, Office of Agricultural Finance Authority, LR 45:

Mike Strain DVM
Commissioner

1903#007

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of Agriculture and Environmental Sciences

Sweet Potato Yield Adjustments (LAC 7:XV.143)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to the authority set forth in R.S. 3:1733 and R.S. 3:1734, the Commissioner of Agriculture and Forestry declares an emergency to exist and adopts by emergency process the attached rule relative to the adjustment to the sweet potato yields for purposes of the sweet potato tax and sweet potato fee. Sweet Potato growers pay a sweet potato tax of four cents per fifty pound bushel and an fee of six cents per bushel. The payments are based on an average yield of 175 bushels per acre. The Louisiana Sweet Potato Advertising and Development Commission determines the average yield pursuant to LAC 7:XV.143.D.1.a.

Louisiana's 2018 sweet potato crop was devastated by adverse weather conditions, especially torrential rain that occurred just prior to harvest. The adverse weather caused many growers to experience a substantial reduction in the yield per acre. The losses to the sweet potato crop and the inability to timely harvest the crop has caused a severe economic hardship for Louisiana's sweet potato growers. It is necessary to allow sweet potato growers an adjustment from the average yield per acre to reflect the reduction in the yields per acre experienced by growers in order to avoid growers paying excess taxes and fees during a time that they are experiencing financial hardship. Failure to allow such an adjustment creates a substantial risk of causing growers to pay more in taxes and fees than the amount actually due and has the potential of forcing growers out of business. Both situations create an imminent peril to the welfare of the citizens of Louisiana and to Louisiana's economy, thereby making this emergency rule necessary.

This Emergency Rule shall have the force and effect of law on March 1, 2019, and will remain in effect 120 days, unless renewed by the Commissioner of Agriculture and Forestry, or until permanent rules are promulgated in accordance with law.

Title 7

AGRICULTURE AND ANIMALS

Part XV. Plant Protection and Quarantine

Chapter 1. Crop Pests and Diseases

Subchapter C. Sweet Potato Weevil Quarantine

§143. Fees

A. - D.2. ...

E. A person who commercially grows, sells, or offers for sale sweet potatoes ("grower") may petition the Louisiana Sweet Potato Advertising and Development Commission ("commission") for a yield adjustment on the planted acres of the grower's 2018 sweet potato crop. Adjusted yields will range from the average yield of 175 bushels per acre set by the Commission down to 70 bushels per acre, which is the minimum adjusted yield the commission will accept.

1. A grower requesting a yield adjustment shall submit a written request to the commission.

a. The request shall include the farm name and address; the Sweet Potato Dealer's Permit number; the grower's name, address, telephone number, and e-mail address if available; the acres planted; the total fresh market bushels harvested from the 2018 crop; and a brief explanation of the reason for the request.

b. The grower shall sign the written request. The written request shall be delivered to the commission through mail, fax or other form of actual delivery, on or before 4:30 p.m. on March 25, 2019. A request will also be deemed to be timely when the papers are mailed on or before the due date. Timeliness of the mailing shall be shown only by an official United States postmark or by official receipt or certificate from the United States Postal Service made at the time of mailing which indicates the date thereof. A fax shall be considered timely only upon proof of actual receipt of the transmission.

2. Each grower who has timely filed a request for an adjustment with the commission shall be notified of the date, time and place the commission is scheduled to consider the request at least 10 days prior to the commission meeting. The commission shall not consider a written request that is untimely.

3. Each grower who has timely filed a request for an adjustment may be present and speak on his behalf at the time the grower's request is considered by the commission.

4. The commission shall grant or deny the adjustment based on the following factors:

a. the location of the farm;

b. the yield per planted acre as compared to the average statewide yield per planted acre, as set by the commission for 2018;

c. the reason given for the request for an adjustment; and

d. any other fact that is relevant to the request for an adjustment.

5. The commission may grant a request for adjustment if it finds all of the following.

a. The actual yield per planted acre for 2018 is less than the average yield per planted acre set by the commission for 2018.

b. The decreased yield for 2018 is related to factors beyond the grower's control.

c. The grower or farm submitting the request owes no delinquent or outstanding sweet potato fees, taxes or fines, levied prior to the 2018 crop year, to the Louisiana Department of Agriculture and Forestry or to the commission.

6. The denial or granting of the request for an adjustment shall be a discretionary decision of the commission.

7. Each grower submitting a timely request for an adjustment shall be notified in writing of the commission's decision and the amount of the adjustment in the yield per planted acre, if any.

8. If the request for an adjustment is granted, then the amount of both the sweet potato fee and sweet potato tax owed by the grower shall be based on the adjusted yield set by the commission.

9. Each grower who submits a timely request for an adjustment, regardless of whether that adjustment is granted or denied by the commission, shall be entitled to pay his sweet potato fee and sweet potato tax without imposition of a penalty if he pays the fee within 30 days after receiving written notification of the commission's decision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1733, 3:1734.

HISTORICAL NOTE: Promulgated by Department of Agriculture, Office of Agricultural and Environmental Sciences, LR 11:321 (April 1985), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 15:77 (February 1989), LR 18:705 (July 1992), LR 27:1178 (August 2001), LR 29:2298 (November 2003), LR 45:

Mike Strain DVM
Commissioner

1903#017

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of the Commissioner

Medical Marijuana—Laboratory Approval (LAC 7:XLIX.2301 and 2303)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and under the authority of R.S. 40:1046, the Commissioner of Agriculture and Forestry declares an emergency to exist and adopts by emergency process the attached regulations for the handling, testing analyzing medical marijuana or product in its laboratory.

To protect the public health and safety, Chapter 23 requires that medical marijuana product undergo rigorous laboratory testing for harmful contaminants before human consumption. Specifically, the laboratory testing required by LAC 7:XLIX.2303 is necessary to ensure medical marijuana product passes the recommendations or restrictions for: potency, pesticides, residual solvents, heavy metals, mycotoxins, microbiological contaminants, homogeneity,

and active ingredient. This Emergency Rule provides for the approval of laborator(ies) for the testing of marijuana or product. Without a laboratory to test and analyze the therapeutic marijuana, the department is unable to verify that the medical marijuana product is safe for human consumption.

The department has the capability to handle, test and analyze the medical marijuana or product to ensure the medical marijuana or product complies with the standards set forth in by LAC 7:XLIX.2303. This emergency rule renews the prior Emergency Rule at LAC 7:XLIX.2301-2303 to provide for a procedure for the department to handle, test and analyze medical marijuana or product in its laboratory, until such time as a permanent rule can be promulgated.

This Emergency Rule becomes effective upon the signature of the commissioner, March 1, 2019, and shall remain in effect for 120 days, unless renewed or until permanent rules and regulations become effective.

Title 7

AGRICULTURE AND ANIMALS

Part XLIX. Medical Marijuana

Chapter 23. Laboratory Approval and Testing

§2301. Laboratory Approval

A. The department may handle, test, and analyze medical marijuana or product in its laboratory in accordance with this Chapter. No other laboratory shall handle, test or analyze medical marijuana or product unless approved by the department in accordance with this Chapter.

B. No laboratory, other than the department's laboratory, shall be approved to handle, test or analyze medical marijuana or product unless the laboratory meets the following qualification within 180 days following the notice of intent to award a contract for analytical services:

1. - 6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:1266 (July 2017), amended LR 45:

§2303. Laboratory Testing

A. Each batch of medical marijuana concentrate and product shall be made available by the licensee for an employee of the department, an approved laboratory, or otherwise independent sample collector to select a random and representative sample of sufficient volume to conduct required analyses, which shall be tested by the department's laboratory or an approved laboratory.

A.1. - K. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:1266 (July 2017), amended LR 45:

Mike Strain, DVM
Commissioner

1903#006

DECLARATION OF EMERGENCY

Department of Children and Family Services Child Welfare Section

Extended Foster Care Services
(LAC 67:V.3903)

The Department of Children and Family Services (DCFS) has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to promulgate LAC 67:V, Subpart 5, Foster Care, Chapter 39, Chafee Foster Care Independence Program and Extended Foster Care, Section 3903. This declaration is necessary to extend the original Emergency Rule since it is effective for a maximum of 120 days and will expire before the Final Rule takes effect. This Emergency Rule extension is effective on March 27, 2019 and shall remain in effect for a period of 120 days or until the final rule becomes effective.

The Department considers emergency action necessary to facilitate the expenditure of IV-E funds for extended foster care services to the estimated 146 children who are currently eligible for these foster care services as specified in Act 649 of the Regular Session of the Louisiana Legislature.

Title 67

SOCIAL SERVICES

Part V. Child Welfare

Subpart 5. Foster Care

Chapter 39. Chafee Foster Care Independence Program and Extended Foster Care

§3903. Extended Foster Care Services

A. The DCFS will continue to provide foster care services to young adults age 18 to 21 who are a full-time high school student or in the process of receiving an equivalent credential. They shall be eligible for foster care services until their high school graduation; completion of their equivalent credential or, their twenty-first birthday, whichever comes first. The young adult in foster care shall be eligible for all foster care services in accordance with their case plan; and, their foster parents, custodian or other placement provider continued services and benefits for the period of time the young adult is eligible and participating in the extended foster care program. The DCFS will notify all foster children and their foster parents/custodians/placement provider in writing of the availability of extended foster care services; eligibility for the services; and, the benefits at the foster child's seventeenth birthday. The written notifications will continue every 90 days unless the foster child and foster parents/custodian/placement provider consent to participate in extended foster care, or the child becomes ineligible for participation in the program.

AUTHORITY NOTE: Promulgated in accordance with Act 649 of the 2018 Regular Session and R.S. 46:286.24.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Child Welfare Section, LR 45:

Marketa Garner Walters
Secretary

1903#052

DECLARATION OF EMERGENCY

Office of the Governor Coastal Protection and Restoration Authority

Cessation of Activities on Levees and
Flood Control Structures (LAC 43:XXXI.401)

In accordance with R.S. 49:214.5.2.A(6), R.S. 49:214.5.6(D), and R.S. 49:214.5.2.A(5) the Coastal Protection and Restoration Authority Board has exercised its emergency authority to utilize the full police power of the state to address the loss and devastation to the state and individuals arising from hurricanes, storm surges, flooding, and addresses activities that may obstruct or interfere with the safety and integrity of the levees. This Emergency Rule is effective at 5:00 PM, March 1, 2019 and shall expire on the earlier of its expiration date as provided by statute (R.S. 49:954), or upon the lifting by the Governor of the Declaration of Emergency set forth in Proclamation No. 33 JBE 2019.

Governor John Bel Edwards, through Proclamation Number 33 JBE 2019, declared a State of Emergency for the State of Louisiana due to imminent flooding of the Mississippi River and its tributaries and other state rivers and water bodies. To assist in affecting that proclamation and for the public safety and welfare of the citizens of Louisiana, the Coastal Protection and Restoration Authority Board is adopting these Emergency Regulations which restricts activities on all levees and flood control structures within the Coastal Area of Louisiana as defined in La. R.S. 49:214.2(4).

The authorization for emergency action in this matter is contained in R.S. 49:214.3.1(A)(2), R.S. 49:214.3.1(B)(1)(k), R.S. 49:214.5.6(D), and R.S. 49:214.5.2.

Title 43

NATURAL RESOURCES

Part XXXI. Coastal Protection and Restoration Authority

Chapter 4. Emergency Prohibition of Activities on Levees and Flood Control Structures

§401. Restricted Use during Emergency

A. Purpose. Activities on and in the vicinity of riverine levees, flood control levees, and other flood control structures can impact the soundness and effectiveness of those levees and flood control structures. Threats are enhanced as river stages rise. Levee failure during high river stages can be catastrophic. The Mississippi River and its Tributaries (MR and T) have risen to dangerously high levels in recent days prompting a Declaration of Emergency by the Governor of Louisiana (Proclamation No. 33 JBE 2019), and currently pose real and present danger to life and property if levees and/or flood control structures are breached.

B. Effective Jurisdiction. These emergency prohibitions of activities on levees and flood control structures will be effective and enforced for all Mississippi River and Tributaries (MR and T) projects, or a federal, state or local flood control structure that is or is designed to prevent or reduce flooding, including but not limited to all levees and

flood control structures south of the Old River Control Structure, the Atchafalaya Basin and River, and any levee or flood control structure in the Coastal Area as defined in R.S. 49:214.2(4).

C. All pedestrian and vehicular traffic, including but not limited to, the driving and/or parking of vehicles, all-terrain vehicles, and mowing equipment, is prohibited within 300 feet of the levee centerline of the MR and T projects, or a federal, state or local flood control structure that is or is designed to prevent or reduce flooding except as provided in Subsection F.. In addition, work of any nature within 300 feet of the levee centerline of the Mississippi River and Tributaries (MR and T) projects, or a federal, state or local flood control structure that is or designed to prevent or reduce flooding (including but not limited to placement of dumpsters, heavy equipment, heavy machinery, heavy trucks and/or stockpiles of supplies of any significant weight (fuel tanks, piping, etc.), transport of heavy loads over the levee or disturbing the grass cover or seepage areas, all subsurface work within 1,500 feet of a MR and T levee, or a federal, state or local flood control structure that is or is designed to prevent or reduce flooding including but not limited to pile driving, digging, excavation, and trenching, and seismic surveys/demolition using explosives within 5,000 feet of any MR and T project, or a federal, state or local flood control project that is or is designed to prevent or reduce flooding is hereby prohibited during the Declaration of Emergency or until this Emergency Rule is rescinded. Temporary measures such as sandbags, gabion baskets, water-filled tubes or other temporary flood-fighting measures shall be subject to prohibitions on vehicular and pedestrian traffic and any activity that disturbs the performance of such measures, however, subsurface and permitting restrictions established herein shall not apply to such temporary structures.

D. No person shall tie or moor logs, rafts, boats, water craft, or floating objects of any description within 100 feet of the original toe of any levee (the original toe being that established when there is no water against the levee) or 180 feet from the centerline of the levee, whichever distance is further from the centerline of the levee, or, when the water is against the levees, tie or moor floating objects insecurely to mooring posts, revetments, trees or other stationary or supposedly stationary objects on the foreshore where they can be driven against the levees during windstorms or high water events.

E. Waivers to recognized, permitted and current businesses may be granted on a case by case basis, and are dependent on the surrounding surface and subsurface ground conditions in the vicinity of the proposed project or activity, the distance the project is away from the levee and the forecasted river stages. All applications for a waiver must provide a statement that the applicant agrees to hold harmless and indemnify the Coastal Protection and Restoration Authority Board, the Coastal Protection and Restoration Authority, levee districts and authorities, the state, or any employee or agent thereof for any and all liability arising out of the issuance or use of a waiver, including damage to any levee or flood protection structure. All waiver applications must include a copy of the

applicant's existing permit and a detailed description of the activities for which a waiver is being requested. No waiver will be granted for subsurface work within 1,500 feet of a MR and T levee, hurricane protection project or a federal, state or local flood control project, and seismic surveys/demolition using explosives within 5,000 feet of any MR and T project, or a federal, state or local flood control project that is or is designed to prevent or reduce flooding. Requests for waivers shall be submitted to, the levee district of jurisdiction and:

Louisiana Coastal Protection and Restoration Authority, Operations Division, ATTN: Billy Wall, P.E., P.O. Box 44027, Baton Rouge, LA 70804, CPRARquest@la.gov

F. The Coastal Protection and Restoration Board (CPRA Board) and the Coastal Protection and Restoration Authority (CPRA) recognize the historic nature of this high water event. In this regard, levee districts are permitted to coordinate with the U.S. Army Corps of Engineers, CPRA Board, CPRA, and other state and local law enforcement officials to establish limited viewing areas that have a full-time law enforcement presence when open to the public.

G. Authorization and Delegation. The Coastal Protection and Restoration Authority Board is authorized, in Revised Statutes Title 49, Section 214.5.2.A.(6), to establish procedures in accordance with the Administrative Procedure Act to enforce compliance with the comprehensive master and annual coastal protection plan as defined in R.S. 49:214 et seq., including but not limited to addressing activities that may obstruct or interfere with the safety and integrity of the levees. Revised Statutes Title 49, Section 214.5.6 (D) provides that the "full police power of the state shall be exercised" by the CPRA Board and CPRA "to address the loss and devastation to the state and individuals arising from hurricanes, storm surges and flooding". It is further authorized in La. Revised Statutes Title 49, Section 214.5.2.A.(5), to delegate any of its powers, duties and functions to the executive director of the Coastal Protection and Restoration Authority, and to state agencies and political subdivisions, including flood protection authorities or levee districts. This emergency regulation is enacted in furtherance of that authority. R.S. 29:724 authorizes the issuance of executive orders, proclamations and regulations in times of emergency. This regulation is promulgated in conjunction with the Governor's Declaration of Emergency (Proclamation No. 33 JBE 2019p) pertaining to the imminent threat of flooding of the Mississippi River and its tributaries.

H. Construction with Other Statutes, Ordinances and Regulations. To the extent any local ordinance, rule, regulation, and/or permitting requirement of a local governing body conflicts with the provisions of this regulation, this regulation shall control. However, nothing in this regulation shall be construed to supplant or override any local ordinance, rule, regulation, and/or permitting requirement that provides for a more stringent or restrictive limitation on use of a levee, hurricane protection project or a federal, state or local flood control project, and nothing shall

be construed to prevent the simultaneous enforcement of this regulation and a consistent local prohibition or limitation. This regulation will not be construed to override existing limitations on use of levees, hurricane protection projects or federal, state or local flood control projects, including, but not limited to, the provisions of R.S. 38:213 (restricting riding or hauling on levees), R.S. 38:225, R.S. 38:226 or to interfere in any way with other statutory prohibitions of a more general nature, such as the trespass prohibitions found in Title 14 of the Louisiana Revised Statutes, all of which may be enforced simultaneously with this regulation.

I. Effectiveness. Except as noted in the following sentence, this emergency regulation is effective as of 5:00 P.M., March 1, 2019, and shall expire on the earlier of its expiration date as provided by statute (R.S. 49:954), or upon the lifting by the Governor of the Declaration of Emergency set forth in Proclamation No. 33 JBE 2019. This regulation shall become effective as to established and permitted commercial businesses operating within an area affected by this regulation 72 hours after the effective date and time of this regulation (as noted in the prior sentence), provided that if such permitted business has, prior to expiration of such 72-hour period, applied for a waiver as set forth above in Subsection D of this regulation, such waiver application shall act as a temporary waiver permit until CPRA has taken action on that business's waiver request.

J. Enforcement. The CPRA Board, CPRA, levee districts as well as all other state and local law enforcement officials are hereby authorized to enforce the provisions of this regulation.

K. Fees, Fines and Penalties. Violators of this regulation shall be subject to a civil fine imposed by the Coastal Protection and Restoration Authority of up to \$10,000 for each violation. Second and any subsequent violations shall be subject to a civil fine of up to \$20,000 for each violation. Violators shall also be subject to the provisions of R.S. 29:724 (E) which provides for up to \$500 and six months in jail for violations of rules or regulations promulgated in conjunction with a declaration of emergency by the governor. Further, nothing in this regulation is intended to interfere with or prohibit the imposition of other applicable fines and penalties provided by other statutes and regulations in addition to those imposed by this regulation.

L. Non-Interference with Official Duties. This regulation shall not be construed to restrict the proper officers of the state or of any levee district or parish or the federal government and the employees and agents of such governmental entities while in the performance of their duty in inspecting, guarding, or repairing the levees or flood control projects.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:214.3.1(A)(2), R.S. 49:214.3.1(B)(1)(k), R.S. 49:214.5.6(D), and R.S. 49:214.5.2

HISTORICAL NOTE: Promulgated by the Coastal Protection and Restoration Authority, LR 45:

Kyle R. "Chip" Kline, Jr.
Chairman

1903#016

DECLARATION OF EMERGENCY

Department of Health Bureau of Health Services Financing

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

The Department of Health, Bureau of Health Services Financing amends LAC 48:I.4431 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 40:2175.1 et seq. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing repealed and replaced the provisions governing the licensing standards for abortion facilities in order to incorporate the changes imposed by legislation, and further revise and clarify those provisions (*Louisiana Register*, Volume 41, Number 4).

Act 97 of the 2016 Regular Session of the Louisiana Legislature increased the time period required for certain pre-operative services. Act 563 of the 2016 Regular Session of the Louisiana Legislature provides that at least 72 hours before the abortion, the pregnant woman seeking an abortion shall be given a copy of certain printed information, including resources, programs and services for pregnant women who have a diagnosis of fetal genetic abnormality, and given printed information about resources, programs and services for infants and children born with disabilities, as well as other related matters. Act 593 of the 2016 Regular Session of the Louisiana Legislature provides for the disposal, by interment or cremation, of fetal remains and designates procedures for giving patients options for arrangements. The department promulgated an Emergency Rule which amended the provisions governing outpatient abortion clinics in order to comply with the provisions of Acts 97, 563 and 593 (*Louisiana Register*, Volume 42, Number 12).

This Emergency Rule is being promulgated in order to continue the provisions of the December 3, 2016 Emergency Rule. This action is being taken to protect the health and welfare of Louisiana citizens by assuring the health and safety of women seeking health care services at licensed abortion facilities.

Effective March 30, 2019, the Department of Health, Bureau of Health Services Financing amends the provisions governing the licensing standards for abortion facilities.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 44. Abortion Facilities

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

§4431. Screening and Pre-Operative Services

A. - E.1. ...

2. Requirements

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

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

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

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

iv. from a form that shall be produced and made available by the department, staff will orally read the statement on the form to the pregnant woman in the ultrasound examination room prior to beginning the ultrasound examination, and obtain from the pregnant woman a copy of a completed, signed, and dated form; and

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

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

c. - e. Repealed.

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

a. Except as provided in Subparagraph b below, at least 72 hours before the abortion the physician who is to perform the abortion or the referring physician shall provide informed consent to the pregnant woman seeking an abortion, pursuant to all laws, rules and regulations

regarding informed consent. The informed consent shall be communicated both orally and in-person, and in writing, and shall be provided in a private room. Documentation of all such informed consent provided shall be maintained in the patient's medical record.

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

1.c. - 3. ...

a. Except as provided in Subparagraph b below, at least 72 hours before a scheduled abortion the physician who is to perform the abortion, the referring physician, or a qualified person shall inform the pregnant woman seeking an abortion, orally and in-person that:

i. - iv. ...

b. If the woman certifies in writing that she currently lives 150 miles or more from the nearest licensed outpatient abortion facility that is willing and able to perform the abortion at the particular woman's stage of pregnancy, then the physician who is to perform the abortion the referring physician, or a qualified person shall comply with all of the requirements of §4431.G.3 at least 24 hours prior to the abortion.

4. ...

a. At least 72 hours before the abortion, the pregnant woman seeking an abortion shall be given a copy of the printed materials, pursuant to any applicable state laws, rules, and regulations, by the physician who is to perform the abortion, the referring physician, or a qualified person. These printed materials shall include any printed materials necessary for a voluntary and informed consent, pursuant to R.S. 40:1061.17. However, if the pregnant woman certifies in writing that she currently lives 150 miles or more from the nearest licensed outpatient abortion facility that is willing and able to perform the abortion at the particular woman's stage of pregnancy, she shall be given a copy of the printed materials at least 24 hours prior to an elective abortion procedure by the physician who is to perform the abortion or a qualified person as defined in R.S. 40:1061.17(B)(4)(c).

i. - NOTE. Repealed.

b. At least 72 hours before the abortion, the pregnant woman or minor female considering an abortion shall be given a copy of the department's *Point of Rescue* pamphlet and any other materials described in R.S. 40:1061.16 by the physician who is to perform the abortion or a qualified person as defined in R.S. 40:1061.17(B)(4)(c), except in the case of medical emergency defined by applicable state laws. However, if the pregnant woman or minor female considering an abortion certifies in writing that she currently lives 150 miles or more from the nearest licensed outpatient abortion facility that is willing and able to perform the abortion at the particular woman's stage of pregnancy, she shall be given a copy of these printed materials at least 72 hours prior to an elective abortion procedure by the physician who is to perform the abortion or a qualified person as defined in R.S. 40:1061.17(B)(4)(c),

except in the case of medical emergency defined by applicable state laws.

i. The physician or qualified person shall provide to the woman, or minor female seeking an abortion, such printed materials individually and in a private room for the purpose of ensuring that she has an adequate opportunity to ask questions and discuss her individual circumstances.

ii. The physician or qualified person shall obtain the signature of the woman or minor female seeking an abortion on a form certifying that the printed materials were given to the woman or minor female.

iii. In the case of a minor female considering an abortion, if a parent accompanies the minor female to the appointment, the physician or qualified person shall provide to the parent copies of the same materials given to the female.

iv. The signed certification form shall be kept within the medical record of the woman or minor female for a period of at least seven years.

c. At least 72 hours before the abortion, the pregnant woman seeking an abortion shall be given a copy of a printed informational document including resources, programs and services for pregnant women who have a diagnosis of fetal genetic abnormality and resources, programs and services for infants and children born with disabilities. However, if the pregnant woman certifies in writing that she currently lives 150 miles or more from the nearest licensed outpatient abortion facility that is willing and able to perform the abortion at the particular woman's stage of pregnancy, she shall be given a copy of these printed materials at least 24 hours prior to an elective abortion procedure by the physician who is to perform the abortion or a qualified person as defined in R.S. 40:1061.17(B)(4)(c).

d. If the pregnant woman seeking an abortion is unable to read the materials, the materials shall be read to her. If the pregnant woman seeking an abortion asks questions concerning any of the information or materials, answers shall be provided to her in her own language.

NOTE: The provisions of this Section requiring a physician or qualified person to provide required printed materials to a woman considering an abortion shall become effective 30 days after the department publishes a notice of the availability of such materials.

5. ...

a. Prior to the abortion, the outpatient abortion facility shall ensure the pregnant woman seeking an abortion has certified, in writing on a form provided by the department that the information and materials required were provided at least 72 hours prior to the abortion, or at least 24 hours prior to the abortion in the case of a woman who has given prior certification in writing that she currently lives 150 miles or more from the nearest licensed outpatient abortion facility that is willing and able to perform the abortion at the particular woman's stage of pregnancy. This form shall be maintained in the woman's medical record.

b. ...

c. The pregnant woman seeking an abortion is not required to pay any amount for the abortion procedures until the 72-hour period has expired, or until expiration of the 24-hour period applicable in the case of a woman who has given prior certification in writing that she currently lives 150 miles or more from the nearest licensed outpatient abortion facility that is willing and able to perform the abortion at the particular woman's stage of pregnancy.

6. - 7.b. ...

8. Disposition of Fetal Remains

a. Each physician who performs or induces an abortion which does not result in a live birth shall ensure that the remains of the fetus are disposed of by interment or cremation, in accordance with the provisions of R.S. 8:651 et seq., and the provisions of LAC 51:XXVI.102 of the *Sanitary Code*.

b. Prior to an abortion, the physician shall orally and in writing inform the pregnant woman seeking an abortion in the licensed abortion facility that the pregnant woman has the following options:

i. the option to make arrangements for the disposition and/or disposal of fetal remains by interment or cremation, in accordance with the provisions of R.S. 8:651 et seq.; or

ii. the option to have the outpatient abortion facility/physician make the arrangements for the disposition and/or disposal of fetal remains by interment or cremation, in accordance with the provisions of R.S. 8:651 et seq.

c. The pregnant woman shall sign a consent form attesting that she has been informed of these options, and shall indicate on the form whether she wants to make arrangements for the disposition of fetal remains or whether she wants the facility to make arrangements for the disposition and/or disposal of fetal remains.

d. the requirements of §4431.G.8 regarding dispositions of fetal remains, shall not apply to abortions induced by the administration of medications when the evacuation of any human remains occurs at a later time and not in the presence of the inducing physician or at the facility in which the physician administered the inducing medications.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:700 (April 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 45:

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.

Rebekah E. Gee MD, MPH
Secretary

1903#042

DECLARATION OF EMERGENCY

Department of Health Bureau of Health Services Financing

Nursing Facilities—Licensing Standards Virtual Visitation (LAC 48:I.9781)

The Department of Health, Bureau of Health Services Financing adopts LAC 48:I.9781 as authorized by R.S. 36:254 and 40:1193.1-1193.11. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

Act 596 of the 2018 Regular Session of the Louisiana Legislature, hereafter referred to as the Nursing Home Virtual Visitation Act, enacted R.S. 40:1193.1-1193.11 which directed the Department of Health to establish provisions governing nursing facility virtual visitation in order to provide for consent, by a nursing facility resident or a legal representative, relative to the authorization for installation and use of a monitoring device in the room of the resident.

In compliance with the requirements of Act 596, the Department of Health, Bureau of Health Services Financing amended the provisions governing the licensing of nursing facilities in order to adopt provisions governing virtual visitation (*Louisiana Register*, Volume 44, Number 11). This Emergency Rule is being promulgated in order to continue the provisions of the November 20, 2018 Emergency Rule. This action is being taken to promote the health and well-being of Louisiana residents in nursing facilities that consent to the authorization for installation and use of a monitoring device in the resident's room.

Effective March 21, 2019, the Department of Health, Bureau of Health Services Financing amends the provisions governing the licensing of nursing facilities in order to adopt provisions governing virtual visitation.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 97. Nursing Facilities

Subchapter C. Resident Rights

§9781. Virtual Visitation

A. Each nursing facility licensed by the Department of Health shall comply with the provisions of the Nursing Home Virtual Visitation Act of 2018 enacted by the Louisiana Legislature, or such amendments enacted thereafter.

B. The term “monitoring device”, as used in this Section, shall have the same meaning as defined in the Nursing Home Virtual Visitation Act of 2018.

C. Capacity to Consent to Virtual Visitation

1. A resident's capacity to consent to the authorization for installation and use of a monitoring device is presumed if the resident has not been interdicted and has no current documented medical diagnosis affecting capacity.

2. Any question as to capacity of a non-interdicted resident to consent to the authorization for installation and use of a monitoring device shall be determined by the resident's admitting physician, the resident's personal physician, or the medical director of the nursing facility; such determination shall be documented in the resident's medical record.

3. The nursing facility shall have a policy regarding capacity to consent to the authorization for installation and use of a monitoring device in a resident's room; such policy shall include, at a minimum, the provisions of §9781.C.1 and §9781.C.2.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and 40:1193.1-1193.11.

HISTORICAL NOTE: Promulgated by the Department of Health Bureau of Health Services Financing, LR 45:

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.

Rebekah E. Gee MD, MPH
Secretary

1903#043

Rules

RULE

Department of Children and Family Services Licensing Section

Child-Placing Agencies
(LAC 67:V.Chapter 73)

In accordance with the provisions of the Administrative Procedure Act R.S. 49:953 (A), the Department of Children and Family Services (DCFS) has repealed and replaced LAC 67:V, Subpart 8, Chapter 73, Child-Placing Agencies—General Provisions.

The Rule has repealed all sections in LAC 67:V, Subpart 8, Chapter 73 and has replaced them with Sections 7301, 7303, 7305, 7307, 7309, 7311, 7313, 7315, 7317, 7319, 7321, and 7323. According to R.S. 46:1407(D), a comprehensive review of licensing standards is mandated every three years. The Rule clarifies existing standards and incorporates new standards to protect the safety and well-being of children and youth placed in foster homes, adoptive homes, and transitional placing living arrangements. In addition, the Rule ensures that children and youth are placed in safe and appropriate homes, according to the requirements of Public Law 115-123. This Rule is hereby adopted on the day of promulgation, and is effective April 1, 2019.

Title 67

SOCIAL SERVICES

Part V. Child Welfare

Subpart 8. Residential Licensing

Chapter 73. Child-Placing Agencies—General Provisions

§7301. Purpose

A. In accordance with R.S. 46:1402, it is the intent of the legislature to protect the health, safety, and well-being of the children and youth of the state who are in out-of-home care on a regular or consistent basis. Toward that end, it is the purpose of this Chapter to establish statewide minimum standards for the safety and well-being of children and youth, to insure maintenance of these standards, and to regulate conditions in these facilities through a program of licensing. It shall be the policy of the state to insure protection of all individuals under care by specialized providers and to encourage and assist in the improvement of programs. It is the further intent of the legislature that the freedom of religion of all citizens shall be inviolate. This Chapter shall not give the Department of Health or the Department of Children and Family Services jurisdiction or authority to regulate, control, supervise, or in any way be involved in the form, manner, or content of any curriculum or instruction of a school or specialized provider sponsored by a church or religious organization so long as the civil and human rights of the children and youth are not violated.

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

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 45:352 (March 2019), effective April 1, 2019.

§7303. Authority—Foster Care, Adoption, Transitional Placing

A. Legislative Provisions

1. The Specialized Provider Licensing Act, Act 286 of 1985 as amended (R.S. 46:1401 et seq.) is the legal authority under which the department prescribes minimum standards for the health, safety, and well-being of children placed in foster care and adoption. The rules are in LAC 67:V., Subpart 8, Chapter 73.

2. In accordance with R.S.46:1403.1, notwithstanding any other provision of law to the contrary, a child in foster care may stay in foster care until his twenty-first birthday to complete any educational course that he began while in foster care including but not limited to a General Education Development course.

3. Public Law 96-272, the Adoption Assistance and Child Welfare Act of 1978 and Act 429 of 1981 authorizes the Louisiana Legislature to make permanency planning for children in foster care a matter of federal and state law and public social policy.

4. Public Law 103-382, the Multiethnic Placement Act of 1994, as amended by Public Law 104-188, the Interethnic Placement Act, the U.S. Constitution, and Title VI of the Civil Rights Act of 1964 provide that an entity which receives federal financial assistance and is involved in adoption or foster care placements may not discriminate on the basis of the race, color, or national origin of the adoptive or foster parent or the child involved. Providers receiving federal funds may not use standards related to income, age, education, family structure and size, or ownership of housing to exclude groups of prospective parents on the basis of race, color, or national origin, where these standards are arbitrary or unnecessary or where less exclusionary standards are available.

5. Providers shall comply with the requirements of the Americans with Disabilities Act, 42 U.S.C. §12101 et seq. (ADA) and regulations promulgated pursuant to the ADA, 28 C.F.R. Parts 35 and 36 and 49 C.F.R. Part 37; §504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. §794, and regulations promulgated pursuant thereto, including 45 C.F.R. Part 84, which includes the right to receive services in the most integrated setting appropriate to the needs of the individual; obtain reasonable modifications of practices, policies, and procedures where necessary (unless such modifications constitute a fundamental alteration of the provider's program or pose undue administrative burdens); receive auxiliary aids and services to enable equally effective communication; equivalent transportation services; and physical access to a provider's facilities.

6. Providers shall comply with the requirements of Children's Code 1167 et seq. with regard to adoptions.

B. Facilities Requiring a License

1. In accordance with R.S. 46:1403, a child-placing agency means any institution, society, agency, corporation, facility, person or persons, or any other group engaged in placing children in foster care or with substitute parents for

temporary care or for adoption, or engaged in assisting or facilitating the adoption of children, or engaged in placing youth in transitional placing programs, but shall not mean a person who may occasionally refer children for temporary care.

2. Any agency applying for a child-placing agency license in Louisiana shall have an office and staff in Louisiana.

3. Any out-of-state agency placing a child in Louisiana shall have a license issued by the state in which the main office is located and either make placements in Louisiana in cooperation with the Interstate Compact on the Placement of Children (ICPC) and a child-placing agency licensed in Louisiana or have an office and staff in Louisiana with a Louisiana child-placing agency license.

4. All child-placing agency locations shall be licensed; satellite and branch offices are not permitted.

C. Exemptions

1. In accordance with R.S. 46:1415, all care given without charge, shall be exempt from provisions of R.S. 46:1401 et seq.

2. In accordance with R.S.46:1404, child placing agencies within the Department of Children and Family Services shall be exempt from the provisions of R.S. 46:1401 et seq. The department is authorized and mandated to perform its child-placing functions in accordance with the standards promulgated by the department for licensed child-placing agencies.

D. Penalties

1. As mandated by R.S. 46:1421, whoever operates as a specialized provider, as defined in R.S. 46:1403, without a valid license issued by the department shall be fined not less than \$1,000 per day for each day of such offense.

E. Waiver Request

1. In accordance with R.S. 46:1407(E), the secretary of the department, in specific instances, may waive compliance with a standard, upon determination that the economic impact is sufficiently great to make compliance impractical, as long as the health and well-being of the staff or children and youth are not imperiled.

2. A request for a waiver shall be submitted by a provider to DCFS Licensing Section staff. A request for a waiver shall provide the following information: the standard to be waived, an explanation of the reasons why the standard cannot be met, and why a waiver is being requested, including information demonstrating that the economic impact is sufficiently great to make compliance impractical.

3. All requests for a waiver will be responded to in writing by the DCFS Secretary. A copy of the waiver decision shall be kept on file at the child-placing agency and presented to licensing staff during all licensing inspections, if requested.

4. A waiver is issued at the discretion of the Secretary and continues in effect at his/her pleasure. The waiver may be revoked by the secretary at any time, either upon violation of any condition attached to it at issuance, or upon occurrence of any resolatory or suspensive condition affecting the waiver, or upon failure of any of the statutory prerequisites to issuance of a waiver (i.e., the cost of compliance is no longer so great as to be impractical or the health or safety of any staff or any child/youth is imperiled),

or upon his/her determination that continuance of the waiver is no longer in the best interest of the DCFS.

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

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 45:352 (March 2019), effective April 1, 2019.

§7305. Definitions—Foster Care, Adoption, Transitional Placing

Abuse—any of the following acts which seriously endangers the physical, mental, or emotional health and safety of the child.

1. The infliction, attempted infliction, or as a result of inadequate supervision, allowing the infliction or attempted infliction of physical or mental injury upon the child by a parent or any other person.

2. The exploitation or overwork of a child by a parent or any other person, including, but not limited to commercial sexual exploitation of the child.

3. The involvement of the child in any sexual act with a parent or any other person, or the aiding or toleration by the parent, caretaker, or any other person of the child's involvement in any of the following:

- a. any sexual act with any other person;
- b. pornographic displays;
- c. any sexual activity constituting a crime under the laws of this state; or
- d. the coerced abortion conducted upon a child.

Adoption Disruption—the interruption of an adoption after placement of the child and before legal finalization of the adoption.

Affiliate—

1. with respect to a partnership, each partner thereof;
2. with respect to a corporation, each officer, director and stockholder thereof;
3. with respect to a natural person, that person and any individual related by blood, marriage, or adoption within the third degree of kinship to that person; any partnership, together with any or all its partners in which that person is a partner; and any corporation in which that person is an officer, director or stockholder, or holds, directly or indirectly, a controlling interest;
4. with respect to any of the above, any mandatory, agent, representative, or any other person, natural or juridical, acting at the direction of or on behalf of the licensee or applicant; or
5. administrator, executive director, or program director of any such DCFS licensed agency or facility.

Age or Developmentally Appropriate Activities or Items—activities or items that are generally accepted as suitable for children/youth of the same chronological age or level of maturity or that are developmentally appropriate, based on the cognitive, emotional, physical, and behavioral capacities that are typical for an age or age group; and in the case of a specific child/youth, activities or items that are suitable for that child/youth based on developmental stages attained with respect to cognitive, emotional, physical, and behavioral capacities.

Agency—any place, program, agency operated or required by law to operate under a license, including facilities owned or operated by any governmental, profit, nonprofit, private, or church entity.

Anniversary—licensure year determined by the month in which the initial license was issued to the child-placing agency and in which the license is eligible for renewal each year.

Approved Home—physical address of a home which has been determined by the child-placing agency to meet all the requirements noted herein.

Babysitting—care arranged for and paid for by foster/adoptive parents for foster/adoptive children in the absence of the foster/adoptive parents.

Birth Certificate—official document issued to record a person's birth, which includes identifying data such as name, gender, date of birth, place of birth, and parentage.

Case Plan—plan developed by DCFS child welfare to establish short and long term goals based on the strengths and needs of the family and child/youth.

Change of Location (CHOL)—change of physical address of the child-placing agency.

Change of Ownership (CHOW)—transfer of ownership of a currently licensed child-placing agency to someone other than the owner listed on the initial application without a break in service. Ownership of the business, not the building, determines the owner. Sale of the juridical entity or lease of the business also constitutes a change of ownership.

Chemical Restraint—medication or drug administered to control behavior or to sedate.

Child—a person who has not reached the age eighteen or otherwise been legally emancipated. The words "child" and "children" are used interchangeably throughout this chapter.

Child-placing agency (CPA)—any institution, society, agency, corporation, facility, person or persons, or any other group engaged in placing children in foster care or with substitute parents for temporary care or for adoption or engaged in assisting or facilitating the adoption of children, or engaged in placing youth in transitional placing programs, but shall not mean a person who may occasionally refer children for temporary care.

Child Welfare (CW)—Division within the Department of Children and Family Services.

Complaint—an allegation that any person is violating any provision of these standards or engaging in conduct, either by omission or commission, that negatively affects the health, safety, rights, and/or welfare of any child/youth receiving services from a child-placing agency.

Contractor—any person who renders professional services, therapeutic services, enrichment services, or counseling to children/youth such as educational consulting, athletic, or artistic services within a child-placing agency, whose services are not integral to either the operation of the child-placing agency or to the care and supervision of children/youth. Contractors may include, but are not limited to social workers, counselors, dance instructors, gymnastic or sports instructors, computer instructors, speech therapists, licensed health care professionals, art instructors, state-certified teachers employed through a local school board, and other outside contractors. A person shall not be deemed a contractor if he is a staff person of the child-placing agency.

Criminal Background Check (CBC)—a review of any and all records containing any information collected and stored in the criminal record repository of the Federal Bureau of

Investigation, the state Department of Public Safety, and/or any other repository of criminal records, involving a pending arrest or conviction by a criminal justice agency, including, but not limited to, child abuse crime information, conviction record information, fingerprint cards, correctional induction and release information, identifiable descriptions and notations of convictions; provided, however, dissemination of such information is not forbidden by order of any court of competent jurisdiction or by federal law.

DAL—the Division of Administrative Law.

DCFS—the Department of Children and Family Services.

Department—the Department of Children and Family Services.

Dependent Adult—a person who is 18 years of age or older who is dependent upon foster/adoptive parents for physical and/or developmental care or support and would be in danger if care or support is withdrawn.

Dependent Child—a person who is under the age of 18 years who is dependent upon foster/adoptive parents for physical and/or developmental care or support and would be in danger if care or support is withdrawn.

Discipline—positive corrective action used to manage inappropriate behavior in children/youth.

Disqualification Period—the prescriptive period during which the department shall not process an application from a provider. Any unlicensed operation during the disqualification period shall interrupt running of prescription until the department has verified that the unlicensed agency/facility has ceased operating.

Documentation—written evidence or proof, signed and dated by parties involved (executive director, program director, foster/adoptive parent, staff, children, youth, etc.), on site and available for review.

Emergency Removal—a disruption of the current placement whereby removal of the child within 48 hours is requested.

Executive Director—the individual responsible for the management, administration, and supervision of the child-placing agency.

Existing Child-placing agency—a provider with a valid license at a particular location prior to the effective date of these standards.

Foster Care—placement of a child/youth in a foster home, a relative's home, residential home, or other living arrangement approved and supervised by the state for the provision of substitute care for a child.

Foster Home—a private home of one or more persons who provide continuous 24-hour substitute parenting for one to six children living apart from their parent(s) or guardians who are placed for foster care under the supervision of the department or a licensed child-placing agency.

Foster Parent—an individual(s) who provides foster care with the approval and under the supervision of the department or of a licensed child-placing provider.

Full-Time—employment by which a person works a minimum of 35 hours Monday through Friday each week.

Functional Literacy—the ability to read and write at the level necessary to participate effectively in society.

Human Service Field—the field of employment related to social services such as social work, psychology, sociology,

special education, nursing, rehabilitation counseling, criminal justice, juvenile justice, and/or corrections.

Home Study—a comprehensive evaluation of the home environment and life of prospective foster and adoptive parents conducted in accordance with applicable requirements of the state in which the home is located to determine the suitability of the family to meet the individual needs of a child, including the child's safety, permanency, health, well-being, and mental, emotional, and physical development.

Injury of Unknown Origin—an injury where the source was not observed by any person and/or could not be explained by the child/youth and is suspicious due to the extent of the injury or its location (e.g., an injury located in an area not generally vulnerable to trauma).

Intercountry—adoption of a child from another country.

Interstate Compact on the Placement of Children (ICPC)—procedures for ensuring the safety and stability of placements of children across state lines.

Juridical Person/Entity—a limited liability company, partnership, corporation, church, university, or governmental department/agency.

Legal Custody—the right to have physical custody of a child and to determine where and with whom the child shall reside; to exercise the rights and duty to protect, train, and discipline the child; the authority to consent to major medical, psychiatric, and surgical treatment; and to provide the child with food, shelter, education, and ordinary medical care, all subject to any residual rights possessed by the child's parents.

Legal Guardian—a person or agency with the legal authority and corresponding duty to care for the person and property of a child/youth.

Legal Guardianship—a legal relationship created between a minor and a guardian, which may be a person or institution, that gives the guardian certain rights and obligations such as the authority to make decisions regarding the life and development of the minor and the minor's general welfare until he/she reaches the age of majority.

License—a certification issued by the department to operate a child-placing agency as defined in R.S. 46:1403.

Licensing deficiency review—formalized process by which a provider may challenge deficiencies cited during a licensing inspection that the provider contends are in whole or part factually inaccurate.

Lifebook—a record chronicling accomplishments, milestones, and important persons in a child's life through pictures, words, art, awards, ribbons, and memorabilia.

Living Unit—a house, mobile home, or apartment.

LSP—Louisiana State Police.

Mechanical Restraint—an approved professionally manufactured device used to modify the behavior of a child/youth by restricting his/her free movement.

Medication—drugs, topicals, or other remedies used to treat illness or injury or relieve pain whether over-the-counter or prescribed.

Medically Fragile—a child/youth with intensive care needs due to chronic and severe conditions and/or functional limitations requiring skilled care from a health care professional or specially trained family or foster family member.

Natural Person—a human being and if that person is married and not judicially separated or divorced, the spouse of that person.

Neglect—the refusal or unreasonable failure of a parent or caretaker to supply the child with necessary food, clothing, shelter, care, treatment, or counseling for any injury, illness, or condition of the child, as a result of which the child's physical, mental, or emotional health and safety is substantially threatened or impaired.

Owner or Operator—individual or juridical entity exercising direct or indirect control over a licensing entity. For licensing purposes the following are considered owners:

1. *Individual Ownership*—individual and spouse listed on the licensing application submitted and who have access to the children/youth in care of the provider and/or children/youth who receive services from the provider and/or who are present at any time on the agency premises when children/youth are present;

2. *Partnership*—all limited or general partners and managers who are listed on the licensing application submitted and who have access to the children/youth in care of the provider and/or children/youth who receive services from the provider, and/or who are present at any time on the agency premises when children/youth are present;

3. *Church Owned, University Owned or Governmental Entity*—any clergy and/or board member who is listed on the licensing application submitted and who has access to the children/youth in care of the provider, and/or children/youth who receive services from the provider, and/or who is present at any time on the agency premises when children/youth are present; or

4. *Corporation* (includes limited liability companies)—individual(s) who is registered as an officer of the board with the Louisiana Secretary of State and/or listed on the licensing application submitted and who has access to the children/youth in care of the provider, and/or children/youth who receive services from the provider, and/or who is present at any time on the agency premises when children/youth are present.

Ownership—the right that confers on a person direct, immediate, and exclusive authority over a thing. The owner of that thing may use, enjoy, and dispose of the thing within the limits and under the conditions established by law.

1. *Direct Ownership*—the owner is a natural person with sole control of the child-placing agency.

2. *Indirect Ownership*—the owner is a juridical entity.

Parent—any living person who is presumed to be a parent under the Civil Code or a birth or adoptive mother or father of a child.

Physical Restraint—emergency physical intervention used to restrict movement of the arms, legs, body or head of a child/youth which includes holding a child in a manner that restricts movement.

Program Director—the individual with authority and responsibility for the on-site daily operation of the child-placing agency as recorded with the licensing section.

Posted—prominently displayed in a conspicuous location in an area accessible to and regularly used by children/youth and/or staff.

Provider—child-placing agency.

Public Law 115-123—Title VII Family First Prevention Services Act

Reasonable and Prudent Parent Standard—standard that a caregiver shall use when determining whether to allow a child in foster care under the responsibility of the state to participate in extracurricular, enrichment, cultural, and social activities. The standard is characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a child while at the same time encouraging the emotional and developmental growth of the child.

Reasonable and Prudent Parent Training—training that includes knowledge and skills relating to the reasonable and prudent parent standard for the participation of the child in age or developmentally appropriate activities. This includes knowledge and skills relating to the developmental stages of the cognitive, emotional, physical, and behavioral capacities of a child and knowledge and skills relating to applying the standard to decisions such as whether to allow the child to engage in social, extracurricular, enrichment, cultural, and social activities. Activities include sports, field trips, and overnight activities lasting one or more days. Also included is knowledge and skills in decisions involving the signing of permission slips and arranging of transportation for the child to and from extracurricular, enrichment, and social activities.

Reasonable Suspicion—to have or acquire information containing specific and articulable facts indicating that an owner, operator, current or potential employee, or volunteer has been investigated and determined to be the perpetrator of abuse and/or neglect of a minor with a justified (valid) finding currently recorded on the state central registry.

Related or Relative—a natural or adopted child or grandchild of the caregiver or a child in the legal custody of the caregiver.

Respite Care—temporary care arranged by or paid for by the child-placing agency to provide relief to foster or adoptive parents.

Service Plan—a written plan of action developed by the child-placing agency for each individual child that identifies needs, sets goals, and describes strategies and timelines for achieving goals.

Shall or Must—mandatory.

Should—advised or may.

Staff—full or part-time paid or non-paid child-placing agency personnel who perform services for the child-placing agency and have direct or indirect contact with children/youth.

State Central Registry (SCR)—repository that identifies individuals with certain justified (valid) findings of abuse and/or neglect of a child or children by the Department of Children and Family Services.

Substantial Bodily Harm—a physical injury such that a prudent person would conclude that the injury required professional medical attention. It does not include minor bruising, the risk of minor bruising, or similar injuries that heal without professional medical attention.

Supervision—the function of observing, overseeing, and guiding a child/youth which includes awareness of and responsibility for the ongoing activity of each child/youth requiring accountability for their care, knowledge of their

activities and whereabouts, and knowledge of their individual abilities and needs.

Temporary Closure—closure of more than 14 calendar days, but less than 30 calendar days.

Therapeutic Foster Care—foster care that accommodates a child or youth whose need for prolonged specialized care and supervision requires continuous professional oversight preventing placement in a standard foster home.

Transitional Placing Program—a program that places youth, at least 16 years of age and not older than 21 years of age, in an independent living situation supervised by a provider with the goal of preparing the youth for living independently without supervision.

Type IV License—license held by any publicly or privately owned child-placing agency provider.

Unlicensed Operation—operation of any specialized provider at any location, without a valid, current license issued by the department.

Visitor—anyone who enters a child-placing agency other than child-placing agency staff, contractor, therapeutic professionals, and in the case of a church or school, pastor, principal, teacher, etc.

Volunteer—an individual who provides services for the provider and whose work is uncompensated. This may include students, interns, tutors, counselors, and other non-staff individuals who may or may not work directly with children.

Waiver—an exemption from compliance with a regulation granted by the secretary of the department.

Youth—a person not less than sixteen years of age nor older than twenty-one years of age.

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

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

§7307. Initial Application

A. Initial Licensing Application Process—Foster Care, Adoption, Transitional Placing

1. An initial application for licensing as a child-placing agency provider shall be obtained from the department.

Department of Children and Family Services
Licensing Section
P. O. Box 260036
Baton Rouge, LA 70826
Phone: (225) 342-4350
Fax: (225) 219-4363
Web address: www.dcfslouisiana.gov

2. A completed initial license application packet for an applicant shall be submitted to and approved by the department prior to an applicant providing child-placing agency services. The completed initial licensing packet shall include:

- a. completed application and non-refundable fee;
- b. current Office of Fire Marshal approval for occupancy as noted in §7313.B;
- c. current Office of Public Health, Sanitarian Services approval as noted in §7313.B;
- d. current city fire department approval as noted in §7313.B;
- e. city or parish building permit office approval for new construction or renovations;

- f. local zoning approval, if applicable;
- g. organizational chart or equivalent list of staff positions and supervisory chain of command;
- h. verification of experience and educational requirements for the program director;
- i. list of consultant/contract staff to include name, contact info, and responsibilities;
- j. list of all staff (paid, non-paid, and volunteers) and their position;
- k. copy of the completed reasonable and prudent parent authorized representative form if providing transitional placing services;
 - 1. three signed reference letters dated within 12 months prior to hire for program director attesting affirmatively to his/her character, qualifications, and suitability to manage the program;
 - m. copy of current general liability coverage;
 - n. copy of current property insurance or rental insurance for transitional placing locations;
 - o. copy of current insurance coverage for child-placing agency and staff owned vehicles used to transport children/youth; and
 - p. any other documentation or information required by the department for licensure.

3. If the initial licensing packet is incomplete, the applicant will be notified of the missing information and will have 180 calendar days to submit the additional requested information. If the department does not receive the requested information within the 180 calendar days, the application will be closed and the fee forfeited. After an initial licensing application is closed, an applicant who is still interested in becoming a child-placing agency shall submit a new initial licensing packet and fee to begin the initial licensing process.

4. Once the department has determined the initial licensing packet is complete, DCFS will attempt to contact the applicant to schedule an initial inspection; however, it is the applicant's responsibility to coordinate the initial inspection. If an applicant fails to schedule the initial inspection within 45 calendar days of the notification, the initial licensing application shall be closed and fee forfeited. After an initial licensing application is closed, an applicant who is still interested in becoming a child-placing agency provider shall submit a new initial licensing packet and fee to begin the initial licensing process.

5. After the completed application and non-refundable fee have been received by the Licensing Section, DCFS will notify the Office of State Fire Marshal, office of city fire department (if applicable), and Office of Public Health that an application for licensure has been submitted. However, it is the applicant's responsibility to request and obtain inspections and approvals.

6. Prior to a license being issued, documentation shall be submitted to the Licensing Section of a fingerprint based criminal record check from the Louisiana State Police for all staff including owners, operators, and contractors of the child-placing agency, as required by R.S. 46:51.2 and 15:587.1. CBCs shall be dated no earlier than 45 days prior to the issue date of the initial license.

7. Prior to a license being issued, documentation shall be submitted to the Licensing Section of completed state central registry clearances noting no justified (valid) finding

of abuse and/or neglect for all staff including owners, operators, and contractors and shall be dated no earlier than 45 days prior to the issue date of the initial license.

B. Initial Licensing Inspection—Foster Care, Adoption, Transitional Placing

1. Prior to the initial license being issued to a child-placing agency, an initial licensing inspection shall be conducted on-site at the child-placing agency office and all transitional placing locations to ensure compliance with all licensing standards. The initial licensing inspection shall be an announced inspection. No child/youth shall be provided services by the child-placing agency until the initial licensing inspection has been performed, all deficiencies cleared, requested information received, and the department has issued an initial license. If the provider is in operation in violation of the law, the licensing inspection shall not be conducted. In these instances, the application shall be denied and DCFS shall pursue legal remedies.

2. Once the child-placing agency is compliant with all licensing laws and standards, required statutes, ordinances, rules, regulations, and fees, the department may issue a license to the provider. The license shall be valid until the expiration date shown on the license, unless the license is revoked or suspended. When a license is modified, a new license shall be issued. The license with the most current issue date supersedes all other licenses issued.

3. When issued, the initial child-placing agency license shall specify the services for which the child-placing agency is eligible to provide (foster care services, adoption services, and/or transitional placing services).

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

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 45:356 (March 2019), effective April 1, 2019.

§7309. Background Checks

A. Criminal Background Checks—Owners, Foster Care, Adoption, Transitional Placing

1. Owners shall have a fingerprint based criminal background check from the Louisiana State Police on file with the child-placing agency in accordance with R.S. 46:51.2 and 15:587.1. If an individual has previously obtained a certified copy of their criminal background check from the Louisiana State Police, such certified copy shall be acceptable as meeting the CBC requirements. If an owner obtains a certified copy of their criminal background check from the Louisiana State Police, this criminal background check shall be accepted for a period of one year from the date of issuance of the certified copy. This certified copy shall be kept on file at the facility. Prior to the one-year expiration of the certified criminal background check, a new fingerprint-based satisfactory criminal background check shall be obtained from Louisiana State Police. If the clearance is not obtained prior to the one-year expiration of the certified criminal background check, the owner is no longer allowed on the premises until a clearance is received.

a. This check shall be obtained prior to the license being issued, the addition of a board member who meets the definition of an owner, an individual being present on the premises, or an individual having access to children/youth.

b. No person shall own, operate, or participate in the management or governance of a child-placing agency until such person has submitted his or her fingerprints to

Louisiana State Police and it has been determined that such person has not been convicted of, or pled guilty or nolo contendere to any crime listed in R.S. 15:587.1(C).

c. No person who has been convicted of, or pled guilty or nolo contendere to any offense included in R.S. 15:587.1(C), shall own, operate, or participate in the management or governance of a child-placing agency.

d. Any owner or operator who is convicted of, or pled guilty or nolo contendere to any crime listed in R.S. 15:587.1(C) shall not continue in the management or governance after such conviction, guilty plea, or plea of nolo contendere.

e. Only certified CBCs obtained by the individual for themselves from LSP are transferable from one owner to another owner.

2. The following is a listing of individuals by organizational type who are required to submit documentation of a satisfactory fingerprint-based criminal background clearance from the Louisiana State Police:

a. *Individual Ownership*—individual and spouse listed on the licensing application submitted and who have access to the children/youth in care of the provider and/or children/youth who receive services from the provider and/or who are present at any time on the agency premises when children/youth are present;

b. *Partnership*—all limited or general partners and managers who are listed on the licensing application submitted and who have access to the children/youth in care of the provider and/or children/youth who receive services from the provider, and/or who are present at any time on the agency premises when children/youth are present;

c. *Church Owned, University Owned or Governmental Entity*—any clergy and/or board member who is listed on the licensing application submitted and who has access to the children/youth in care of the provider, and/or children/youth who receive services from the provider, and/or who is present at any time on the agency premises when children/youth are present; or

d. *Corporation* (includes limited liability companies)—individual(s) who is registered as an officer of the board with the Louisiana Secretary of State and/or listed on the licensing application submitted and who has access to the children/youth in care of the provider, and/or children/youth who receive services from the provider, and/or who is present at any time on the agency premises when children/youth are present.

3. When an individual is listed on the licensing application or the Secretary of State's website as an officer and does not have access to children/youth in care or who receive services from the provider and/or is not present at any time on the agency premises when children/youth are present, a DCFS approved attestation form signed and dated by the individual is acceptable in lieu of a satisfactory fingerprint based CBC from LSP. The attestation form shall be accepted for a period of one year from the date individual signed attestation form.

4. Effective April 1, 2019, CBCs/attestation forms shall be dated no earlier than 45 days prior to the initial application being received by the Licensing Section, or the individual being present on the premises, or having access to children/youth.

B. State Central Registry—Owners, Foster Care, Adoption, Transitional Placing

1. Prior to April 1, 2019, in accordance with R.S. 46:1414.1, all owners and operators affiliated with an agency were required to have on file a state central registry clearance form from child welfare stating that the owners/operators were not listed on the state central registry. No person recorded on any state's child abuse and neglect registry with a justified (valid) finding of abuse or neglect of a child shall be eligible to own, operate, or participate in the governance of a child-placing agency.

a. When an individual is listed on the licensing application or the Secretary of State's website as an officer and does not have access to children/youth in care or children/youth who receive services from the provider and/or is not present at any time on the agency premises when children/youth are present, a DCFS approved attestation form signed and dated by the individual is acceptable in lieu of a state central registry clearance. The attestation form shall be accepted for a period of one year from the date individual signed attestation form.

2. Prior to April 1, 2019, all owners and operators affiliated with an agency were required to have on file a clearance from any other state's child abuse and neglect registry in which the owner/operator resided within the proceeding five years. No person recorded on any state's child abuse and neglect registry with a justified (valid) finding of abuse and/or neglect of a child was eligible to own, operate, or participate in the governance of the child-placing agency.

3. In accordance with R.S. 46:1414.1, an inquiry of the state central registry for all owners and operators shall be conducted prior to a license being issued or if currently licensed, prior to the addition of a new board member who meets the definition of an owner. The Louisiana state central registry clearance form shall be dated no earlier than 45 days prior to the license being issued or the addition of a new board member who meets the definition of an owner. For states other than Louisiana, clearance forms shall be dated no earlier than 120 days prior to the license being issued or the addition of a new board member who meets the definition of an owner. No person who is recorded on any state's child abuse and neglect registry with a valid justified (valid) finding of abuse or neglect of a child shall be eligible to own, operate, or participate in the governance of the child-placing agency.

a. When an individual is listed on the licensing application or the Secretary of State's website as an officer and does not have access to children/youth in care or children/youth who receive services from the provider and/or is not present at any time on the agency premises when children/youth are present, a DCFS approved attestation form signed and dated by the individual is acceptable in lieu of a state central registry clearance. The attestation form shall be accepted for a period of one year from the date individual signed the attestation form.

4. If an owner/operator resided in another state within the proceeding five years, provider shall request a check and obtain clearance information from that state's child abuse and neglect registry prior to the license being issued or if currently licensed, prior to the addition of a new board

member who meets the definition of an owner. No person who is recorded on any state's child abuse and neglect registry with a justified (valid) finding of abuse and/or neglect of a child shall be eligible to own, operate, or participate in the governance of a child-placing agency.

a. If the provider requests an out-of-state state central registry check and that state advises that they are unable to process the request due to statutory limitations, documentation of such shall be kept on file.

5. Upon notification from child welfare that an owner/operator(s) is not listed on the state central registry, the provider shall maintain on file the child welfare notification that the owner's name does not appear on the registry with a justified (valid) finding of abuse and/or neglect.

6. A request for a state central registry clearance shall be submitted by provider for all owners/operators to child welfare every five years prior to the date noted on the state central registry clearance notification and at any time upon the request of DCFS if reasonable suspicion exists that an individual may be listed on the state central registry.

7. If the owner/operator receives a justified (valid) finding after receiving notification from child welfare that he was not listed on the state central registry and the owner/operator advises the provider prior to his/her appeal rights being exhausted, licensing shall be notified within 24 hours or no later than the next business day, whichever is shorter.

a. The owner/operator shall be directly supervised by a paid staff (employee) of the child-placing agency and at any and all times when he/she is in the presence of a child/youth. The employee responsible for supervising the individual must not be a suspected perpetrator with a justified (valid) determination of abuse and/or neglect.

b. Under no circumstances shall the owner/operator, with the justified (valid) finding of abuse and/or neglect, be left alone and unsupervised with a child/youth pending the official determination from child welfare that the individual is or is not listed on the state central registry.

8. Upon notification to the provider from child welfare that the owner/operator is listed on the state central registry, the owner/operator shall no longer be eligible to own, operate, or participate in the governance of the child-placing agency. The owner/operator may voluntarily withdraw the application for licensure or if he/she chooses not to withdraw the application, the application shall be immediately denied. If the individual with the justified (valid) finding of abuse and/or neglect is a member of the child-placing agency board, the provider shall submit a signed, dated statement to licensing within 24 hours or no later than the next business day indicating that the board member has resigned his position on the board or has been relieved of his position on the board with the effective date of the resignation/removal. Within seven calendar days, provider shall also submit to licensing documentation verifying that the individual's name has been removed from the Secretary of State's website if the CPA is owned/operated by a corporation. After receipt of the statement, the application for licensure may continue to be processed.

9. Any information received or knowledge acquired by a provider that a current owner is a perpetrator of abuse

and/or neglect with a justified (valid) determination of abuse or neglect prior to receipt of official notification from child welfare, shall be immediately reported verbally to licensing management staff and followed up in writing no later than the close of business on the next business day. Prior to receipt of the official notification and immediately upon the knowledge that a justified (valid) finding has been issued by DCFS, the individual shall be directly supervised by a paid staff (employee) of the child-placing agency, at any and all times when he/she is present on the premises and/or is in the presence of a child/youth. The employee responsible for supervising the individual must not be a suspected perpetrator with a justified (valid) determination of abuse and/or neglect. Under no circumstances shall the individual with the valid (justified) finding of abuse and/or neglect be left alone and unsupervised with a child/youth pending the official determination from child welfare that the individual is or is not listed on the state central registry.

10. State central registry clearances are not transferable from one owner to another.

C. Agency Location and Equipment—Foster Care, Adoption, Transitional Placing

1. The provider shall have suitable space for an office and reception area which provide comfort, safety, privacy, and convenience for children/youth and staff.

2. The provider shall have furnishings which are clean and safe.

3. The provider shall have suitable space for confidential meetings with parent(s) and children/youth and visitation between parent(s) and children/youth.

4. The provider shall have suitable storage areas for personnel and child/youth records which provide controlled access, retrieval, and confidentiality.

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

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 45:357 (March 2019), effective April 1, 2019.

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

A. General Provisions

1. Any provider with a valid child-placing agency license upon the effective date of these standards shall meet all of the requirements herein, unless otherwise stated.

2. Prior to beginning operation, it is mandatory to obtain a license from DCFS by meeting all requirements noted herein.

3. Licensing Section shall determine the period for which a license is valid. A license is valid for the period for which it is issued unless it is modified, revoked, or suspended.

4. A license shall be valid only for a particular owner and only for the address on the license and is not transferable to another person, juridical entity, location, or subject to sale. Any change of ownership or change of location automatically renders the license null and void. A change of ownership of the property on which the licensed child-placing agency is located shall not affect the license; however, loss of the right to use the premises by the licensee (whether through eviction, termination of lease, etc.) shall void the license as provided above.

5. With the exception of a change of ownership application, an application from a new provider for the same

program shall not be processed if an application or license is currently on file with the Licensing Section for the same physical address.

6. The license shall be displayed in a prominent place at the CPA. Child placing agencies operated by a church or religious organization are exempt from this requirement provided the license is available upon request.

7. DCFS representatives shall be admitted into the child-placing agency office without delay and shall be given immediate access during regular business hours to all records and areas of a child-placing agency office, including but not limited to its grounds. DCFS representative shall also be given immediate access to transitional placing locations and children/youth. Provider shall facilitate the coordination of visits to prospective and certified foster/adoptive parents' homes chosen by DCFS licensing staff.

8. In order to maintain a license, a CPA shall operate at least one day per week for at least four consecutive hours. This four hour timeframe shall occur Monday through Friday between the hours of 7:30 am and 5 pm.

9. If any area of a child-placing agency office is set aside for private use, DCFS representatives shall be permitted to verify that no child/youth is present in that portion and that the private areas are inaccessible to children/youth.

10. DCFS staff shall be allowed to confidentially interview any staff member, child/youth, and prospective and certified foster/adoptive parents as determined necessary by DCFS.

11. All new construction or renovation to a currently licensed child-placing agency requires approval from the Office of State Fire Marshal as noted in §7313.B, Office of Public Health, city fire (if applicable), and the Licensing Section prior to a child or children/youth occupying the new space.

12. The provider shall notify the Licensing Section in writing of a child placing office closure of more than 14 calendar days. Notification shall be submitted within five calendar days prior to the scheduled closure or within three calendar days of an unscheduled closure. Notification shall include child-placing agency's name, license number, dates, the reason for closure, and provider signature. Closures of more than 30 calendar days render the license null and void.

13. Prior to closure, the provider shall make adequate preparation and arrangements for the care, custody, and control of any children in the care, custody, and/or control of the provider.

14. The email address provided to the Licensing Section on the licensing application is the official email address unless the provider subsequently submits written notification of a change of email address to the Licensing Section and the request is acknowledged as received by licensing staff.

15. The provider shall make any information required by the Licensing Section as outlined in the current standards and any information reasonably related to determine compliance with these standards available to the department.

16. The provider shall show proof of compliance with all relevant standards and requirements established by federal, state, local, and municipal regulatory bodies.

B. Fees and Notification of Changes—Foster Care, Adoption, Transitional Placing

1. All fees are non-refundable and shall be payable to DCFS Licensing Section by money order, certified check, or electronic payment, if available.

2. In accordance with R.S 46:1406(F), there shall be a non-refundable fee of \$50 for a license or renewed license, payable to the department with the initial licensing application, CHOL application, CHOW application, and prior to the last day of the anniversary month of the license.

3. A non-refundable fee of \$5 is required to issue a duplicate license with no changes.

4. A non-refundable fee of \$25 is required when a change to the license is requested or noted by licensing staff.

5. The provider shall notify the Licensing Section on a DCFS change of information form prior to making changes to child-placing agency operations as noted below. There is no fee charged when the request is noted on the renewal application and all required inspections and approvals are received prior to the expiration of the current license; however, the change shall not be effective until the first day of the month following the expiration of the current license.

a. Removal of a service (foster care services, adoption services, or transitional placing services) is effective upon receipt of a completed change of information form.

b. Name change is effective when the following are received by the licensing section:

- i. completed change of information form; and
- ii. \$25 non-refundable change fee.

c. Change to add foster care services or adoption services is effective when the following are received and approved by the licensing section:

- i. completed change of information form;
- ii. \$25 non-refundable change fee; and
- iii. inspection by the Licensing Section noting compliance with regulations regarding the service which will be provided.

d. Change to add transitional placing services is effective when the following are received and approved by the licensing section:

- i. completed change of information form;
- ii. \$25 non-refundable change fee;
- iii. current approvals as noted in §7313.B;
- iv. inspection of each transitional placing location by the Licensing Section noting compliance with regulations regarding the service which will be provided; and
- v. copy of property insurance or rental insurance coverage for each transitional placing location;

e. Change to add an additional transitional placing location under current CPA license is effective when the following are received and approved by the licensing section:

- i. completed change of information form;
- ii. \$25 non-refundable change fee;
- iii. current approvals as noted in §7313.B;
- iv. inspection of each transitional placing location by the Licensing Section noting compliance with regulations regarding the service which will be provided; and

v. copy of property insurance or rental insurance coverage for each transitional placing location;

f. Change to age range for which services are provided is effective when the following are received and approved by the licensing section:

- i. completed change of information form and;
- ii. \$25 non-refundable change fee;

g. Change in program director is effective when the following are received and approved by the licensing section:

i. completed change of information form;

ii. documentation of program director's qualifications as noted in §7313.H.6;

iii. three signed letters of reference dated within 12 months prior to hire attesting affirmatively to his/her character, qualifications, and suitability to manage the program;

iv. CBC clearance dated within 45 days of hire;

v. Louisiana state central registry clearance dated within 45 days of hire; and

vi. if an individual resided in a state other than Louisiana in the previous five years, state central registry clearance from those states dated within 120 days of hire.

6. If a child-placing agency is found to be non-compliant with regard to a particular service offered or with a particular age group of children/youth, DCFS may require the child-placing agency to cease providing the service and/or restrict the age of the children/youth for which the child-placing agency is licensed to provide services.

C. Renewal of License—Foster Care, Adoption, Transitional Placing

1. The license shall be renewed on an annual basis prior to the last day of the anniversary month of the license.

2. The provider shall submit, prior to the license expiration date, a completed renewal application form and \$50 non-refundable fee. The following documentation shall also be included:

a. current Office of Fire Marshal approval for occupancy as noted in §7313.B;

b. current Office of Public Health, Sanitarian Services approval as noted in §7313.B;

c. current city fire department approval as noted in §7313.B;

d. copy of current general liability coverage;

e. copy of current property insurance or rental insurance coverage for each transitional placing locations;

f. copy of current insurance coverage for child-placing agency and staff vehicles used to transport children/youth;

g. copy of a criminal background clearance or current attestation forms as referenced in §7309.A for all owners and program directors as required by R.S. 46:51.2 and 15.587.1;

h. copy of state central registry clearances or current attestation forms referenced in §7309.B for all owners and program directors as required by R.S. 46:1414.1; and

i. copy of the completed reasonable and prudent parent authorized representative form if providing transitional placing services.

3. Prior to renewing the child-placing agency's license, an on-site inspection shall be conducted to ensure compliance with all licensing laws and standards. If the child-placing agency is found to be in compliance with the licensing laws and standards, and any other required statutes, laws, ordinances, and regulations, the license shall be renewed for a 12 month period.

4. If areas of noncompliance or deficiencies are cited and have not been corrected or new deficiencies or areas of non-compliance are cited prior to the expiration of the license, the department may issue an extension of the license not to exceed 60 days.

5. When it is determined by the department that such non-compliances or deficiencies have been corrected and no new areas of noncompliance or deficiencies have been cited, a license shall be issued through the last day of the anniversary month.

6. If it is determined that all areas of noncompliance or deficiencies have not been corrected or new areas of noncompliance or deficiencies have been cited prior to the expiration date of the extension, the department may revoke the license.

D. Change of Location (CHOL)—Foster Care, Adoption, Transitional Placing

1. When a provider changes the physical location of the child-placing agency office, it is considered a new operation and a new license is required prior to opening. The license at the existing location shall not transfer to the new child-placing agency location.

2. After the child-placing agency's new location has been determined, a complete CHOL licensing packet shall be submitted to the licensing section. A complete CHOL licensing packet shall include:

a. completed application and \$50 non-refundable fee;

b. current Office of Fire Marshal approval for occupancy as noted in §7313.B;

c. current Office of Public Health, Sanitarian Services approval as noted in §7313.B;

d. current city fire department approval as noted in §7313.B;

e. city or parish building permit office approval for new construction or renovation

f. local zoning approval, if applicable;

g. organizational chart or equivalent list of staff positions and supervisory chain of command;

h. verification of experience and educational requirements for the program director if current director is replaced;

i. list of consultant/contract staff to include name, contact info, and responsibilities;

j. list of all staff (paid, non-paid, and volunteers) and their position;

k. copy of the completed reasonable and prudent parent authorized representative form if providing transitional placing services;

l. three signed reference letters dated within 12 months prior to hire for program director if a new director is hired attesting affirmatively to his/her character, qualifications, and suitability to manage the program;

m. copy of current general liability insurance coverage;

n. copy of current property insurance coverage or rental insurance coverage for each transitional placing location;

o. copy of current insurance coverage for child-placing agency and staff vehicles used to transport children/youth;

p. list of youth currently being served in transitional placing;

q. documentation of new Louisiana State Police fingerprint based satisfactory criminal record checks for owners of the agency, as required by R.S. 46:51.2 and 15:587.1, dated no earlier than 45 days prior to the issue date of the new license as noted in §7309.A;

r. documentation of new Louisiana state central registry clearance forms for owners dated no earlier than 45 days prior to the issue date of the new license as noted in §7309.B;

s. documentation of out of state central registry clearance forms for owners dated no earlier than 120 days prior to the issue date of the new license as noted in §7309.B if the owner has resided out of state since receiving a clearance from that state;

t. documentation of new national criminal background checks through the Federal Bureau of Investigation (FBI) for currently certified foster/adoptive parents and any member of the parent's household aged 18 years and older, excluding youth in DCFS custody, in accordance with R.S. 46:51.2 for any crime enumerated under R.S. 15:587.1 and Public Law 105-89. These checks shall be dated no earlier than 45 days prior to the issue date of the new license as noted in §7315.B;

u. documentation of new state central registry clearance forms for currently certified foster/adoptive parents and any member of the parent's household aged 18 years and older, excluding youth in DCFS custody. Louisiana checks shall be dated no earlier than 45 days prior to the issue date of the new license as noted in §7309.B;

v. documentation of out of state central registry clearance forms for foster/adoptive parents and household members age 18 years and older, excluding youth in DCFS custody, dated no earlier than 120 days prior to the issue date of the new license as noted in §7309.B if the foster/adoptive parents has resided out of state since receiving a clearance from that state;

w. documentation of new Louisiana State Police fingerprint based satisfactory criminal record checks for all staff of the agency, as required by R.S. 46:51.2 and 15:587.1. CHOLs occurring April 1, 2019 or after, CBCs shall be dated no earlier than 45 days prior to the issue date of the new license;

x. documentation of new Louisiana state central registry clearance forms for all staff (paid, non-paid, and volunteers) and contractors dated no earlier than 45 days prior to the issue date of the new license;

y. documentation of out of state central registry clearance forms for staff (paid, non-paid, and volunteers) and contractors dated no earlier than 120 days prior to the issue date of the new license as noted in §7309.B if the staff or contractor has resided out of state since receiving a clearance from that state; and

z. any other documentation or information required by the department for licensure.

3. Services shall not be provided at the new location until a license is issued for that location.

4. The license for the new location may be effective upon receipt of all items listed in §7311.D.2 with the approval of DCFS, however; it shall not be effective prior to the first day operations begin at the new location.

5. The license for the old location shall be null and void on the last day services were provided at that location, but no later than the effective date of the new location's license. The child-placing agency shall submit documentation noting the last day services will be provided at the old location.

E. Change of Ownership (CHOW)—Foster Care, Adoption, Transitional Placing

1. Any of the following constitutes a change of ownership for licensing purposes:

a. change in the federal tax id number;

b. change in the state tax id number;

c. change in profit status;

d. any transfer of the business from an individual or juridical entity to any other individual or juridical entity;

e. termination of services by one owner and beginning of services by a different owner without a break in services to the children/youth; and/or

f. addition of an individual, with the exception of a board member, to the existing ownership on file with the licensing section.

2. When a child-placing agency changes ownership, the current license is not transferable. Prior to the ownership change and in order for a new license to be issued, the new owner shall submit a CHOW application packet containing the following:

a. completed application and \$50 non-refundable fee;

b. current Office of Fire Marshal approval for occupancy from current owner as noted in §7313.B;

c. current Office of Public Health, Sanitarian Services approval from current owner as noted in §7313.B;

d. current city fire department approval, if applicable; as noted in §7313.B;

e. city or parish building permit office approval for renovations or new construction;

f. local zoning approval, if applicable;

g. organizational chart or equivalent list of staff titles and supervisory chain of command;

h. verification of experience and educational requirements for the program director if new owner replaces current director;

i. list of consultant/contract staff to include name, contact info, and responsibilities;

j. list of all staff (paid, non-paid, and volunteers) and their position;

k. copy of the completed reasonable and prudent parent authorized representative form if providing transitional placing services;

l. three signed reference letters dated within three months prior to hire for program director if new owner replaces current director attesting affirmatively to his/her character, qualifications, and suitability to manage the program;

- m. copy of current general liability coverage;
- n. copy of current property insurance or rental insurance coverage for each transitional placing locations;
- o. copy of current insurance for child-placing agency and staff owned vehicles used to transport children/youth;
- p. documentation of new Louisiana State Police fingerprint based satisfactory criminal record checks for owners or current attestation forms as referenced in §7309.A, as required by R.S. 46:51.2 and 15:587.1. These checks shall be dated no earlier than 45 days prior to the issue date of the new license;
- q. documentation of new Louisiana state central registry clearance forms for owners or attestation forms dated no earlier than 45 days prior to the issue date of the new license as noted in §7309.B;
- r. documentation of out of state central registry clearance forms for owners dated no earlier than 120 days prior to the issue date of the new license as noted in §7309.B if the owner has resided out of state since receiving a clearance from that state;
- s. documentation of new Louisiana State Police fingerprint based satisfactory criminal record checks for all staff of the agency, as required by R.S. 46:51.2 and 15:587.1, dated no earlier than 45 days prior to the issue date of the new license;
- t. documentation of new Louisiana state central registry clearance forms for all staff (paid, non-paid, and volunteers) and contractors dated no earlier than 45 days prior to the issue date of the new license;
- u. documentation of out of state central registry clearance forms for staff (paid, non-paid, and volunteers) and contractors dated no earlier than 120 days prior to the issue date of the new license as noted in §7309.B if the staff or contractor has resided out of state since receiving a clearance from that state;
- v. documentation of new national criminal background checks through the Federal Bureau of Investigation (FBI) for currently certified foster/adoptive parents and any member of the parent's household aged 18 years and older, excluding youth in DCFS custody, in accordance with R.S. 46:51.2 for any crime enumerated under R.S. 15:587.1 and Public Law 105-89. These checks shall be dated no earlier than 45 days prior to the issue date of the new license;
- w. documentation of new Louisiana state central registry clearance forms for currently certified foster/adoptive parents and any member of the parent's household aged 18 years and older, excluding youth in DCFS custody. These checks shall be dated no earlier than 45 days prior to the issue date of the new license;
- x. documentation of out of state central registry clearance forms for foster/adoptive parents and household members age 18 years and older, excluding youth in DCFS custody, dated no earlier than 120 days prior to the issue date of the new license as noted in §7309.B if the foster/adoptive parents have resided out of state since receiving a clearance from that state;
- y. any other documentation or information required by the department for licensure.

3. The prior owner's current Office of State Fire Marshal and Office of Public Health approvals are only transferrable for 60 calendar days. The new owner shall obtain approvals dated after the effective date of the new license from these agencies within 60 calendar days. The new owner will be responsible for forwarding the approval or extension from the Office of the State Fire Marshal and the Office of Public Health as noted in §7313.B to the Licensing Section on or prior to the sixtieth day in order for their license to be extended.

4. A licensing inspection shall be conducted within 60 calendar days of the license being issued to verify compliance with the licensing standards.

5. All staff/children/youth information shall be updated under the new ownership prior to or on the last day services are provided by the existing owner.

6. If all information in §7311.E.2 of this section is not received prior to or on the last day services are provided by the existing owner, the new owner shall not operate until a license is issued. The new owner is not authorized to provide services until the licensure process is completed in accordance with §7311.E.2.

7. In the event of a change of ownership, the children/youth records shall remain with the new child-placing agency.

8. A child-placing agency facing adverse action shall not be eligible for a CHOW. An application involving a child-placing agency facing adverse action shall be treated as an initial application rather than a change of ownership application.

F. Change in Ownership Structure—Foster Care, Adoption, Transitional Placing

1. Although the following does not constitute a change of ownership for licensing purposes, a change of information form is required. The change of information form shall be submitted to the Licensing Section within 14 calendar days of the change:

- a. if individual ownership, upon death of the spouse; or
- b. if individual ownership, upon death of the spouse and execution of the estate, if the surviving spouse remains as the owner.

2. The change of information form shall be submitted to the Licensing Section within seven calendar days of the change:

- a. if individual ownership, undergoing a separation or divorce, until the judicial termination of the community aquets and gains is signed by both parties;
- b. change in board members for churches, corporations, limited liability companies, universities, or governmental entities; or
- c. removal of any person from the existing ownership structure under which the child-placing agency is currently licensed.

G. Denial, Revocation, or Non-Renewal of License—Foster Care, Adoption, Transitional Placing

1. Even if a child-placing agency is otherwise in compliance with these standards, an application for a license may be denied, or a license revoked or not renewed for any of the following reasons:

- a. cruelty or indifference to the welfare of the children/youth in care;
- b. violation of any provision of the standards, rules, regulations, or orders of the department;
- c. disapproval from any agency whose approval is required for licensing;
- d. any validated instance of abuse, neglect, corporal punishment, physical punishment, or cruel, severe or unusual punishment as noted on the state central registry, if the owner is responsible or if the staff member who is responsible remains in the employment of the licensee;
- e. any validated instance of abuse, neglect, corporal punishment, physical punishment, or cruel, severe or unusual punishment as noted on the state central registry, in a foster/adoptive home if the home remains certified;
- f. closing with no plans for reopening and no means of verifying compliance with minimum standards for licensure;
- g. any act of fraud such as falsifying or altering documents required for licensure;
- h. refusing to allow the Licensing Section staff to perform mandated duties, i.e., denying entrance to the agency, not cooperating with licensing mandates, intimidation or threats to DCFS staff, etc.;
- i. the owner, director, officer, board member, or any person designated to manage or supervise the provider or any staff providing care, supervision, or treatment to a child/youth has been convicted of or pled guilty or nolo contendere to any offense listed in R.S. 15:587.1 or to any offense involving a juvenile victim. A copy of a criminal record check performed by the Louisiana State Police (LSP) or other law enforcement provider, or by the Federal Bureau of Investigation (FBI), or a copy of court records in which a conviction or plea occurred, indicating the existence of such a plea or conviction shall create a rebuttal presumption that such a conviction or plea exists;
- j. the provider, after being notified that an officer, director, board member, manager, supervisor, or any employee has been convicted of or pled nolo contendere to any offense referenced above, allows such officer, director, or employee to remain employed, or to fill an office of profit or trust with the provider. A copy of a criminal record check performed by the LSP or other law enforcement provider, or by the FBI, or a copy of court records in which a conviction or plea occurred, indicating the existence of such a plea or conviction shall create a rebuttal presumption that such a conviction or plea exists;
- k. failure of the owner, director, or any employee to report a known or suspected incident of abuse or neglect to child protection authorities;
- l. revocation or non-renewal of a previous license issued by a state or federal provider;
- m. a history of non-compliance with licensing statutes or standards, including but not limited to failure to take prompt action to correct deficiencies, repeated citations for the same deficiencies, closure to avoid revocation, or revocation or denial of any previous license issued by the department;
- n. failure to submit an application for renewal or required documentation or to pay required fees prior to the last day of the anniversary month;

- o. operating any unlicensed agency, program, or facility;
- p. permitting an individual to be on the premises or to have access to children/youth when listed on the state central registry;
- q. own a child-placing agency and have been convicted of or have pled guilty or nolo contendere to any crime in which an act of fraud or intent to defraud is an element of the offense; or
- r. failure of the child-placing agency to decertify a foster/adoptive home after licensing violations are noted and not timely corrected which pose an imminent risk to the health and/or safety of children/youth placed in the home.

H. Posting of Notices of Revocation—Foster Care, Adoption, Transitional Placing

1. The DCFS shall prominently post a notice of revocation action at each public entrance of the child-placing agency within one business day of such action. This notice shall remain visible to the general public, other placing agencies, parents, guardians, and other interested parties of individuals that receive services from the provider.

2. It shall be a violation of these rules for a provider to permit the obliteration or removal of a notice of revocation that has been posted by the department. The provider shall ensure that the notice continues to be visible to the general public, other placing agencies, parents, guardians, and other interested parties throughout the pendency of any appeal of the revocation.

3. The provider shall notify the department's licensing management staff verbally and in writing immediately if the notice is removed or obliterated.

4. Failure to maintain the posted notice of revocation required under these rules shall be grounds for denial, revocation, or non-renewal of any future application or license.

I. Appeal Process for Denial, Non-Renewal, or Revocation—Foster Care, Adoption, Transitional Placing

1. The DCFS Licensing Section, shall advise the applicant, program director or owner by letter of the reasons for revocation of the license, or denial of an application, and the right of appeal. If the director or owner is not present at the agency, delivery of the written reasons for such action may be made to any staff of the agency. Notice to a staff person shall constitute notice to the child-placing agency of such action and the reasons thereof. A request for appeal shall include a copy of the letter from the Licensing Section that notes the reasons for revocation, denial, or non-renewal, together with the specific areas of the decision the appellant believes to be erroneous and/or the specific reasons the decision is believed to have been reached in error, and shall be mailed to: Department of Children and Family Services, Appeals Section, P.O. Box 2944, Baton Rouge, LA 70821-9118.

2. A provider shall have 15 calendar days from receipt of the letter notifying of the revocation to request an appeal in accordance with R.S. 46:1420. Provider may continue to operate during the appeal process as provided in the Administrative Procedure Act.

3. If the provider's license will expire during the appeal process, the provider shall submit prior to its license expiration date, a complete renewal packet as noted in

§7311.C. Each provider is solely responsible for obtaining the application form. All information shall be received on or postmarked by the last day of the month in which the license expires or the provider shall cease operation by the close of business on the expiration date noted on the license. A complete renewal packet includes:

- a. completed application form;
- b. non-refundable \$50 fee;
- c. current Office of State Fire Marshal approval for occupancy as noted in §7313.B;
- d. current Office of Public Health, Sanitarian Services approval as noted in §7313.B;
- e. current city fire department approval, if applicable; as noted in §7313.B;
- f. copy of current general liability coverage;
- g. copy of current property insurance or rental insurance coverage for each transitional placing locations;
- h. copy of current insurance coverage for child-placing agency and staff owned vehicles used to transport children/youth;
- i. copy of a criminal background clearance or current attestation forms as referenced in §7309.A for all owners and program directors as required by R.S. 46:51.2 and 15.587.1;
- j. copy of state central registry clearance forms as referenced in §7309.B and §7313.I.10 for all owners and program directors as required by R.S. 46:1414.1; and
- k. copy of the completed reasonable and prudent parent authorized representative form if providing transitional placing services.

4. A provider shall have 30 calendar days from receipt of the letter notifying of the denial of an application for a license to request an appeal.

5. The appeals section shall notify the Division of Administrative Law of receipt of an appeal request. Division of Administrative Law shall conduct a hearing. The appellant will be notified by DAL of the decision, either affirming or reversing the original decision of DCFS.

6. If the decision of DCFS is affirmed or the appeal dismissed, the provider shall terminate operation of the child-placing agency immediately. If the provider continues to operate without a license, the DCFS may file suit in the district court in the parish in which the child-placing agency is located for injunctive relief.

7. If the revocation or non-renewal decision of DCFS is reversed, the license will be re-instated and the appellant may continue to operate. If the denial of application decision is reversed, DCFS will begin processing the application for licensure.

J. Disqualification of Agency and Provider—Foster Care, Adoption, Transitional Placing

1. If a child-placing agency's application is denied, license revoked or not renewed due to failure to comply with state statutes and/or licensing rules, the department shall not process a subsequent application from the provider for that child-placing agency or any other license issued by DCFS for a minimum period of 24 months after the effective date of denial or revocation or non-renewal or a minimum period of 24 months after all appeal rights have been exhausted, whichever is later (the disqualification period). Any pending application by the same provider shall be treated as an application for a new agency for purposes of this section and

shall be denied and subject to the disqualification period. Any subsequent application for a license shall be reviewed by the Secretary or her designee prior to a decision being made to grant a license. The department reserves the right to determine, at its sole discretion, whether to issue any subsequent license.

2. Any voluntary surrender of a license by a child-placing agency facing the possibility of adverse action against its license (revocation or non-renewal) shall be deemed to be a revocation for purposes of this rule and shall trigger the same disqualification period as if the license had actually been revoked

3. In the event a license is revoked or renewal is denied, (other than for cessation of business or non-operational status), or voluntarily surrendered to avoid adverse action any owner, officer, member, manager, program director, or executive director of such licensee shall be prohibited from owning, managing, directing, or operating another licensed agency for a period of not less than two years from the date of the final disposition of the revocation or denial action. If the action was not appealed, the effective date is the last day for which an appeal could have been requested. The lapse of two years shall not automatically restore a person disqualified under this provision. The department, at its sole discretion, may determine that a longer period of disqualification is warranted under the facts of a particular case.

4. If a license is revoked or not renewed or application denied or refused, an application or license shall also be denied or refused to any affiliate of the licensee or applicant. The disqualification period provided in this section shall include any affiliate of the provider.

K. Complaint Process—Foster Care, Adoption, Transitional Placing

1. In accordance with R.S. 46:1418, the department shall investigate all complaints (except complaints concerning the prevention or spread of communicable diseases), including complaints alleging abuse or neglect. All licensing complaint investigations shall be initiated within 30 days.

2. All licensing complaint investigations shall be unannounced.

3. Providers shall advise staff, foster/adoptive parents, and youth in the transitional placing program of the licensing authority of DCFS and that they may contact the Licensing Section with any unresolved complaints. Providers shall post the current telephone number, email address, and mailing address of the Licensing Section in the child-placing agency office in an area regularly utilized by staff. Documentation of notification of the licensing authority of DCFS to foster/adoptive parents and youth in the transitional placing program shall consist of a signed and dated statement by the foster/adoptive parents and the youth.

L. Corrective Action Plans—Foster Care, Adoption, Transitional Placing

1. A corrective action plan (CAP) shall be submitted for all deficiencies noted by Licensing Section staff regarding any licensing law or standard, or any other required statute, ordinance, or standard. The request for submission of the CAP does not restrict the actions which may be taken by DCFS. If the department does not specify an earlier timeframe for submitting the CAP, the CAP shall

be submitted within 10 calendar days from receipt of the deficiencies. Receipt of the deficiencies by any staff person constitutes notice to the child-placing agency. The CAP shall include a description of how the deficiency will be corrected, the date by which correction(s) will be completed, and outline the steps the child-placing agency plans to take in order to prevent further deficiencies from being cited in these areas, and the plan to maintain compliance with the licensing standards. If the CAP is not sufficient and/or additional information is required, the provider shall be notified and informed to submit additional information within five calendar days. If it is determined that all areas of noncompliance or deficiencies have not been corrected, the department may revoke the license.

2. Provider may challenge a specific deficiency or any information within a cited deficiency which the provider contends is factually inaccurate. The provider shall have one opportunity to request a review of a licensing deficiency within the timeframe specified for the submission of the CAP. A statement of why the deficiency is being disputed and supporting documents (if applicable) shall be submitted with the corrective action plan within the timeframe specified for the submission of the CAP.

3. The statement of deficiencies for which a review has been requested will not be placed on the internet for viewing by the public until a decision has been reached. As a result of the licensing deficiency review request, a deficiency may be upheld with no changes, the deficiency may be removed, or the deficiency may be upheld and revised to include pertinent information that was inadvertently omitted. Once a decision has been reached, provider will be informed in writing of the decision and the reason for the decision. If information within the deficiency was cited in error or the cited deficiency is revised by the DCFS Licensing Section staff, provider will receive a revised "statement of deficiencies" with the decision letter. If any enforcement action was imposed solely because of a deficiency or finding that has been deleted through the licensing deficiency review process, the action will be rescinded.

M. Critical Violations/Fines—Foster Care, Adoption, Transitional Placing

1. In accordance with R.S. 46:1430, when a provider is cited for violations in the following areas, the department may at its' discretion elect to impose sanctions, revoke a license, or both:

a. §7309.A, §7313.I.9, §7313.L.5, and/or §7313.M.1—criminal background check;

b. §7313.N.2, N.6, and/or N.7—critical incidents; and/or

c. §7319.D, §7321.H, and/or §7323.F.2-5—supervision.

2. The option of imposing other sanctions shall not limit the right of DCFS to revoke and/or not renew a provider's license to operate if it determines that the violation poses an imminent threat to the health, safety, rights, or welfare of a child/youth. Only when the department finds that the violation does not pose an imminent threat to the health, safety, rights, or welfare of a child/youth will the department consider sanctions in lieu of

revocation or non-renewal; however, the absence of such an imminent threat does not preclude the possibility of revocation or non-renewal in addition to sanctions, including fines.

3. In determining whether multiple violations of one of the above categories have occurred, both for purposes of this section and for purposes of establishing a history of non-compliance, all such violations cited during any 24-month period shall be counted.

4. For the first violation of one of the aforementioned categories, if the department does not revoke or not renew the license, the department may issue a formal warning letter noting the department's intent to take administrative action if further violations of the same category occur.

5. The warning letter shall include a directed corrective action plan (CAP) which shall outline the necessary action and timeframe for such action that a provider shall take in order to maintain compliance with the licensing standards. The provider shall acknowledge receipt of the warning letter by submitting a written response to the CAP within 10 calendar days of receipt of the letter. Failure by the provider to submit requested information and/or failure to implement the CAP as evidenced by a repeated violation of the same category of the standards may result in either the assessment of a civil fine, revocation/non-renewal of license, or both.

6. For the second violation of one of the same aforementioned categories within a 24-month period, provider may be assessed a civil fine of up to \$250 per day for a violation in each of the aforementioned categories (if same category cited twice) and fined for each day the provider was determined to be out of compliance with one of the aforementioned categories according to the schedule of fines noted in §7311.M.7-9.

7. The base fine level for all violations shall be \$200 per day. From the base fine level, factor in any applicable upward or downward adjustments, even if the adjustment causes the total to exceed \$250. If the total fine after all adjustments exceeds \$250, reduce the fine for the violation to \$250 as prescribed by law.

a. When the violation resulted in death or serious physical or emotional harm to a child/youth or placed a child/youth at risk of death or serious physical or emotional harm, the fine shall be increased by \$50.

b. When the provider had a previous license revoked for the same critical violation cited, the fine shall be increased by \$25.

c. When the critical violation was cited and occurred despite the objective good faith best efforts of licensee to comply, the fine shall be decreased by \$25.

d. When the cited critical violation was for a certified criminal background check not being renewed upon expiration as required, the fine shall be decreased by \$25.

e. When the cited critical violation was for criminal background check not being completed prior to hire, the fine shall be increased by \$25.

f. When the provider self reports the critical incident which resulted in the death or serious physical or emotional harm to the child/youth; however it is reported outside of the timeframe as specified by licensing regulations, the fine shall be decreased by \$25.

g. When the provider fails to report the critical incident which resulted in the death or serious physical or emotional harm to the child/youth, the fine shall be increased by \$25.

h. When a critical violation for supervision was cited due to staff not providing supervision as required to youth in transitional placing program, the fine shall be increased by \$25.

i. When a critical violation for supervision was cited due to staff not conducting required visits to the foster/adoptive parent or child, the fine shall be increased by \$25.

8. For the third violation of one of the same aforementioned categories within a 24 month period, the provider's license may be revoked.

9. The aggregate fines assessed for violations determined in any consecutive 12 month period shall not exceed \$2,000 as prescribed by law. If a critical violation in a different category is cited by DCFS that warrants a fine and the provider has already reached the maximum allowable fine amount that could be assessed by the department in any consecutive 12 month period and the department does not revoke or not renew the license, the department may issue a formal warning letter noting the department's intent to take administrative action if further violations of the same category re-occur. The warning letter shall include a directed CAP which shall outline the necessary action and timeframe for such action that a provider shall take in order to maintain compliance with the licensing standards. The Provider shall acknowledge receipt of the warning letter by submitting a written response to the CAP within 10 calendar days of receipt of the letter. Failure by the provider to submit requested information and/or failure to implement the CAP as evidenced by a repeated violation of the same category of the standards may result in revocation/non-renewal of license.

N. Departmental Reconsideration and Appeal Procedure for Fines—Foster Care, Adoption, Transitional Placing

1. When a fine is imposed under these standards, the department shall notify the program director or owner by letter that a fine has been assessed due to deficiencies cited at the child-placing agency and the right of departmental reconsideration. The notification may be sent by certified mail or hand delivered to the child-placing agency. If the program director or owner is not present at the child-placing agency, delivery of the written reason(s) for such action may be made to any staff of the child-placing agency. Notice to a staff person shall constitute notice to the child-placing agency of such action and the reasons therefore. The letter shall specify the dates and the violation cited for which the fine(s) shall be imposed. Fines are due within 30 calendar days from the date of receipt of the letter unless the provider request a reconsideration of the fine assessment. The provider may request reconsideration of the assessment by asking DCFS for such reconsideration in writing within 10 calendar days from the date of receipt of the letter. A request for reconsideration shall include a copy of the letter from the Licensing Section that notes the reasons for assessment of the fine together with the specific reasons the provider believes assessment of the fine to be unwarranted and shall be mailed to Department of Children and Family Services, Licensing Section, P.O. Box 260036, Baton Rouge, LA

70826. If the provider withdraws the request for reconsideration, the fine is payable within seven calendar days of the withdrawal or on the original date that the fine was due, whichever is later.

2. The department shall advise the program director or owner by letter of the decision of DCFS after reconsideration and the right to appeal. The notification may be sent by certified mail or hand delivered to the child-placing agency. If the program director or owner is not present at the child-placing agency, delivery of the written decision may be made to any staff of the child-placing agency. Notice to a staff person shall constitute notice to the child-placing agency of such action.

a. If DCFS finds that the licensing section's assessment of the fine is justified, the provider shall have 15 calendar days from the receipt of the reconsideration letter to appeal the decision to the Division of Administrative Law (DAL). A request for appeal shall include a copy of the letter from the Licensing Section that notes the reasons for assessment of the fine and a copy of the reconsideration decision letter together with the specific areas of the decision the appellant believes to be erroneous and/or the specific reasons the decision is believed to have been reached in error, and shall be mailed to Department of Children and Family Services, Appeals Section, P.O. Box 2944, Baton Rouge, LA 70821-9118.

b. The DCFS appeals section shall notify the DAL of receipt of an appeal request. DAL shall conduct a hearing in accordance with the Administrative Procedure Act and shall render a decision. The appellant will be notified by DAL of the decision, either affirming or reversing the DCFS's decision.

c. If the provider has filed a timely appeal and the DCFS's assessment of fines is affirmed by an administrative law judge of the DAL, the fine shall be due within 30 calendar days after mailing notice of the final ruling from DAL or, if a rehearing is requested, within 30 calendar days after the rehearing decision is rendered. The provider shall have the right to seek judicial review of any final ruling of the administrative law judge as provided in the Administrative Procedure Act. If the appeal is dismissed or withdrawn, the fines shall be due and payable within seven calendar days of the dismissal or withdrawal. If a judicial review is denied or dismissed, either in district court or by a court of appeal, the fines shall be due and payable within seven calendar days after the provider's suspensive appeal rights have been exhausted.

3. If the provider does not appeal within 15 calendar days of receipt of the DCFS's reconsideration decision, the fine is due within 30 calendar days of receipt of the DCFS's reconsideration decision and shall be mailed to Department of Children and Family Services, Licensing Section, P.O. Box 260036, Baton Rouge, LA 70826. If the provider files a timely appeal, the fines shall be due and payable on the date set forth in §7311.N.2.c. If the provider withdraws the appeal, the fine is payable within seven calendar days of the withdrawal or on the original date that the fine was due, whichever is later.

4. If the provider does not pay the fine within the specified timeframe, the license shall be immediately revoked and the DCFS shall pursue civil court action to collect the fines, together with all costs of bringing such

action, including travel expenses and reasonable attorney fees. Interest shall begin to accrue at the current judicial rate on the day following the date on which the fines become due and payable.

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

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 45:359 (March 2019), effective April 1, 2019.

§7313. Administration and Operation

A. Department Access—Foster Care, Adoption, Transitional Placing

1. Once a child-placing agency provider has been issued a license, the department shall conduct licensing and other inspections at intervals deemed necessary by the department to determine compliance with licensing standards, as well as, other required statutes, laws, ordinances, rules, regulations, and fees. These inspections shall be unannounced.

2. The department shall remove any child/youth or all children/youth from any provider or certified home when it is determined that one or more deficiencies exist that place the health and well-being of children/youth in imminent danger. The children/youth shall not be returned to the provider until such time as it is determined by the department that the imminent danger has been removed.

B. Other Jurisdictional Approvals—Foster Care, Adoption, Transitional Placing

1. The provider shall comply and show proof of compliance with all relevant standards, regulations, and requirements established by federal, state, local, and municipal regulatory bodies including initial and annual approval by the following:

- a. Office of Public Health, Sanitarian Services:
 - i. all child-placing agency offices shall have documentation of approval;
 - ii. each transitional placing location shall have documentation of approval;
- b. Office of State Fire Marshal:
 - i. all child-placing agency offices shall have documentation of approval;
 - ii. each transitional placing location housing four or more youth shall have documentation of approval;
- c. city fire department; if applicable:
 - i. each transitional placing location housing four or more youth in a one or two family dwelling shall have documentation of approval;
- d. local governing authority or zoning approval (if applicable); and
- e. city or parish building permit office approval for new construction or renovations; and
- f. Department of Education, if educational services are provided onsite.

C. Policies and Procedures—Foster Care, Adoption, Transitional Placing

1. The provider shall have a written statement of its philosophy, purpose, and program.
2. Child-placing agency policies shall include the provider's scope of services and limitations.
3. Child-placing agency policies shall include the geographical area to be served.

4. Child-placing agency policies shall include the ages of children and types of behaviors accepted for placement.

5. The provider shall have a clearly defined intake policy in keeping with its stated purpose and it shall be clear from the practices of the provider that it is carrying out these purposes.

6. Provider intake policy shall prohibit discrimination on the basis of race, color, creed, sex, national origin, disability, or ancestry. This shall not be construed to restrict the hiring or admission policies of a church or religious organization, which may give preference in hiring or admission to members of the church or denomination relating to foster care or adoption. DCFS may not limit or otherwise restrict the rights of religious sectarian child placing agencies to consider creed in any decision or action relating to foster care or adoption.

7. A provider shall have a written description of admission policies and criteria which expresses the needs, problems, situations, and patterns best addressed by its' program. These policies shall be available to the legal guardian for any child/youth referred for placement.

8. The provider policies and procedures shall include, but are not limited to the following areas:

- a. personnel;
- b. admission and discharge criteria;
- c. services provided to children/youth placed with provider;
- d. services offered to birth parent pre and post placement, if applying or licensed to provide adoption services;
- e. services offered to foster parent pre and post-placement, if applying to or licensed to provide foster care services;
- f. services offered to adoptive parent pre and post-placement if applying to or licensed to provide adoption services;
- g. fees and cost charged for services paid by foster parents if applying to or licensed to provide foster care services;
- h. fees and cost charged for services paid by adoptive parents if applying to or licensed to provide adoption services;
- i. types of medical services offered to children/youth;
- j. supervisory contact and visitation requirements;
- k. behavior management techniques;
- l. confidentiality;
- m. records;
- n. complaints;
- o. grievances; and
- p. fees and cost for services for transitional placing youth if applying to or licensed to provide transitional placing services.

9. The provider shall have written policies and procedures regarding staff persons who serve as foster parents, adoptive parents, or respite care providers.

10. Staff shall not serve as foster parents, adoptive parents, or respite care providers prior to completing the certification requirements.

11. The provider shall have written policies and procedures for board members, staff, and contract staff that

address the prevention or appearance of a conflict of interest or misuse of influence.

12. The provider shall not conduct or approve the home study for any of its staff, board members, relatives, volunteers, or others with a direct affiliation with the agency. For all home studies certified on April 1, 2019 or after, arrangements shall be made with another licensed child-placing agency or a licensed clinical social worker, licensed master social worker with 3 years of experience in adoption or foster care services, licensed professional counselor, licensed psychologist, medical psychologist, licensed psychiatrist, or licensed marriage and family therapist to conduct and approve the home study, approve placements, and provide post placement supervision for its staff, board members, relatives, volunteers, or anyone with a direct affiliation with the agency.

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

14. As required by chapter 55 of Title 46 of R.S. 46:2701-2711, the child-placing agency shall post the current copy of "The Safety Box" newsletter issued by the Office of the Attorney General in the child-placing agency's office. The child-placing agency shall provide a copy of the safety box newsletter to all foster parents, adoptive parents, and youth in transitional placing programs. Items listed as recalled in the newsletter shall not be used and shall be immediately removed from the home/premises. Provider shall document in the foster/adoptive parent record and transitional placing youth's record receipt of the newsletter and confirmation with the foster/adoptive parent and transitional placing youth that the home and environment were checked and the recalled products were removed.

D. Requirements for Respite Services for Foster and Adoptive Parents

1. The provider shall develop written policies and procedures to address the respite care needs of a child/youth or a foster/adoptive parent.

2. Respite care shall not be used as a substitute for placement of a child/youth.

3. Respite care shall be provided by a certified foster/adoptive parent in a child-placing agency approved home.

4. Prior to providing respite, respite provider shall receive from the CPA or foster/adoptive parent pertinent information regarding the child/youth's history, current behavior, and information regarding the service plan of the child.

E. Records—Foster Care, Adoption, Transitional Placing

1. The administrative record shall contain a written plan describing the services and programs offered by the provider.

2. The administrative record shall contain an organizational chart.

3. The administrative record shall contain all leases, contracts, and purchase-of-service agreements to which the provider is a party.

4. The provider shall ensure that all entries in records are legible, signed by the person making the entry, and accompanied by the date on which the entry was made.

5. All records shall be maintained in an accessible, standardized order and format.

6. Provider shall maintain a list of all certified foster and adoptive parents, approved homes, and transitional placing locations.

7. The child-placing agency shall provide a certificate to foster/adoptive parents which note names of foster/adoptive parents, approved home address, and date of expiration of certification. Certification shall expire one year from the date of original certification and shall be renewed annually thereafter.

F. Confidentiality of Records—Foster Care, Adoption, Transitional Placing

1. Records shall be the property of the provider and shall be secured against loss, tampering, and unauthorized use or access.

2. The provider shall maintain the confidentiality of all children's records including, but not limited to all court related documents, educational and medical records. Staff shall not disclose or knowingly permit the disclosure of any information concerning the child/youth or his/her family, directly or indirectly, to other children/youth or other unauthorized person.

3. When a youth has reached the age of majority and is not interdicted, a provider shall obtain the youth's written, informed consent prior to releasing any information in which the youth or his/her family may be identified. Consent is not needed for authorized state and federal agencies.

4. When the child/youth is a minor or is interdicted, the provider shall obtain written, informed consent from the legal guardian(s) prior to releasing any information from which the child/youth or his family may be identified. Consent is not needed for authorized state and federal agencies.

5. Upon request, the provider shall make available information in the record with written authorization from the legal guardian. If, in the professional judgment of the provider, it is believed that information contained in the record would be injurious to the health or welfare of the child/youth, the provider may deny access to the information in the record. In any such case, the provider shall document written reasons for denial in the child/youth's file.

6. The provider may use information from the child/youth's record for teaching and research purposes, development of the governing body's understanding, and knowledge of the provider's services, or similar educational purposes, provided names are deleted, other identifying information redacted or concealed, and written authorization to include signature and date is obtained from the child/youth's legal guardian(s). If 18 years or older, written authorization to include signature and date shall be obtained from the youth.

7. All records shall be retained and disposed of in accordance with state and federal laws. In accordance with

CHC 1186, any person who violates the requirement of confidentiality shall be fined not more than five hundred dollars or imprisoned for not more than ninety days or both.

G. Retention of Records—Foster Care, Adoption, Transitional Placing

1. For licensing purposes, documentation of the child-placing agency's previous 12-months' activity shall be available for review during all licensing inspections. Records shall be accessible during the provider's office hours.

2. For licensing purposes, children/youth's information shall be kept on file and available for review during all licensing inspections and for a minimum of one year from date of discharge from the program.

3. For licensing purposes, records of owner, operator, staff, volunteers, and contractors shall be kept on file and available for review during all licensing inspections and for a minimum of one year from termination/resignation/providing services for the agency.

4. All records shall be retained and disposed of in accordance with state and federal laws.

5. Adoption case records shall be maintained indefinitely following final placement of a child.

6. If the provider closes, the provider shall submit adoption case records to DCFS in an electronic format with encryption details or provide the department a notarized statement within 30 calendar days of closure, indicating that the records are retained and by whom. Records may be retained by another licensed child-placing agency or with a secure storage vendor.

H. Personnel Requirements and Qualifications—Foster Care, Adoption, Transitional Placing

1. The provider shall ensure that all staff members are properly certified or licensed as required by law and appropriately qualified in accordance with child-placing agency regulations

2. Staff may work in more than one capacity provided they meet the qualifications and training requirements for each position and are able to fulfill the job duties for each position.

3. Each child-placing agency shall have a qualified full-time Program Director who shall supervise child placement activities and casework services performed by the agency. In addition to ensuring that licensing requirements are met, the program director is responsible for planning, managing, and controlling the agency's daily activities, as well as responding to staff, foster/adoptive parents, and children/youth concerns.

4. The program director or person authorized to act on behalf of the program director shall be accessible to staff, certified foster/adoptive parents, and representatives of the department at all times (24 hours per day, 7 days per week).

5. In the short term absence of the program director, which shall not exceed 120 calendar days in a calendar year, an individual who may or may not qualify for the position shall be delegated the same authority and responsibility of the program director.

6. The program director shall possess at least one of the following qualifications if hired on or after April 1, 2019:

a. a doctorate degree in a human services field or in administration or business;

b. a master's degree in a human services field or in administration or business and one year of work experience in a human services agency;

c. a bachelor's degree in a human services field or in administration or business and at least two years of work experience in a human services agency.; or

d. six years of work experience in a human services field or a combination of college credits and work experience for a total of six years. Applicants may receive credit for college coursework in business, management, or a human service field with 15 credit hours substituting for 6 months of work experience not to exceed 60 credit hours.

7. Effective April 1, 2019, staff conducting supervisory visits with foster/adoptive parents and/or children shall possess, at a minimum, a bachelor's degree in social work or a human service related bachelor's degree.

I. Staff Records—Foster Care, Adoption, Transitional Placing

1. The provider shall have a record for each staff person.

2. Staff record shall contain an application for employment denoting education, training, and experience of staff person.

3. Staff record shall contain documentation of applicable professional or paraprofessional credentials/certifications according to state law.

4. Staff record shall contain a written job description signed and dated by staff person.

5. Staff record shall contain three signed and dated reference checks or documentation of telephone reference checks dated within 12 months prior to hire attesting affirmatively to the individual's character, qualifications, and suitability for the position assigned. References shall be obtained from individuals not related to the staff person.

6. Staff record shall contain staff's hire and termination/resignation dates.

7. Staff record shall contain a copy of the current driver's license for staff who transport children/youth.

8. Staff record shall contain reports, corrective action, and disciplinary action relating to the staff's employment with the provider.

9. Prior to employment, staff record shall contain satisfactory fingerprint based Louisiana State Police check.

a. Staff shall have a criminal background check on file with the child-placing agency in accordance with R.S.15:587.1(C) and R.S 46:51.2. If an individual has previously obtained a certified copy of their criminal background check from the Louisiana State Police, such certified copy shall be acceptable as meeting the CBC requirements. This certified copy of the criminal background check shall be accepted for a period of one year from the date of issuance of the certified copy. This certified copy shall be kept on file at the facility. Prior to the one-year expiration of the certified criminal background check, a new fingerprint-based satisfactory criminal background check shall be obtained from Louisiana State Police. If the clearance is not obtained prior to the one-year expiration of the certified criminal background check, the staff is no longer allowed on the premises until a clearance is received.

b. This check shall be obtained prior to the individual being hired, present on the premises, or having access to children/youth.

c. No person shall be hired or present on the premises of the child-placing agency until such person has submitted his or her fingerprints to the Louisiana State Police and it has been determined that such person has not been convicted of, or pled guilty or nolo contendere to any crime listed in R.S. 15:587.1(C).

d. No person who has been convicted of, or pled guilty or nolo contendere to any offense included in R.S. 15:587.1(C), shall be hired by, continue employment, or be present in any capacity on the premises of the child-placing agency.

e. Any employee who is convicted of, or pled guilty or nolo contendere to any crime listed in R.S. 15:587.1(C) shall not continue employment after such conviction, guilty plea, or plea of nolo contendere.

f. For staff hired effective April 1, 2019, CBCs shall be dated no earlier than 45 days of the individual being hired, being present on the premises, or having access to children/youth.

g. Only certified CBCs obtained by the individual for themselves from LSP are transferable from one owner to another owner.

10. Prior to employment, staff record shall contain a state central registry clearance form indicating that the staff person is not listed on the state central registry with a justified finding of child abuse and/or neglect.

a. Prior to April 1, 2019, all staff were required to have on file a state central registry clearance form from child welfare noting that the staff person is not listed on the state central registry in accordance with R.S. 46:1414.1. No person who is recorded on any state's child abuse and neglect registry with a valid (justified) finding of abuse and/or neglect shall be eligible for employment in a licensed child-placing agency.

b. Prior to April 1, 2019, all staff were required to have on file a clearance from any other state's child abuse and neglect registry in which the staff person resided within the proceeding five years. No person who is recorded on any state's child abuse and neglect registry with a valid (justified) finding of abuse and/or neglect shall be eligible for employment in a licensed child-placing agency.

c. In accordance with R.S. 46:1414.1, an inquiry of the state central registry for all staff (paid, non-paid and volunteer staff) shall be conducted prior to employment being offered to a potential hire. Staff persons who have resided in another state within the proceeding five years, provider shall request a check and obtain state central registry clearance from that state's child abuse and neglect registry. Louisiana state central registry clearance forms shall be dated no earlier than 45 days prior to the staff being present on the premises or having access to children/youth. Other states state central registry clearance forms shall be dated no earlier than 120 days prior to the staff being present on the premises or having access to children/youth. No person who is recorded on any state's child abuse and neglect registry with a valid (justified) finding of abuse and/or neglect shall be eligible for employment in a licensed child-placing agency.

i. If the provider requests an out-of-state state central registry check and that state advises that they are unable to process the request due to statutory limitations, documentation of such shall be kept on file.

d. Upon notification from child welfare that the staff is not listed on the state central registry, the provider shall maintain on file the state central registry clearance form noting that the staff's name does not appear on the registry with a justified (valid) finding of abuse and/or neglect. A request shall be submitted to child welfare every five years for staff prior to the issue date noted on the state central registry clearance form and at any time upon the request of DCFS if reasonable suspicion exists that a staff may be listed on the state central registry.

e. If after the initial state central registry clearance form is received by provider from child welfare noting that the staff is not listed on the state central registry and due to a new valid finding, the staff receives a subsequent notice that he/she is listed on the state central registry (issued after the provider was licensed) and advises the provider of the new information prior to their appeal rights being exhausted, licensing shall be notified within 24 hours or no later than the next business day, whichever is shorter. The staff with the valid (justified) finding of abuse and/or neglect shall be directly supervised by another paid staff (employee) of the child-placing agency, at any and all times when he/she is present on the premises and/or is in the presence of a child/youth. The employee responsible for supervising the individual shall not be suspected to be a perpetrator with a justified (valid) determination of abuse and/or neglect. Under no circumstances shall the staff with the valid (justified) finding of abuse and/or neglect be left alone and unsupervised with a child/youth pending the official determination from child welfare that the individual is or is not listed on the state central registry.

f. Upon notification to the provider from child welfare that the staff is listed on the state central registry, the staff shall no longer be eligible for employment with the child-placing agency. The provider shall submit a signed, dated statement to licensing within 24 hours, but no later than the next business day indicating that the staff with the valid (justified) finding of abuse and/or neglect has been terminated. If this statement is not received by licensing within the aforementioned timeframe, the application shall be denied or license shall be immediately revoked.

g. Any information received or knowledge acquired by the provider that a current staff (paid, non-paid and volunteer) is a perpetrator of abuse and/or neglect with a justified (valid) determination of abuse or neglect prior to receipt of official notification from child welfare, shall be immediately reported verbally to licensing management staff and followed up in writing no later than the close of business on the next business day. Prior to receipt of the official notification and immediately upon the knowledge that a justified (valid) finding has been issued by DCFS, the individual shall be directly supervised by a paid staff (employee) of the child-placing agency, at any and all times when he/she is present on the premises and/or is in the presence of a child/youth. The employee responsible for supervising the individual must not be suspected to be a perpetrator with a justified (valid) determination of abuse and/or neglect. Under no circumstances shall the individual with the valid (justified) finding of abuse and/or neglect be left alone and unsupervised with a child/youth pending the official determination from child welfare that the individual is or is not listed on the state central registry.

h. State central registry clearances are not transferable from one owner to another.

J. Staff Orientation—Foster Care, Adoption, Transitional Placing

1. All staff hired effective April 1, 2019 or after, shall complete the DCFS “mandated reporter training” available at dcfs.la.gov within the individual’s first five working days from the date of hire and prior to exercising job duties. Documentation of training shall be the certificate obtained upon completion of the training.

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

- a. child-placing agency philosophy and goals;
- b. staff job duties and responsibilities;
- c. organizational policies;
- d. children/youth’s rights;
- e. detecting and reporting suspected abuse and neglect;
- f. confidentiality of information and records;
- g. reporting and documenting incidents;
- h. children/youth grievance procedure;
- i. behavior management;
- j. LGBTQ awareness;
- k. recognizing mental health concerns;
- l. detecting signs of illness or dysfunction that warrant medical or nursing intervention;
- m. safe self-administration and handling of medications;
- n. administrative procedures;
- o. prohibited practices for foster/adoptive parents;
- p. cultural sensitivity;
- q. transportation of children/youth;
- r. foster/adoptive parent grievance procedure;
- s. child-placing agency rules for transitional placing programs if licensed to provide transitional placing services;
- t. prohibited practices for transitional placing programs if licensed to provide transitional placing services; and
- u. emergency and safety procedures for transitional placing programs if licensed to provide transitional placing services.

3. Documentation of the orientation training shall consist of a statement/checklist in the staff record signed and dated by the staff person and program director or designee, attesting to having received the applicable orientation training and the dates of the orientation training.

4. Staff shall not exercise job duties until orientation is completed.

5. The provider shall maintain orientation training materials which shall be available for review.

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

7. All new direct care staff hired effective April 1, 2019 or after working in the transitional placing program shall receive certification in adult cardiopulmonary

resuscitation (CPR) and first aid within 60 days of employment. No staff person shall be left unsupervised with youth until he/she has completed all required training.

K. Staff Annual Training—Foster Care, Adoption, Transitional Placing

1. All staff having direct contact with children/youth shall receive annual training on the following:

- a. philosophy and goals;
- b. job duties and responsibilities;
- c. organizational policies;
- d. children/youth’s rights;
- e. detecting and reporting suspected abuse and/or neglect;
- f. confidentiality of information and records;
- g. reporting and documenting incidents;
- h. children/youth grievance procedure;
- i. behavior management;
- j. LGBTQ awareness;
- k. recognizing mental health concerns;
- l. detecting signs of illness or dysfunction that warrant medical or nursing intervention;
- m. safe self-administration and handling of medications;
- n. administrative procedures;
- o. cultural sensitivity;
- p. transportation of children/youth;
- q. prohibited practices for foster/adoptive parents if licensed to provide foster/adoptive services;
- r. foster/adoptive parent grievance procedure if licensed to provide foster/adoptive services;
- s. prohibited practices for transitional placing programs if licensed to provide transitional placing services; and
- t. emergency and safety procedures for transitional placing programs if licensed to provide transitional placing services.

2. Documentation of the annual training shall consist of a statement/checklist in the staff record signed and dated by the staff person and program director or designee, attesting to having received the applicable annual training and the dates of the annual training.

3. The provider shall maintain training materials which shall be available for review.

4. Effective April 1, 2019, all staff that have direct contact with children shall complete the DCFS mandated reporter training available at dcfs.la.gov within 45 days and updated annually. Documentation of training shall be the certificate obtained upon completion of the training.

5. Effective April 1, 2019 all staff that have direct contact with children shall complete the “Reducing the Risk of SIDS in Early Education and Child Care” training available at www.pedialink.org within 45 days and updated annually. Documentation of training shall be the certificate obtained upon completion of the training.

6. Effective April 1, 2019, direct care staff working in the transitional placing program shall receive certification in adult cardiopulmonary resuscitation (CPR) and first aid within 60 days. CPR and first aid shall be updated prior to the expiration of the certification as indicated by the American Red Cross, American Heart Association, or equivalent organization.

L. Volunteers—Foster Care, Adoption, Transitional Placing

1. Providers shall be responsible for the actions of volunteers.

2. Volunteers shall complete orientation training as outlined in §7313.J.2. Documentation of the training shall consist of a statement/checklist in the record signed and dated by the volunteer and program director or designee, attesting to having received the applicable orientation training and the dates of the orientation training.

3. Volunteer record shall contain three documented reference checks dated within 12 months prior to beginning volunteer services. The three signed and dated reference checks or telephone notes shall attest affirmatively to the individual's character, qualifications, and suitability for the position assigned. References shall be obtained from individuals not related to the volunteer.

4. Volunteer record shall contain documentation of duties and responsibilities signed and dated by the program director or designee and volunteer.

5. Prior to providing volunteer services, volunteer record shall contain a satisfactory fingerprint based Louisiana state police check as noted in §7313.I.9.

6. Prior to providing volunteer services, volunteer record shall contain a state central registry clearance form as noted in §7313.I.10.

M. Contractors—Foster Care, Adoption, Transitional Placing

1. Contractors who provide services to children/youth unaccompanied by paid staff or have access to children/youth unaccompanied by a paid staff shall have on file a satisfactory fingerprint based check from the Louisiana State Police. This check shall be obtained prior to providing services unaccompanied by a paid staff or having access to children/youth unaccompanied by a paid staff.

a. No contractor shall provide services until such person has submitted his or her fingerprints to the Louisiana State Police and it has been determined that such person has not been convicted of, or pled guilty or nolo contendere to any crime listed in R.S. 15:587.1(C).

b. No person who has been convicted of, or pled guilty or nolo contendere to any offense included in R.S. 15:587.1(C), shall provide services, continue to provide services, or be present in any capacity on the premises of the child-placing agency.

c. Any contractor who is convicted of, or pled guilty or nolo contendere to any crime listed in R.S. 15:587.1(C) shall not continue to provide services after such conviction, guilty plea, or plea of nolo contendere.

d. Effective April 1, 2019, CBCs shall be dated no earlier than 45 days of the individual providing services, being present on the premises, or having access to children/youth.

e. Only certified CBCs obtained by the individual for themselves from LSP are transferable from one owner to another owner.

2. Contractors who provide services to children/youth unaccompanied by paid staff or have access to children/youth unaccompanied by a paid staff shall have on file at the agency a state central registry clearance form which indicates that the contractor is not listed on any State

Central registry with a valid finding of child abuse and/or neglect.

a. Prior to April 1, 2019, all contractors providing services to the child-placing agency were required to have on file a state central registry clearance form from child welfare that the contractor is not listed on the state central registry in accordance with R.S. 46:1414.1. No person who is recorded on any state's child abuse and neglect registry with a valid (justified) finding of abuse and/or neglect shall be eligible for employment or provide services in a licensed child-placing agency.

b. Prior to April 1, 2019, all contractors providing services to the child-placing agency were required to have on file a clearance from any other state's child abuse and neglect registry in which the contractor resided within the proceeding five years. No person who is recorded on any state's child abuse and neglect registry with a valid (justified) finding of abuse and/or neglect shall be eligible for employment or provide services in a licensed child-placing agency.

c. For individuals who have resided in another state within the proceeding five years, provider shall request a check and obtain clearance information from that state's child abuse and neglect registry prior to providing services or having access to children/youth.

i. If the provider requests an out-of-state state central registry check and that state advises that they are unable to process the request due to statutory limitations, documentation of such shall be kept on file.

d. Louisiana state central registry clearance forms shall be dated no earlier than 45 days prior to the individual providing services or having access to children/youth. Other state's state central registry clearance information shall be dated no earlier than 120 days prior to the individual providing services or having access to children/youth. No person who is recorded on any state's child abuse and neglect registry with a valid (justified) finding of abuse and/or neglect shall be eligible for employment in a licensed child-placing agency.

e. Upon notification from child welfare that the individual is not listed on the state central registry, the provider shall maintain on file the state central registry clearance indicating that the individual's name does not appear on the registry with a justified (valid) finding of abuse and/or neglect. No person who is recorded on any state's child abuse and neglect registry with a valid (justified) finding of abuse and/or neglect shall be eligible to provide services in a licensed child-placing agency.

f. A request shall be submitted to child welfare every five years for contractors prior to the issue date noted on the state central registry clearance form and at any time upon the request of DCFS if reasonable suspicion exists that a staff may be listed on the state central registry.

g. If after the initial state central registry clearance form is received by provider from child welfare noting that the individual is not listed on the state central registry and due to a new valid finding, the contractor receives a subsequent notice that he/she is listed on the state central registry (issued after the provider was licensed) and advises the provider of the new information prior to their appeal rights being exhausted, licensing shall be notified within 24

hours or no later than the next business day, whichever is shorter. The individual with the valid (justified) finding of abuse and/or neglect shall be directly supervised by a paid staff (employee) of the child-placing agency at any and all times when he/she present on the premises and/or is in the presence of a child/youth. The employee responsible for supervising the individual must not be suspected to be a perpetrator with a justified (valid) determination of abuse and/or neglect. Under no circumstances shall the individual with the valid (justified) finding of abuse and/or neglect be left alone and unsupervised with a child/youth pending the official determination from child welfare that the individual is or is not listed on the state central registry.

h. Upon notification to the provider from child welfare that the contractor is listed on the state central registry, the individual shall no longer be eligible to provide services for the child-placing agency. The provider shall submit a signed, dated statement to licensing within 24 hours or no later than the next business day indicating that the individual with the valid (justified) finding of abuse and/or neglect has been relieved of his duties with the child-placing agency with the effective date of termination of services. If this statement is not received by licensing within the aforementioned timeframe, the license shall be immediately revoked.

i. Any information received or knowledge acquired by the provider that a current contractor is a perpetrator of abuse and/or neglect with a justified (valid) determination of abuse or neglect prior to receipt of official notification from child welfare, shall be immediately reported verbally to licensing management staff and followed up in writing no later than the close of business on the next business day. Prior to receipt of the official notification and immediately upon the knowledge that a justified (valid) finding has been issued by DCFS, the individual shall be directly supervised by a paid staff (employee) of the child-placing agency, at any and all times when he/she is present on the premises and/or is in the presence of a child/youth,. The employee responsible for supervising the individual must not be suspected to be a perpetrator with a justified (valid) determination of abuse and/or neglect. Under no circumstances shall the individual with the valid (justified) finding of abuse and/or neglect be left alone and unsupervised with a child/youth pending the official determination from child welfare that the individual is or is not listed on the state central registry.

j. State central registry clearances are not transferable from one owner to another.

N. Foster Care, Adoption, and Transitional Placing

1. The provider shall have and adhere to written policies and procedures for documenting, reporting, investigating, and analyzing all incidents and other situations or circumstances affecting the health, safety, or well-being of a child/youth.

2. The provider shall submit a written report of the following incidents to the Licensing Section within one calendar day, excluding when the incident occurs on a weekend or state holiday. If the incident occurs on a weekend or state holiday, provider shall submit a written report on the first working day following the weekend or state holiday:

- a. attempted suicide;

- b. serious threat or injury to the child/youth's health, safety, or well-being;
- c. elopement or unexplained absence of a child/youth;
- d. unplanned hospitalizations or emergency room visits;
- e. use of restraints;
- f. evacuation of children/youth;
- g. injuries of unknown origin; and
- h. any other unplanned event or series of unplanned events, accidents, incidents, and other situations or circumstances affecting the health, safety or well-being of a child/youth.

3. The program director or designee shall:

- a. immediately verbally notify the legal guardian of any incident noted in §7313.N.2; and
- b. immediately verbally notify the appropriate law enforcement authority in accordance with state law.

4. If requested, the provider shall submit a final written report of the incident to the legal guardian as soon as possible, however no later than five working days of the incident.

5. All children/youth shall be accompanied by foster/adoptive parents or staff when emergency services are needed.

6. The provider shall verbally notify state office licensing management staff immediately in the event of a death and follow up with a written report within one calendar day of the verbal report. If the death occurs on a weekend or State holiday, provider shall verbally notify state office licensing management staff as soon as possible on the first working day following the weekend or State holiday and follow up with a written report the same day as the verbal notification. The provider shall immediately verbally notify the legal guardian and law enforcement in the event of a death. Report shall contain elements noted in §7313.N.8.

7. After reporting suspected abuse and/or neglect as required by Louisiana law, provider shall submit a written report to the Licensing Section immediately or the next working day if the suspected abuse and/or neglect occurred on a weekend or state holiday. For licensing purposes, the report shall contain elements noted in §7313.N.8.

8. At a minimum, the incident report shall contain the following:

- a. date and time the incident occurred;
- b. a brief description of the incident;
- c. where the incident occurred;
- d. names of any child, youth, foster/adoptive or respite parent, and staff involved in the incident;
- e. immediate treatment provided, if any;
- f. date and signature of the staff completing the report;
- g. name and contact information of witnesses;
- h. date and time the legal guardian, law enforcement, and licensing were notified; and
- i. any follow-up actions required.

9. Program director or designee shall review each incident report within three calendar days and take appropriate corrective steps to prevent future incidents from occurring. Documentation to include the following:

- a. actions taken regarding staff or foster/adoptive parents involved;

- b. corrective action;
- c. signature of program director or designee conducting review; and
- d. date of review.

10. A copy of all written reports shall be maintained in a centralized record.

O. Data Collection and Quality Improvement—Foster Care, Adoption, Transitional Placing

1. The provider shall have written policies and procedures for maintaining a quality improvement program.

2. Provider shall perform a quarterly review of all incidents. Documentation of the quarterly review of incidents shall include:

- a. date, time, list of children/youth, staff, and foster/adoptive parents involved in each incident;
- b. patterns of behavior by specific child/youth, staff, and foster or adoptive parents;
- c. plan of action for improvement in identified areas;
- d. date review was completed; and
- e. the signature of the staff person completing the review.

3. Documentation related to the quality improvement program shall be maintained for at least one year.

P. Abuse and Neglect—Foster Care, Adoption, Transitional Placing

1. The provider shall establish and follow written policies and procedures for detecting and reporting suspected abuse and/or neglect.

2. Child-placing agency policies shall include current definitions of abuse and neglect, mandated reporting requirements to the child protection agency, and applicable laws.

3. Child-placing agency policies and procedures shall protect the child/youth from potential harassment during the investigation.

4. Child-placing agency policies and procedures shall ensure that the provider does not delay reporting suspected abuse and/or neglect to the Child Protection Statewide Hotline 1-855-4LA-KIDS (1-855-452-5437).

5. Child-placing agency policies and procedures shall ensure that the provider does not require staff, including unpaid staff, to report suspected abuse/neglect to the provider or management prior to reporting to the Child Protection Statewide Hotline.

6. Child-placing agency policies and procedures shall ensure the staff involved in the incident does not work directly with the child/youth involved in the allegation(s) until an internal investigation is conducted by the provider and no evidence of wrongdoing is found or the department does not recommend further action.

7. Child-placing agency policies and procedures shall ensure that the staff person allegedly involved in the incident is not involved in conducting the investigation.

8. Child-placing agency policies and procedures shall ensure that confidentiality of the incident is protected.

9. Child-placing agency policies and procedures shall include abuse and neglect reporting protocol that requires all staff to report any incidents of abuse and/or neglect whether that abuse or neglect was perpetrated by another staff member, a family member, any other person.

10. As mandated reporters, all staff, owners, volunteers, and contractors shall report any suspected abuse and/or neglect of a child/youth whether that abuse or neglect was perpetrated by a staff member, a family member, or any other person in accordance with R.S 14:403 to the Louisiana Child Protection Statewide Hotline, 1-855-4LA-KIDS (1-855-452-5437). This information shall be posted in an area regularly used by staff.

11. Youth receiving transitional placing services shall be informed of the current definitions of abuse and neglect. Documentation in youth's file shall consist of a signed and dated statement by youth attesting that the information was provided or discussed.

12. Youth receiving transitional placing services shall be provided with the current Child Protection Statewide Hotline 1-855-4LA-KIDS (1-855-452-5437) for reporting abuse and/or neglect. Documentation in youth's file shall consist of a signed and dated statement by youth that the telephone number was provided.

Q. Children and Youth's Rights—Foster Care, Adoption, Transitional Placing

1. The provider shall have written policies and procedures that ensure each child/youth's rights are guaranteed and protected.

2. A child/youth's rights shall not be infringed upon or restricted in any way unless such restriction is necessary and noted in the child/youth's service or case plan. When individual rights are restricted, the provider shall clearly explain and document the restriction or limitation on those rights, the reasons the restrictions are necessary, and the extent and duration of those restrictions. Any restriction to the child's/youth's rights shall be approved by the legal guardian. The documentation shall be signed by child-placing agency staff, the child/youth, if developmentally appropriate, and the child/youth's legal guardian(s). Neither the service nor the case plan shall restrict the access of a child/youth to legal counsel or state or local regulatory officials.

3. A child/youth has the right to personal privacy and confidentiality. Any records and other information about the child/youth shall be kept confidential and released only with the legal guardian's expressed written consent or as required by law. If youth is 18 years of age or older, youth's written consent shall be obtained.

4. A child/youth shall not be photographed or recorded without the express written consent of the child's legal guardian(s). All photographs and recordings shall be used in a manner that respects the dignity and confidentiality of the child/youth. If youth is 18 years of age or older, youth's written consent shall be obtained.

5. A child/youth shall not participate in research projects without the express written consent of the child/youth's legal guardian(s). If youth is 18 years of age or older, youth's written consent shall be obtained.

6. A child/youth shall not participate in activities related to fundraising and publicity without the express written consent of the child/youth's legal guardian(s). If youth is 18 years of age or older, youth's written consent shall be obtained.

7. A child/youth has the right to be free from mental abuse, emotional abuse, physical abuse, and neglect.

8. Physical restraints shall not be used on children/youth except when child/youth pose an immediate danger to self or others.

9. A child/youth's civil rights shall not be abridged or abrogated solely as a result of placement in the provider's program.

10. A child/youth has the right to be treated with dignity in the delivery of services.

11. A child/youth has the right to receive preventive, routine, and emergency health care according to his individual needs to promote his or her growth and development.

12. A child/youth has the right to be involved, as appropriate to age, development, and ability, in assessment and service planning.

13. A child/youth has the right to consult with clergy and participate in religious services in accordance with his/her faith, but shall not be forced to attend religious services. The provider shall have a written policy of its' religious orientation, particular religious practices that are observed and any religious restrictions on admission. This description shall be provided to the child/youth and the child/youth's legal guardian(s). When appropriate, the provider shall determine the wishes of the legal guardian(s) with regard to religious observance and make every effort to ensure that these wishes are carried out. The provider shall ensure the foster parent arranges transportation and encourages participation by children/youth who desire to participate in religious activities in the community.

R. Right to Contact with Family and Collateral—Foster Care and Transitional Placing

1. A child/youth has the right to consult and have visits with his/her family (including but not limited to his or her mother, father, grandparents, brothers, and sisters), legal guardian(s) and friends subject only to reasonable rules. The reasons for any restrictions shall be recorded in the child/youth's service or case plan, approved by the legal guardian, and explained to the child/youth and his family. The child-placing agency representative shall review the restrictions in the service plan every 30 days and, if restrictions are renewed, written approval by the legal guardian and the reasons for renewal shall be recorded in the child/youth's service plan. Documentation shall include signature and date of staff person reviewing the restrictions.

2. Written approval shall be required from the legal guardian prior to home visits being granted for youth receiving foster care or transitional placing services.

3. A child/youth has the right to telephone communication. The provider shall allow a child/youth to receive and place telephone calls in private subject only to reasonable rules and to any restrictions in the child/youth's service or case plan. The legal guardian shall approve any restriction on telephone communication in a child/youth's service plan. The child-placing agency representative shall review the restrictions in the service plan every 30 days and, if restrictions are renewed, approval by the legal guardian and the reasons for renewal shall be recorded in the child/youth's service plan. There shall be no restrictions on communication between a child/youth and the child/youth's legal counsel.

4. A child/youth has the right to send and receive mail and electronic mail. The provider shall allow children/youth to receive and send all mail unopened, uncensored, and unread by staff unless contraindicated by the child/youth's service or case plan and approved by the legal guardian. The child-placing agency representative and legal guardian shall review the restriction in the service plan every 30 days. Documentation shall include signature and date of staff person reviewing restrictions. Children/youth shall have access to all materials necessary for writing and sending letters and when necessary, shall receive assistance.

5. A child/youth has the right to consult freely and privately with legal counsel, as well as, the right to employ legal counsel of his/her choosing.

6. A child/youth has the right to communicate freely and privately with state and local regulatory officials.

7. The provider shall have written strategies to foster ongoing positive communication and contact between children/youth and their families, friends, and others significant in their lives.

S. Acknowledgement of Rights—Foster Care, Adoption, Transitional Placing

1. At the time of admission and when changes occur, each child/youth shall be fully informed and provided with a copy of all rights appropriate to his age and development noted in Sections 7313.P,Q, and R and of all rules and regulations governing child/youths' conduct and responsibilities. There shall be documentation signed and dated by the program director or designee, legal guardian, and the child/youth, if age appropriate acknowledging receipt of the rights, rules, and regulations.

T. Prohibited Practices by Foster Parents, Adoptive Parents, and Staff

1. The provider shall have written policies and procedures regarding its discipline and behavior management program. The policy shall include approved and prohibited methods of discipline and behavior management.

2. The provider shall ensure its discipline and behavior management policy is maintained in writing, is current, and is available to the child and the child's legal guardian.

3. The provider shall maintain a list of prohibited practices for foster/adoptive parents and staff that shall include the following:

- a. use of chemical or mechanical restraint;
- b. use of a belt or in any other object for disciplinary purposes;
- c. use of corporal punishment such as slapping, spanking, paddling;
- d. use of marching, standing, or kneeling;
- e. use of physical discomfort except as required for medical, dental, or first aid procedures necessary to preserve the child/youth's life or health;
- f. denial or deprivation of sleep or nutrition except under a physician's order;
- g. denial of access to bathroom facilities;
- h. use of verbal abuse, ridicule, humiliation, shaming, or sarcasm;

- i. use of derogatory remarks about the child, child's family members, race, or gender;
 - j. withholding of meals, except under a physician's order;
 - k. requiring a child/youth to remain silent for a long period of time;
 - l. denial of shelter, clothing or bedding;
 - m. use of harsh physical labor;
 - n. withholding of family visitation or communication with family;
 - o. withholding of emotional support;
 - p. denial of school services;
 - q. denial of therapeutic services;
 - r. use of painful stimulus to control or direct behavior;
 - s. use of hyperextension of any body part beyond normal limits;
 - t. use of joint or skin torsion;
 - u. use of straddling, pressure, or weight on any part of the body;
 - v. use of maneuvers that obstruct or restrict circulation of blood or obstructs an airway;
 - w. use of choking;
 - x. use of head hold where the head is used as a lever to control movement of other body parts;
 - y. use of punching, hitting, poking, pinching, or shoving;
 - z. use of punishment for actions over which the child has no control such as enuresis, encopresis, or incidents that occur in the course of toilet training activities;
 - aa. threatening child/youth with a prohibited action even though there is/was no intent to follow through with the threat;
 - bb. use of cruel, severe, unusual, degrading, or unnecessary punishment;
 - cc. use of yelling, yanking, shaking;
 - dd. use of exercise as a form of discipline
 - ee. exposing a child or youth to extreme temperatures;
 - ff. placing any object in a child's mouth as a form of discipline;
 - gg. use of abusive or profane language;
 - hh. covering mouth, nose, eyes, or any part of the face;
 - ii. placing a child or youth into uncomfortable positions;
 - jj. use of other impingements on the basic rights of children/youth for care, protection, safety, and security;
 - kk. use of organized social ostracism, such as codes of silence; or
 - ll. punishing a group of children/youth for actions committed by one or a selected few.
4. The child/youth, where appropriate, and the child/youth's legal guardian(s) shall receive a list of the prohibited practices within 10 calendar days of admission. If the child/youth is unable to read and comprehend the list of prohibited practices, the provider shall explain the list using developmentally appropriate language. There shall be documentation signed and dated acknowledging receipt of the list of prohibited practices by the child/youth where appropriate, and the child/youth's legal guardian(s) in the child/youth's record.

U. Grievance Process—Foster Care, Adoption, Transitional Placing

1. The provider shall have written policies and procedures outlining the process by which a child/youth may file a grievance against the child-placing agency or foster/adoptive parent without fear of retaliation.

2. The written grievance procedure shall include a formal process for the child/youth to file grievances including procedures for filing verbal, written, or anonymous grievances.

3. The written grievance procedure shall include a formal process for the provider to respond to the child/youth's grievance within five calendar days of receipt of the grievance.

4. The provider shall have documentation signed and dated by the child/youth, if developmentally appropriate acknowledging that a written copy of the grievance procedure was provided to the child/youth within 10 calendar days of entering the program.

5. The provider shall maintain a log documenting all verbal, written, and anonymous grievances filed. This documentation shall include the date of the grievance, action taken by the provider in response to the grievance, and any follow up action involving the child/youth.

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

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 45:368 (March 2019), effective April 1, 2019.

§7315. Foster and Adoptive Certification

A. Home Study—Foster and Adoptive Home

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

2. The provider shall assess information gathered regarding the family, housing, and environment to either approve or deny certification for prospective foster/adoptive parents.

3. The provider shall conduct at least three consultation visits with prospective foster/adoptive families two of which shall be conducted in the home with the third visit either in the home or child-placing agency office. The consultation visits shall be conducted on three different dates. The following interviews shall be conducted during each of the three consultation visits:

a. one joint interview with the prospective foster/adoptive parents;

b. one individual interview with each prospective foster/adoptive parent; and

c. one group interview with all individuals living in the home.

4. In addition to the interviews noted in §7315.A.3, one individual interview with each child six years old or older and capable of verbal communication living either full- or part-time in the home shall be conducted in the home.

5. In addition to the interviews noted in §7315.A.3. and 4., one individual interview with each other person living in the home either full or part-time shall be conducted in the home or the child-placing agency office.

6. The following interviews shall be conducted either in person or by telephone for the following:

a. each minor child of the prospective foster/adoptive parents not living in the home age 6 years of age or older and capable of verbal communication;

b. at least one adult child of the prospective foster/adoptive parents not living in the home; and

c. a family member not living in the home and not yet interviewed.

7. Documentation of the consultation visits shall include the date, time, method of contact, duration of each interview, those present at each interview, relationship to the prospective foster/adoptive parents, and a summary of each interview.

8. Individuals interviewed in person shall sign and date summary written by the interviewer to ensure accuracy.

9. If the prospective foster/adoptive parents have school age children, an interview or reference letter shall be obtained from at least two school personnel who are unrelated to the foster/adoptive parents that can provide an opinion of the prospective foster/adoptive parents' suitability to provide care for children in foster care or available for adoption.

10. Throughout the home study process, the provider shall document and assess the following with regard to prospective foster/adoptive parents:

a. motivation and willingness to provide a foster/adoptive home placement for a child;

b. capacity to provide a foster/adoptive home placement for a child;

c. the number, age, and sex of children the foster/adoptive parent are willing to foster/adopt;

d. behaviors, health, or developmental conditions of the children which prospective foster/adoptive parents are willing to accept for placement;

e. prospective foster/adoptive parents feelings about their own childhoods and parents, including any history of abuse and/or neglect and their resolution of those experiences;

f. the nature and quality of prospective foster/adoptive parents respective roles and how those roles may change the present marital status or significant interpersonal relationship;

g. history of previous marriages or significant relationships and the reasons why those relationships ended;

h. prospective foster/adoptive parents religious faith, affiliation, practices, attitudes towards religion, openness to the religion of others, the role of religion in rearing children and willingness to respect and encourage a child's religious affiliation if different from their own;

i. prospective foster/adoptive parents sensitivity and personal feelings with regard to children who have been abused and/or neglected; understanding of the dynamics of child abuse and neglect and how these issues and experiences will affect their families, the children in their care, and themselves;

j. disciplinary beliefs and practices including how prospective parents were disciplined as children, their

reactions to the discipline received, their ability to recognize and respect differences in children, and the need to use discipline methods that suit the individual child;

k. prospective foster/adoptive parents sensitivity and feelings regarding a child's experiences of separation from or loss of their birth families;

l. prospective foster/adoptive parents feelings about the child's parents, including the issue of abuse or neglect of the child by the child's parents or other family members; and sensitivity and reactions to the child/youth's parents;

m. prospective foster/adoptive parents sensitivity and acceptance of the child/youth's relationships with his siblings; their willingness to support the child/youth's relationships with parents, siblings, and extended family including support for contacts between the child/youth and the child/youth's family;

n. prospective foster/adoptive parent's attitude, sensitivity, tolerance, and acceptance of a child's race/ethnicity, heritage, and/or culture and willingness to respect, support, and encourage a child's connection to their culture of origin;

o. prospective foster/adoptive parents' formative experiences with foster care or adoption;

p. prospective foster/adoptive parents' plan for child care if foster/adoptive parents work outside of the home;

q. assessment of support systems shall include extended family available to foster/adoptive parents and support the family may receive from these resources and those available as caregivers during an unexpected event or crisis, such as an illness or disability of a foster/adoptive parent, loss of transportation, or the death of an immediate family member;

r. family background;

s. family traditions;

t. potential effect of foster/adoptive child on family relationships;

u. hobbies and interests of foster/adoptive parents and household members;

v. contact with extended family, integration into/involvement in community and the effect the addition of a new child will have on the family;

w. the impact the extended family's attitudes will have on the family's ability to provide foster/adoptive care;

x. plan in the event the foster/adoptive parent is unable to assist the child academically;

y. location of weapons, firearms, and ammunition and plans for safety once placement occurs;

z. attitude and capacity for handling a disruption if it occurs; and

aa. openness to adopt from a foster care situation should the opportunity present itself.

11. At least one applicant shall be functionally literate as required by Public Law 115-123.

12. For each prospective foster/adoptive household, the child-placing agency shall document, assess, and verify that the prospective foster parents have income separate from foster care reimbursement to meet the needs of the family. Social Security Disability, Social Security, and/or other sources of income such as family support, Supplemental Nutrition Assistance Program (SNAP), and Temporary Assistance for Needy Families (TANF) shall be included to determine financial stability.

13. The child-placing agency shall assess the potential negative impacts on the child/youth and family if a business open to the public adjoins the prospective foster/adoptive parent's household and assessment shall include the hours of operation, type of business, and clientele.

14. The prospective foster/adoptive parent shall be allowed the opportunity to review and obtain a copy of their home study in accordance with agency policy whether the application was approved or denied for certification. Any quotes from reference letters or other third party letters or telephone reports from agencies or professionals or information obtained from or referencing criminal background clearances shall be deleted. Identifying information regarding the child/youth's birth family shall be removed, unless a release of information is obtained from the legal guardian. Information shall be made available to the applicant within seven calendar days of the request.

B. Criminal Background Clearances—Foster and Adoptive Parents

1. Prior to certification, provider shall submit a request to DCFS for a criminal background check through the Federal Bureau of Investigation (FBI) for any applicant(s) and any member of the applicant's household aged 18 years and older in accordance with R.S. 46:51.2 for any crime enumerated under R.S. 15:587.1 and Public Law 105-89. Provider shall submit a request to DCFS for a criminal background check through the FBI within 30 calendar days of the household member, excluding children in DCFS custody, attaining their 18th birthday.

2. Effective April 1, 2019, CBCs shall be accepted for a period of three years from the date of issuance and shall be kept on file at the agency. Prior to three years from the date of issuance noted on the CBC, a new satisfactory fingerprint-based CBC shall be obtained for all household members aged 18 years and older, excluding children in DCFS custody, from DCFS through the FBI.

a. CBCs obtained prior to April 1, 2019, are acceptable for three years from date of issuance. For CBCs dated prior to April 1, 2016, the provider shall submit a new request to DCFS for a criminal background check through the FBI no later than April 1, 2020.

3. Effective April 1, 2019, CBCs shall be dated no earlier than 45 days of the applicant being certified and/or having access to children/youth or a household member moving into the home. CBCs are not transferable from one owner to another.

4. No applicant, having any supervisory or other interaction with children/youth, shall be certified by the agency until such person has submitted his or her fingerprints to DCFS for a criminal background check through the Federal Bureau of Investigation, and it has been determined that such person has not been convicted of or pled nolo contendere to a crime listed in R.S. 15:587.1(C).

5. Any foster/adoptive parent(s) who is subsequently convicted of or pleads nolo contendere to any crime listed in R.S. 15:587.1(C) after certification, shall no longer be certified to foster or adopt children/youth through the child-placing agency after such conviction/guilty plea of nolo contendere. The children placed in the home shall be immediately removed and foster/adoptive parents decertified.

C. State Central Registry Clearances—Foster and Adoptive Parents

1. An inquiry of the state central registry for members of the household 18 years of age and older, excluding children in DCFS custody shall be conducted prior to certification and annually thereafter. No person whose name is recorded on the state central registry with a valid (justified) finding of abuse or neglect of a child shall reside in the home.

2. If any member of the household 18 years of age or older resided in another state within the preceding five years, the provider shall request and obtain clearance information from that state's child abuse and neglect registry prior to certifying the foster/adoptive parents. Out of state clearances shall be requested and clearance information obtained after the application is received by the child-placing agency and prior to certification and placement of a child in the home. No person whose name is recorded on any state central registry with a valid (justified) finding of abuse or neglect of a child shall reside in the home.

3. An inquiry of the state central registry shall be submitted within 30 calendar days of a household member, excluding children in DCFS custody, attaining their 18th birthday. No person who is recorded on any state's child abuse and neglect registry with a valid (justified) finding of abuse and/or neglect of a child can reside in the home.

4. Prior to any person 18 years or older moving into the home, excluding children in DCFS custody, a state central registry clearance shall be obtained. No person who is recorded on any state's child abuse and neglect registry with a valid (justified) finding of abuse and/or neglect of a child can reside in the home.

5. If an individual recorded on the state central registry is found to be living in the home, the children placed in the home shall be immediately removed and the foster/adoptive parents decertified.

6. The DCFS state central registry clearance form shall be dated no earlier than 45 days of the foster/adoptive parents being certified or household members over the age of 18 years being present in the home. Out-of-state clearance forms shall be dated no earlier than 120 days of foster/adoptive parents being certified.

7. If foster/adoptive parent receives a valid finding after receiving state central registry clearance form from child welfare indicating that he/she was not listed on the state central registry and the child-placing agency is notified prior to the individual's appeal rights being exhausted, licensing shall be notified within 24 hours or no later than the next business day, whichever is shorter. The child-placing agency shall follow the recommendations of the department regarding any DCFS children in the care of the foster/adoptive parents.

8. State central registry clearances are not transferable from one owner to another.

D. Foster and Adoptive Parent Responsibilities

1. Foster/adoptive parents shall recognize and encourage acceptable behavior.

2. Foster/adoptive parents shall teach by example and use fair and consistent rules with logical consequences.

3. Foster/adoptive parents shall use methods of discipline that are relevant to the behavior.

4. Foster/adoptive parents shall supervise with understanding, firmness, and discipline.

5. Foster/adoptive parents shall give clear directions and provide guidance consistent with the child's level of understanding.

6. Foster/adoptive parents shall redirect the child by stating alternatives when behavior is unacceptable.

7. Foster/adoptive parents shall express themselves so the child understands that his/her feelings are acceptable and certain actions or behavior are not.

8. Foster/adoptive parents shall help the child learn what conduct is acceptable and appropriate in various situations.

9. Foster/adoptive parents shall encourage the child to control his/her own behavior, cooperate with others and solve problems by talking.

10. Foster/adoptive parents shall communicate with the child by showing affection and concern.

11. Foster/adoptive parents shall encourage the child to consider others' feelings.

12. Neither foster nor adoptive parent(s) shall care for unrelated adults on a commercial basis nor accept children into the home for day care at the same time they are certified to provide foster care.

13. Foster/adoptive parents shall obtain written approval from the legal guardian prior to allowing a child to be away from the foster or adoptive home for more than three consecutive days.

14. Foster/adoptive parents shall obtain medical care for a child/youth as needed.

15. Foster/adoptive parents shall notify the child-placing agency prior to a change in address.

16. Foster/adoptive parents shall notify the child-placing agency of a significant change in circumstances in the home which effects the foster/adoptive child including, but not limited to a job loss of a caretaker, serious injury or death of a caretaker, or a change of persons living in the home.

17. Foster/Adoptive parents shall provide structure and daily activities designed to promote the individual, social, intellectual, spiritual, and emotional development of the child/youth in the home.

18. Foster/Adoptive parents shall assist the child/youth in developing skills and performing tasks which will promote independence and the ability to care for themselves.

19. Foster/adoptive children may assume age appropriate household responsibilities commensurate with those expected of foster/adoptive parent's own children.

20. Foster/adoptive parents shall teach money management, budgeting, and making responsible purchases as age appropriate.

21. Foster/adoptive parents shall teach/promote personal hygiene and grooming skills appropriate to the child's sex, age, and culture through daily monitoring.

E. Foster/Adoptive Parent(s) Record

1. The provider shall maintain a record for each foster/adoptive parent, which shall contain the following information and shall be updated as changes occur:

a. household composition: the full legal names of all persons residing in the home, birth dates, relationship to one another, name preferred to be called, level of education, and marital status;

b. copy of home study;

c. copy of a valid, current driver's license for all household members providing transportation for children in foster care and through adoption finalization (prior to certification, prior to placement of a child/youth in the home, and throughout the time a child/youth is placed in the home);

d. proof of current liability insurance for all vehicles used to transport foster children or children prior to finalization owned or leased by the foster family (prior to certification, prior to placement of a child/youth in the home, and throughout the time a child/youth is placed in the home);

e. expiration date of the inspection sticker for all vehicles used to transport foster children or children prior to finalization (prior to certification, prior to placement of a child/youth in the home, and throughout the time a child/youth is placed in the home);

f. current copy of vehicle registration for all vehicles used to transport children/youth (prior to certification, prior to placement of a child/youth in the home, and throughout the time a child/youth is placed in the home);

g. criminal record check reports as required in §7315.B for all household members 18 years of age and older, excluding youth in DCFS custody;

h. state central registry clearances as required in §7315.C for all household members 18 years of age and older, excluding youth in DCFS custody;

i. history of prior applications to foster and/or adopt and the reason for withdrawals or closures. If a prospective foster parent was previously certified as a foster/adoptive parent by another provider or DCFS and the prospective foster/adoptive parent's home was closed, verification of the closure and a statement to indicate whether the closure was at the request of the prospective foster/adoptive parent or the provider shall be obtained by the provider from the other agency;

j. contract/placement agreement between the child-placing agency and the foster/adoptive parent;

k. documentation of current immunizations from a licensed veterinarian for all pets in the household;

l. documentation of marital status of prospective foster/adoptive parent if legally married, divorced or widowed;

m. for a prospective foster/adoptive parent who is separated and whose spouse no longer resides in the home, a notarized statement from the prospective foster/adoptive parent indicating such and attesting that the child-placing agency will be notified in writing prior to the spouse moving back into the home is required;

n. copy of a current federal or state issued photo identification card;

o. documentation that the prospective foster parent is at least 21 years of age or if a relative certified by DCFS child welfare, that the relative meets the age requirements set forth in DCFS child welfare policy;

p. documentation of quarterly contact between the provider and prospective foster parent noting foster parents continued interest and availability to foster from time of application until placement.

2. Proof of the prospective foster/adoptive family's income for the past 60 days shall be included in the record.

3. Documentation of itemized monthly expenses to include the following shall be maintained in the foster/adoptive parent's record:

- a. mortgage/rent;
- b. utility cost;
- c. transportation costs;
- d. food costs;
- e. medical expenses;
- f. clothing allowance;
- g. insurance cost;
- h. credit card payments;
- i. loan payments;
- j. child support obligations;
- k. alimony obligations;
- l. pet costs;
- m. entertainment/miscellaneous costs; and
- n. other household expenses.

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

a. has no past nor present physical or mental illness or condition that would present a health and safety risk to a child placed in the prospective foster parent's home; and

b. is free of communicable or infectious disease or if not free of communicable or infectious disease, there shall be a signed statement by the licensed treating physician or licensed treating health care professional verifying the following:

- i. the individual is under the care of a licensed physician or licensed health care professional;
- ii. the present condition does not present a health or safety risk to a child placed in the prospective foster/adoptive parent's home; and
- iii. foster/adoptive parents are physically able to provide necessary care for a child.

5. Within 30 calendar days of a household member attaining their 18th birthday, excluding children in DCFS custody, a statement of health as noted in §7315.E.4 shall be obtained.

F. Physical Plant Requirements for Foster and Adoptive Homes

1. The home shall be in good repair and the exterior around the home shall be free from objects, materials, and conditions which constitute a danger to the children served.

2. The home shall have a safe outdoor play area which children may use either on the property or within a reasonable distance of the property. If there is no outdoor play area within a reasonable distance, foster parents shall identify an alternative location for outdoor play.

3. Open cisterns, wells, ditches, fish ponds, and other bodies of water shall be made inaccessible to children.

4. Swimming and wading pools shall be locked and inaccessible to children except when under adult supervision.

5. In accordance with Public Law 115-123, swimming pools shall have a barrier of at least four feet high.

6. In accordance with Public Law 115-123, swimming pools shall be equipped with a life saving device, such as a ring buoy.

7. In accordance with Public Law 115-123, if the swimming or wading pool is not emptied after each use, the pool shall have a working pump and filtering system.

8. In accordance with Public Law 115-123, hot tubs and spas shall have safety covers that are locked when not in use.

9. The home shall have equipment for the safe preparation, storage, serving of, and cleaning after meals.

10. All plumbing, cooking and refrigeration equipment shall be in working order.

11. All areas of the home shall be maintained in sanitary condition.

12. The home shall have a dining area furnished so that all members of the household may eat together.

13. The home shall have living or family room space furnished and accessible to all members of the family.

14. The home shall have a minimum of one flush toilet, one sink, and one bath or shower with hot and cold water.

15. Bathroom shall be equipped with toilet paper, towels, soap, and other items required for personal hygiene and grooming.

16. The home shall be free of security/video cameras in the bathroom to allow the child/youth privacy.

G. Bedroom Requirements—Foster and Adoptive

1. Each child shall have his/her own bed. The mattress shall at a minimum be a standard twin size. The mattress shall be clean, comfortable, and non-toxic. Upon placement each child should be provided with a new mattress or new water proof mattress cover.

2. Each child shall have a chest, dresser, or other adequate storage space for the child's clothing and personal belongings in the child's bedroom and a designated space for hanging up clothes in or near the bedroom occupied by the child.

3. Each bedroom shall have adequate space to be used by children for daily activities.

4. Infants shall be placed in an approved crib for sleeping per current industry safety standards. The crib shall meet U.S. Consumer Product Safety Commission (CPSC) requirements for full-size cribs as defined in 16 Code of Federal Regulations (CFR) 1219, or non full-size cribs as defined in 16 CFR 1220. A crib meets the requirements of this section if:

a. the crib has a tracking label which notes that the crib was manufactured on or after June 28, 2011; or

b. the foster/adoptive parent has a registration card which accompanied the crib noting that the crib was manufactured on or after June 28, 2011; or

c. the foster/adoptive parent has a children's product certificate (CPC) certifying the crib meets the requirements for full-size cribs as defined in 16 Code of Federal Regulations (CFR) 1219, or non full-size cribs as defined in 16 CFR 1220.

5. The crib shall be equipped with a firm mattress and well fitting sheets. Mattresses shall be of standard size so that the mattress fits the crib frame without gaps of more than one-half inch. Homemade mattresses are prohibited.

6. The minimum height from the top of the mattress to the top of the crib rail shall be 20 inches at the highest point.

7. The mattress support system shall not be easily dislodged from any point of the crib by an upward force from underneath the crib.

8. Cribs shall be free of toys and other soft bedding, including blankets, comforters, bumper pads, pillows, stuffed animals, and wedges when the infant is in the crib.

9. An infant shall be placed on his/her back for sleeping. Written authorization from the infant's physician is required for any other sleeping position.

10. Children/youth shall be allowed to personalize an area within the bedroom .

11. Children/youth shall be provided bed linens, blankets, and pillows for individual use.

12. The home shall be free of security/video cameras in the bedroom of a child over the age of 5 years. A security/video camera may be used in a child's bedroom for a child over the age of 5 years with developmental, medical, or behavioral needs if documented in the child's service plan.

13. Foster/adoptive parent(s) shall permit no more than four children/youth to a bedroom.

14. Children six years of age and older shall not share a bedroom with a person of the opposite sex.

15. Children with the exception of infants shall not share a bedroom with adults, except when the child needs close supervision due to illness or medical condition and approval is received from the child-placing agency; however, a child shall not share a bed with an adult under any circumstances.

H. Safety Requirements—Foster and Adoptive Homes

1. The home shall have a working heating and air conditioning system.

2. The home shall have a telephone capable of outgoing calls that is accessible at all times to children/youth. In accordance with Public Law 115-123, a comprehensive list of emergency telephone numbers to include the number for poison control shall be posted next to the telephone if the phone is stationary or in a common area used by children/youth for portable or cell phones.

3. There shall be safe storage for medication, poisons, and other harmful materials in the home.

4. Foster/adoptive parents shall take measures to keep the home and premises free of rodents and insects.

5. Foster/adoptive parents shall restrict access to potentially dangerous animals.

6. Foster/adoptive parents shall store dangerous weapons, firearms, air guns, BB guns, hunting slingshots, and other projectile weapons in a locked area inaccessible to children, in accordance with Public Law 115-123. Ammunition shall be stored in a separate locked area.

7. First aid supplies shall be accessible in the home.

I. Fire Safety Requirements—Foster and Adoptive Homes

1. The home shall be free from fire hazards, such as faulty electric cords and appliances, or fireplaces and chimneys that are not maintained.

2. The home shall be equipped with operating smoke detectors in each hallway, kitchen, and child's bedroom.

3. The home shall be equipped with an operating carbon monoxide detector in each child's bedroom.

4. A portable chemical fire extinguisher shall be in the cooking area of the home.

5. Foster/adoptive parents shall establish an emergency evacuation plan and shall practice it at least quarterly ensuring children understand the procedures. Documentation shall consist of a quarterly note signed and dated by provider in the foster/adoptive parent record indicating that the emergency evacuation plan was discussed and practiced quarterly as required.

6. Combustible items shall be stored away from heat sources.

7. Home heating units shall be shielded to prevent accidental contact.

8. Foster/adoptive parents shall ensure solid fuel heating stoves, systems, and fireplaces are properly installed, maintained, and operated.

J. Sanitation and Health Requirements—Foster and Adoptive Homes

1. The home shall have clean drinking water. If the water is not from a city water supply, the foster/adoptive parent(s) shall provide documentation that the water has been tested and approved by the local health authority.

2. All plumbing in the home shall be in working order.

3. The home shall have hot water. Hot water accessible to children shall not exceed 120 degrees Fahrenheit at the outlet.

K. Food and Nutrition Requirements—Foster and Adoptive Homes

1. The milk served to children shall be Grade A and pasteurized.

2. Foster/adoptive parents shall provide nutritionally balanced meals daily. Children/youth shall be provided a snack between meals and prior to bedtime.

3. As recommended by a licensed physician or in accordance with the child/youth's case or service plan, foster/adoptive parent shall provide for any special dietary needs of the child placed in the home.

4. When applicable, the dietary laws of the child/youth's religion shall be observed for the food provided to the child/youth.

L. Clothing and Personal Belongings Requirements—Foster and Adoptive Homes

1. Foster/adoptive parents shall provide each child/youth with their own clean, well fitting, seasonal clothing appropriate to age, sex, individual expression, and comparable to other household members and to the community standards.

2. A child/youth shall not be required to share clothing.

3. Clothing and personal belongings shall be sent with the child/youth if the child/youth leaves the care of the family.

4. Only shoes in good repair and condition shall be provided to the child/youth.

5. Children/youth shall be allowed to choose their own clothing whenever possible.

6. Children/youth shall be allowed to bring, possess, and acquire personal belongings subject only to reasonable household rules.

7. Each child/youth shall be provided with clean towels, washcloths, his/her own toothbrush, his/her own

comb or hair brush, personal hygiene items, and other toiletry items suitable to the child/youth's age and sex.

M. Money Requirements—Foster and Adoptive Homes

1. In addition to the mandated allowance, children/youth may earn additional money through paid work, employment, or money paid directly to the child/youth from other sources as appropriate to their age and ability.

2. A child/youth's money from any source shall be his/her own and may only be subject to restrictions in accordance with his/her service or case plan.

3. Children/youth shall not be required to pay for any mandated foster/adoptive home service.

4. Children/youth shall not be required to pay for basic personal hygiene or toiletry items.

N. Transportation—Foster Care, Adoption, Transitional Placing

1. The foster/adoptive parent(s) shall have access to reliable transportation to transport the child/youth to school, recreational activities, medical care, and community facilities.

2. The provider shall assist children/youth and families in arranging transportation necessary for implementing the child/youth's service and case plans.

3. The provider shall have a means of transportation for children/youth which are equipped with appropriate safety restraints in accordance with state laws and standards. No child/youth shall be transported in any vehicle unless seat belts and age appropriate child restraints are utilized in accordance with state law and standards.

4. The provider and staff shall maintain and operate vehicles used for transporting children/youth in safe condition and in conformity with appropriate motor vehicle laws and standards.

5. The provider shall have documentation of current liability insurance for all child-placing agency and staff vehicles used for transporting children/youth. The provider shall maintain in full force at all times current commercial liability insurance for the operation of child-placing agency vehicles. Documentation shall consist of the insurance policy or current binder which includes the name of the agency, the name of the insurance company, policy number, period of coverage, and explanation of the coverage. If a staff person provides transportation for children/youth in the course and scope of his/her employment, the provider shall maintain a copy of staff's current vehicle insurance.

6. All child-placing agency and staff vehicles used to transport children/youth shall have a current safety inspection sticker. Documentation confirming visual inspection of safety inspection sticker shall include the signature and date of the staff that viewed the inspection sticker, expiration date of sticker, and vehicle's make, model, and license plate number.

7. All aspects of the vehicle used to transport foster/adoptive children/youth shall be maintained in good repair including, but not limited to seats, doors, lights, and tires.

8. All child-placing agency and staff vehicles used to transport children/youth shall be currently registered. The provider shall maintain a copy of the current registration for all foster/adoptive parents, staff, and child-placing agency vehicles used to transport children/youth.

O. Child-placing agency Responsibilities—Foster Care, Adoption, Transitional Placing

1. The provider shall ensure that the child/youth has clothing for the child/youth's exclusive use in quality and variety to that worn by other children/youth with whom the child/youth may associate.

2. The provider shall be responsible for monitoring the child/youth's school progress and attendance.

3. The provider shall secure psychological and psychiatric services, vocational counseling, or other services as indicated by the child/youth's service plan or case plan.

4. When requested by the legal guardian, the child-placing agency shall have a representative present at all judicial, educational, or administrative hearings that address the status of a child/youth in care of the provider. The provider shall ensure that the child/youth is given an opportunity to be present at such hearings, unless prohibited by the child/youth's legal guardian or by his/her case plan.

P. Training the Foster and Adoptive Parent(s)

1. The foster/adoptive parent(s) shall participate in training provided or approved by the child-placing agency to develop and enhance their parenting skills.

2. The child-placing agency shall provide orientation to prospective foster/adoptive parents prior to certification, to include the following:

- a. mission and program description;
- b. realities of children available for adoption;
- c. long term impacts of prenatal substance abuse exposure;
- d. impact of the lack of pre-natal care on infants/children available for placement;
- e. impact of stress on pre-natal environments;
- f. in person, by video, or written account from a certified foster/adoptive parent that has fostered or adopted a child;
- g. the stages of grief to include identification of behaviors linked to each stage;
- h. long-term effect of separation and loss on a child;
- i. permanency planning for a child, including independent living services;
- j. the importance of attachment on a child's growth and development to include bonding issues;
- k. development and maintenance of a healthy attachment between the child and foster/adoptive parent;
 - l. cultural awareness;
 - m. reasons children enter care;
 - n. the placement decision process;
 - o. changes that may occur in the home if a placement occurs;
 - p. family adjustment;
 - q. identity issues;
 - r. trauma;
 - s. types of abuse and neglect (physical, sexual, emotional);
 - t. developmental milestones;
 - u. prohibited practices;
 - v. rights and responsibilities of foster/adoptive parents;
 - w. placement or adoption disruption;
 - x. behavior management; and
 - y. substance abuse prevention and warning signs.

3. Documentation of completion of orientation training shall include training topics, foster/adoptive parent's signature, and date.

4. Prior to certification, the child-placing agency shall discuss options with adoptive parents on how to discuss adoption with the child. Documentation shall include the adoptive parent's signature and date.

5. Once certified, a minimum of 15 hours of child-placing agency approved training shall be received by the foster parents prior to certification expiration. The hours may be shared among the adult members of the family, however, each adult shall receive a minimum of five hours. Documentation of training completed shall include certificate of participation or sign in log specifying foster parent's name, training topic, date, and number of hours completed.

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

- a. age or developmentally appropriate activities or items;
 - b. reasonable and prudent parent standard;
 - c. role of the foster/adoptive parents and of DCFS;
- and
- d. allowing for normalcy for the child while respecting the parent's residual rights.

7. Prior to certification, all prospective foster/adoptive parents shall receive certification in infant/child and adult cardiopulmonary resuscitation (CPR) and first aid. This training may be applied toward meeting the annual required training hours as noted in §7315.P.5. DCFS certified homes shall follow the CPR requirements as noted in DCFS child welfare policy.

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

9. Prior to certification all prospective foster/adoptive parents shall complete the "Reducing the Risk of SIDS in Early Education and Child Care" training available at www.pedialink.org. Documentation of training shall be the certificate obtained upon completion of the training. This training may be applied toward meeting the annual required training hours for foster parents as noted in §7315.P.5.

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

11. Effective April 1, 2019, currently certified foster/adoptive parents shall complete the "Reducing the Risk of SIDS in Early Education and Child Care" training available at www.pedialink.org within 45 days and annually thereafter. Documentation of training shall be the certificate obtained upon completion of the training. This training may be applied toward meeting the annual required training hours for foster parents as noted in §7315.P.5.

12. Effective April 1, 2019, currently certified foster/adoptive parents shall receive certification in infant/child and adult cardiopulmonary resuscitation (CPR) and first aid within 60 days. CPR and first aid shall be updated prior to the expiration of the certification as indicated by the American Red Cross, American Heart Association, or equivalent organization. This training may be applied toward meeting the annual required training hours for foster parents as noted in §7315.P.5. DCFS certified homes shall follow the CPR requirements as noted in DCFS child welfare policy.

Q. Support Systems—Foster and Adoptive

1. Foster/adoptive parent(s) shall have or develop a support system for supervising and providing care to allow foster/adoptive parent(s) opportunities for occasional breaks from caring for the child(ren).

2. Foster/adoptive parent(s) shall have at least one adult (age 18 or older) responsible for the supervision of children or available at all times when a foster/adoptive parent is not present.

R. Denial of a Foster or Adoptive Parent Application

1. The child-placing agency shall initiate the home study within 30 calendar days of receipt of the completed application or notify the applicant in writing within 35 calendar days of receipt of the completed application of the reason the home study will not be conducted. Documentation of notification shall be maintained.

2. The applicant shall be notified in person or by telephone within 30 calendar days of completion of the home study, if the request to become a foster/adoptive parent is not recommended. The provider shall enter a dispositional summary in the applicant(s) case record clearly indicating the date of denial, the reason for denial of the application for certification, the manner in which the decision was presented to the family, and applicant's reaction to the decision within 10 calendar days of notification.

3. If the applicant withdraws the request to become a foster/adoptive parent, the child-placing agency shall send written confirmation to the applicant acknowledging the withdrawal within seven calendar days of receipt of withdrawal request. Documentation of notification shall be maintained.

S. Service Plan for Children placed with Foster and Adoptive Parents

1. Within 15 calendar days of a child's placement, the provider shall develop a service plan based upon the individual needs of the child/youth.

2. A child/youth has the right to be involved in assessment and service planning as appropriate to his age, development, and ability.

3. Foster/adoptive parents shall support and follow the service plan providing input to the child-placing agency of recommended changes or updates.

4. Foster/adoptive parents shall cooperate with the support and implementation of the permanency goal established for a child/youth placed in their home.

5. The service plan meeting shall include the foster parent, child/youth if developmentally appropriate, and the legal guardian. Documentation shall include the date of service plan meeting, names of individuals invited, and signatures of attendees. If the legal guardian is unable to attend, provider shall obtain legal guardian's signature or document that the service plan was submitted to the legal guardian within seven calendar days of the meeting.

6. The provider shall review the child/youth's service plan on a quarterly basis or more frequently as the child/youth's needs or circumstances dictate. Documentation shall include the signature of reviewer and date of each child/youth's service plan review.

T. Lifebook—Foster Care and Adoption

1. Every child/youth placed in foster care or for adoption shall have a lifebook. For children who are developmentally unable to participate in the creation and updating of their own lifebook, foster/adoptive parents shall create and update for the child/youth.

2. Effective April 1, 2019, provider shall ensure that each child/youth who is developmentally able is assisted at least monthly in creating and updating their lifebook.

3. Lifebooks shall be the property of children/youth and shall remain with the child/youth when placement changes or upon discharge.

4. Lifebooks shall be available for review by DCFs during visits to the foster/adoptive home.

U. Decertification of a Foster or Adoptive Parent

1. Foster/adoptive parent shall be decertified if:

a. it is determined by the child-placing agency that the family no longer meets the requirements;

b. a situation arises that is not in the best interest of children;

c. abuse and/or neglect by the foster/adoptive parent is substantiated;

d. abuse and/or neglect by a member of the home is substantiated, other than the foster/adoptive parent if the individual remains in the home;

e. foster/adoptive parent develops a serious physical or mental illness that may impair the ability to provide adequate care of a child/youth; or

f. the foster/adoptive parent requests to withdraw from participation as a foster/adoptive parent.

2. If the home is to be decertified, the provider shall make adequate preparation and arrangements for the care, custody, and control of any children placed in the home.

3. The provider shall confirm, in a written notice to the foster/adoptive parent, the decision to decertify the home. The notice shall be delivered to the foster/adoptive parent within 10 calendar days of the decertification decision. The written notice for decertification shall include the name of the foster/adoptive parent, the reason for decertification, and the effective date. Documentation of notice shall be maintained.

V. Reapplication for Certification for Foster and Adoptive Parents

1. To reapply, a former foster/adoptive parent shall follow all requirements noted herein that are in effect at the time of re-application.

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

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 45:377 (March 2019), effective April 1, 2019.

§7317. Interstate Compact on the Placement of Children (ICPC)

A. Provider shall have documentation of approval from the administrator of the Louisiana Interstate Compact on the Placement of Children (ICPC) prior to sending a child to another state for foster/adoptive services. No placement shall occur without prior approval from the compact administrator in Louisiana.

B. Provider shall have documentation of approval from the administrator of the Louisiana ICPC prior to receiving a child from another state for foster/adoptive services. No placement shall occur without prior approval from the compact administrator in Louisiana.

C. A child adopted through the court of jurisdiction in a foreign country or entering Louisiana directly from the foreign country for purposes of adoption are not subject to the Interstate Compact on the Placement of Children.

D. Upon placement of a child in Louisiana, provider shall follow all child-placing agency standards.

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

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 45:385 (March 2019), effective April 1, 2019.

§7319. Foster Care Services

A. Types of Foster Care Services

1. The provider may offer any or all of the following types of services in an approved foster home:

- a. foster care services;
- b. therapeutic foster care services; and/or
- c. respite care services.

2. Number of Children—Foster Home

a. At any given time, a foster home shall have no more than six dependents including foster children, dependent children, dependent adults, and children for whom respite is provided with the exception of a sibling group, who may remain together.

b. Prior to exceeding six dependents in a foster home written approval from the child welfare state office shall be obtained.

c. Documentation from child welfare state office shall include:

- i. name of the CPA for which approval is granted;
- ii. name of foster parent for which approval is granted;
- iii. names and birth dates of all dependents in the home at the time approval is granted;
- iv. name and birth date of child/youth for which approval is granted;
- v. signature and date of child welfare state office staff granting approval which shall be prior to the placement date; and

vi. conditions if any, for which approval is granted.

3. No more than two children under two years of age shall be placed in the same foster home, with the exception of a sibling group.

a. Prior to exceeding two children under two years of age in the same foster home at the same time, with the exception of a sibling group; written approval from child welfare state office shall be obtained.

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

i. name of the CPA for which approval is granted;

ii. name of foster parent for which approval is granted;

iii. names and birth dates of all dependents at the time approval is granted;

iv. name and birth date of child/youth for which approval is granted;

v. signature and date of child welfare state office placement services section staff granting approval which shall be prior to the placement date; and

vi. conditions, if any, for which the approval is granted.

B. Additional Requirements for Therapeutic Foster Care (TFC) Services.

1. The TFC parent who is the primary care giver shall have documentation of a high school diploma or equivalent.

2. The TFC foster home parents shall complete a minimum of 24 hours of annual training in addition to the 15 hours of training required under §7315.P.5. For two-parent therapeutic foster care homes, the 39 total training hours as required in this section may be divided between the two TFC parents, as long as the primary caretaker receives a minimum of 16 hours of the 39 required hours and the other parent receives a minimum of eight hours of the 39 required hours. Documentation shall include a certificate or sign in sheet with the training topic, number of hours, trainer's name and signature of individual attending.

a. Fourteen hours of the twenty-four hours of annual training may be met through professional therapeutic consultation or medical training aimed to assist in parenting a child placed or being placed.

3. Approval from the child welfare state office staff shall be obtained and documented prior to 1) exceeding four dependents, including foster children/youth, dependent children, dependent adults, and children for whom respite is provided in a TFC home and/or 2) exceeding two TFC children/youth in a home, unless the additional child/youth is a sibling of one of the TFC children.

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

a. name of the CPA for which approval is granted;

b. name of foster parent for which approval is granted;

c. names and birth dates of all dependents in the home at the time approval is granted which identifies children/youth receiving TFC services;

d. name and birth date of child/youth for which approval is granted;

e. signature of child welfare state office staff granting approval which shall be prior to the placement date; and

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

C. Placement of Child in Foster Home

1. The provider shall place a child/youth only with certified foster parents in an approved home.

2. The provider shall select a foster home for a child/youth based upon the individual needs of the child, to include the child's assessment, the child's needs, and measures required to support the safety of the child. The placement decision including the child-placing agency staff's signature and date shall be documented in the child's file.

3. The type of placement for each child/youth shall be determined by amount of supervision required, support services needed, and training received by the foster parent to assist in meeting the needs of the child.

4. The provider shall have a written child specific placement agreement with the foster parent for each child/youth placed indicating at a minimum the responsibilities of the child-placing agency and foster parent to include:

a. rights and responsibilities of the child-placing agency and foster parent;

b. agreement by the family to work in partnership with the child-placing agency to provide foster care services to the child/youth;

c. agreement that the foster parent is able and willing to communicate with the child in the child's own language as required by Public Law 115-123;

d. willingness and ability of the foster parent to communicate with the child-placing agency, health care and other service providers on behalf of the child in accordance with Public Law 115-123;

e. confidentiality of all personal information about the child and the child's family confidential;

f. receipt of a daily board rate paid monthly by the child-placing agency;

g. agreement to cooperate with the agency/provider when it is necessary to remove a child from the foster home for any reason;

h. reporting to the child-placing agency all changes in circumstances affecting the child/youth or the foster care placement;

i. obtaining the consent of the CPA prior to taking the child/youth out-of-state or authorizing any special medical care or treatment for the child;

j. promotion of healthy foster parent-child adjustment and bonding by the CPA by providing support services to the foster parents;

k. prohibited use of any illegal substances, alcohol abuse including the consumption of alcohol in excess amounts, or legal prescription or nonprescription drug abuse via consumption of excess amounts or contraindicated usage as required by Public Law 115-123;

l. foster parent(s) nor guests shall smoke in the presence of a child in foster care, in the family home or in any vehicle used to transport a child as required by Public Law 115-123;

m. as required by Public Law 115-123, maintaining the swimming pool in a safe condition, including testing and maintaining chlorine and pH levels as required by the manufacturer's specifications;

n. as required by Public Law 115-123, locking all entry points to the swimming pool, when not in use;

o. as required by Public Law 115-123, removing or secure steps or ladders to the swimming pool, if applicable when the pool is not in use; and

p. as required by Public Law 115-123, no transporting of weapons in any vehicle in which a foster child is riding unless the weapons are made inoperable and inaccessible.

5. The child specific placement agreement shall be signed and dated by a child-placing agency representative and foster parent prior to or at the time of placement.

6. The child-placing agency shall provide foster parent with written instructions for contacting agency personnel to include names and telephone numbers prior to or at the time of placement.

D. Supervision for Foster and TFC Homes

1. Provider shall conduct an initial in home face-to-face supervisory visit with the child and one foster parent on the day of the child's placement or the following calendar day. A subsequent face-to-face in home supervisory visit shall be conducted with the foster parent and child within 10 calendar days of the child's placement.

2. Provider shall have at least weekly telephone contact with one of the foster parents.

3. Provider shall conduct supervisory visits with one foster parent at least twice monthly with at least one visit occurring in the foster home. Supervisory visits with foster parents of infants shall be conducted while the infant is present in the home.

4. Provider shall conduct a private supervisory visit with the foster child/youth age one year and above, a minimum of twice monthly with at least a segment of one visit occurring in the foster home.

5. Documentation of the contacts noted in §7319.D.1-4 shall include:

- a. date and time of visit or phone contact;
- b. individuals present;
- c. location of visit;
- d. duration of visit;
- e. assessment of adjustment of the child and foster parent;
- f. assessment of attachment and bonding;
- g. assessment of health of child;
- h. changes since last contact;
- i. summary of visit or phone contact; and
- j. signature of person conducting visit or phone contact.

6. Provider shall supervise visitation between the child and birth family if required in the case or service plan.

7. Provider shall assist with transporting the child/youth to appointments if the foster parent is unable.

8. The child-placing agency shall provide 24 hour crisis intervention to the foster family such as defusing potentially dangerous situations between children and/or towards foster parent when requested or a need detected.

E. Foster Child's Record

1. Information received verbally from the referring agency shall be documented by the child-placing agency in the child/youth's record. Documentation shall include the

name of the referring agency representative from whom the information was received, date, summary of information, and the name of the child-placing agency representative to which the information was provided. Information received in writing from the referring agency shall be filed in the child/youth's record.

2. Prior to placement, the provider shall obtain as much information as possible from the referring agency about the child/youth and the child/youth's family in order to find the most suitable home for a child. Provider shall document in the child/youth's record a summary containing justification for placement decision to include the provider's assessment of the strengths and needs of the foster family.

3. Prior to placement and as information is made available to the child-placing agency, the child-placing agency shall provide information to a foster parent regarding the behavior and development of the child.

4. Prior to placement and as information is made available to the child-placing agency, the provider shall inform the foster parent of inappropriate sexual acts or sexual behavior of the child/youth known to the provider and any behaviors of the child/youth that indicate a safety risk for the placement.

5. Prior to placement, the provider shall be responsible for obtaining a placement agreement between the child-placing agency and referring agency. This agreement shall be filed in the child/youth's record.

6. The provider shall obtain and document the following information within 30 calendar days of placement:

- a. child/youth's name, previous home address, sex, race, nationality, birth date, birth place, religious affiliation, and Social Security number;
- b. the current name, address, telephone number and marital status of the biological parents of the child;
- c. the name, address, and telephone number of siblings and if in foster care, the name and contact information of their foster parents and caseworkers; and
- d. the name, address, and telephone number of siblings and significant relatives or others considered in the case plan.

7. The provider shall maintain the following information in the foster child/youth's record and all information shall be continuously updated:

- a. custody order within 30 calendar days of placement;
- b. copy of birth certificate or written request for birth certificate to child welfare within seven calendar days of placement;
- c. medical, psychological, and psychiatric history and reports;
- d. annual physicals and examinations for the child/youth;
- e. the dates of contact with the child/youth to include but not limited to providers, guardian, biological family, CASA, medical professionals;
- f. initial assessment, service plans, and all subsequent assessments;
- g. educational records;
- h. copy of DCFS case plans if child/youth is in DCFS custody within seven calendar days of case plan meeting;

- i. summary of the child/youth's contacts with caseworker, child-placing agency staff, and family members reflecting the quality of the relationships as well as how the child/youth is coping;
- j. a record of the child's placements with names of caregivers, addresses, placement and discharge dates;
- k. signed placement agreements between the child-placing agency and foster parent;
- l. documentation of compliance with the service plan;
- m. the basis for selection of the home for the specific child/youth; and
- n. discharge summary.

F. Foster Home Annual Assessment

1. The annual assessment of the foster home prior to expiration of current certification shall include a summary noting the following:
 - a. the home's compliance with the required licensing standards;
 - b. review of the foster parents' positive and negative experiences during the previous 12 months;
 - c. foster parents willingness to continue to foster;
 - d. provider feedback regarding the foster parents' care of the children which were placed in the home throughout the year; and
 - e. foster parents' feedback regarding the child-placing agency.
2. Documentation shall include the signature and date of the individual completing the summary.
3. If areas of concern are identified during the foster home annual assessment, the provider with input from the foster parent shall develop a written plan of action prior to recertification. The plan shall include measurable goals and timeframes and shall be signed and dated by the provider and foster parent.
4. Documentation of re-certification shall be filed in the foster parent record.

G. Discharge from Provider Care—Foster Care

1. The provider shall discharge the child only to the person, persons, or agency having legal custody of the child or by court order.
2. The provider shall complete a discharge summary within seven calendar days of the child/youth's discharge and document the following in the child/youth's record:
 - a. name and address of foster family from which the child was removed;
 - b. child/youth's date of birth;
 - c. date of placement and discharge from each foster home certified by the child-placing agency from which the child was discharged;
 - d. the name and address of the person, persons, or agency to whom the child was discharged;
 - e. the reason for discharge;
 - f. case plan and service plan goals achieved while in care; and
 - g. follow-up recommendations.

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

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 45:385 (March 2019), effective April 1, 2019.

§7321. Adoption Services

A. General Requirements

1. All birth parents shall be informed of the statutory requirements of CHC 1107.1 et seq. when considering adoption as a permanent plan. The provider shall advise the parent to seek independent legal counsel. Documentation shall consist of a statement signed and dated by the birth parent and child-placing agency representative acknowledging that the biological parent was informed of the statutory requirements of CHC 1107.1 et seq.
2. The provider shall not use coercion, financial or other enticements in securing surrenders from birth parent(s). A surrender shall not be executed any earlier than the third day after the birth of the child per CHC 1122.
3. The provider shall inform the birth parent(s) that a valid surrender for adoption to a child-placing agency is final and irrevocable and makes the child-placing agency legally responsible for selecting the most appropriate permanent placement for the child. Any previous placement agreements or understandings between the provider and the birth parent(s) are considered preferences which are not legally binding in the absence of a court order. Documentation shall consist of a signed and dated statement by the CPA representative and the birth parent acknowledging the irrevocability of their decision and rights. Documentation shall also include a signed and dated statement that any previous placement agreements or understandings between the provider and the birth parent(s) are considered preferences which are not legally binding in the absence of a court order.
4. The provider shall inform the prospective adoptive parent(s) of the Louisiana Adoption Resource Exchange (LARE), a resource within DCFS of children available for adoption. If the prospective adoptive parent(s) are interested in adoption, the provider shall assist them with making an inquiry on the child to the DCFS adoption unit. Documentation that the prospected adoptive parent(s) were informed about LARE shall include adoptive parent(s) signatures and date.
5. The provider shall have a current Louisiana Adoption Resource Exchange (LARE) photo listing of children available for adoption to show all prospective adoptive families.
6. The provider shall inform the adoptive parents of the DCFS Louisiana Adoption Voluntary Registry which facilitates voluntary contact between adult adoptees, their birth parents, and/or siblings. The provider shall inform the adoptive parents that detailed information is available at dcfs.louisiana.gov. Documentation that the prospective adoptive parents were informed about the reunion registry shall include adoptive parent signature and date.
7. The provider shall inform the birth parents of the DCFS Louisiana Adoption Voluntary Registry which facilitates voluntary contact between adult adoptees, their birth parents and/or siblings. The provider shall inform the birth parents that detailed information is available at dcfs.louisiana.gov. Documentation that the birth parents were informed about the registry shall include birth parent signature and date.
8. Prior to placement, prospective adoptive parents shall be informed (telephone or electronic communication)

every 60 days of the status of their application. Documentation shall include the date of notification, name of prospective adoptive parent, and signature of the child-placing agency representative making the notification or copy of email sent.

B. Certification of an Adoptive Home

1. The child-placing agency shall provide information to prospective adoptive parent(s) regarding the following:

- a. the adoption process;
- b. legal procedures;
- c. the provider's policies and practices;
- d. how children and prospective adoptive parents are matched;
- e. prospective adoptive parent(s) responsibilities;
- f. supervisory pre and post placement visit requirements;
- g. process of obtaining a social security number or card for the child;
- h. process of obtaining a revised birth certificate after finalization;
- i. medical coverage options after finalization;
- j. fees and costs to prospective adoptive parents;
- k. subsidy availability;
- l. home study process;
- m. state central registry clearance requirements; and
- n. criminal background clearance requirements.

2. Documentation shall consist of a signed and dated statement by the prospective adoptive parent noting discussion of the topics outlined in §7321.B.1.

3. A child shall not be placed in an adoptive placement until the adoptive parents are certified and the home has been approved.

C. Home Study—Adoption Certification

1. In addition to the requirements for a home study noted in §7315.A.10, the provider shall also document and assess the following with regard to prospective adoptive parents:

- a. motivation to adopt;
- b. attitude toward birth-parent(s) with regard to the reason the child was placed for adoption;
- c. understanding and acceptance of the adoptive child's background, heritage, and identity;
- d. willingness to allow contact with birth family (parents, siblings, extended family) or others significant in child's life;
- e. willingness to discuss adoption and adoption related issues that may arise with the child; and
- f. a plan for guardianship of the child in the event of incapacity or death of adoptive parents prior to the child reaching the age of majority.

D. Child Placement for Adoption

1. Prior to adoptive placement, the provider shall establish the availability of a child through:

- a. a certified copy of a legally executed voluntary surrender(s) from the birth parent(s):
 - i. prior to the execution of the surrender and in accordance with CHC 1120, the surrendering parent shall participate in a minimum of two counseling sessions on two separate days with a licensed social worker, licensed psychologist, medical psychologist, licensed psychiatrist, licensed counselor, or a counselor employed by a child-placing agency relative to the surrender;

- ii. the counselor shall execute an affidavit attesting that the surrendering parent attended a minimum of two sessions and whether the surrendering parent appeared to understand the nature and consequences of his/her intended act. The affidavit of the counselor shall be attached to the act of surrender;

- iii. if, in the opinion of the counselor, there is any question concerning the parent's mental capacity to surrender, the basis for these concerns shall be stated in the affidavit. If indicated, the affidavit shall contain a specific recommendation for any further evaluation that may be needed to ascertain the parent's capacity; and

- iv. if the surrendering father is of age of majority he may waive the two counseling sessions. In this case, the provider shall execute an affidavit attesting to the father's waiver and that the surrendering father appeared to understand the nature and consequences of his intended act. The affidavit of the counselor or attorney shall be attached to the act of surrender;

- b. judgement of abandonment against the birth parent(s);

- c. judgement of termination of parental rights against the birth parent(s); or

- d. death certificate of birth parent(s).

E. Selection of an Adoptive Home

1. The provider shall select an adoptive family for a child based on the assessment of the child's needs and an assessment of the prospective family's ability to meet those needs.

2. The child shall participate in the placement process and in the decision that placement is appropriate, to the extent that the child's age, maturity, adjustment, family relationships, and the circumstance necessitating placement justify the child's participation.

3. The provider shall assess a child's racial, cultural, ethnic, and religious heritage and preserve them to the greatest extent possible without jeopardizing the child's right to care and a permanent placement.

4. The following factors regarding selection of a family shall be carefully considered:

- a. the placement of siblings as a family group unless contraindicated by:

- i. the nature of sibling relationships;
- ii. the likelihood that placement would be unduly delayed by waiting for a family who will accept all of the children in a sibling group; and

- iii. the existence of significant affectionate attachment between a child and foster parent(s) who wishes to adopt only the individual child of the sibling group already placed in the home when an independent assessment indicates that the child's psychological bond to the foster parent(s) is so strong that it is more important to the child than the sibling relationship(s). The independent assessment shall include the foster parent(s) willingness to maintain sibling contact after finalization of the adoption. The assessment shall be conducted by a licensed social worker, licensed psychologist, medical psychologist, licensed psychiatrist, or licensed counselor not affiliated with the agency.

- b. the prospective adoptive family's willingness and ability to provide for the medical, educational, and psychological services identified as needed by the child;

c. the family's ability to accept the child's background and his mental, physical, and psychological limitations/strengths;

d. the potential impact of factors such as life style, expectations, culture, and perception of family life on the ability of the family and the child to bond.

5. Birthparent(s) may be considered for permanent placement of the child when:

a. an assessment indicates that this plan is in the best interest of the child;

b. the child and birthparent(s) have the capacity to form an affectionate and healthy parent-child relationship; and

c. the birth parent(s) meets the certification standards as an adoptive parent.

F. Placement Agreement with Adoptive Parent(s)

1. Prior to placing a child with a certified adoptive parent, provider shall obtain a child specific placement agreement signed and dated by adoptive parent and child-placing agency representative to include the following:

a. acknowledgement that the child is legally available for adoption;

b. the child is being placed with the adoptive parent(s) for the purpose of adoption;

c. the child remains in the custody of the provider until the adoption is finalized;

d. the adoptive family assumes financial responsibility for the child or in accordance with special provisions for financial responsibility included in the agreement;

e. the number of supervisory visits to assess the progress of the placement prior to finalization;

f. agreement to finalize the adoption in accordance with CHC 1211 and 1214;

g. agreement to cooperate in making a planned move for the child if removal is necessary, except in emergency circumstances;

h. reporting to the provider any changes in circumstances having an effect on the child or the adoption;

i. acknowledgement that the family will not take the child out-of-state or authorize any special medical care or treatment for the child without the consent of the child-placing agency; and

j. acknowledgement that the child-placing agency shall provide supportive services to the family to promote healthy parent-child adjustment and bonding.

G. Right to Contact with Family and Collateral—Adoption

1. A child/youth has the right to consult and visit with his/her family (including but not limited to his or her mother, father, grandparents, brothers, and sisters), legal guardian(s) and friends prior to surrender.

2. A child/youth has the right to telephone communication. The provider shall allow a child/youth to receive and place telephone calls in private prior to surrender. There shall be no restrictions on communication between a child/youth and the child/youth's legal counsel.

3. A child/youth has the right to send and receive mail and electronic mail. The provider shall allow children/youth to receive and send all mail unopened, uncensored, and unread by staff prior to surrender. Correspondence from a

child/youth's legal counsel shall not be opened, read, or otherwise interfered with for any reason.

4. A child/youth has the right to consult freely and privately with legal counsel.

5. A child/youth has the right to communicate freely and privately with state and local regulatory officials.

H. Supervision of the Child in an Adoptive Placement Prior to Finalization

1. The provider placing a child in an adoptive placement shall retain custody and remain responsible for the child until a final decree has been granted.

2. Provider shall conduct an initial in home face-to-face supervisory visit with the child and one adoptive parent within seven calendar days of the child's placement. The next home face-to-face supervisory visit shall occur the following month.

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

4. Provider shall conduct a private supervisory visit with child age one year and above; every other month with at least a segment of the visit occurring in the adoptive home.

5. Provider shall conduct an in home supervisory visit with both adoptive parents and child within 30 days prior to the final decree.

6. Documentation of the contact noted in §7321.H.1-5 shall include:

a. date and time of visit;

b. individuals present;

c. location of visit;

d. duration of visit;

e. assessment of adjustment of the child and adoptive parent;

f. assessment of attachment and bonding;

g. assessment of health of child;

h. changes since last contact;

i. summary of visit; and

j. signature of person conducting supervisory visit or phone contact.

7. At least three of the supervisory visits (including the visit prior to final decree) prior to finalization shall include both adoptive parents and all other members of the household.

8. Observations made during the visits shall be used in making recommendations for finalization of the adoption. If problems are identified, the provider shall assist the family directly and/or refer the family to a resource to address the concerns.

9. Child-placing agency staff shall be available to provide the child and adoptive parent(s) assistance, consultation, and emotional support with situations and problems encountered in permanent placement through finalization.

10. The child-placing agency shall provide 24 hour crisis intervention to the adoptive family through finalization.

I. Child Case Record—Adoption Surrender

1. The provider shall maintain a record from the time of the birth parent's application for the child's placement

through adoption finalization and termination of CPA services provided to the family.

2. All information in the child's record shall be continuously updated.

3. The child-placing agency shall obtain a signed copy of the act of surrender committing the child to the child-placing agency for the purpose of adoption within one calendar day of the surrender.

4. The child-placing agency shall obtain a signed copy of the court order approving the surrender within 45 calendar days of the act of surrender.

5. The child-placing agency shall document the child's name, sex, race, nationality, birth date, and birth place within 24 hours of placement.

6. The child's case record shall contain the following information within three calendar days of placement:

a. information about the child and the child's family;

b. initial medical assessments and evaluations;

c. the basis for selection of the home for the specific child;

d. the current name, address, telephone number, and marital status of the birth parent(s);

e. a narrative or summary of the services provided to the birth parent and perspective adoptive parent(s);

f. information gathered during the intake process;

g. certificate of live birth;

h. a copy of the required home study and all supporting documents; and

i. name of prospective adoptive parent(s) and date of placement.

7. All court documents and medical records shall be filed in the child's record throughout the adoption process through finalization.

8. The provider shall obtain information from the birth parent in accordance with CHC 1125 for the record.

9. If either birth or legal parent is unavailable, unwilling, or unable to assist with the completion of necessary information, the provider shall document information, to the extent possible, from the existing case record.

10. Within 30 calendar days of finalization, the case record shall be complete and contain all documentation to include court documents and medical records.

J. Updating Adoptive Home Study

1. If more than a year has lapsed since the family was certified as an adoptive home and there has not been a placement, the original homestudy shall be reviewed and updated prior to placement of a child in the home including new federal background checks and state central registry clearances. Physical examinations shall be updated if not current as referenced in §7315.E.4. Update shall include any changes from the original homestudy or documentation to reflect that no significant changes were reported or observed. Documentation shall include date, signature of person updating the homestudy, and signature of a licensed clinical social worker, licensed master social worker with 3 years of experience in adoption or foster care services, licensed professional counselor, licensed psychologist, medical psychologist, licensed psychiatrist, licensed marriage and

family therapist approving homestudy update. Federal background checks and state central registry clearances shall be dated within 12 months prior to placement of a child.

2. For families who have had an adoptive placement finalized within the last 12 months and wish to apply for adoption of another child, the original home study shall be reviewed and updated prior to placement of child in the home. Update shall include any changes from the original homestudy or documentation to reflect that no significant changes reported or observed. Documentation shall include date, signatures of person updating the homestudy, and signature of a licensed clinical social worker, licensed master social worker with 3 years of experience in adoption or foster care services, licensed professional counselor, licensed psychologist, medical psychologist, licensed psychiatrist, or licensed marriage and family therapist approving homestudy update. Federal background checks and state central registry clearances shall be dated within 12 months prior to placement of the second child.

K. Adoption Disruption

1. When it has been identified that there is a potential adoption disruption, the provider shall assist the adoptive family and child to plan for the removal of the child in a manner least detrimental to the child. Except with emergency removal, the provider shall hold a planning conference to review the situation prior to removal. The planning conference shall be attended by the adoptive parents, the child (if and when in the best interest of the child), and provider. The planning conference shall include the following:

a. concerns with the placement;

b. resources used and resources which may preserve placement;

c. pros and cons of continuing the placement;

d. decision whether to disrupt the placement or maintain the placement;

e. when maintaining the placement is the plan, identifying additional services to be utilized; and

f. discussion of placement alternatives for the child and how the removal will occur if the placement is unable to be preserved.

2. A summary of the conference shall be documented by the child-placing agency and shall be signed and dated by all attendees.

3. The child-placing agency shall assist the family in providing the child the reason for the disruption, using age appropriate language. When this is not possible, the provider shall inform the child.

4. The child-placing agency shall provide services to families who suffer an adoption disruption to deal with their grief and decide if another adoptive placement is an appropriate plan. Services provided shall be documented in the adoptive parents' record and signed and dated by a child-placing agency representative.

L. Domestic Adoptions

1. In domestic adoptions, DCFS may request information from the provider necessary to complete the confidential report after the petition has been filed with the court. The provider shall submit the requested information to the department by the date specified in the notification correspondence.

2. If the child was born in Louisiana, the provider shall submit the required fee, and a completed Certificate of Live Birth form PHS 19, to the department within 21 calendar days of the adoption finalization for a revised birth certificate.

3. For a child born in a state other than Louisiana, the child-placing agency shall submit a request to the vital records registry of that state in order to reissue the child's birth certificate. A certified copy of the reissued birth certificate shall be given to the adoptive parent and a copy maintained in the child's record.

M. Intercountry Adoptions

1. The provider shall maintain a copy of the home study in the child or family's record.

2. Prior to the initiation of an intercountry adoption, the petitioners shall obtain a certified copy of the child's birth certificate, and, if the certificate is not in English, a certified translation of the certificate, shall be attached to the petition for adoption. If a certified copy of the birth certificate and certified translation are not available, the court may make findings on the date, place of birth, and parentage of the adopted person in accordance with the provisions of R.S. 40:79(C)(2).

3. For adoptions finalized in the United States, the provider shall file a petition for an intercountry adoption and maintain a copy in the child's record.

4. The provider shall maintain a copy of the court judgement recognizing the foreign adoption in the child's record prior to ending post placement supervision with the family.

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

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

§7323. Transitional Placing Program

A. General Requirements

1. The provider shall have a written program description describing:

- a. the overall philosophy of independent living;
- b. the long-term and short-term goals for youth; and
- c. admission criteria.

2. The child-placing agency shall have a written list of rules to include expected behaviors for youth and documentation that the rules were discussed with and a copy received by youth. Documentation shall include a copy of the rules signed and dated by the youth.

3. The child-placing agency shall advise youth about the youth advisory board within seven calendar days of admission. Documentation shall include signature of staff advising youth and youth's signature and date.

4. A written description of services provided or arranged shall be included in policy noting whether the services are provided by the child-placing agency or arranged with an outside source.

a. Services shall include, but are not limited to the following:

- i. assistance with obtaining a high school diploma, preparation for the HSET or higher education, job readiness, job search assistance, job placement, vocational assessment and training, tutoring, career planning;
- ii. counseling to promote self-esteem and self confidence;

iii. transportation to medical appointments, employment, educational facility; and

iv. assistance with providing or arranging additional services noted in youth's service or case plan.

5. A written description of training provided to youth shall be included in policy noting whether the training is provided by the child-placing agency or arranged with an outside source.

a. Training in the following skill areas shall include, but are not limited to:

- i. basic independent living skills;
- ii. money management;
- iii. credit counseling;
- iv. home management skills (housekeeping, etc.);
- v. identification of community resources;
- vi. time management;
- vii. communication skills;
- viii. use of transportation;
- ix. self awareness of physical and mental health needs;
- x. problem solving/decision making;
- xi. sex education;
- xii. menu planning and nutrition;
- xiii. meal preparation;
- xiv. substance abuse education;
- xv. medication management for prescription and non-prescription drugs;
- xvi. preparation for college entrance exams;
- xvii. personal hygiene;
- xviii. childcare;
- xix. de-escalation techniques used to defuse potentially dangerous situations such as physical/verbal confrontations between youth, provider staff, and peers;
- xx. development of interpersonal and social skills;
- xxi. preparation for transition to independence and termination of services;
- xxii. cooperative living with other housemates or neighbors;
- xxiii. basic maintenance, simple repairs, and when to call the landlord/provider; and
- xxiv. basic first aid.

6. Training shall be tailored to youth's current level of functioning with additional training introduced as a youth progresses, achieves success in the minimum skills, and articulates a desire to learn more advanced skills.

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

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

B. Reasonable and Prudent Parent Standard—Transitional Placing

1. The provider shall designate in writing at least one staff person per shift as the authorized representative to apply the reasonable and prudent parent standard to

decisions involving the participation of youth in foster care in the transitional placing program in age or developmentally appropriate activities. The staff person(s) designated as the authorized representative shall be available to youth at all times. Licensing shall be notified in writing within five calendar days if there is a change in designated representatives.

2. The authorized representative shall utilize the reasonable and prudent parent standard when making decisions involving the participation of youth in age or developmentally appropriate activities.

3. The authorized representative shall receive training or training materials regarding the use of the reasonable and prudent parent standard within three calendar days of being designated as the authorized representative. Documentation of the reasonable and prudent parent training including signature and date of staff shall be maintained. The reasonable and prudent parent training or training materials, as developed or approved by the DCFS, shall include, but are not limited to the following topic areas:

- a. reasonable and prudent parent standard;
- b. age and/or developmentally appropriate activities or items;
- c. role of the provider and of DCFS; and
- d. allowance for normalcy of the youth while respecting the parent's residual rights.

C. Independent Living Unit Requirements—Transitional Placing

1. Only youth in the transitional placing program shall reside in the living unit.

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

3. Each youth's mattress shall be at a minimum a standard twin size. The mattress shall be clean, comfortable, and non-toxic. Upon admission each youth should be provided a new mattress or water proof mattress cover.

4. The living unit shall have an operable air conditioning and heating system.

5. The child-placing agency shall provide each youth with a chest, dresser, or other adequate storage space for storing clothing and personal belongings in the youth's bedroom, and a designated space for hanging clothes in or near the youth's bedroom.

6. The child-placing agency shall provide youth certain articles and supplies for furnishing the living unit. The articles and supplies may be new or used; however, they shall be in good condition. The articles and supplies shall include, but are not limited to:

- a. bed linens,
- b. furnished area for dining,
- c. living or sitting room furniture,
- d. lighting in each room,
- e. microwave,
- f. stove,
- g. oven,
- h. refrigerator,

- i. dishes, cups, and glasses,
- j. eating and cooking utensils,
- k. vacuum cleaner, if living unit is carpeted
- l. towels, and
- m. window coverings.

7. Youth shall have 24 hour access to a cellphone or onsite child-placing agency office phone for communicating with emergency dispatch services.

8. At the time of placement, the child-placing agency shall provide youth with basic household and hygiene supplies such as detergent, cleaning supplies, broom, mop, soap, paper towels, toothpaste, shampoo, deodorant, etc. The child-placing agency shall ensure that youth are continually supplied with basic household and hygiene supplies.

9. First aid supplies shall be provided by the child-placing agency and maintained in each transitional placing living unit. Supplies shall include, but not limited to the following:

- a. first aid manual;
- b. sterile first aid dressings;
- c. bandages, adhesive strips (Band-Aids, Curads, etc.) or roller bandages;
- d. adhesive tape;
- e. scissors;
- f. tweezers;
- g. thermometer;
- h. antiseptic solution;
- i. antibiotic cream/ointment; and
- j. over the counter medications including pain reliever/fever reducer and gastrointestinal medication.

D. Placement of Youth in Transitional Placing program

1. If referred through an agency, the child-placing agency shall have signed and dated documentation from the referring agency that the youth is appropriate for independent living placement and meets the following criteria prior to placement in the program:

- a. youth has the ability to maintain his own household semi-independently with supports in cleaning, meal preparation, basic household maintenance, and homework completion;
- b. youth has the maturity level appropriate to living semi-independently; and
- c. youth has not been suicidal, been homicidal, or exhibited any psychotic behaviors in the past six months.

4. A signed and dated agreement between the child-placing agency and referring agency shall be maintained in youth's file for all youth under the age of 18 and for those over 18 years of age who are in state's custody.

5. Upon attaining their eighteenth birthday, a youth shall express their willingness to remain in the TP program and intent to abide by CPA policies. A signed and dated agreement attesting to such between the child-placing agency and youth shall be maintained in the youth's file.

6. The provider shall ensure youth who have been committed to the Department of Corrections, Office of Juvenile Justice for the commission of a crime live in separate living units from youth not committed to the Department of Corrections, Office of Juvenile Justice.

E. Service Plan—Transitional Placing

1. The provider shall develop a written service plan based upon the individual needs of the youth within 15 calendar days of placement.

2. Youth shall be involved in the development of the service plan.

3. The service plan shall address the following:

- a. supervision and contact with youth required by the child-placing agency;
- b. housing;
- c. money management;
- d. emergency preparedness and evacuation procedures;
- e. educational goals;
- f. job training goals;
- g. objectives and services for each goal;
- h. person responsible for each action within each goal; and
- i. specific timeframes for achieving each goal.

4. The service plan meeting shall include the youth and legal guardian if youth is under the age of 18 or in custody of the state or the youth and provider if youth is 18 years of age or older. Documentation of the service plan meeting shall include the date, names of individuals invited, and signatures of attendees. If the legal guardian is required to attend and unable, the child-placing agency shall obtain legal guardian's signature or document that the service plan was submitted to the legal guardian within seven calendar days of the meeting.

5. Documentation of compliance with youth's service plan shall be on-site and available for review.

6. Service plan shall be reviewed with the youth on a quarterly basis or more frequently as the youth's needs or circumstances dictate. Documentation of the review shall include the date and signature of the provider and youth.

7. Provider shall prepare a transition plan for youth, prior to a planned discharge from the program to facilitate a successful integration within the community. The plan shall include resources and recommendations and shall be discussed with the youth. Documentation shall include a copy of the plan, signed and dated by provider and youth.

F. Supervision of Youth—Transitional Placing

1. The provider shall have a written plan for overseeing placement to ensure the youth's well-being.

2. Provider staff shall communicate with youth on a daily basis preferably by a telephone call; however, text messaging is acceptable.

3. All contacts with the youth via telephone and in person with the youth shall be documented to include date, time, method of contact, location, brief summary of contact, and signature of staff contacting youth.

4. Provider staff shall be accessible via phone or in person to youth at all times.

5. Within the first 30 calendar days, the provider shall have at least three weekly face-to-face visits with the youth with at least one of the weekly visits occurring in the youth's residence. Thereafter, two face-to-face weekly visits with the youth with at least one of the weekly visits occurring in the youth's residence.

6. If the provider has a reasonable cause to believe that the youth's living situation presents risks to the youth's health or safety, the youth shall be moved immediately to another living unit until the risk is no longer present.

7. Provider shall ensure that the youth's living environment is maintained in a clean and safe manner.

8. Provider shall ensure that the youth are receiving medical care.

9. One to one supervision of youth is allowed in emergency situations only to protect the youth and shall not exceed 48 hours.

G. Money Management—Transitional Placing

1. The provider shall have a policy regarding the management of youth's money.

2. A provider shall only manage money for youth when such management is mandated by the youth's service or case plan.

3. Providers who manage youth's money shall maintain a current balance sheet in the youth's file containing all financial transactions including date of transaction, amount of transaction, and the signature of staff and the youth for every transaction. When requested by youth, a balance sheet shall be provided to youth within 24 hours of the request.

H. Nutrition—Transitional Placing

1. The child-placing agency shall ensure adequate food is available to youth on a daily basis.

2. When food is purchased, provided, or prepared by the child-placing agency, the child-placing agency shall ensure that meals include the basic four food groups and each youth's nutritional needs are met.

3. The child-placing agency shall provide assistance with meal preparation when the youth's work and/or school responsibilities do not allow adequate time for food preparation.

4. When meals are provided by the child-placing agency, written menus shall be maintained for one year.

5. Receipts of food purchased by the provider shall be maintained for one year.

I. Emergency Preparedness—Transitional Placing

1. The provider, in consultation with appropriate state or local authorities, shall establish and follow a written multi-hazard emergency and evacuation plan to protect youth in the event of any emergency.

2. The written plan of emergency procedures shall provide for the evacuation of youth to a safe area.

3. Evacuation plans shall include procedures for addressing both planned and unplanned evacuations to alternate locations within the city and evacuations outside of the city.

4. Within seven calendar days of placement, provider shall instruct youth in how to contact police, fire, and other emergency service personnel, how to prevent fire and accidents, how to respond to fires and other emergencies, and how to use firefighting and other emergency equipment. Documentation shall include a summary of information discussed, youth's signature, and date.

5. The emergency plan shall be reviewed with youth within seven calendar days of placement, any time changes occur, and at least annually. Documentation evidencing that the plan has been reviewed with and agreed upon by youth shall include youth signature and date.

6. Provider shall ensure youth have access to medication and other necessary supplies or equipment during an emergency situation.

7. Provider's plan shall include a system to account for all youth whether sheltering in place, locking down, or evacuating to a pre-determined relocation site.

8. Provider's plan shall include an individualized emergency plan for each youth with special needs which shall include medical information, medical contact information, and additional supplies/equipment needed.

9. Provider's plan shall include emergency contact information for staff accompanying youth in the event evacuation from the child-placing agency is necessary.

10. At a minimum, the plan shall be reviewed annually by the program director for accuracy and updated as changes occur. Documentation of review by the program director shall consist of the program director's signature and date.

11. The emergency and evacuation plan shall be submitted to the Licensing Section at least annually, any time changes are made, and upon request by the licensing section.

J. Restitution—Transitional Placing

1. Monetary restitution for damages shall only occur when there is clear evidence of the youth's responsibility for the damages and the child-placing agency director approves the restitution.

2. The youth and his/her legal guardian(s) shall be notified in writing within 24 hours of the incident which results in the claim for restitution and shall be provided with specific details of the damages, to include how, when, and where the damages occurred, and the amount of damages claimed. If the amount is unknown, an estimate of the damages shall be given with an exact figure provided within 30 days.

3. After notification of the claim for restitution, the youth and his/her legal guardian(s) shall be given seven calendar days to respond in writing to any claim for damages.

4. In the event responsibility for the damages is not agreed upon by the provider and legal guardian, the provider shall not withhold money from the youth's account for restitution.

5. When the youth is required to pay restitution, the payment plan shall be discussed with the youth and signed by the youth, legal guardian, and provider staff.

6. If the provider receives reimbursement for damages either through insurance or other sources, the youth shall not be responsible for restitution.

K. Youth Advisory Board—Transitional Placing

1. The provider shall develop written policies for a Youth Advisory Board. The Youth Advisory Board shall provide feedback to the child-placing agency staff relative to program procedures, practices, and services.

2. Prior to a youth advisory board meeting being convened, provider shall advise youth on how to conduct meetings, set agendas, vote, and suggest ways to provide feedback to provider regarding concerns identified in meetings. Documentation shall include the date youth are advised, individuals in attendance, signature of staff advising youth, and a summary of information provided. If the person designated by the youth advisory board to conduct the advisory board meeting changes, the child-placing agency shall advise the new appointed youth on how to conduct meetings, set agendas, vote, and suggest ways to provide feedback to provider regarding concerns identified in meetings.

3. The Youth Advisory Board shall consist only of youth representatives receiving services from the child-placing agency.

4. All youth receiving services shall be eligible to participate.

5. Provider shall not be present at youth board meetings, unless invited to attend by youth; however, staff shall be available in the event the youth request guidance.

6. The youth advisory board meeting time and date shall be scheduled at least a month in advance to allow participation by interested youth.

7. The Youth Advisory Board shall meet at least monthly. Documentation shall include the date of meeting and minutes of the meeting which includes individuals present, topics discussed, and concerns and suggestions referred to the attention of the child-placing agency.

8. Youth shall designate a representative to report concerns to the child-placing agency following the meeting. Documentation shall include the date concerns were reported to the provider, the name of the staff person to whom the concerns and suggestions were discussed, and the name of youth reporting concerns.

9. The child-placing agency shall maintain documentation noting the date Youth Advisory Board representative reported concerns and suggestions, the issues discussed, and the child-placing agency's response.

10. Provider shall advise the youth advisory board representative of the agency's response in writing within seven calendar days of the initial report.

L. Discharge Process—Transitional Placing

1. Provider shall have a written discharge policy detailing the reasons a youth may be discharged from the program.

2. For youth under the age of majority, the provider shall discharge the youth only to the legal guardian or by court order.

3. The discharge summary shall identify specific resources in the community with referrals and recommendations for aftercare services with a cooperating provider, if needed.

4. Provider shall notify the legal guardian at least fourteen calendar days prior to the planned discharge of a youth.

5. A provider shall compile a complete written discharge summary within three calendar days of the youth's discharge. The summary shall be included in the youth's record and when discharged to another provider, this summary shall accompany the youth.

6. The discharge summary shall include:

- a. services provided while in the program;
- b. growth and accomplishments while in the program;
- c. continuing and unmet needs which remain to be met;
- d. identified resources and referrals to assist youth in meeting their needs in the community;
- e. date of entry and exit from the program;
- f. the name and address of the person, persons, or agency to whom the child was discharged;
- g. the reason for discharge;

- h. case plan goals, service plan goals, and other goals achieved while in care;
- i. name and address of any family members or others significant to youth; and
- j. signature and date of child-placing agency staff completing summary.

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

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 45:392 (March 2019), effective April 1, 2019.

Marketa Garner Walters
Secretary

1903#053

RULE

Board of Elementary and Secondary Education

Alternative Education

(LAC 28:XI.605, and Chapter 35; CXV.Chapter 29; and CXLIX.101, 301, 501, 701, 901, 903, 1101, 1301, 1501, 1701, 1703, and Chapters 19 and 21)

Under the authority granted in R.S. 17:6 and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 111—The Louisiana School, District, and State Accountability System, Bulletin 131—Alternative Education Schools/Programs Standards*, and *Bulletin 741—Louisiana Handbook for School Administrators*.

The amendments establish a new rating formula for alternative education (AE) schools that is more closely aligned to the unique mission of serving students referred to AE for long-term services. For AE elementary and middle schools, the proposed formula is based 100 percent on state assessment progress, and for AE high schools, the formula is based on 25 percent of each of the following: state assessment progress; current year core credit accumulation; second-year dropout/credit accumulation; and credential attainment. Additionally, the amendments establish new expectations that more closely align the alternative education approval process to expectations set forth in state law, which include transitional planning and support, student learning and behavior plans, interventions, and staff support and engagement. LEAs will transition to the new approval process over a three-year period between 2019-2022. Finally, the proposed amendments repeal various Sections pertaining to alternative education schools and programs. This Rule is hereby adopted on the day of promulgation.

Title 28

EDUCATION

Part XI. Accountability/Testing

Subpart 1. Bulletin 111—The Louisiana School, District, and State Accountability System

Chapter 6. Inclusion in Accountability

§605. Inclusion of Schools

[Formerly §519]

A. All kindergarten through eighth grade schools must have a minimum of 120 testing units, in any combination, of LEAP, LAA 1, or LEAP connect assessments.

B. All ninth through twelfth grade and combination schools must have:

1. a minimum of 120 units in any combination of graduation cohort membership; and
2. third through eighth grade and high school LEAP 2025, LAA 1, EOC, LEAP connect, or ACT assessments.

C. - D.2. ...

E. The number of schools in an LEA with fewer than 120 units is expected to remain stable over time. In the event that the number of schools with fewer than 120 units increases from the prior school year, the local superintendent of that LEA will provide a written justification to the state superintendent of education and BESE. BESE may choose to award a school performance score for any school newly identified with under 120 total units beginning with the 2018-2019 school year (fall 2019 release).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2741 (December 2003), amended LR 31:1512 (July 2005), LR 32:1022 (June 2006), LR 34:431 (March 2008), LR 36:1991 (September 2010), LR 38:3108 (December 2012), LR 40:2507 (December 2014), LR 41:1263 (July 2015), LR 44:453 (March 2018), LR 45:396 (March 2019).

Chapter 35. Inclusion of Alternative Education Schools and Students in Accountability

§3501. Alternative Education

[Formerly LAC 28:LXXXIII.3501]

A. Districts must provide an alternative education placement for students who are expelled or who have been suspended for more than 10 consecutive schools days. Districts must either operate an alternative education program or school (direct-run or charter), or enter into an agreement with an education service provider to run a program or school.

B. Alternative education schools and programs must be approved by BESE. Classifications must be submitted annually to the LDE no later than March 15 and cannot be changed until the following year.

C. Alternative education school and program accountability:

1. addresses student behavior, dropout prevention, dropout recovery, and/or credit recovery through alternative educational placements;
2. serve students self-selecting due to extenuating personal circumstances; and
3. does not exist only for students who are academically advanced, gifted, talented, or pursuing specific areas of study (arts, engineering, medical, technical, etc.).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:10.1, 17:416, and 17:416.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:472 (March 2013), amended LR 45:396 (March 2019).

§3503. Alternative Education Schools

[Formerly LAC 28:LXXXIII.3503]

A. For school accountability, alternative education schools:

1. enroll some or all students for 45 or more days; and
2. receive BESE approval for the current school year.

B. - C.1. ...

2. Alternative education schools with sufficient data will be evaluated for subgroup performance based on the formulas in Subsection D of this Section.

3. ...

D. School Performance Scores (SPS). Starting with the 2018-2019 academic year, all alternative education schools will receive a school performance score and school letter grade based on the following formulas in this Subsection.

1. School performance scores for kindergarten through eighth grade alternative education schools will include a progress index and credit accumulation index. An interests and opportunities indicator will be included in school performance scores no later than the 2019-2020 school year (2020 SPS).

K-8 Alternative School Performance Score Indices and Weights			
Index	Grades	Beginning in 2018-2019	No Later than 2019-2020
Progress Index*	Grades K-8	90 percent	85 percent
Core Academic Credit Accumulation Index	Grades 6-8	10 percent	10 percent
Interests and Opportunities	Grades K-8	N/A	5 percent

*Includes English Language Proficiency progress

2. School performance scores for alternative education schools with twelfth grade will include a progress index and indicators outlined in the following table. The interests and opportunities indicator will be included in school performance scores no later than 2019-2020 school year (2020 SPS).

High School Performance Score Indices and Weights			
Index	Grades	Beginning in 2018-2019	No Later than 2019-2020
Progress Index*	Grades 9-12	25 percent	25 percent
Core Academic Credit Accumulation Index	Grades 9-12	25 percent	25 percent
Dropout/Credit Accumulation Index	Grades 9-11	25 percent	25 percent
Credential Attainment Index	Grade 12	25 percent	20 percent
Interests and Opportunities	Grades 9-12	NA	5 percent

*Includes English Language Proficiency progress

3. School performance scores for combination alternative education schools with a grade configuration that includes a combination kindergarten through eighth grade and ninth through twelfth Grade, will receive a score from a weighted average of the SPS in accordance with LAC 28:XI.301.C.

4. For schools with configurations that include ninth through eleventh grade, but do not have a twelfth grade, the school performance score will consist of the indices available.

5. For alternative school performance score calculations, the progress index will be calculated in the same manner as defined in Chapter 5 and will include English language proficiency progress as defined in Chapter 4.

6. The core academic credit accumulation index measures credits that count towards a diploma in English language arts, math, science, and social studies earned at the alternative school.

a. For measuring the core academic credit accumulation index only, students enrolled in an alternative education school on or before:

i. October 1 and for 45 total days will be included in the calculation of the first semester, even if the student is not enrolled in the school on February 1 of the same school year. In some circumstances, such students may also be included in the accountability calculations for another school; or

ii. February 1 and for 45 total days will be included in the calculation of the second semester, even if the student is not enrolled in the school or LEA on October 1 of the same school year.

b. Schools earn points based on the core academic credits earned in each semester.

c. Students who are considered dropouts will be included in the calculation for the semester of drop out and earn 0 points.

Number of Core Academic Credits (One Semester)	Index Point Award
3 or more	150
2.5	125
2	100
1.5	75
1	50
0.5	25
0	0
Dropout	0

7. The dropout/credit accumulation index measures Carnegie units earned in the school year following enrollment at an alternative school for at least one semester.

a. In order for students to be included in the calculations, the student must have been:

i. enrolled for at least one semester during the last year of record at the alternative school; and

ii. considered "full academic year" during the current school year.

b. Students in twelfth grade in the prior year and students who exited with a diploma or *HiSET* are excluded from the dropout/credit accumulation calculation.

c. Points will be allocated according to the following table.

Number of Carnegie Units	Index Point Award
7 or more	150
6.5	125
6	100
5.5	75
5	50
4.5	25
4 or less	0
Dropout	0

8. The credential attainment index measures the graduation outcomes for students in twelfth grade.

a. To be included in the credential attainment index calculation, a student must be in twelfth grade at the start of the current school year and meet full academic year for the current year at the alternative education school.

b. Students in eleventh grade or below who exit the alternative education school with a diploma and/or credential

based on the table above will be included in both the numerator and denominator.

c. Points will be assigned for each student according to the following table.

Student Results	Points
High School Diploma plus Associate's Degree	160
High School Diploma plus: (a)(i). AP score of 3 or higher; (ii). IB score of 4 or higher; or (iii). CLEP score of 50 or higher; OR (b). Advanced statewide Jump Start credential *Students achieving both (a) and (b) will generate 160 points.	150
High School Diploma plus: (a). At least one passing course grade for TOPS core curriculum credit of the following type: (i). AP**; (ii). college credit; (iii). dual enrollment; or (iv). IB** OR (b). Basic statewide Jump Start credential *Students achieving both (a) and (b) will generate 115 points. **Students must take the AP/IB exam and pass the course to earn 110 points.	110
High School Diploma (includes Career Diploma student with a regional Jump Start credential)	100
HiSET plus Jump Start credential	40
HiSET	25
Non-graduate without HiSET	0

d. Students counted in the graduation cohort for the alternative education school will continue to be included in the school system cohort, not the sending school.

9. The grading scale for alternative education schools will be the same as the scale for all schools as defined in §305 of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2753 (December 2003), amended 31:423 (February 2005), LR 34:868 (May 2008), LR 35:1472 (August 2009), LR 37:2119 (July 2011), LR 37:3202 (November 2011), LR 38:1213 (May 2012), LR 39:472 (March 2013), LR 40:2240 (November 2014), LR 45:396 (March 2019).

§3505. Alternative Education Program Accountability [Formerly LAC 28:LXXXIII.3505]

A. Alternative education programs are approved by BESE for the current school year.

1. - 2. Repealed.

B. Scores for students attending alternative education programs will be included at the sending school at which the student is enrolled.

1. ...

C. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 39:472 (March 2013), amended LR 40:2241 (November 2014), LR 45:398 (March 2019).

§3507. District Accountability for Students Served by Alternative Education Schools and Programs

A. The LDE will annually publish a report on district outcomes for students served by alternative education schools and programs.

B. All alternative education programs will receive a performance report that includes, but is not limited to:

1. data pertaining to academic progress;
2. credit accumulation;
3. completion; and
4. behavior modification.

C. All school systems will receive a report including performance on the alternative education school accountability measures and may include, but is not limited to:

1. recidivism rates (students suspended or expelled multiple times in the same school year);
2. re-engagement rate of students who previously dropped out of school;
3. five- and six-year graduation rates;
4. law enforcement referral rates; and
5. number and percent of students attending alternative schools and programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:10.1, and 17:100.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 45:398 (March 2019).

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators
Chapter 29. Alternative Schools and Programs
§2901. Philosophy and Need for Alternative Schools/Programs

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:100.5 and 17:416.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1308 (June 2005), amended LR 39:2226 (August 2013), repealed LR 45:398 (March 2019).

§2903. Approval for Alternative Schools or Programs

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1308 (June 2005), amended LR 35:2318 (November 2009), LR 37:2128 (July 2011), LR 38:1583 (July 2012), LR 39:2226 (August 2013), repealed LR 45:398 (March 2019).

§2905. Evaluation of Alternative Schools/Programs

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1308 (June 2005), amended LR 35:2319 (November 2009), LR 39:2226 (August 2013), LR 40:2241 (November 2014), repealed LR 45:398 (March 2019).

§2909. Earning of Carnegie Units

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:400.5.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1309 (June 2005), amended LR 39:2227 (August 2013), repealed LR 45:398 (March 2019).

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

Chapter 1. General Provisions

§101. Mission and Purpose

A. Exemplary alternative education develops a guiding mission and purpose that drives the overall operation of the alternative education site. All stakeholders share in

developing, implementing, directing and maintaining the mission and purpose. The mission and purpose include the identification of the target student population, reasons that a student is transitioned to the alternative site, and identified outcomes for students to achieve while at the alternative education site. Each alternative school or program will be organized and staffed to support the identified mission and ensure successful student outcomes.

B. Any student suspended or expelled from school for more than 10 school days will remain under the supervision of the governing authority of the city, parish, or other local public school system taking such action using alternative education programs for suspended and expelled students.

C. Each alternative school or program will develop and maintain a written statement of the mission and the major purposes to be served by the school or program. The statement will reflect the individual vision of the school or program and the characteristics and needs of the students served.

D. The educational school or program will be designed to implement the stated goals and objectives, which are directly related to the unique educational requirements of the student body.

E. The provisions of this Part (Bulletin 131) will not be construed to conflict with any federal or state laws, rules, and regulations affecting special education students as defined in R.S. 17:1943 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:100.5, and 17.416.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:2126 (July 2011), amended LR 45:398 (March 2019).

Chapter 3. Transitional Planning and Support **[Formerly Chapter 13]**

§301. Transition Processes **[Formerly §1301]**

A. The school system will ensure that students are transitioned to an alternative education site using a formalized intake process that addresses both behavioral and academic needs. The transition process will include a review of academic and behavioral records including, but not limited to, individual academic improvement plans, individual graduation plans, or individualized education plans (IEP), as applicable, in order to ensure that appropriate academic supports and opportunities remain available to the student.

1. Each school system with an alternative education site will develop a consistent transition process that includes a checklist of all records produced by a referring school and a fixed timeframe specifying when information will be forwarded to the alternative education school or program.

2. The transition process will:

- address appropriate behavior interventions and specific goals for behavioral progress;
- define specific goals for academic progress, including Carnegie credits for grades 9-12;
- outline a timeframe for updating IEPs for students with disabilities and individual accommodation/section 504 plans (IAP); and
- provide a plan for students returning to the sending school including, but not limited to, bridge supports such as mentoring or counseling, to assist students in readjusting to a traditional school setting.

3. Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:2127 (July 2011), amended LR 45:399 (March 2019).

Chapter 5. Behavioral Interventions and Supports **§501. Safety and Counseling**

A. School systems operating an alternative school or program must address the root cause of the behavioral misconduct while a student is educated at the alternative education school or program site, utilizing evidence based interventions and strategies.

1. An approved alternative education site must:

- provide clear expectations for learning and student conduct using a multi-tier system of support (MTSS) framework that includes use of any evidence-based behavioral intervention including, but not limited to:

- positive behavior interventions and supports;
- restorative practices; or
- trauma-informed response; and

- detail, through the authorization process and an annual report, the full list of evidence-based interventions used to address student behavior. Each intervention or strategy will be aligned to one of the three tiers within an MTSS.

2. - 5. Repealed.

B. In addition to the required behavioral interventions and supports, alternative sites must prioritize the following:

1. adopt and implement a social-emotional learning curriculum for use that aligns to the selected behavioral intervention and overall behavioral approach selected by the site;

2. maintain a list of identified student growth measures, such as evaluation plans, assessments, and learning outcomes, that measure student behavioral improvement resulting from evidence-based behavioral intervention; and

3. identify annually a set of implementation fidelity measures used to evaluate the efficacy of the selected behavioral intervention and assess interventions needing improvement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:100.5, and 17:252.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:2127 (July 2011), amended LR 45:399 (March 2019).

Chapter 7. Workforce Talent **§701. Annual Professional Development Plan**

A. Alternative education sites will create an annual professional development plan that will:

1. - 2. ...

3. emphasize quality implementation of evidence-based and best practices; and

4. establish performance evaluations aimed at improving program and student outcomes and overall school or program quality.

B. Alternative sites must identify and provide annual staff professional development trainings and tools to that support the target student population as identified in the alternative education site application which includes, but is not limited to:

1. behavioral interventions;

2. classroom management;
3. trauma-informed response;
4. adverse childhood experiences (ACEs); and
5. implementation strategies for selected behavioral

interventions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:100.5, and 17:252.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:2127 (July 2011), amended LR 45:399 (March 2019).

Chapter 9. Academic Interventions and Supports

§901. Curriculum and Instruction

A. School systems operating alternative education sites must address the root cause of academic challenges while a student is educated at the alternative education school or program, utilizing evidence-based academic interventions and strategies.

1. Alternative education sites must:
 - a. utilize standards-aligned curriculum comparable to curriculum utilized at the sending school in the school system;
 - b. provide targeted instructional methods to aid student progress and academic achievement;
 - c. monitor student academic progress on a regular and frequent basis, including a review of academic work completed, noting any improvements from the time since the student was transferred to the site; and
 - d. meet targeted credit accumulation goals identified in LAC 28:XI.Chapter 35 (Bulletin 111), for students enrolled at the alternative education site for at least one semester. For high school students, the goals must include specific Carnegie credit goals.

2. - 3. Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:2127 (July 2011), amended LR 45:400 (March 2019).

§903. Access to Post-Secondary Education Pathways

A. Alternative education sites must offer students access to post-secondary education pathways that are comparable to existing options within the school system, including TOPS University and Jump Start TOPS Tech, unless the local superintendent finds that extenuating circumstances make such offerings impossible. Extenuating circumstances must be documented and detailed within the school system annual report, including actions the school system is pursuing to make such pathways accessible in the future.

B. Students pursuing a pathway or credential prior to being referred to alternative education must be permitted to continue pursuit of such credential or pathway, unless the local superintendent determines that there are documented safety concerns based upon demonstrated student behavior or that extenuating circumstances make such offerings impossible. Any changes to the student's pathway or pursuit of a credential will be documented in the student's approved individual graduation plan (IGP).

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 45:400 (March 2019).

Chapter 11. School Climate and Culture

§1101. Climate and Culture

A. Alternative education sites must have a plan to address and continually evaluate school climate and culture to ensure academic and behavioral improvement.

1. Alternative schools should utilize an annual climate survey. The survey should seek to assess student, staff and administrative attitudes and perception of the environment and overall culture of the site.

2. Results of the annual climate survey, if administered, should be shared with teachers, staff, administration, parents and students no later than May 15 each academic year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:100.5, and 17:252.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 45:400 (March 2019).

Chapter 13. Staff and Parent/Legal Custodian Partnership

[Formerly Chapter 15]

§1301. Parent and Legal Custodian Involvement

[Formerly §1501]

A. Alternative education sites must actively document efforts to engage parents and legal custodians beyond parent/legal custodian-teacher meetings. A nonjudgmental, solution-focused approach that incorporates parents/guardians as respected partners throughout the student's length of stay must be emphasized.

B. Parents and legal custodians must be engaged in planning developed to support student academic and behavioral progress including, but not limited to:

1. individual academic improvement plan;
2. individual graduation plan;
3. individualized education program (IEP) plan; and
4. individual accommodation plan (IAP)/section 504 plan.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:2127 (July 2011), amended LR 45:400 (March 2019).

Chapter 15. Mental Health Supports and Interventions

[Formerly Chapter 17]

§1501. Counseling and Community Partnerships

[Formerly §1701]

A. Alternative education sites must provide students with academic, behavioral, and social-emotional counseling designed to promote student academic progress and to address the underlying causes of student behavioral misconduct.

B. Counseling provided by the site or per R.S. 17:416.2 may include student access to mental health supports and interventions via a community partnership that includes evidence-based cognitive interventions to support improved student behavior, address childhood trauma, and enhance social skills to increase the likelihood of the student success.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:100.5, and 17:252.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:2128 (July 2011), amended LR 45:400 (March 2019).

Chapter 17. Alternative Site Evaluation and Accountability
[Formerly Chapter 19]

§1701. Collaboration
[Formerly §1901]

A. Alternative education sites will annually conduct systematic program evaluations for compliance and continuous improvement to include submission of an annual report to the LDE that details the following:

1. planned revisions to the site mission, structure, staffing, interventions, partners, or strategies to support student success; and
2. copies of the site climate survey and results, if administered; and
3. summaries of annual staff professional development to support student success.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:100.5, 17:252, and 17:416.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:2128 (July 2011), amended LR 45:401 (March 2019).

§1703. Alternative Education Site Accountability

A. Alternative education school and program performance will be measured annually using the indicators established in LAC 28:XI.Chapter 35 (Bulletin 111).

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 45:401 (March 2019).

Chapter 19. Dropout Prevention and Recovery Programs
[Formerly Chapter 21]

§1901. Dropout Recovery Program
[Formerly §2101]

A. Each school district and charter school that provides instruction to high school students may offer a dropout recovery program for eligible students.

B. BESE-prescribed standards and testing requirements will apply to dropout recovery programs.

C. The dropout recovery program will:

1. provide appropriate and sufficient supports for students, including tutoring, career counseling, and college counseling;
2. comply with federal and state laws and BESE policies governing students with disabilities; and
3. meet state requirements for high school graduation.

D. Eligible students enrolled in a dropout recovery program will have an individual graduation plan developed by the student and the academic coach that include the following elements:

1. the start date and anticipated end date of the plan;
2. courses to be completed by the student during the academic year;
3. whether courses will be taken sequentially or concurrently;
4. state exams to be taken, as necessary;
5. expectations for satisfactory monthly progress; and

6. expectations for contact with the designated student's academic coach.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:100.5, 17:221.4, and 17:221.6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:370 (February 2015), amended LR 45:401 (March 2019).

§1903. Reporting Requirements
[Formerly §2103]

A. A student enrolled in a dropout recovery program must be included in the student enrollment count for the school or school system offering the program. Each school and school system will report the following information to the LDE on a monthly basis:

1. newly enrolled students in the dropout recovery program who have an individual graduation plan on file on or before the first school day of the month;
2. students who met the expectations for satisfactory monthly progress for the previous month;
3. students who did not meet the expectations for satisfactory monthly progress for the previous month, but did meet expectations for one of the two previous months; and
4. students who met expectations for program reentry in the revised individual graduation plan during the previous month.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:100.5, 17:221.4, and 17:221.6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:370 (February 2015), amended LR 45:401 (March 2019).

§1905. Requirements for Educational Management Organizations
[Formerly §2105]

A. School districts and charter schools may contract with an educational management organization to provide a dropout recovery program. If contracting with an educational management organization, the school district or charter school must ensure that all of the following requirements are met:

1. the educational management organization is accredited by a regional accrediting body;
2. teachers provided by the educational management organization hold a current teaching license from any state and teachers of core subjects are highly qualified in the subjects assigned; and
3. the educational management organization has provided one or more dropout recovery programs for at least two years prior to providing a program pursuant to this Section.

B. Entities contracted to provide dropout recovery programs may conduct outreach to encourage students who are not enrolled in a school district or charter school in this state to return to school.

1. Entities will not conduct advertising or marketing campaigns directed at students who are currently enrolled in a school district or charter school nor engage in activity that encourages students who are enrolled to stop attending school in order to qualify for a dropout recovery program.

C. Contracts entered into by an LEA for a student dropout recovery program must include requirements for the protection of personally-identifiable student information that

complies with applicable state and federal laws and BESE regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:100.5, 17:221.4, and 17:221.6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 45:401 (March 2019).

§1907. Definitions

[Formerly §2107]

Academic Coach—an adult who assists students in:

1. selecting courses needed to meet graduation requirements;
2. monitoring student pace and progress through the program; and
3. conducting regular pace and progress interventions.

Eligible Student—a student who is not enrolled in a school district or charter school and who has been withdrawn from a school district or charter school for at least 30 days, unless a school administrator determines that the student is unable to participate in other district programs.

Satisfactory Monthly Progress—amount of progress measurable on a monthly basis and that, if continued for 12 full months, will result in the same amount of academic credit awarded to students in traditional education programs completed in a full school year. Satisfactory monthly progress may include a lesser-required amount of progress for the first two months of participation in the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:100.5, 17:221.4, and 17:221.6.

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

Chapter 21. Alternative Site Authorization and Approval

§2101. Approval for Alternative Schools or Programs

A. Approval to operate an alternative school or program must be obtained from BESE.

1. A school system choosing to implement an alternative school or program shall notify the LDE on or before the date prescribed by the LDE. School systems cannot change the requested school or program classification after March 15 annually, until the next application period

2. The LDE will submit to BESE an annual:
 - a. list of alternative sites to approve or disapprove by April; and
 - b. alternative schools and programs report by October.
3. An approved alternative school or program will be:
 - a. included in the school system pupil progression plan; and
 - b. subject to monitoring by the LDE staff, as needed.

B. Eligibility for authorization of an alternative education site requires local educational authority completion of an application provided by the LDE. Eligibility criteria required include:

1. alternative site type sought (school or program);
2. transitional planning and support;
3. counseling and mental health supports;
4. staff professional development;
5. identified behavioral interventions;
6. identified academic interventions and graduation pathways; and
7. annual climate survey, if conducted.

C. Alternative education sites will be approved if all eligibility criteria are met. Reauthorization of an alternative site will be reviewed every three years and approval, provisional approval, or nonrenewal will be based upon delivery of eligibility criteria.

C.1. - D.6. Repealed.

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

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

§2103. Reporting Requirements

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:100.5, R.S. 17:221.4, and R.S. 17:221.6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:370 (February 2015), repealed LR 45:402 (March 2019).

§2105. Requirements for Educational Management Organizations

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:100.5, R.S. 17:221.4, and R.S. 17:221.6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:370 (February 2015), repealed LR 45:402 (March 2019).

§2107. Definitions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:100.5, R.S. 17:221.4, and R.S. 17:221.6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:371 (February 2015), repealed LR 45:402 (March 2019).

Shan N. Davis
Executive Director

1903#038

RULE

Board of Elementary and Secondary Education

Mentor Teacher and Content Leader Credentials
(LAC 28:CXXXI.203)

Editor's Note: This Section is being repromulgated to correct a citation error. The original Rule can be viewed in its entirety on pages 228-234 of the February 20, 2019 edition of the Louisiana Register.

Under the authority granted in R.S. 17:6 and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended:

Bulletin 996—Standards for Approval of Teacher and/or Educational Leader Preparation Programs,

Bulletin 746—Louisiana Standards for State Certification of School Personnel,

Bulletin 125—Standards for Educational Leaders in Louisiana, and

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

The amendments establish mentor teacher and content leader credentials and provide for mentor and content leader training, experience, and credentialing to contribute to

school leader licensure. This Rule is hereby adopted on the day of promulgation.

**Title 28
EDUCATION**

**Part CXXXI. Bulletin 746—Louisiana Standards for State Certification of School Personnel
Chapter 2. Initial Teacher Certification
Subchapter B. Testing Required for Certification
§203. Certification Exams and Scores
[Formerly §243]**

A. - E. ...

F. Administrative and Instructional Support Areas

Certification Area	Name of Test	Area Test Score
Mentor Teacher	Louisiana Mentor Teacher Assessment Series—Elementary	6
	Louisiana Mentor Teacher Assessment Series—Secondary ELA	4
	Louisiana Mentor Teacher Assessment Series—Secondary Math	
	Louisiana Mentor Teacher Assessment Series—Universal	
Content Leader	Louisiana Content Leader Assessment Series	5

All Praxis scores used for certification must be sent directly from ETS to the state Department of Education electronically, or the original Praxis score report from ETS must be submitted with the candidate's application. The mentor teacher certificate may be earned by passing one of the cohort-specific Louisiana mentor teacher assessment series tests.

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

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

Shan N. Davis
Executive Director

1903#037

RULE

**Office of the Governor
Division of Administration
Public Defender Board**

**Trial Court Performance Standards for Attorneys
Representing Children in Delinquency
(LAC 22:XV.Chapters 13 and 15)**

The Public Defender Board, a state agency within the Office of the Governor, amends and adopts LAC 22:XV.Chapter 13 and LAC 22:XV.Chapter 15, as authorized by R.S. 15:148. These amended rules are

promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

R.S. 148(A) directs the Public Defender Board to adopt rules creating mandatory: 1) statewide public defender standards and guidelines that require public defender services to be provided in a manner that is uniformly fair and consistent throughout the state; and 2) qualification standards for public defenders that ensure that public defender services are provided by competent counsel. The Louisiana Public Defender Board has amended the provisions governing the performance standards for the representation of children in delinquency in order to account for legislative changes governing juvenile delinquency law and procedure, including changes that account for protections from mandatory reporter laws for certain employees or contractors of a defense attorney, important revisions to disposition law and procedure, and extensive expansion of post-dispositional rights and procedure. The performance standards are also amended to better reflect changing standards for juvenile defense, such as encouraging the practice of holistic defense when possible. This Rule is hereby adopted on the day of promulgation.

**Title 22
CORRECTIONS, CRIMINAL JUSTICE AND LAW
ENFORCEMENT**

**Part XV. Public Defender Board
Chapter 13. Trial Court Performance Standards for Attorneys Representing Children in Delinquency—Detention through Adjudication**

§1301. Purpose

A. The Standards for Attorneys Representing Children in Delinquency Proceedings are intended to serve several purposes. First and foremost, the standards are intended to encourage district public defenders, assistant public defenders and appointed counsel to perform to a high standard of representation and to promote professionalism in the representation of children in delinquency proceedings.

B. The standards are also intended to alert defense counsel to courses of action that may be necessary, advisable, or appropriate, and thereby to assist attorneys in deciding upon the particular actions to be taken in each case to ensure that the client receives the best representation possible. The standards are further intended to provide a measure by which the performance of district public defenders, assistant public defenders and appointed counsel may be evaluated, including guidelines for proper documentation of files to demonstrate adherence to the standards, and to assist in training and supervising attorneys.

C. The language of these standards is general, implying flexibility of action that is appropriate to the situation. In those instances where a particular action is absolutely essential to providing quality representation, the standards use the word "shall." In those instances where a particular action is usually necessary to providing quality representation, the standards use the word "should." Even where the standards use the word "shall," in certain situations the lawyer's best informed professional judgment and discretion may indicate otherwise.

D. These standards are not criteria for the judicial evaluation of alleged misconduct of defense counsel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2599 (September 2011), amended LR 45:403 (March 2019).

§1303. Obligations of Defense Counsel

A. The primary and most fundamental obligation of the attorney representing a child client in a delinquency case is to provide zealous and effective representation for his or her client at all stages of the process. The defense attorney's duty and responsibility is to promote and protect the expressed interests of the child client. Attorneys also have an obligation to uphold the ethical standards of the Louisiana Rules of Professional Conduct, to act in accordance with the Louisiana Rules of the Court, and to properly document case files to reflect adherence to these standards.

B. The attorney who provides legal services for a child client owes the same duties of undivided loyalty, confidentiality and zealous representation to the child client as is due to an adult client. The attorney's personal opinion of the child client's guilt is not relevant to the defense of the case.

C. The attorney should communicate with the child client in a manner that will be effective, considering the child client's maturity, intellectual ability, language, educational level, special education needs, cultural background, gender, and physical, mental and emotional health. If appropriate, the attorney shall file a motion to have a foreign language or sign language interpreter appointed by the court and present at the initial interview and at all stages of the proceedings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2599 (September 2011), amended LR 45:404 (March 2019).

§1305. Child Client's Expressed Preferences

A. The attorney shall represent the child client's expressed preferences and follow the child client's direction throughout the course of litigation. In addition, the attorney has a responsibility to counsel the child client and advise the client as to potential outcomes of various courses of action. The attorney shall refrain from substitution of his or her own view or the parents' wishes for the position of the child client. The use of the word *parent* hereafter refers to the parent, guardian, custodial adult or person assuming legal responsibility for the juvenile.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2599 (September 2011), amended LR 45:404 (March 2019).

§1307. Allocation of Authority between Child Client and Attorney

A. Certain decisions relating to the conduct of the case are ultimately for the child client and other decisions are ultimately for the attorney. The child client, after full consultation with counsel, is ordinarily responsible for determining:

1. whether to admit or deny the charges in the petition;

2. - 5. ...

B. The attorney should explain that final decisions concerning trial strategy, after full consultation with the child client and after investigation of the applicable facts and law, are ultimately to be made by the attorney. The client should be made aware that the attorney is primarily responsible for deciding what motions to file, which witnesses to call, whether and how to conduct cross-examination, and what other evidence to present. Implicit in the exercise of the attorney's decision-making role in this regard is consideration of the child client's input and full disclosure by the attorney to the client of the factors considered by the attorney in making the decisions.

C. If a disagreement on significant matters of tactics or strategy arises between the lawyer and the child client, the lawyer should make a record of the circumstances, his or her advice and reasons, and the conclusion reached. This record should be made in a manner that protects the confidentiality of the attorney-client relationship.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2600 (September 2011), amended LR 45:404 (March 2019).

§1308. Scope and Continuity of Representation

A. The attorney should consult with the child client and provide representation at the earliest stage of proceedings possible and, whenever possible, the same attorney should continue representing the child client through case closure, including in the post-disposition phase of proceedings. Whenever possible, the same attorney who represented a child client in a previous petition or matter should be assigned to represent the same child client in subsequent petitions.

B. The attorney should engage in holistic advocacy to the extent possible by counseling, advocating for or representing the child client in ancillary matters outside the delinquency system involving issues such as educational, mental health, or public benefits rights that may have a direct or indirect impact on the outcome of the delinquency proceedings. When direct advocacy is not possible due to a lack of expertise, time or other resources, counsel should attempt to refer the child client to qualified advocates specializing in those ancillary matters if doing so is in keeping with the child client's expressed interests, and strategically does not jeopardize confidentiality or otherwise do harm to the child client's goals of representation.

C. The attorney should consider engaging the services of a diverse defense team including a social service practitioner to assess the client's and the client's family's social service needs, to counsel the child client, and to plan and coordinate services that will advance the child client's express interests in the case. Social service practitioners may be beneficial in presenting alternatives to detention, negotiating access to diversionary programs, presenting alternatives to custodial or probationary dispositions, modifying dispositions, and preventing recidivism.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 45:404 (March 2019).

§1309. Basic Competency in Juvenile Proceedings

A. Before agreeing to defend a child client, an attorney has an obligation to make sure that he or she has sufficient time, resources, knowledge and experience to offer quality representation to the child client. Before an attorney defends a child client, the attorney should observe juvenile court, including every stage of a delinquency proceeding, and have a working knowledge of juvenile law and practice.

B. Prior to representing a child client, at a minimum, the attorney should receive training or be knowledgeable in the following areas:

1. relevant federal and state statutes, court decisions and the Louisiana court rules, including but not limited to:
 - a. - d. ...
 - e. The Prison Rape Elimination Act of 2003, 42 U.S.C. §15601 et seq.;
 - f. Prison Rape Elimination Act National Standards, 28 C.F.R. §115.5 et seq.;
 - g. state laws concerning privilege and confidentiality, public benefits, education and disabilities;
 - h. state laws and rules of professional responsibility or other relevant ethics standards; and
 - i. the Uniform Rules of the Courts of Appeal and any applicable local appellate rules.

2. - 6. ...

C. The attorney should also be familiar with the subject matter of, and be prepared to research when necessary, the following areas of law when necessary and appropriate:

1. Family Education Rights Privacy Act (FERPA), 20 U.S.C. §1232g;
2. Health Insurance Portability and Accountability Act of 1996 (HIPAA), P.L., 104-192 § 264, 42 U.S.C. § 1320d-2 (in relevant part);
3. *Louisiana Administrative Code*, Title 28, Part XLIII (Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act) and Part CI (Bulletin 1508—Pupil Appraisal Handbook).

D. An attorney representing juveniles shall annually complete six hours of training relevant to the representation of juveniles. Additional training may include, but is not limited to:

1. adolescent mental health diagnoses and treatment, including the use of psychotropic medications;
2. how to read a psychological or psychiatric evaluation and how to use these in motions, including but not limited to those involving issues of consent and competency relating to Miranda warnings, searches and waivers;
3. normative childhood development (including brain development), developmental delays and mental retardation;
4. information on the multidisciplinary input required in child-related cases, including information on local experts who can provide consultation and testimony;
5. information on educational rights, including special educational rights and services and how to access and interpret school records and how to use them in motions, including but not limited to those related to consent and competency issues;
6. school suspension and expulsion procedures;
7. skills for communicating with children;
8. information gathering and investigative techniques;

9. use and application of the current assessment tool(s) used in the applicable jurisdiction and possible challenges that can be used to protect child clients;

10. immigration issues regarding children;

11. gang involvement and activity;

12. factors leading children to delinquent behavior, signs of abuse and/or neglect, and issues pertaining to status offenses; and

13. information on religious background and racial and ethnic heritage, and sensitivity to issues of cultural and socio-economic diversity, sexual orientation, and gender identity.

E. Individual lawyers who are new to juvenile representation should take the opportunity to practice under the guidance of a senior lawyer mentor. Correspondingly, experienced attorneys are encouraged to provide mentoring to new attorneys, assist new attorneys in preparing cases, debrief following court hearings, and answer questions as they arise.

F. If personal matters make it impossible for the defense counsel to fulfill the duty of zealous representation, he or she has a duty to refrain from representing the client. If it later appears that counsel is unable to offer effective representation in the case, counsel should move to withdraw.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2600 (September 2011), amended LR 45:405 (March 2019).

§1311. Basic Obligations

A. ...

B. The attorney shall participate in all negotiations, discovery, pre-adjudication conferences, and hearings.

C. The attorney should confer with the juvenile within 48 hours of being appointed and prior to every court appearance to counsel the child client concerning the subject matter of the litigation, the child client's rights, the court system, the proceedings, the lawyer's role, and what to expect in the legal process.

D. The attorney should promptly inform the child client of his or her rights and pursue any investigatory or procedural steps necessary to protect the child client's interests throughout the process.

E. Upon initial review of the petition and initial communication with the client, the attorney should determine whether legal issues exist that warrant the filing of pretrial motions and file appropriate pleadings.

F. The attorney should refrain from waiving substantial rights or making stipulations that are inconsistent with the child client's expressed interests.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2601 (September 2011), amended LR 45:405 (March 2019).

§1313. Conflicts of Interest

A. The attorney shall be alert to all potential and actual conflicts of interest that would impair his or her ability to represent a child client. Loyalty and independent judgment are essential elements in the lawyer's relationship to a child client. Conflicts of interest can arise from the lawyer's responsibilities to another client, a former client or a third

person, or from the lawyer's own interests. Each potential conflict shall be evaluated with the Louisiana Rules of Professional Conduct, particular facts and circumstances of the case, and the child client in mind. Where appropriate, attorneys may be obligated to contact the Office of Disciplinary Counsel to seek an advisory opinion on any potential conflicts.

B. Co-defendants are presumed to have a conflict of interest. Representation of co-defendants where the representation of one client will be directly adverse to another client, or there is a significant risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client, a former client or a third person or by a personal interest of the lawyer is a per se violation of the constitutional guarantee of effective assistance of counsel and the Louisiana Rules of Professional Conduct.

C. The attorney's obligation is to the child client. An attorney should not permit a parent or custodian to direct the representation. The attorney should not share information unless disclosure of such information has been approved by the child client. With the child client's permission, the attorney should maintain rapport with the child client's parent or guardian but should not allow that rapport to interfere with the attorney's duties to the child client or the expressed interests of the child client. Where there are conflicts of interests or opinions between the client and the client's parent or custodian, the attorney should not discuss the case with parents and shall not represent the views of a parent that are contrary to the child client's wishes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2601 (September 2011), amended LR 45:405 (March 2019).

§1315. Client Communications

A. The attorney shall keep the child client informed of the developments in the case and the progress of preparing the defense and should promptly comply with all reasonable requests for information.

B. Where the attorney is unable to communicate with the child client or his or her guardian because of language differences, the attorney shall take whatever steps are necessary to ensure that he or she is able to communicate with the client and that the client is able to communicate his or her understanding of the proceedings. Such steps should, if necessary and appropriate, include obtaining funds for an interpreter to assist with pre-adjudication preparation, interviews, and investigation, as well as in-court proceedings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2601 (September 2011), amended LR 45:406 (March 2019).

§1317. Client Confidentiality

A. Juvenile defense counsel is bound by attorney-client confidentiality and privilege. The duty of confidentiality that the attorney owes the child client is coextensive with the duty of confidentiality that attorneys owe their adult clients.

B. The attorney should seek from the outset to establish a relationship of trust and confidence with the child client. The attorney should explain that full disclosure to counsel of

all facts known to the child client is necessary for effective representation and, at the same time, explain that the attorney's obligation of confidentiality makes privileged the client's disclosures relating to the case.

C. There is no exception to attorney-client confidentiality in juvenile cases for parents or guardians. Juvenile defense counsel has an affirmative obligation to safeguard a child client's information or secrets from parents or guardians. Absent the child client's informed consent, the attorney's interviews with the client shall take place outside the presence of the parents or guardians. Parents or guardians do not have any right to inspect juvenile defense counsel's file, notes, discovery, or any other case-related documents without the client's express consent. While it may often be a helpful or even necessary strategy to enlist the parents or guardians as allies in the case, juvenile defense counsel's primary obligation is to keep the child client's secrets. Information relating to the representation of the child client includes all information relating to the representation, whatever its source. Even if revealing the information might allow the client to receive sorely-needed services, defense counsel is bound to protect the child client's confidences, unless the client gives the attorney explicit permission to reveal the information to get the particular services or disclosure is impliedly authorized to carry out the client's case objectives.

D. - D.6. ...

E. Attorneys who use the services of a mental health or social service practitioner should be familiar with the practitioner's legal duties to report instances of child abuse, and the extent to which the attorney's duty of confidentiality or the attorney-client privilege extends to the mental health or social service practitioner. The attorney should also be familiar with the practitioner's obligations to report abuse under the codes of professional ethics that govern the practitioner's professional licensing. The attorney should use professional judgment in engaging the assistance of a mental health or social service practitioner, and when so engaged should take appropriate action to minimize the practitioner's obligation to report information that would otherwise be protected by the attorney client privilege or the attorney's duty of confidentiality.

F. In the event that the attorney or a member of the defense team discloses information relating to the representation of the client without the client's express or implied authorization pursuant to a professional obligation, mandatory reporting statute, or other reason, the attorney should document the disclosure and the reasons therefor, should inform the client of the disclosure in an age- and developmentally-appropriate manner, and should consider whether the disclosure will render the attorney's continued representation of the client ineffective or whether the disclosure creates an actual or potential conflict of interests in continuing the representation, and take appropriate action pursuant to §1313 of this Part.

G. To observe the attorney's ethical duty to safeguard the child client's confidentiality, attorney-client interviews shall take place in a private environment. This limitation requires that, at the courthouse, juvenile defense counsel should arrange for access to private interview rooms, instead of discussing case specifics with the child client in the hallways; in detention facilities, juvenile defense counsel

should have means to talk with the child client out of the earshot of other inmates and guards; and in the courtroom, juvenile defense counsel should ask for a private space in which to consult with the child client and speak with the child client out of range of any microphones or recording devices.

H. An attorney shall exercise discretion in revealing or discussing the contents of psychiatric, psychological, medical and social reports, tests or evaluations bearing on the child client's history or condition. In general, the lawyer should not disclose data or conclusions contained in such reports to the extent that, in the lawyer's judgment based on knowledge of the child client and the child client's family, the revelation would be likely to affect adversely the client's well-being or relationships within the family and disclosure is not necessary to protect the client's interests in the proceeding.

I. An attorney should ensure that communications with a client in an institution, including a detention center, are confidential. One way to ensure confidentiality is to stamp all mail as legal and confidential.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2601 (September 2011), amended LR 45:406 (March 2019).

§1318. Confidentiality of Proceedings

A. The attorney should be familiar with the rules pertaining to the closure of proceedings. If necessary to protect the client's interests, an attorney shall ensure that any juvenile proceeding which is meant to be closed to the public remains so and, if necessary, shall request that the court order the courtroom cleared of any unnecessary individuals.

B. In cases where delinquency proceedings are public, to protect the confidential and sometimes embarrassing information involved, the attorney, in consultation with the child client, should move to close the proceedings or request the case to be called last on the docket when the courtroom is empty.

C. The media may report on certain delinquency cases. If a decision is made to speak to the media, the attorney should be cautious due to confidentiality, other Rules of Professional Conduct, the potential for inaccurate reporting and strategic considerations. The attorney representing a child client before the juvenile court should avoid personal publicity connected with the case, both during adjudication and thereafter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 45:407 (March 2019).

§1321. Continuity of Representation

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2602 (September 2011), repealed LR 45:407 (March 2019).

§1323. Stand-In Counsel

A. Any attorney appointed to stand in for another at any delinquency proceeding shall:

1. represent the child zealously as if the child is his or her own client;

2. request continuances if asked to conduct contradictory hearings or contested summary hearings for which the stand-in counsel is unprepared or for which the client has not consented to having stand-in counsel in place of regular counsel, and object on the record to holding such hearing;

3. ensure that the child knows how to contact stand-in counsel in case the child does not hear from the attorney of record;

4. immediately communicate with the attorney of record regarding upcoming dates/hearings, how to contact the child, placement of the child, nature of charges, and other timely issues that the attorney of record may need to know or address; and

5. immediately or within a reasonable time thereafter provide to the child's attorney of record all notes, documents, and any discovery received.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2602 (September 2011), amended LR 45:407 (March 2019).

§1325. Caseloads

A. The attorney should not have such a large number of cases that he or she is unable to comply with these guidelines and the Louisiana Rules of Professional Conduct. Before agreeing to act as the attorney or accepting appointment by a court, the attorney has an obligation to make sure that he or she has sufficient time, resources, knowledge, and experience to offer quality legal services in a particular matter. If, after accepting an appointment, it later appears that the attorney is unable to offer effective representation, the attorney should consider appropriate case law and ethical standards in deciding whether to move to withdraw or take other appropriate action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2602 (September 2011), amended LR 45:407 (March 2019).

§1327. State Social Work and Probation Personnel

A. Attorneys should cooperate with social workers and probation personnel and should instruct the client to do so, except to the extent such cooperation is or will likely become inconsistent with protection of the client's legitimate interests in the proceeding or of any other rights of the client under the law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2603 (September 2011), amended LR 45:407 (March 2019).

§1329. Detention

A. For purposes of appointment of counsel, children are presumed to be indigent. The attorney shall meet with a detained child client within 48 hours of notice of appointment or before the continued custody hearing, whichever is earlier, and shall take other prompt action necessary to provide quality representation, including:

1. personally reviewing the well-being of the child client and the conditions of the facility, and ascertaining the need for any medical or mental health treatment;

2. ascertaining whether the child client was arrested pursuant to a warrant or a timely determination of probable cause by a judicial officer;

3. making a motion for the release of the child client where no determination of probable cause has been made by a judicial officer within 48 hours of arrest or where the child client is held for on misdemeanor allegations committed before the age of 13; and

4. invoking the protections of appropriate constitutional provisions, federal and state laws, statutory provisions, and court rules on behalf of the child client, and revoking any waivers of these protections purportedly given by the child client, as soon as practicable via a notice of appearance or other pleading filed with the state and court.

B. Where the child client is detained, the attorney shall:

1. ...

2. be familiar with the different types of pre-adjudication release conditions the court may set and whether private or public agencies are available to act as a custodian for the child client's release; and

3. ...

C. The attorney shall attempt to secure the pre-adjudication release of the child client under the conditions most favorable and acceptable to the client unless contrary to the expressed wishes of the child client.

D. If the child client is detained, the attorney should try to ensure, by oral or written motion prior to any initial court hearing, that the child client does not appear before the judge in inappropriate clothing, shackles or handcuffs. If a juvenile court persists in the indiscriminate shackling of juvenile delinquents, the attorney should consider seeking supervisory review from an appellate court.

E. The attorney should determine whether a parent or other adult is able and willing to assume custody of the child client. Every effort should be made to locate and contact such a responsible adult if none is present at the continued custody hearing.

F. The attorney should identify and arrange the presence of to have witnesses to testify in support of release. This may include a minister or spiritual advisor, teacher, relative, other mentor or other persons who are willing to provide guidance, supervision and positive activities for the youth during release.

G. If the juvenile is released, the attorney should fully explain the conditions of release to the child client and advise him or her of the potential consequences of a violation of those conditions in developmentally appropriate language. If special conditions of release have been imposed (e.g., random drug screening) or other orders restricting the client's conduct have been entered (e.g., a no contact order), the client shall be advised of the legal consequences of failure to comply with such conditions in developmentally appropriate language.

H. The attorney shall be familiar with the detention facilities, particularly with any deficiencies related to the conditions of confinement and services available therein, and with the availability of community placements and services that could serve as alternatives to detention available for placement.

I. Where the child client is detained and unable to obtain pre-adjudication release, the attorney should be aware of any special medical, mental health, education and security needs of the child client and, in consultation with the child client, request that the appropriate officials, including the court, take steps to meet those special needs.

J. Following the continued custody hearing, the attorney should continue to advocate for release or expeditious placement of the child client. If the child client is not released, he or she should be advised of the right to have the placement decision reviewed or appealed.

K. Whenever the child client is held in some form of pre-adjudication detention, the attorney should visit the child client at least every two weeks and personally review his or her well-being, the conditions of the facility, and the opportunities to obtain release. Attorneys representing a child client who is held in a facility outside of the jurisdiction should consider using alternative methods of communication to the extent appropriate.

L. Whenever the child client is held in some form of pre-adjudication detention, the attorney should be prepared for an expedited adjudicatory hearing.

M. Where the child client is not able to obtain release under the conditions set by the court, counsel should consider pursuing modification of the conditions of release under the procedures available.

N. If the court sets conditions of release which require the posting of monetary bond or the posting of real property as collateral for release, counsel should strongly advocate that the court consider the presumptive indigent status of the juvenile and set a reasonable monetary bond within the family's ability to pay. Counsel should argue for an individualized bail amount, as opposed to a preset bail schedule used for adult offenders, and argue the bail criteria found in Children's Code article 824.

O. If the court sets conditions of release which require the posting of monetary bond or the posting of real property as collateral for release, counsel should make sure the child client understands the available options and the procedures that must be followed in posting such assets. Where appropriate, counsel should advise the child client and others acting in his or her behalf how to properly post such assets.

P. The lawyer should never personally guarantee the attendance or behavior of the child client or any other person, whether as surety on a bail bond or otherwise.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2603 (September 2011), amended LR 45:407 (March 2019).

§1331. Initial Interview with Child Client

A. The attorney should conduct a client interview as soon as practicable in order to obtain the information necessary to provide quality representation at the early stages of the case and to provide the child client with information concerning the representation and the case proceedings. Establishing and maintaining a relationship with the child client is the foundation of quality representation. Irrespective of the child client's age, the attorney should consult with the child client well before each court hearing. The attorney shall explain to the client how to contact the attorney and should promptly comply with child client's requests for contact and assistance.

B. - C.3. ...

D. The purposes of the initial interview are to provide the child client with information concerning the case and to acquire information from the child client concerning the facts of the case.

1. To provide information to the client, the attorney should specifically:

a. explain the nature of the attorney-client relationship to the child client, including the requirements of confidentiality;

b. explain the attorney-client privilege and instruct the child client not to talk to anyone about the facts of the case without first consulting with the attorney;

c. ensure the child client understands that he or she has the right to speak with his or her attorney;

d. - h. ...

i. provide the names of any other persons who may be contacting the child client on behalf of the attorney;

j. ...

k. discuss arrangements to address the child client's most critical needs (e.g., medical or mental health attention, request for separation during detention, or contact with family or employers); and

1. assess whether the child client is competent to proceed or has a disability that would impact a possible defense or mitigation.

2. For a child client who is detained, the attorney should also:

a. ...

b. explain the type of information that will be requested in any interview that may be conducted by a pre-adjudication release agency, explain that the child client should not make statements concerning the offense, and explain that the right to not testify against oneself extends to all situations, including mental health evaluations; and

c. warn the child client of the dangers with regard to the search of client's cell and personal belongings while in custody and the fact that telephone calls, mail, and visitations may be monitored by detention officials.

3. The attorney or a representative of the attorney should collect information from the child client including, but not limited to:

a. the facts surrounding the charges leading to the child client's detention, to the extent the child client knows and is willing to discuss these facts;

b. the child client's version of the arrest, with or without a warrant; whether the child client was searched and if anything was seized, with or without warrant or consent; whether the child client was interrogated and if so, whether a statement was given; the child client's physical and mental status at the time any statement was given; whether any samples were provided, such as blood, tissue, hair, DNA, handwriting, etc., and whether any scientific tests were performed on the child client's body or bodily fluids;

c. - e. ...

f. the child client's current living arrangements, family relationships, and ties to the community, including the length of time his or her family has lived at the current and former addresses, as well as the child client's supervision when at home;

g. ...

h. the immigration status of the child client and his or her family members, if applicable;

i. the child client's educational history, including current grade level, attendance and any disciplinary history;

j. the child client's physical and mental health, including any impairing conditions such as substance abuse or learning disabilities, and any prescribed medications and other immediate needs;

k. the child client's delinquency history, if any, including arrests, detentions, diversions, adjudications, and failures to appear in court;

l. whether there are any other pending charges against the child client and the identity of any other appointed or retained counsel;

m. whether the child client is on probation (and the nature of the probation) or post-release supervision and, if so, the name of his or her probation officer or counselor and the child client's past or present performance under supervision;

n. the options available to the child client for release if the child client is in secure custody;

o. the names of individuals or other sources that the attorney can contact to verify the information provided by the child client and the permission of the child client to contact those sources;

p. the ability of the child client's family to meet any financial conditions of release (for clients in detention); and

q. where appropriate, evidence of the child client's competence to participate in delinquency proceedings and/or mental state at the time of the offense, including releases from the client for any records for treatment or testing for mental health or mental retardation.

E. Throughout the delinquency process, the attorney should take the time to:

1. keep the child client informed of the nature and status of the proceedings on an ongoing basis;

2. maintain regular contact with the child client during the course of the case and especially before court hearings;

3. review all discovery with the child client as part of the case theory development;

4. promptly respond to telephone calls and other types of contact from the child client, where possible, within one business day or a reasonable time thereafter;

5. counsel the child client on options and related consequences and decisions to be made; and

6. seek the lawful objectives of the child client and not substitute the attorney's judgment for that of the child client in those case decisions that are the responsibility of the child client. Where an attorney believes that the child client's desires are not in his or her best interest, the attorney should discuss the consequences of the child client's position. If the child client maintains his or her position, the attorney should defend the child client's expressed interests vigorously within the bounds of the law.

F. In interviewing a child client, it is proper for the lawyer to question the credibility of the child client's statements or those of any other witness. The lawyer shall not, however, suggest expressly or by implication that the child client or any other witness prepare or give, on oath or to the lawyer, a version of the facts which is in any respect

untruthful, nor shall the lawyer intimate that the child client should be less than candid in revealing material facts to the attorney.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2603 (September 2011), amended LR 45:408 (March 2019).

§1333. Transfer to Adult Proceedings

A. The attorney shall be familiar with laws subjecting a child client to the exclusive jurisdiction of a court exercising criminal jurisdiction, including the offenses subjecting the child client to such jurisdiction. Counsel should seek to discover at the earliest opportunity whether transfer will be sought and, if so, the procedure and criteria according to which that determination will be made.

B. Upon learning that transfer will be sought or may be elected, the attorney should fully explain the nature of the proceeding and the consequences of transfer to the child client and the child client's parents. In so doing, counsel may further advise the child client concerning participation in diagnostic and treatment programs that may provide information material to the transfer decision.

C. - C.3. ...

D. Where a district attorney may transfer the case either through indictment filed directly in adult court or by a finding of probable cause at a continued custody hearing in juvenile court, the attorney should present all facts and mitigating evidence to the district attorney to keep the child client in juvenile court. When a finding of probable cause triggers waiver of juvenile court jurisdiction automatically or at the discretion of the prosecutor, the attorney shall seek a postponement of the continued custody hearing and waive any time delays necessary to prepare adequately in order to mount an effective challenge to waive or to negotiate an alternative to waiver.

E. Where the district attorney makes a motion to conduct a hearing to consider whether to transfer the child client, the attorney should prepare in the same way and with as much care as for an adjudication. The attorney should:

1. conduct an in-person interview with the child client;
2. ...
3. consider obtaining an expert witness to testify to the amenability of the child client to rehabilitation; and
4. present all facts and mitigating evidence to the court to keep the child client in juvenile court.

F. In preparing for a transfer hearing, the attorney should be familiar with all the procedural protections available to the child client including but not limited to discovery, cross-examination, compelling witnesses.

G. If the attorney who represented the child client in the delinquency court will not represent the child client in the adult proceeding, the delinquency attorney should ensure the new attorney has all the information acquired to help in the adult proceedings. If possible, the delinquency attorney should assist the new attorney, particularly if certain juvenile issues are to be litigated.

H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2605 (September 2011), amended LR 45:410 (March 2019).

§1335. Mental Health Examinations

A. Throughout a delinquency proceeding, either party may request or the judge may order a mental health examination of the child client. Admissions made during such examinations may not be protected from disclosure. The attorney should ensure the child client understands the consequences of admissions during such examinations and advise the client that personal information about the child client or the child client's family may be revealed to the court or other personnel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2605 (September 2011), amended LR 45:410 (March 2019).

§1337. Mental Incapacity to Proceed

A. ...

B. Although the client's expressed interests ordinarily control, the attorney should question capacity to proceed without the child client's approval or over the child client's objection, if necessary.

C. If, at any time, the child client's behavior or mental ability indicates that he or she may be incompetent, the attorney should consider filing a motion for a competency commission.

D. ...

E. Prior to the evaluation by the commission, the attorney should request from the child client and provide to the commission all relevant documents including but not limited to the arrest report, prior psychological/psychiatric evaluations, school records and any other important medical records.

F. Where appropriate, the attorney should advise the client of the potential consequences of a finding of incompetence. Prior to any proceeding, the attorney should be familiar with all aspects of the evaluation and should seek additional expert advice where appropriate. If the competency commission's finding is that the child client is competent, where appropriate, the attorney should consider calling an independent mental health expert to testify at the competency hearing.

G. The attorney should be aware that the burden of proof is on the child client to prove incompetency and that the standard of proof is a preponderance of the evidence.

H. If the child client is found incompetent, the attorney should continue to represent the child client's expressed interest until the matter is resolved.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2605 (September 2011), amended LR 45:410 (March 2019).

§1339. Insanity

A. ...

B. If the attorney believes that the child client did not appreciate the consequences of his or her actions at the time of the offense, the attorney should consider filing for a sanity commission.

C. The attorney should advise the child client that if he or she is found not delinquent by reason of insanity, the court may involuntarily commit the child client to the Department of Health for treatment. The attorney should be prepared to advocate on behalf of the child client against involuntary commitment and provide other treatment options such as outpatient counseling or services.

D. The attorney should be prepared to raise the issue of sanity during all phases of the proceedings, if the attorney's relationship with the child client reveals that such a plea is appropriate.

E. The attorney should be aware that the child client has the burden of establishing the defense of insanity at the time of the offense by a preponderance of the evidence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2606 (September 2011), amended LR 45:410 (March 2019).

§1341. Manifestation of a Disability

A. Where the child client's actions that are the subject of the delinquency charge suggest a manifestation of a disability, the attorney should argue that the disability prevented the client from having the mental capacity or specific intent to commit the crime. Where appropriate, for school-based offenses, the attorney should argue that the school did not follow the child client's individual education program, which could have prevented the client's behavior. The attorney should seek a judgment of dismissal or a finding that the juvenile is not delinquent. This information may also be used for mitigation at the time of disposition following a plea or a finding of delinquency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2606 (September 2011), amended LR 45:411 (March 2019).

§1343. Ensure Official Recording of Court Proceedings

A. The attorney should take all necessary steps to ensure a full official recording of all aspects of the court proceedings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2606 (September 2011), amended LR 45:411 (March 2019).

§1345. Investigation

A. The child client's attorney shall conduct a prompt and diligent independent case investigation. The child client's admissions of responsibility or other statements to counsel do not obviate the need for investigation.

B. The attorney should ensure that the charges and disposition are factually and legally correct and the child client is aware of potential defenses to the charges.

C. The attorney should examine all charging documents to determine the specific charges that have been brought against the child client, including the arrest warrant, accusation and/or indictment documents, and copies of all charging documents in the case. The relevant statutes and precedents should be examined to identify the elements of the offense(s) with which the child client is charged, both the ordinary and affirmative defenses that may be available, any lesser included offenses that may be available, and any

defects in the charging documents, constitutional or otherwise, such as statute of limitations or double jeopardy.

D. The attorney should seek investigators and experts, as needed, to assist the attorney in the preparation of a defense, in the understanding of the prosecution's case, or in the rebuttal of the prosecution's case. The attorney should avoid making herself the sole witness to information he or she anticipates introducing or needing to rebut at trial.

E. Where circumstances appear to warrant it, the lawyer should also investigate resources and services available in the community and, if appropriate, recommend them to the child client and child client's family.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2606 (September 2011), amended LR 45:411 (March 2019).

§1347. Diversion/Alternatives

A. The attorney should be familiar with diversionary programs and alternative solutions available in the community. Such programs may include diversion, mediation, or other alternatives that could result in a child client's case being dismissed or handled informally. When appropriate and available, the attorney shall advocate for the use of informal mechanisms that could divert the client's case from the formal court process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2606 (September 2011), amended LR 45:411 (March 2019).

§1349. Continued Custody Hearing

A. The attorney should take steps to see that the continued custody hearing is conducted in a timely fashion consistent with the prescribed time limits in the Children's Code unless there are strategic reasons for not doing so (e.g., when the offense charged would warrant an automatic transfer upon a finding of probable cause).

B. - B.4. ...

5. the child client's custodial situation, including all persons living in the home;

6. - 7. ...

C. If the child client is retained in custody and a petition not filed within the time period prescribed by the Children's Code, the attorney should request immediate release of the child client and other appropriate remedy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2607 (September 2011), amended LR 45:411 (March 2019).

§1351. Appearance to Answer

A. The attorney should take steps to see that the answer hearing is conducted in a timely fashion consistent with the prescribed time limits in the Children's Code unless there are strategic reasons for not doing so.

B. The attorney should preserve the child client's rights at the appearance to answer on the charges by requesting a speedy trial, preserving the right to file motions, demanding discovery, and entering a plea of denial in most circumstances, unless there is a sound tactical reason for not doing so or the child client expresses an informed decision after having been thoroughly advised of both the

consequences of entering an admission and alternative options.

C. Where appropriate, the attorney should arrange for the court to address any immediate needs of the child client, such as educational/vocational needs, emotional/mental/physical health needs, and safety needs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2607 (September 2011), amended LR 45:411 (March 2019).

§1353. Child Client's Right to Speedy Trial

A. The attorney should be aware of and protect the child client's right to a speedy trial under the Children's Code and constitutional law, unless strategic considerations warrant otherwise. Requests or agreements to continue a contested hearing date should not be made without consultation with the child client. The attorney shall diligently work to complete the investigation and preparation in order to be fully prepared for all court proceedings. In the event an attorney finds it necessary to seek additional time to adequately prepare for a proceeding, the attorney should consult with the child client and discuss seeking a continuance of the upcoming proceeding. Whenever possible, written motions for continuance made in advance of the proceeding are preferable to oral requests for continuance. All requests for a continuance should be supported by well-articulated reasons on the record in the event it becomes an appealable issue.

B. If the child client's adjudication hearing is set outside the applicable time limitation, once the time delay lapses the attorney shall file a motion to dismiss the petition. If this motion is denied by the juvenile court, the attorney shall make an adequate record and seek supervisory review.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2607 (September 2011), amended LR 45:412 (March 2019).

§1355. Discovery

A. - C.3. ...

4. all oral and/or written statements by the child client, and the details of the circumstances under which the statements were made;

5. the prior delinquency record of the child client and any evidence of other misconduct that the government may intend to use against the accused;

C.6. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2607 (September 2011), amended LR 45:412 (March 2019).

§1357. Theory of the Case

A. During the investigation and adjudication hearing preparation, the attorney should develop and continually reassess a theory of the case, and this theory should inform all motions practice and trial strategy in order to yield the best result.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2607 (September 2011), amended LR 45:412 (March 2019).

§1359. Motions

A. The attorney should file motions, responses or objections as necessary to zealously represent the client. The attorney should consider filing an appropriate motion whenever there exists a good faith reason to believe that the child client is entitled to relief that the court has discretion to grant. The attorney should file motions as soon as possible due to the time constraints of juvenile court.

B. ...

C. Among the issues that counsel should consider addressing in a motion include, but are not limited to:

1. the pre-adjudication custody of the child client;

2. the constitutionality of the implicated statute or statutes (in which case counsel should be mindful that the Attorney General must be served with a copy of such a motion);

3. the constitutionality of the implicated statute or statutes;

4. the potential defects in the charging process;

5. the sufficiency of the charging document;

6. the propriety and prejudice of any joinder of charges or defendants in the charging document;

7. the discovery obligations of the state and the reciprocal discovery obligations of the defense;

8. the suppression of evidence gathered as the result of violations of the Fourth, Fifth or Sixth Amendments to the United States Constitution, state constitutional provisions or statutes, including:

a. the fruits of illegal searches or seizures;

b. involuntary statements or confessions;

c. statements or confessions obtained in violation of the child client's right to an attorney, or privilege against self-incrimination; or

d. unreliable identification evidence that would give rise to a substantial likelihood of irreparable misidentification.

9. the suppression of evidence gathered in violation of any right, duty or privilege arising out of state or local law;

10. in consultation with the child client, a mental or physical examination of the child client;

11. relief due to mental incapacity, incompetency, mental retardation or mental illness;

12. access to resources or experts who may be denied to the child client because of his or her indigence;

13. the child client's right to a speedy trial;

14. the child client's right to a continuance in order to adequately prepare his or her case;

15. matters of evidence which may be appropriately litigated by means of a pre-adjudication motion in limine;

16. motion for judgment of dismissal; or

17. matters of adjudication or courtroom procedures, including inappropriate clothing or restraints of the client.

18. matters related to the conditions under which the child client is confined, including the implementation of a program of education or other services while in confinement.

D. The attorney should withdraw a motion or decide not to file a motion only after careful consideration, and only after determining whether the filing of a motion may be necessary to protect the child client's rights, including later claims of waiver or procedural default. The attorney has a continuing duty to file motions as new issues arise or new evidence is discovered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2607 (September 2011), amended LR 45:412 (March 2019).

§1360. Interlocutory Writs of Review

A. Any interlocutory decision by the juvenile court is subject to the supervisory review of the Louisiana Courts of Appeal pursuant to an application for a writ of review. Writ applications from juvenile proceedings receive priority treatment and should be filed no later than 15 days from the date of the ruling at issue. Counsel should be familiar with the procedures for seeking supervisory writs, including the procedure for seeking an emergency writ of review.

B. If counsel files and argues an unsuccessful motion, counsel should strongly consider seeking supervisory review to the Louisiana Courts of Appeal. In situations where the court makes a spontaneous improper ruling, counsel should make an immediate oral motion in opposition, state any reasons for the opposition on the record, and notice an intention to seek supervisory writs on the matter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 45:413 (March 2019).

§1361. Plea Negotiations

A. The attorney should explore with the child client the possibility and desirability of reaching a negotiated disposition of the charges rather than proceeding to an adjudication, and in doing so, should fully explain the rights that would be waived by a decision to enter a plea and not to proceed to adjudication. After the attorney is fully informed on the facts and the law, he or she should, with complete candor, advise the child client concerning all aspects of the case, including counsel's frank estimate of the probable outcome. Counsel should not understate or overstate the risks, hazards or prospects of the case in order unduly or improperly to influence the child client's determination of his or her posture in the matter.

B. The attorney shall not accept any plea agreement without the child client's express authorization.

C. ...

D. The attorney should participate in plea negotiations to seek the best result possible for the child client consistent with the child client's interests and directions to the attorney. The attorney should consider narrowing contested issues or reaching global resolution of multiple pending cases. Prior to entering into any negotiations, the attorney shall have sufficient knowledge of the strengths and weaknesses of the child client's case, or of the issue under negotiation, enabling the attorney to advise the child client of the risks and benefits of settlement.

E. In conducting plea negotiations, the attorney should be familiar with:

1. the various types of pleas that may be agreed to, including an admission, a plea of nolo contendere, and a plea in which the child client is not required to personally acknowledge his or her guilt (Alford plea);

2. the advantages and disadvantages of each available plea according to the circumstances of the case including collateral consequences of a plea;

3. ...

4. whether the plea is expungable; and

5. whether the plea will subject the child client to requirements to register as a sex offender.

F. ...

G. In preparing to enter a plea before the court, the attorney should explain to the child client the nature of the plea hearing and prepare the child client for the role he or she will play in the hearing, including answering questions of the judge and providing a statement concerning the offense and the appropriate disposition. Specifically, the attorney should:

1. ...

2. make certain that the child client understands the rights he or she will waive by entering the plea and that the child client's decision to waive those rights is knowing, voluntary and intelligent; and

3. be satisfied that the plea is voluntary and that the child client understands the nature of the charges;

H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2608 (September 2011), amended LR 45:413 (March 2019).

§1365. Preparing the Child Client for Hearings

A. The attorney should explain to the child client, in a developmentally appropriate manner, what is expected to happen before, during and after each hearing.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2609 (September 2011), amended LR 45:413 (March 2019).

§1367. Adjudication Preparation

A. - B. ...

C. The attorney should decide if it is beneficial to secure an advance ruling on issues likely to arise at trial (e.g., use of prior adjudications to impeach the child client) and, where appropriate, the attorney should prepare motions and memoranda for such advance rulings.

D. The attorney should take steps to see that the adjudication hearing is conducted in a timely fashion consistent with the prescribed time limits in the Children's Code for conducting the hearing unless there are strategic reasons for not doing so, and should request appropriate relief for failure to follow the prescribed time limits.

E. Throughout the adjudication process, the attorney should endeavor to establish a proper record for appellate review. The attorney shall be familiar with the substantive and procedural law regarding the preservation of legal error for appellate review and should ensure that a sufficient record is made to preserve appropriate and potentially meritorious legal issues for such appellate review unless there are strategic reasons for not doing so.

F. Where necessary, the attorney should seek a court order to have the child client available for conferences.

G. Throughout preparation and adjudication, the attorney should consider the potential effects that particular actions may have upon sentencing if there is a finding of delinquency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2609 (September 2011), amended LR 45:413 (March 2019).

§1369. Objections

A. The attorney should make appropriate motions, including motions in limine and evidentiary and other objections, to advance the child client's position at adjudication or during other hearings. The attorney should be aware of the burdens of proof, evidentiary principles and court procedures applying to the motion hearing. If necessary, the attorney should file briefs in support of evidentiary issues. Further, during all hearings, the attorney should preserve legal issues for appeal, as appropriate.

B. Control of proceedings is principally the responsibility of the court, and the lawyer should comply promptly with all rules, orders, and decisions of the judge. Counsel has the right to make respectful requests for reconsideration of adverse rulings and has the duty to set forth on the record adverse rulings or judicial conduct that the attorney considers prejudicial to the child client's legitimate interests.

C. The attorney should be prepared to object to the introduction of any evidence damaging to the child client's interests if counsel has any legitimate doubt concerning its admissibility under constitutional or local rules of evidence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2609 (September 2011), amended LR 45:414 (March 2019).

§1373. Opening Statements

A. Counsel should prepare and request to make an opening statement to provide an overview of the case unless a strategic reason exists for not doing so. The attorney should be familiar with the law and the individual trial judge's rules regarding the permissible content of an opening statement. The attorney should consider the strategic advantages and disadvantages of disclosure of particular information during the opening statement and of deferring the opening statement until the beginning of the defense case.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2609 (September 2011), amended LR 45:414 (March 2019).

§1377. Stipulations

A. The attorney should consider the advantages and disadvantages of entering into stipulations concerning the prosecution's case. The attorney should not enter into any stipulations detrimental to the client's expressed goals of the representation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2610 (September 2011), amended LR 45:414 (March 2019).

§1379. Cross-Examination

A. Counsel should use cross-examination strategically to further the theory of the case. In preparing for cross-examination, the attorney should be familiar with the applicable law and procedures concerning cross-

examinations and impeachment of witnesses. In order to develop material for impeachment or to discover documents subject to disclosure, the attorney should be prepared to question witnesses as to the existence of prior statements that they may have made or adopted.

B. - B.12. ...

C. The lawyer should be prepared to examine fully any witness whose testimony is damaging to the child client's interests.

D. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2610 (September 2011), amended LR 45:414 (March 2019).

§1383. Defense Strategy

A. The attorney should develop, in consultation with the child client, an overall defense strategy. In deciding on a defense strategy, the attorney should consider whether the child client's legal interests are best served by not putting on a defense case, and instead relying on the prosecution's failure to meet its constitutional burden of proving each element beyond a reasonable doubt. In developing and presenting the defense case, the attorney should consider the implications it may have for a rebuttal by the prosecutor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2610 (September 2011), amended LR 45:414 (March 2019).

§1387. Direct Examination

A. - A.3. ...

4. consider the possible use of character witnesses, to the extent that use of character witnesses does not allow the prosecution to introduce potentially harmful evidence against the child client;

5. - 7. ...

8. after the state's presentation of evidence and a discussion with the child client, make the decision whether to call any witnesses.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2610 (September 2011), amended LR 45:414 (March 2019).

§1389. Child Client's Right to Testify

A. The attorney shall respect the child client's right to decide whether to testify.

B. The attorney shall discuss with the child client all of the considerations relevant to the child client's decision to testify. This advice should include consideration of the child client's need or desire to testify, any repercussions of testifying, the necessity of the child client's direct testimony, the availability of other evidence or hearsay exceptions that may substitute for direct testimony by the child client, and the child client's developmental ability to provide direct testimony and withstand possible cross-examination.

C. The attorney should be familiar with his or her ethical responsibilities that may be applicable if the child client insists on testifying untruthfully. If the child client indicates an intent to commit perjury, the attorney shall advise the child client against taking the stand to testify falsely and, if necessary, take appropriate steps to avoid lending aid to

perjury. If the child client persists in a course of action involving the attorney's services that the attorney reasonably believes is criminal or fraudulent, the attorney should seek the leave of the court to withdraw from the case. If withdrawal from the case is not feasible or is not permitted by the court, or if the situation arises during adjudication without notice, the attorney shall not lend aid to perjury or use the perjured testimony. The attorney should maintain a record of the advice provided to the child client and the child client's decision concerning whether to testify.

D. The attorney should protect the child client's privilege against self-incrimination in juvenile court proceedings. When the child client has elected not to testify, the lawyer should be alert to invoke the privilege and should insist on its recognition unless the client competently decides that invocation should not be continued.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2611 (September 2011), amended LR 45:414 (March 2019).

§1391. Preparing the Child Client to Testify

A. If the child client decides to testify, the attorney should prepare the child client to testify. This should include familiarizing the child client with the courtroom, court procedures, and what to expect during direct and cross-examination. If possible, prior to the adjudication hearing the attorney should conduct a mock direct and cross-examination on the child client with a separate attorney acting as prosecutor. Often the decision whether to testify may change at trial. Thus, the attorney should prepare the case for either contingency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2611 (September 2011), amended LR 45:415 (March 2019).

§1393. Questioning the Child Client

A. The attorney should seek to ensure that questions to the child client are phrased in a developmentally appropriate manner. The attorney should object to any inappropriate questions by the court or an opposing attorney.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2611 (September 2011), amended LR 45:415 (March 2019).

§1395. Closing Arguments

A. Counsel shall prepare a closing argument and shall deliver it at the conclusion of the hearing unless there is a strategic reason not to do so. The attorney should be familiar with the court rules, applicable statutes and law, and the individual judge's practice concerning time limits and objections during closing argument, and provisions for rebuttal argument by the prosecution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2611 (September 2011), LR 45:415 (March 2019).

§1397. Motion for a New Trial

A. - B.1. ...

2. the effect that such a motion might have upon the client's appellate rights, including whether the filing of such a motion is necessary to, or will assist in, preserving the child client's right to raise on appeal the issues that might be raised in the new trial motion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2611 (September 2011), amended LR 45:415 (March 2019).

§1399. Expungement

A. The attorney should inform the child client of any procedures available for requesting that the record of conviction be expunged or sealed. The attorney should explain that some contents of juvenile court records may be made public (e.g., when a violent crime has been committed) and that there are limitations on the expungement of records.

B. The attorney should provide assistance with the expungement procedure if requested, when the client appears eligible for expungement, including active representation of the child client in any hearing related to the expungement request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2611 (September 2011), amended LR 45:415 (March 2019).

Chapter 15. Trial Court Performance Standards for Attorneys Representing Children in Delinquency Proceedings—Post-Adjudication

§1501. Post-Adjudication Placement Pending Disposition

A. Following the entry of an adjudication, the attorney should be prepared to argue for the least restrictive environment for the child client pending disposition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2611 (September 2011), amended LR 45:415 (March 2019).

§1503. Defense's Active Participation in Designing the Disposition

A. The active participation of the child client's attorney at disposition is essential. In many cases, the attorney's most valuable service to the child client will be rendered at this stage of the proceeding. Counsel should have the disposition hearing held on a subsequent date after the adjudication, unless there is a strategic reason for waiving the delay between adjudication and disposition.

B. ...

C. The attorney should not make or agree to a specific dispositional recommendation without the child client's consent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2612 (September 2011), amended LR 45:415 (March 2019).

§1505. Obligations of Counsel Regarding Disposition

A. The child client's attorney should prepare for a disposition hearing as the attorney would for any other

evidentiary hearing, including the consideration of calling appropriate witnesses and the preparation of evidence in mitigation of or support of the recommended disposition. Among the attorney's obligations regarding the disposition hearing are:

1. to ensure all information presented to the court which may harm the child client and which is not accurate and truthful or is otherwise improper is stricken from the text of the predisposition investigation report;

2. to develop a plan which seeks to achieve the least restrictive and burdensome sentencing alternative that is most acceptable to the child client, and which can reasonably be obtained based on the facts and circumstances of the offense, the child client's background, the applicable sentencing provisions, and other information pertinent to the disposition;

3. to ensure all reasonably available mitigating and favorable information, which is likely to benefit the child client, is presented to the court;

4. to consider preparing a letter or memorandum to the judge or juvenile probation officer that highlights the child client's strengths and the appropriateness of the disposition plan proposed by the defense; and

A.5. - D.3. ...

4. the right of the child client to speak prior to receiving the disposition;

5. - 6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2612 (September 2011), amended LR 45:415 (March 2019).

§1507. Preparing the Child Client for the Disposition Hearing

A. In preparing for the disposition hearing, counsel should consider the need to:

1. explain to the child client the nature of the disposition hearing, the issues involved, the applicable sentencing requirements, disposition options and alternatives available to the court, and the likely and possible consequences of the disposition alternatives;

2. explain fully and candidly to the child client the nature, obligations, and consequences of any proposed dispositional plan, including the meaning of conditions of probation or conditional release, the characteristics of any institution to which commitment is possible, and the probable duration of the child client's responsibilities under the proposed dispositional plan;

3. obtain from the child client relevant information concerning such subjects as his or her background and personal history, prior criminal or delinquency record, employment history and skills, education, and medical history and condition, and obtain from the child client sources through which the information provided can be corroborated;

4. prepare the child client to be interviewed by the official preparing the predisposition report, including informing the child client of the effects that admissions and other statements may have upon an appeal, retrial or other judicial proceedings, such as forfeiture or restitution proceedings;

5. ...

6. when psychological or psychiatric evaluations are ordered by the court or arranged by the attorney prior to disposition, the attorney should explain the nature of the procedure to the child client and the potential lack of confidentiality of disclosures to the evaluator;

7. ensure the child client has adequate time to examine the predisposition report, if one is utilized by the court; and

8. maintain regular contact with the child client prior to the disposition hearing and inform the client of the steps being taken in preparation for disposition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2612 (September 2011), amended LR 45:416 (March 2019).

§1509. Predisposition Report

A. Where the court uses a predisposition report, counsel should be familiar with the procedures concerning the preparation, submission, and verification of the predisposition report. Counsel should be prepared to use the predisposition report in defense of the child client.

B. Counsel should be familiar with the practices of the officials who prepare the predisposition report and the defendant's rights in that process, including access to the predisposition report by the attorney and the child client, and ability to waive such a report, if it is in the child client's interest to do so.

C. Counsel should provide to the official preparing the report relevant information favorable to the client, including, where appropriate, the child client's version of the alleged act. Counsel should also take appropriate steps to ensure that erroneous or misleading information which may harm the child client is deleted from the report and to preserve and protect the child client's interests, including requesting that a new report be prepared with the challenged or unproven information deleted before the report or memorandum is distributed to the Office of Juvenile Justice or treatment officials.

D. In preparation for a disposition hearing, the attorney should ensure receipt of the disposition report no later than 72 hours prior to the disposition hearing. Upon receipt of this report, the attorney should review the report with the client, ensure its accuracy and prepare a response to the report. Counsel should prepare a written dispositional plan that counsel and the client agree will best achieve the client's dispositional goals. Counsel should consider consulting with social service experts or other appropriate experts to develop the dispositional plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2613 (September 2011), amended LR 45:416 (March 2019).

§1511. Prosecution's Disposition Position

A. The attorney should attempt to determine, unless there is a sound tactical reason for not doing so, whether the prosecution will advocate that a particular type or length of disposition be imposed and attempt to persuade the district attorney to support the child client's requested disposition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2613 (September 2011), amended LR 45:416 (March 2019).

§1513. Disposition Hearing

A. The attorney should take steps to see that the disposition hearing is conducted in a timely fashion consistent with the prescribed time limits in the Children's Code for conducting the disposition hearing unless there are strategic reasons for not doing so, and should request appropriate relief for failure to follow the prescribed time limits.

B. The attorney should be prepared at the disposition hearing to take the steps necessary to advocate fully for the requested disposition and to protect the child client's interest.

C. Where the dispositional hearing is not separate from adjudication or where the court does not have before it all evidence required by statute, rules of court or the circumstances of the case, the lawyer should seek a continuance until such evidence can be presented if to do so would serve the child client's interests.

D. The lawyer at disposition should examine fully and, where possible, impeach any witness whose evidence is damaging to the child client's interests and to challenge the accuracy, credibility, and weight of any reports, written statements, or other evidence before the court. The lawyer should not knowingly limit or forego examination or contradiction by proof of any witness, including a social worker or probation department officer, when failure to examine fully will prejudice the child client's interests. Counsel should seek to compel the presence of witnesses whose statements of fact or opinion are before the court or the production of other evidence on which conclusions of fact presented at disposition are based.

E. Where information favorable to the child client will be disputed or challenged, the attorney should be prepared to present supporting evidence, including testimony of witnesses, to establish the facts favorable to the child client.

F. Where the court has the authority to do so, counsel should request specific recommendations from the court concerning the place of detention, probation or suspension of part or all of the sentence, psychiatric treatment or drug rehabilitation.

G. During the hearing if the court is indicating a commitment is likely, the attorney should attempt to ensure that the child client is placed in the most appropriate, least restrictive placement available.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2613 (September 2011), amended LR 45:417 (March 2019).

§1515. Post-disposition Counseling

A. When a disposition order has been entered, it is the attorney's duty to explain the nature, obligations and consequences of the disposition to the child client and to urge upon the child client the need for accepting and cooperating with the dispositional order. The child client should also understand the consequences of a violation of the order.

B. Where the court places the child client in the custody of the Office of Juvenile Justice, with the child client's

permission and a parent's written release, the attorney should do the following:

1. assert the child client's rights to subsequent review hearings as provided by law;

2. provide the Office of Juvenile Justice with a copy of the child client's education records; and

3. advise the child client on his rights to continued representation post-disposition.

C. If appeal from either the adjudicative or dispositional decree is contemplated, the child client should be advised of that possibility, and the attorney shall do the following:

1. counsel compliance with the court's decision during the interim; and

2. request that any order of commitment be stayed pending appeal, if applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2613 (September 2011), amended LR 45:417 (March 2019).

§1517. Reviewing or Drafting Court Orders

A. Counsel's attorney should review all written orders or when necessary draft orders to ensure that the child client's interests are protected, to ensure the orders are clear and specific, and to ensure the order accurately reflects the court's oral pronouncement and complies with the applicable law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2614 (September 2011), amended LR 45:417 (March 2019).

§1519. Monitoring the Child Client's Post-disposition Detention

A. The attorney should monitor the child client's post-disposition detention status and ensure that the child client is placed in a commitment program in a timely manner as provided by law, that the child client is receiving appropriate or required rehabilitative services, that the child client is receiving appropriate educational services, and that the child client is physically, mentally, and emotionally safe in the child client's facility.

B. When a child client is committed to a program, the attorney shall provide the child client information on how to contact the attorney to discuss concerns.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2614 (September 2011), amended LR 45:417 (March 2019).

§1521. Post-Disposition Representation

A. The lawyer's responsibility to the child client does not end with the entry of a final dispositional order. Louisiana law entitles juveniles to representation at every stage of the proceeding, including post-disposition matters. The attorney should be prepared to counsel and render or assist in securing appropriate legal services for the child client in matters arising from the original proceeding.

B. The lawyer should conduct post-dispositional proceedings according to the principles generally governing representation in juvenile court matters. The attorney should be prepared to actively participate in hearings regarding probation status or conditions, conditions of confinement,

and post-dispositional services. When a child client is committed to a program and the attorney receives notice of an Office of Juvenile Justice transfer staffing or decision, the attorney should review and challenge the decision and, if appropriate, bring the matter to the trial court.

C. The lawyer should monitor the child client's progress in secure care and when appropriate file necessary motions for modification of disposition on behalf of the child client.

D. In providing representation with respect to post-dispositional proceedings, the attorney should do the following:

1. Contact both the child client and the agency or institution involved in the disposition plan at regular intervals in order to ensure that the child client's rights are respected and, where necessary, to counsel the child client and the child client's family concerning the dispositional plan. The attorney should actively seek court intervention when the child client is subjected to inappropriate treatment or conditions or when the child client's rights are violated.

2. Prepare for hearings, whether the review is sought by the child client or is a review hearing provided by law, by conducting an appropriate investigation including the following:

a. request and review documents from the child client's probation file or Office of Juvenile Justice file;

b. interview the child client and the child client's collateral contacts, including the adult or adults who are expected to assume custody of the child client when the child client is released from custody or supervision, or to provide re-entry support if the child client has reached the age of majority while in custody;

c. In consultation with the child client and available social services or other appropriate professionals, decide an appropriate plan for post-dispositional proceedings, including:

i. Whether to request a modification of disposition, including termination of probation, release from state custody or step-down to non-secure custody;

ii. Whether to request a modification of conditions of confinement or a modification of conditions of probation; and

d. Attempt to determine, unless there is a sound tactical reason for not doing so, the prosecution's position with respect to the hearing and attempt to persuade the district attorney to support the child client's position with respect to the hearing.

3. Conduct any post-dispositional hearings according to the principles generally governing representation in juvenile court matters including the following:

a. Develop, in consultation with the child client, a theory of the hearing and a plan for presenting and advancing the theory, including the presentment of friendly witnesses and documentation;

b. Request a contradictory hearing when necessary to establish disputed facts, develop evidence, or assert the child client's rights;

c. In a contradictory hearing, examine fully and, where possible, impeach any witness whose evidence is damaging to the child client's interests and to challenge the accuracy, credibility, and weight of any reports, written statements, or other evidence before the court. The lawyer should not knowingly limit or forego examination or

contradiction by proof of any witness, including a social worker or probation department officer, when failure to examine fully will prejudice the child client's interests. Counsel should seek to compel the presence of witnesses whose statements of fact or opinion are before the court or the production of other evidence on which conclusions of fact presented at disposition are based.

d. Present supporting evidence, including testimony of witnesses, to establish the facts favorable to the child client.

e. Advocate for the child client's interests in argument, whether in summary hearing or contradictory hearing.

E. Where the lawyer is aware that the child client or the child client's family needs and desires community or other medical, psychiatric, psychological, social or legal services, he or she may render assistance in arranging for such services.

F. Even after an attorney's representation in a case is complete, the attorney should comply with a child client's reasonable requests for information and materials.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2614 (September 2011), amended LR 45:417 (March 2019).

§1523. Child Client's Right to Appeal

A. Following a delinquency adjudication, the attorney should inform the child client of his or her right to appeal the judgment of the court and the action that must be taken to perfect an appeal. This discussion should include the details of the appellate process including the time frames of decisions, the child client's obligations pending appeal, and the possibility of success on appeal.

B. Counsel representing the child client following a delinquency adjudication should promptly undertake any factual or legal investigation in order to determine whether grounds exist for relief from juvenile court or administrative action. If there is reasonable prospect of a favorable result, the lawyer should advise the child client of the nature, consequences, probable outcome, and advantages or disadvantages associated with such proceedings.

C. After disposition, the attorney should consider filing a motion to reconsider the disposition. The attorney should consider an appeal of the disposition where appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2614 (September 2011), amended LR 45:418 (March 2019).

§1525. Counsel's Participation in Appeal

A. ...

B. Whether or not trial counsel expects to conduct the appeal, he or she shall promptly inform the child client of the right to appeal and take all steps necessary to protect that right until appellate counsel is substituted or the child client decides not to exercise this privilege.

C. If after such consultation and if the child client wishes to appeal the order, the lawyer should take all steps necessary to perfect the appeal and seek appropriate temporary orders or extraordinary writs necessary to protect the interests of the client during the pendency of the appeal.

D. In circumstances where the child client wants to file an appeal, the attorney should file the notice in accordance with the rules of the court and take such other steps as are necessary to preserve the defendant's right to appeal, such as ordering transcripts of the trial proceedings.

E. Where the child client indicates a desire to appeal the judgment and/or disposition of the court, counsel should consider requesting a stay of execution of any disposition, particularly one involving out-of-home placement or secure care. If the stay is denied, the attorney should consider appealing the stay. The attorney should also inform the child client of any right that may exist to be released on bail pending the disposition of the appeal. Where an appeal is taken and the child client requests bail pending appeal, trial counsel should cooperate with appellate counsel in providing information to pursue the request for bail.

F. Where the child client takes an appeal, trial counsel should cooperate in providing information to appellate counsel (where new counsel is handling the appeal) concerning the proceedings in the trial court.

G. Where there exists an adequate pool of competent counsel available for assignment to appeals from juvenile court orders and substitution will not work substantial disadvantage to the child client's interests, new counsel may be appointed in place of trial counsel.

H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2614 (September 2011), amended LR 45:418 (March 2019).

§1527. Probation Revocation Representation

A. Trial counsel should be prepared to continue representation if revocation of the child client's probation or parole is sought, unless new counsel is appointed.

B. The attorney appointed to represent the child client charged with a violation of probation should prepare in the same way and with as much care as for an adjudication. The attorney should:

1. conduct an in-person interview with the child client;
2. - 3. ...
4. consider reviewing the child client's participation in mandated programs; and
5. ...

C. In preparing for a probation revocation, the attorney should be familiar with all the procedural protections available to the child client including but not limited to discovery, cross-examination, compelling witnesses and timely filing of violations.

D. When representing a child client in a revocation of probation hearing who was not a client of the attorney at the initial adjudication, the attorney should find out if the child client was represented by an attorney in the underlying offense for which the child client was placed on probation. The attorney may have an argument if the child client entered an admission without counsel and did not give a valid waiver of counsel.

E. The attorney should prepare the child client for the probation revocation hearing including the possibility of the child client or parent being called as witnesses by the State.

The attorney should also prepare the child client for all possible consequences of a decision to enter a plea or the consequences of a probation revocation.

F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2615 (September 2011), amended LR 45:419 (March 2019).

§1529. Challenges to the Effectiveness of Counsel

A. Where a lawyer appointed or retained to represent a child client previously represented by other counsel has a good faith belief that prior counsel did not provide effective assistance, the child client should be so advised and any appropriate relief for the child client on that ground should be pursued.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2615 (September 2011), amended LR 45:419 (March 2019).

James T. Dixon
State Public Defender

1903#005

RULE

Office of the Governor Real Estate Appraisers Board

Licensure; Education
(LAC 46:LXVII.Chapters 103 and 104)

Under the authority of the Louisiana Real Estate Appraisers Law, R.S. 37:3397 et seq., and in accordance with the provisions of the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana Real Estate Appraisers Board has amended Chapters 103 (License Requirements) and 104 (Education Providers/Course Approval). This Rule is hereby adopted on the day of promulgation.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXVII. Real Estate

Subpart 2. Appraisers

Chapter 103. License Requirements

§10303. Examination

A. Any applicant who fails an examination may apply to retake the examination by submitting a copy of the fail notice and a new examination processing fee to the board within 90 days of failed test date. After one year, the applicant shall be required to submit a new application and remit all prescribed fees to be eligible for the licensing examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisers Board of Certification, LR 25:1425 (August 1999), amended by the Office of the Governor, Real Estate Appraisers Board, LR 31:1332 (June 2005), LR 37:332 (January 2011), LR 41:368 (February 2015), LR 45:419 (March 2019).

§10305. Fees

A. ...

B. The application fee for a license shall cover a period of no more than two calendar years and shall not be prorated.

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisers Board of Certification, LR 25:1425 (August 1999), amended by the Office of the Governor, Real Estate Appraisers Board, LR 31:1333 (June 2005), LR 45:420 (March 2019).

§10308. Appraiser Trainees

A. A certified residential or certified general real property appraiser may engage a licensed appraiser trainee to assist in the performance of real estate appraisals, provided the following criteria are met:

1. The certified residential or certified general real property appraiser shall supervise no more than a total of three trainees at any one time, either as employees or subcontractors, in all states.

2. The certified residential or certified general real property appraiser shall be responsible for the conduct of the licensed appraiser trainees and shall supervise their work product, in accordance with the guidelines and requirements of the "2018-2019 Uniform Standards of Professional Appraisal Practice" or its successor.

3. The supervising certified residential or certified general real property appraiser shall accompany the licensed appraiser trainee on inspections of the subject property until the certified residential or certified general real property appraiser feels the appraiser trainee is competent to do so based on the type of property and assignment.

4. ...

5. The supervising certified residential or certified general real property appraiser shall immediately notify the board and the licensed appraiser trainee in writing when the certified residential or certified general real property appraiser terminates the supervision of the licensed appraiser trainee. The trainee must suspend practice unless he/she has more than one supervisor or must get supervision from another supervisor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Real Estate Appraisers Board, LR 31:1333 (June 2005), amended LR 37:333 (January 2011), LR 41:368 (February 2015), LR 42:870 (June 2016), LR 45:420 (March 2019).

§10309. Application for Experience Credit

A. ...

B. Experience credit shall be approved by the board in accordance with *The Real Property Appraiser Qualification Criteria*, May 2018, prescribed by the Appraiser Qualifications Board of the Appraisal Foundation (AQB) or its successor. Calculation of experience hours shall be based solely on actual hours of experience.

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisers Board of Certification, LR 25:1426 (August 1999), amended by the Office of the Governor, Real Estate Appraisers Board, LR 31:1333 (June

2005), LR 37:333 (January 2011), LR 39:310 (February 2013), LR 41:368 (February 2015), LR 42:871 (June 2016), LR 45:420 (March 2019).

§10311. Residential Experience Requirements

A. A minimum of 1500 hours of appraisal experience in no fewer than 12 months is required.

A.1. - B.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisers Board of Certification, LR 25:1426 (August 1999), amended by the Office of the Governor, Real Estate Appraisers Board of Certification, LR 29:126 (February 2003), amended by the Office of the Governor, Real Estate Appraisers Board, LR 31:1334 (June 2005), LR 37:333 (January 2011), LR 41:369 (February 2015), LR 45:420 (March 2019).

§10313. General Experience Requirements

A. Three thousand hours of appraisal experience in no fewer than 18 months is required, where a minimum of 1500 hours must be obtained in non-residential appraisal work.

A.1. - B.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisers Board of Certification, LR 25:1427 (August 1999), amended by the Office of the Governor, Real Estate Appraisers Board of Certification, LR 29:126 (February 2003), amended by the Office of the Governor, Real Estate Appraisers Board, LR 31:1334 (June 2005), LR 37:333 (January 2011), LR 41:369 (February 2015), LR 42:871 (June 2016), LR 45:420 (March 2019).

Chapter 104. Education Providers/Course Approval

§10401. Approval of Education Providers

A. - C. ...

D. Education providers shall:

1. submit monthly schedules and attendance reports to the board as required;

2. ensure that course offerings satisfy all requirements mandated by the board and *The Real Property Appraiser Qualification Criteria*, May 2018, prescribed by the Appraiser Qualifications Board of the Appraisal Foundation (AQB), or its successor.

D.3. - D.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisers Board of Certification, LR 25:1429 (August 1999), amended by the Office of the Governor, Real Estate Appraisers Board, LR 31:1336 (June 2005), LR 45:420 (March 2019).

§10403. Approval of Qualifying/Continuing Education Courses

A. - B. ...

C. All approved courses will be valid through December 31 following the initial approval date. The board may extend such approval for the next renewal period if course materials remain current or are updated as changes in the law or rules require. Courses approved through the Appraiser Qualifications Board (AQB) of the Appraisal Foundation/International Distance Education Certification Center (IDECC) will be valid through the AQB/IDECC issued expiration date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisers Board of Certification, LR 25:1429 (August 1999), amended by the Office of the Governor, Real Estate Appraisers Board, LR 31:1336 (June 2005), LR 37:334 (January 2011), LR 45:420 (March 2019).

§10405. Course Requirements

A. The board shall require approved providers to follow model curriculum guidelines in accordance with *The Real Property Appraiser Qualification Criteria*, May 2018, prescribed by the Appraiser Qualifications Board of the Appraisal Foundation (AQB) to assure comprehensive coverage of appraisal topics which meet the educational requirements for trainee, certified residential, and certified general real property appraiser licenses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisers Board of Certification, LR 25:1429 (August 1999), amended by the Office of the Governor, Real Estate Appraisers Board, LR 31:1336 (June 2005), LR 45:421 (March 2019).

§10407. Qualifying Education

A. The board shall require approved providers to follow model curriculum guidelines in accordance with *The Real Property Appraiser Qualification Criteria*, May 2018, prescribed by the Appraiser Qualifications Board of the Appraisal Foundation (AQB), or its successor, to assure comprehensive coverage of appraisal topics which meet the qualifying educational requirements for trainee, certified residential, and certified general real property appraiser licenses.

B. - F. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisers Board of Certification, LR 25:1429 (August 1999), amended by the Office of the Governor, Real Estate Appraisers Board, LR 31:1336 (June 2005), LR 37:334 (January 2011), LR 45:421 (March 2019).

§10409. Continuing Education

A. The board shall require approved providers to follow model curriculum guidelines in accordance with *The Real Property Appraiser Qualification Criteria*, May 2018, prescribed by the Appraiser Qualifications Board of the Appraisal Foundation (AQB), or its successor, to assure comprehensive coverage of appraisal topics which meet the continuing educational requirements for trainee, certified residential, and certified general real property appraiser licenses.

B. Education that is not obtained through a board-certified continuing education provider shall be submitted to the board prior to renewal for review and approval towards the annual continuing education requirement.

C. Course work completed by licensees through non-approved providers will be considered for credit by the board on an individual basis.

D. Licensees seeking approval for course work obtained through non-approved providers must apply directly to the board for credit toward the license renewal requirement. Each submission shall include a cover letter that contains the licensee's complete name, mailing address, and telephone number, with the following documentation:

1. certificate of completions;
2. hours completed;

3. date of completion;
4. detailed course content information;
5. verification of successful completion of an examination on course content, if applicable.

E. - H. ...Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisers Board of Certification, LR 25:1430 (August 1999), amended by the Office of the Governor, Real Estate Appraisers Board, LR 31:1337 (June 2005), LR 37:335 (January 2011), LR 45:421 (March 2019).

Bruce Unangst
Executive Director

1903#050

RULE

Office of the Governor Real Estate Commission

Residential Property Management (LAC 46:LXVII.Chapter 26)

Under the authority of the Louisiana Real Estate License Law, R.S. 37:1430 et seq., and in accordance with the provisions of the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Louisiana Real Estate Commission has adopted LAC 46:LXVII.Chapter 26. The purpose of the Rule change is to create a new Chapter where all existing rules related to residential property management can be found in one place. This includes the authorization required for licensees to engage in property management on behalf of another, the handling of the security deposit and rental trust funds, and the responsibility of licensees to retain property management records such as bank statements, deposit slips, lease agreements, and other documents pertaining to the property for five years. This Rule is hereby adopted on the day of promulgation.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXVII. Real Estate Subpart 1. Real Estate

Chapter 26. Residential Property Management

§2601. Definitions

Property Management—the marketing, leasing, or overall management of real property for others for a fee, commission, compensation, or other valuable consideration.

Property Manager—one who, for a fee, commission, or other valuable consideration, manages real estate, including the collection of rents, supervision of property maintenance, and accounting for fees received for another.

Residential Real Property—real property consisting of one or not more than four residential dwelling units, which are buildings or structures each of which are occupied or intended for occupancy as single-family residences.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Real Estate Commission, LR 45:421 (March 2019).

§2603. Management Authorization

A. Licensees shall not engage in property management on behalf of another without written authorization from the property owner(s). Salespersons and associate brokers shall not conduct property management functions on behalf of another, except through their sponsoring broker.

B. Written authorization to manage property must at minimum include the following:

- 1. the duties and responsibilities of the property manager;
- 2. the authority and powers given by the property owner to the property manager;
- 3. the period of the agreement; and
- 4. the management fees charged to the property owner

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Real Estate Commission, LR 45:422 (March 2019).

§2605. Trust Funds, Deposits, and Accounts for Property Management

A. Licensees engaged in property management on behalf of another shall open and maintain accounts in accordance with Chapter 27 of the rules and regulations of the commission.

B. All security deposit and rental trust funds shall not be withdrawn for any purpose except:

- 1. upon the mutual written consent of all parties having an interest in the funds;
- 2. upon court order;
- 3. to deposit funds into the registry of the court in a concursus proceeding;
- 4. to disburse funds upon a reasonable interpretation of the contract that authorizes the broke to hold such funds, provided that the disbursement is not made until 10 days after the broker has notified all parties and licensees in writing;
- 5. to cover the payment of service charges on security deposit and rental trust accounts;
- 6. upon approval by the commission in connection with the sale or acquisition of a licensed entity;
- 7. to comply with the provision of 9:3251 or any other state or federal statute governing the transfer of rents, security deposits or other escrow funds.

C. Deposits shall be disbursed within 30 days of an agreement between the principles in a real estate transaction.

D. A licensee who receives funds on behalf of another for property management shall maintain a ledger for each property managed. This ledger must clearly document all funds received and disbursed to, and on behalf of, the property owner.

E. A licensee who accepts cash payments on behalf of an owner must retain written receipts. These receipts must include at minimum the date, the amount, the property address, the reason for the payment, the tenants name, and the name and signature of the licensee or employee who received the funds on behalf of the brokerage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Real Estate Commission, LR 45:422 (March 2019).

§2607. Property Management Records

A. Licensees engaged in property management shall retain all of the following records, readily available and properly indexed, for a period of five years:

1. Bank statements, deposit slips, management agreements, lease agreements, owner ledgers or statements, deposit slips, disbursement checks, invoices, cash receipts, and any other documents that pertain to the management of the property.

2. Copies of all documents that pertain in any way to real estate transactions wherein the individual real estate broker or licensees sponsored by the individual real estate broker have appeared in a licensing capacity.

B. The requirement regarding copies shall not be altered by the transfer of a broker to that of an associate broker, an unlicensed person, or an inactive licensee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Real Estate Commission, LR 45:422 (March 2019).

§2609. Exemptions

A. The provisions of this section shall not apply to an unlicensed person, partnership, limited liability company, association or corporation, foreign or domestic, who performs acts of ownership regarding the property, either individually or through an employer or representative.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Real Estate Commission, LR 45:422 (March 2019).

Bruce Unangst
Executive Director

1903#051

RULE

**Department of Health
Board of Dietitians and Nutritionists**

Registered Dietitians/Nutritionists
(LAC 46:LXIX.Chapters 1-7)

In accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., and through the authority granted in R.S. 37:3085, the Board of Dietitians and Nutritionists has amend its current regulations to make technical changes and clarifications, add definitions for telehealth/telepractice, remove hearing aid dispensing fee from renewal and initial applications, and add telehealth registration fees. This Rule is hereby adopted on the day of promulgation.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS
Part LXIX. Registered Dietitians/Nutritionists
Chapter 1. Dietitians/Nutritionists
§101. Definitions**

A. ...
* * *

Academy—Academy of Nutrition and Dietetics (AND), formerly the American Dietetic Association (ADA).

Accreditation Council for Education in Nutrition and Dietetics (ACEND)—the accrediting agency for educational programs preparing students for careers as dietetic or nutrition practitioners. It is recognized by the board as the approved credentialing evaluation agency for licensed dietitians/ nutritionists.

Applicant—any person who has applied to the board for a regular license or provisional license to use the title dietitian or nutritionist to engage in the practice of dietetics/nutrition in the state of Louisiana.

Application—a request directed to and received by the board, upon forms supplied by the board, for a regular license or provisional license to practice dietetics/nutrition in the state of Louisiana, together with all information, certificate, documents, and other materials required by the board.

Board—Louisiana Board of Examiners in Dietetics and Nutrition (LBEDN). The entity created by the legislature of Louisiana in 1987 to protect the health, safety, and welfare of the public by providing for the licensure and regulation of persons practicing the profession of dietetics and nutrition.

Commission on Dietetic Registration (CDR)—a commission that authors the licensure exam that the board accepts.

Consent Agreement and Order—an agreement between the board and applicant or licensee to resolve disciplinary action. This document may be public and reportable to the National Practitioner Data Bank (NPDB).

Diet Instruction—deleted.

Dietetic Nutrition Practice and Medical Nutrition Therapy—deleted.

Dietetic Practice, Nutrition Counseling, and Medical Nutrition Therapy—deleted.

Dietetic/Nutrition Practitioner—dietitian/nutritionist licensee practicing dietetics and nutrition according to R.S. 37:3081 to R.S. 37:3094, of the Louisiana Dietetic/Nutrition Practice Act.

Direct Supervision—supervision provided by a Louisiana licensed dietitian/nutritionist, who is available for real-time consultation in order to guide and direct a provisionally licensed dietitian/nutritionist.

Examination for Licensure—the examination administered by CDR. The board recognizes the passing score set by CDR.

Incidental to the Practice of their Profession—deleted.

Licensed Dietitian/Nutritionist—a person licensed under R.S. 37:3081-3094. The terms “dietitian”, “dietician”, and “nutritionist” may be used interchangeably.

Louisiana Academy of Nutrition and Dietetics (LAND)—formerly known as Louisiana Dietetic Association (LDA), an affiliate of the Academy of Nutrition and Dietetics (AND).

Medical Nutrition Therapy—nutritional diagnostic, therapy, and counseling services for the purpose of disease management which are furnished by a licensed and registered dietitian.

Nutrition Care Process—a systemic approach to providing high-quality nutrition care through assessment, nutrition diagnosis, intervention/plan of care, and monitoring and evaluation.

Nutrition Counseling—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—deleted.

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. Assessment also includes establishing priorities, goals and objectives that meet nutritional needs.

Provisionally Licensed Dietitian/Nutritionist—a person provisionally licensed under the Louisiana Dietetic/Nutrition Practice Act, who must be supervised by a licensed dietitian/nutritionist.

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. nutritional assessment;
- b. nutrition counseling;
- c. developing, implementing, and managing nutrition care systems; and
- d. evaluating, making changes in, and maintaining standards of quality in food and nutrition care services.
- e. Within a healthcare facility licensed by the Department of Health, ordering appropriate nutritional intake, including enteral and parenteral nutrition, and ordering appropriate laboratory tests to monitor the effectiveness of the dietary plan, subject to the approval of and authorization by the licensed healthcare facility's medical staff or bylaws.

Telenutrition—as authorized by and consistent with, R.S. 40:1223.4 (“Telehealth”), is the interactive use, by a licensed dietitian/ nutritionist of electronic information and telecommunication technologies to implement the practice of dietetics/nutrition with patients or clients at a location within Louisiana. The practice of telenutrition takes place where the patient or client is located at the time of the dietetic practitioner-patient encounter. Real-time communication, the primary method of telenutrition,

consists of a dietetic/nutrition practitioner and the patient present at the same time, but in different locations. The practice of telenutrition is subject to applicable provisions of the Louisiana Dietetic/Nutrition Practice Act and within the same standards of care as if the dietetic/nutrition services were provided in person. The practice of telenutrition requires the application of board rules and regulations §117, Code of Ethics for Professional Conduct, including but not limited to patient's or client's consent for telenutrition services and protection of patient or client confidential information. The practice of telenutrition does not include the consultation of a Louisiana licensed dietitian/nutritionist with an out-of-state dietitian/nutritionist.

Terminology—interchangeable terms related to scope of practice may include, but not be limited to: dietetic nutrition practice, dietetic practice, nutrition counseling, nutrition practice, nutrition therapy, and medical nutrition therapy (MNT).

Title—any use of the titles “dietitian”, “dietician”, or “nutritionist”, or any abbreviation, cannot be used unless the person is licensed in accordance with the provisions of the Louisiana Dietetic/Nutrition Practice Act.

Unprofessional conduct—for purposes of R.S. 37:3090 A(2) includes, but it not limited to any act or omission which is contrary to honesty, justice, good morals, patient safety, or the best interest of the patient, whether committed in the course of the practitioner's practice or otherwise and specifically includes the departure from, or the failure to conform to the standards of acceptable and prevailing professional practice of the Code of Ethics for Professional Conduct as specified in §117 of these rules, whether the act or omission occurred within or without this state.

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 41:1674 (September 2015), amended by the Department of Health, Board of Examiners in Dietetics and Nutrition, LR 45:422 (March 2019).

§103. Qualifications for Licensure

A. Regular Licensure

1. **Academic Requirements.** An applicant for licensure shall submit to the board, evidence of having 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).

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 as the board-approved program of planned supervised practice program. Applicant must present verification statement from an ACEND accredited program dated no later than five years after completion of the academic requirements.

3. **Examination for Licensure.** An applicant for licensure shall submit to the board evidence of having successfully passed an examination approved by the board. The board recognizes the registration examination for dietitians/nutritionists administered by the CDR as the board-approved exam.

A.4. - B.2 ...

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 two 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. Licensure of Qualified Military Commissioned Applicants and Spouses of Military Personnel

1. - 5. ...

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 41:1675 (September 2015), amended by the Department of Health, Board of Examiners in Dietetics and Nutrition, LR 45:424 (March 2019).

§105. Licensure of Dietitians/Nutritionists Practicing Telenutrition

A. The practice of dietetics/nutrition occurs where the patient or client is located at the time of the dietetic practitioner—patient encounter. Real-time communication, the primary method of telenutrition, consists of a dietetic/nutrition practitioner and the patient present at the same time, but in different locations.

B. When telenutrition is used and the dietetic/nutrition practitioner and the patient or client are located in different states, the dietetic/nutrition practitioner providing the patient care services must be licensed in the state where the patient is located.

C. Dietetic/Nutrition practitioners working in Louisiana must be licensed in the State of Louisiana according to R.S. 37:3081 to R.S. 37:3094. It is the responsibility of the dietetic/nutrition practitioner to become aware of the licensure laws and regulations in any state in which they seek to provide their services.

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, Board of Examiners in Dietetics and Nutrition, LR 45:424 (March 2019).

§107. Qualifications for Reciprocity (Formerly §105)

A. The board may grant a license by endorsement to any person who presents proof of current licensure as a dietitian or nutritionist in another state, District of Columbia, or territory of the United States which requires standards for licensure considered by the board to be equivalent to the requirements for licensure as prescribed in this Chapter.

B. All application materials shall be completed and the reciprocity and license fees shall be paid by the applicant. The board may request verification of the applicant's status with that agency at the time of application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3081-3093; 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), amended by the Department of Health, Board of Examiners in Dietetics and Nutrition, LR 45:424 (March 2019).

§109. Licensing of Dietitians/Nutritionists Trained in a Foreign Country (Formerly 107)

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;

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 41:1676 (September 2015), amended by the Department of Health, Board of Examiners in Dietetics and Nutrition, LR 45:425 (March 2019).

§111. Application for Licensure and/or Provisional Licensure (Formerly §109)

A. Application for license or provisional license must be upon the form and in the manner and fee prescribed by the board.

B. Every application shall be typed or written in ink, signed under the penalty of perjury and accompanied by the appropriate non-refundable application fee and by such evidence, statements or documents showing to the satisfaction of the board that applicant meets requirements of R.S. 37:3086(A), (B) or (C).

C. Applications are to be submitted to the address designated by the board.

D. Approved applications and all document files in support thereof shall be retained by the board.

E. The board will not consider an application complete until all information is received.

F. The board will send a notice to an applicant who does not fully complete the application, listing the additional materials required.

G. The application for a license shall contain such information as the board may reasonably require.

H. The submission of an application for licensing to the board shall constitute and operate as an authorization and consent by the applicant to the board to disclose and release any information or documentation set forth in or submitted with the applicant's application or obtained by the board from other sources as required.

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. within 90 days of the date of the Consent Agreement and Order, applicant shall take and pass an open book examination covering the Louisiana Dietetic/Nutrition Practice Act and the board's rules and regulations to include Code of Ethics for Professional Conduct;

3. applicant must make a minimum score of 80 percent on the open book examination and will be allowed three hours to complete the examination at the board office. Applicant must pay applicable examination fee;

4. the consent agreement and order shall be considered disciplinary action and will be published by LBEDN.

J. Procedures for Applications of Military-trained Applicants or Spouses of Military Personnel, Issuance of Temporary Practice Permits and Priority Processing of Applications

1. In addition to the application procedures otherwise required by this Section, a military-trained dietitian/nutritionist, as specified in §103.E.1, applying for licensure, shall submit with the application:

a. a copy of the applicant's military report of transfer or discharge which shows the applicant's honorable discharge from military service;

b. the official military document showing the award of a military occupational specialty in dietetics and nutrition and a transcript of all military course work, training and examinations in the field of dietetics and nutrition;

c. documentation showing the applicant's performance of dietetics/nutritionist services, including dates of service in active practice, at a level which is substantially equivalent to or exceeds the requirements of the license which is the subject of the application;

d. an affidavit from the applicant certifying that he or she 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.

2. In addition to the application procedures otherwise required by this Section, a military-trained dietitian/nutritionist, as specified in §103.E.2, applying for licensure, shall submit with the application:

a. a copy of the applicant's military report of transfer or discharge which shows the applicant's honorable discharge from military service;

b. the completion of all forms and presentation of all documentation required for an application pursuant to §105;

c. an affidavit from the applicant certifying that he or she 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.

3. In addition to the application procedures otherwise required by this Section, a spouse of a member of the active-duty military forces or a spouse of a former member of the military forces as specified in §103.E.3, applying for licensure, shall submit with the application:

a. a copy of the current military orders of the military spouse of the applicant and the applicant's military identification card or a copy of the military report of transfer or discharge of the military spouse of the applicant which shows an honorable discharge from military service;

b. a copy of the applicant's marriage license and an affidavit from the applicant certifying that he or she is still married to a military spouse or former military spouse;

c. the completion of all forms and presentation of all documentation required for an application pursuant to §105;

d. an affidavit from the applicant certifying that he or she 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 is in good standing and has not been disciplined by the agency that issued the license;

e. documentation demonstrating competency in dietetics/nutritionist practice at the level which is the subject of the application and/or completion of appropriate continuing education units.

4. Applicants who present completed applications and the supporting documentation required by this Rule are eligible for a temporary practice permit as a dietitian/nutritionist or provisional dietitian/nutritionist, whichever is the subject of the application. The board, through its staff, will give priority processing to such applications and, subject to verification of applications and supporting documentation, issue the appropriate temporary practice permit not later than 21 days after the completed application is submitted. The temporary practice permit authorizes the applicant to practice dietetics/nutrition at the designated level, consistent with the verified application and supporting documentation for a period of 60 days from the date of issuance.

5. As soon as practicable, but not longer than the duration of the applicant's temporary practice permit, the board will grant the application for the applicable license

which is the subject of the application or notify the applicant of its denial.

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 41:1676 (September 2015), amended by the Department of Health, Board of Examiners in Dietetics and Nutrition, LR 45:425 (March 2019).

§113. Issuance and Renewal of Licensure (Formerly §111)

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

1. 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 two 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 submitted with the required fee.

2. Licensee's application for renewal must be submitted 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. Renewal license identification cards and/or renewal validation documents shall be furnished to each licensee who meets all renewal requirements by the expiration date.

7. 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 submitting the license renewal with all appropriate fees and documentation to the board, on or before the end of the 60-day grace period.

8. A person whose license has expired may not use the title of dietitian or nutritionist or present or imply that he or she has the title of "licensed dietitian/nutritionist" or "provisional licensed dietitian/nutritionist" or any abbreviation 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.

9. Inactive Status. Inactive status may be granted to licensees who are retired or who do not practice dietetics/nutrition during the fiscal year, July 1-June 30.

a. Licensees on inactive status may retain their license by payment of the annual renewal fee.

b. These licensees shall complete the affidavit provided at the time of licensure renewal.

c. Licensees on inactive status or who are retired shall not supervise individuals or otherwise engage in the practice of dietetics/nutrition.

d. In order to resume the practice of dietetics/nutrition, licensees on inactive status shall demonstrate completion of 5 clock hours of continuing education in the area of licensure for each year that inactive status was maintained. In addition, a letter requesting a change to active status must be submitted to the board office prior to resuming the practice of dietetics/nutrition.

10. 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.

11. Renewal license identification cards and/or renewal validation documents shall be furnished to each licensee who meets all renewal requirements by the expiration date.

12. 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 submitting the license renewal form with all appropriate fees and documentation to the board, on or before the end of the 60-day grace period.

13. A person whose license has expired may not use the title of dietitian or nutritionist or present or imply that he or she has the title of "licensed dietitian/nutritionist" or "provisional licensed dietitian/nutritionist" or any abbreviation of these titles. Additionally, a 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 41:1677 (September 2015), amended by the Department of Health, Board of Examiners in Dietetics and Nutrition, LR 45:426 (March 2019).

§115. Gratuitous Service during a Declared Public Health Emergency (Formerly §112)

A. In a public health emergency lawfully declared as such by the governor of Louisiana, the requirement for a Louisiana license as a licensed dietitian/nutritionist or provisional licensed dietitian/nutritionist may be suspended by the board at that time to those out of state licensed dietitians/nutritionists or provisional licensed dietitian/nutritionists, whose licenses, certifications or registrations are current and unrestricted in another jurisdiction of the United States, for a period of time not to exceed the duration and scope of R.S. 29:769(E), as more particularly set forth in this rule.

B. The following requirements for temporary registration may be imposed pursuant to the declared state of emergency and shall be in accordance with rules promulgated by the board.

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:

1. the licensed dietitian/nutritionist or provisional dietitian/nutritionist has photo identification and a license to verify a current and unrestricted license, certification or registration in another jurisdiction of the United States, and properly registers with the board prior to providing dietetic/nutrition services in Louisiana as follows:

a. the dietitian/nutritionist or provisional dietitian/nutritionist is engaged in a legitimate relief effort during the emergency period, and provides satisfactory documentation to the board of the location site(s) that he will be providing gratuitous dietetic/nutrition services;

b. the dietitian/nutritionist or provisional dietitian/nutritionist shall comply with the Louisiana Dietetic/Nutrition Practice Act, board rules and regulations, and other applicable laws, as well as practice in good faith, and within the reasonable scope of his skill, training, and ability; and

c. the dietitian/nutritionist or provisional dietitian/nutritionist renders services on a gratuitous basis with no revenue of any kind to be derived whatsoever from the provision of services within the state of Louisiana.

D. The authority provided for in the emergency rule shall be applicable for a period of time not to exceed 60 days at the discretion of the board, with the potential extension of up to two additional periods not to exceed 60 days for each extension as determined appropriate and necessary by the board.

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. In the event a licensed dietitian/nutritionist or provisional licensed dietitian/nutritionist fails to register with the board, but practices dietetics and/or nutrition, whether gratuitously or otherwise, then such conduct will be considered unlawful practice of dietetics and nutrition and prosecuted accordingly.

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 41:1678 (September 2015), amended by the Department of Health, Board of Examiners in Dietetics and Nutrition, LR 45:428 (March 2019).

§117. Code of Ethics for Professional Conduct (Formerly §113)

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 Academy of Nutrition and Dietetics:

1. *Code of Ethics for the Nutrition and Dietetics Profession* as published: Academy of Nutrition and Dietetics 2018; 1118 (9):1765-1767.

Principles and Standards:

1. Competence and professional development in practice (Non-maleficence) Nutrition and dietetics practitioners shall:

- a. Practice using an evidence-based approach within areas of competence, continuously develop and enhance expertise, and recognize limitations.
- b. Demonstrate in depth scientific knowledge of food, human nutrition and behavior.
- c. Assess the validity and applicability of scientific evidence without personal bias.
- d. Interpret, apply, participate in and/or generate research to enhance practice, innovation, and discovery.
- e. Make evidence-based practice decisions, taking into account the unique values and circumstances of the patient/client and community, in combination with the practitioner's expertise and judgment.
- f. Recognize and exercise professional judgment within the limits of individual qualifications and collaborate with others, seek counsel, and make referrals as appropriate.
- g. Act in a caring and respectful manner, mindful of individual differences, cultural, and ethnic diversity.
- h. Practice within the limits of their scope and collaborate with the inter-professional team.

2. Integrity in personal and organizational behaviors and practices (Autonomy) Nutrition and dietetics practitioners shall:

- a. Disclose any conflicts of interest, including any financial interests in products or services that are recommended. Refrain from accepting gifts or services which potentially influence or which may give the appearance of influencing professional judgment.
- b. Comply with all applicable laws and regulations, including obtaining/maintaining a state license or certification if engaged in practice governed by nutrition and dietetics statutes.
- c. Maintain and appropriately use credentials.
- d. Respect intellectual property rights, including citation and recognition of the ideas and work of others, regardless of the medium (e.g. written, oral, electronic).
- e. Provide accurate and truthful information in all communications.
- f. Report inappropriate behavior or treatment of a patient/client by another nutrition and dietetics practitioner or other professionals.
- g. Document, code and bill to most accurately reflect the character and extent of delivered services.
- h. Respect patient/client's autonomy. Safeguard patient/client confidentiality according to current regulations and laws.
- i. Implement appropriate measures to protect personal health information using appropriate techniques (e.g., encryption).

3. Professionalism (Beneficence)

Nutrition and dietetics practitioners shall:

- a. Participate in and contribute to decisions that affect the well-being of patients/clients.
- b. Respect the values, rights, knowledge, and skills of colleagues and other professionals.
- c. Demonstrate respect, constructive dialogue, civility and professionalism in all communications, including social media.

d. Refrain from communicating false, fraudulent, deceptive, misleading, disparaging or unfair statements or claims.

e. Uphold professional boundaries and refrain from romantic relationships with any patients/clients, surrogates, supervisees, or students.

f. Refrain from verbal/physical/emotional/ sexual harassment.

g. Provide objective evaluations of performance for employees, coworkers, and students and candidates for employment, professional association memberships, awards, or scholarships, making all reasonable efforts to avoid bias in the professional evaluation of others.

h. Communicate at an appropriate level to promote health literacy.

i. Contribute to the advancement and competence of others, including colleagues, students, and the public.

4. Social responsibility for local, regional, national, global nutrition and well-being (Justice)

Nutrition and dietetics practitioners shall:

a. Collaborate with others to reduce health disparities and protect human rights.

b. Promote fairness and objectivity with fair and equitable treatment.

c. Contribute time and expertise to activities that promote respect, integrity, and competence of the profession.

d. Promote the unique role of nutrition and dietetics practitioners.

e. Engage in service that benefits the community and to enhance the public's trust in the profession.

f. Seek leadership opportunities in professional, community, and service organizations to enhance health and nutritional status while protecting the public.

Glossary of Terms:

Autonomy: ensures a patient, client, or professional has the capacity and self-determination to engage in individual decisionmaking specific to personal health or practice.

Beneficence: encompasses taking positive steps to benefit others, which includes balancing benefit and risk.

Competence: a principle of professional practice, identifying the ability of the provider to administer safe and reliable services on a consistent basis.

Conflict(s) of Interest(s): defined as a personal or financial interest or a duty to another party which may prevent a person from acting in the best interests of the intended beneficiary, including simultaneous membership on boards with potentially conflicting interests related to the profession, members or the public.

Customer: any client, patient, resident, participant, student, consumer, individual/person, group, population, or organization to which the nutrition and dietetics practitioner provides service.

Diversity: "The Academy values and respects the diverse viewpoints and individual differences of all people. The Academy's mission and vision are most effectively realized through the promotion of a diverse membership that reflects cultural, ethnic, gender, racial, religious, sexual orientation, socioeconomic, geographical, political, educational, experiential and philosophical characteristics of the public it serves. The Academy actively identifies and offers opportunities to individuals with varied skills, talents, abilities, ideas, disabilities, backgrounds and practice expertise."

Evidence-based Practice: Evidence-based practice is an approach to health care wherein health practitioners use the best evidence possible, i.e., the most appropriate information available, to make decisions for individuals, groups and populations. Evidence-based practice values, enhances and builds on clinical expertise, knowledge of disease mechanisms, and pathophysiology. It involves complex and conscientious decision-making based not only on the available evidence but also on client characteristics, situations, and preferences. It recognizes that health care is individualized and ever changing and involves uncertainties and probabilities. Evidence-based practice incorporates successful strategies that improve client outcomes and are derived from various sources of evidence including research, national guidelines, policies, consensus statements, systematic analysis of clinical

experience, quality improvement data, specialized knowledge and skills of experts.

Justice (social justice): supports fair, equitable, and appropriate treatment for individuals and fair allocation of resources.

Non-Maleficence: is the intent to not inflict harm.

C. All licensees shall be responsible for reporting any and all alleged misrepresentation or violation of the 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), amended LR 25:1095 (June 1999), LR 41:1678 (September 2015), LR 45:429 (March 2019).

§119. Denial, Suspension or Revocation of License (Formerly §115)

A. Certificate denial, suspension or revocation shall be accomplished in accordance with Section 3090(A) of R.S. 37:3081-3094, the state Administrative Procedures Act, and the procedural rules provided in Chapter 5 hereof.

B. The board may refuse to issue a license, or suspend, revoke or impose probationary conditions and restrictions on the license of a person on a finding of any of the causes provided by Section 3090 of the Louisiana Dietetic/Nutrition Practice Act.

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. Revocation. The involuntary termination of the licensee's license.

2. Suspension. The licensee is not permitted to practice for a specified period of time. Rehabilitative conditions may be imposed to run concurrently with the suspension period.

3. Probation. The licensee is permitted to practice, but the board has imposed conditions upon the practice or the practitioner. Once the time period has elapsed, and the licensee has complied with the terms of probation, the board will allow the practitioner to resume practice unconditionally.

4. Restriction of License. A reduction in the scope of practice.

5. Censure. The board makes an official statement of censure concerning the individual.

6. Reprimand. Similar to censure. The board reproves the licensee.

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. Publication of Disciplinary Action. The board will notify the professional community within 30 days of any disciplinary action, including the disciplined licensee's name, offense and sanction imposed. A notice of disciplinary action will also be published by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3081-3093; 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 41:1680 (September 2015), amended by the Department of Health, Board of Examiners in Dietetics and Nutrition, LR 45:430 (March 2019).

§121. Prohibited Practice (Formerly §117)

A. No person shall engage in the practice of dietetics/nutrition in the state of Louisiana unless they have a current 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 41:1680 (September 2015), amended by the Department of Health, Board of Examiners in Dietetics and Nutrition, LR 45:430 (March 2019).

§123. Fees (Formerly §119)

A. ...

Application for LDN—\$145

Application for Provisional LDN—\$95

Application for Reinstatement—\$150

Duplicate Licensure Certificate—\$25

Renewal of Licensure—\$80

Renewal of Licensure—Delinquent—\$160

Renewal of Licensure—Inactive—\$45

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3081-3093; 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), LR 26:2613 (November 2430), LR 37:2154 (July 2011), LR 45:430 (March 2019).

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 manual.

B. Meetings

B.1. - C.1. ...

2. Board members shall be reimbursed for travel and incidental expenses incurred while engaged in official duties.

2.a. - 2.d. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3081-3093, 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 41:1680 (September 2015), amended by the Department of Health, Board of Examiners in Dietetics and Nutrition, LR 45:430 (March 2019).

Chapter 5. Procedural Rules

§501. Authority

A. Consistent with the legislative purpose enumerated in R.S. 37:3081-3094, and to further protect the safety and welfare of the public of this state against unauthorized, unqualified and improper practice of dietetics and nutrition, the following rules of procedure are established under this board's specific rulemaking authority of R.S. 37:3085 and R.S. 49:952 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3081-3093; 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 25:1095 (June 1999), amended by the Department of Health, Board of Examiners in Dietetics and Nutrition, LR 45:431 (March 2019).

§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 Louisiana Dietetic/Nutrition 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 complaint is submitted on the forms provided by the board, 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. - K. ...

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 41:1680 (September 2015), amended by the Department of Health, Board of Examiners in Dietetics and Nutrition, LR 45:431 (March 2019).

§505. Conduct of Hearing

A. ...

1. Compliance Hearing

a. The board will provide a compliance hearing to an applicant for licensure whose application was rejected by the board provided that the request for such compliance hearing is submitted to the board in writing within 30 days after the applicant receives the notice of rejection. In the request for the compliance hearing, the applicant shall state the specific reasons for his or her opposition to the board's application rejection. Absent exceptional circumstances, as determined by the board, the compliance hearing shall be conducted within 90 days following the board's receipt of the hearing request. This time limitation applies to rejected applicants, as well as licensees with lapsed licenses.

b. ...

c. The purpose and intent of the compliance hearing is to provide a forum for the applicant or licensee to present documentary evidence in the form of affidavits, court records, official records, letters, etc., along with under-oath testimony to establish that they do, in fact, meet the lawful requirements for the application or the retention of the license. The board shall have the authority to administer oaths, hear the testimony and conduct the hearing. No transcript of the hearing is required. The applicant or licensee may be represented by counsel, or may represent themselves in proper person.

d. In any compliance hearing, the burden shall be on the applicant or licensee to establish that they meet the criteria for licensure or that his or her license was timely renewed.

e. Within 30 days after the compliance hearing, the board will forward its final decision, including findings of fact and conclusions of law, by certified mail, to denied applicant or licensee.

f. Thereafter, the denied applicant or licensee may apply for a rehearing, as provided in R.S. 49:959, subject to further judicial review, pursuant to R.S. 49:964, 965.

2. Formal Disciplinary Hearing

a. - n. ...

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 41:1681 (September 2015), amended by the Department of Health, Board of Examiners in Dietetics and Nutrition, LR 45:431 (March 2019).

Chapter 7. Practitioner Health Program

§701. Purpose and Scope

A. Upon voluntary disclosure or proof that an applicant or licensee has provided professional services while under the influence of alcohol or has used narcotic or controlled dangerous substances or other drugs in excess of therapeutic amounts or without valid medical indication, the board may offer the applicant or licensee the practitioner health program in order to receive, renew, or maintain the professional license. Participation in the program may be required as a prerequisite to initial application for licensure or continued practice in accordance with the conditions of any consent order, compliance hearing, or adjudication hearing.

B. The board, or its designated program administrator, may utilize its discretionary authority to require or exclude specific components of this program for participants based upon determination of the nature and severity of the impairment. Participation in the practitioner health program may consist of all or part of the following components:

1. ...
2. monitoring, including drug/alcohol screenings, with results submitted to the board, or its designated program administrator, for a specified period of time. The frequency of screening and a deadline for submission of the screening results will also be specified. The name of the monitoring agency shall be submitted as requested by the board, or its designated program administrator. Monitoring shall continue for a period of up to 36 months, as specified by the board, or its designated program administrator;

3. suspension of the license or other action specified by the board, or its designated program administrator, upon receipt of any positive, unexplained screening results during the monitoring period;

4. mandatory weekly attendance at a self-help group such as Alcoholics Anonymous for a specified period of time. Submission of a monthly log which meets the board, or its designated program administrator's specifications will be required:

a. a monthly log must be submitted to and received by the board, or its designated program administrator, before the final business day of the month following completion of the required meetings. It is the licensee's responsibility to ensure that these logs are properly completed and received by the board, or its designated program administrator, by the designated date;

4.b. - 5....

6. supervision of the licensee by a supervisor approved by the board, or its designated program administrator;

7. penalties for noncompliance as determined by the board, or its designated program administrator.

C. The licensee will be responsible for executing all required releases of information and authorizations required for the board, or its designated program administrator, to obtain information from any monitor, treatment or service provider concerning the licensee's progress and participation in the program.

D. ...

E. The licensee shall notify the board and its designated program administrator's office by telephone within 48 hours and in writing within five days of any changes of licensee's home address, telephone number, employment status, employer, supervisor, and/or change in practice at a facility.

F. In the event that a licensee relocates to another jurisdiction, the licensee will within five days of relocating be required to either enroll in the other jurisdiction's practitioner health program and have the reports required under the agreement sent to the board, or its designated program administrator, or if the other jurisdiction has no practitioner health program, the licensee will notify the licensing board of that jurisdiction that the licensee is

impaired and enrolled in the Louisiana program. In the event the licensee fails to do so, the license will be suspended.

G. ...

H. The board, and its designated program administrator, will, to the full extent permissible, maintain an agreement or consent agreement and order relating to the licensee's participation in the practitioner health program as a confidential matter. The board, and its designated program administrator, retains the discretion to share information it deems necessary with those persons providing evaluation/assessment, therapy, treatment, supervision, monitoring or drug/alcohol testing or reports. Violation of any terms, conditions or requirements contained in any consent order, or board decision can result in a loss of the confidential status.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3081-3093; 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 by the Department of Health, Board of Examiners in Dietetics and Nutrition, LR 45:431 (March 2019).

Jolie Jones
Executive Director

1903#054

RULE

Department of Health Board of Practical Nurse Examiners

Types of Licensure and Approved Fees (LAC 46:XLVII.1703 and 1715)

The Board of Practical Nurse Examiners has amended LAC 46:XLVII. Section 1703 A.2 and 3, and Section 1715 A. 1, 5, 7, and 11 in accordance with the provisions of the Administrative Procedure Act, R.S. 950 et seq., and the Practical Nursing Practice Act, R.S. 37:961-979. This Rule is hereby adopted on the day of promulgation.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLVII. Nurses: Practical Nurses and Registered Nurses

Subpart 1. Practical Nurses

Chapter 17. Licensure

§1703. Types of Licensure

A. - A.1. ...

2. be permitted to write the examination up to four times within a period of two years from the date of being made eligible, but no later than three years from completion of the practical nursing program;

3. re-enter and successfully complete the entire practical nursing program without advance credits if the fourth writing is unsuccessful or more than three years has elapsed from completion of the practical nursing program

before being allowed to take the practical nursing examination again;

B. - D.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969, 37:971 and 37:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:199 (April 1977), amended LR 10:341 (April 1984), LR 10:915 (November 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 18:1129 (October 1992), repromulgated LR 18:1263 (November 1992), amended LR 28:2355 (November 2002), amended LR 42:274 (February 2016), LR 45:432 (March 2019).

Chapter 17. Licensure

§1715. Approved Fees

A. Fees

1. license by examination—\$125;
2. - 4. ...
5. reinstatement of license which has been suspended, or which has lapsed by nonrenewal—\$200;
6. ...
7. delinquency fee in addition to renewal fee for nursing license (per year delinquent)—\$100;
8. - 10. ...
11. evaluation of credits of out-of-state applicants for Louisiana practical nurse license—\$100;

A.12. - B. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:200 (April 1977), amended LR 10:342 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners LR 18:1130 (October 1992), repromulgated LR 18:1263 (November 1992), amended LR 26:2618 (November 2000), LR 34:874 (May 2008), LR 40:2578 (December 2014), LR 45:433 (March 2019).

M. Lynn Ansardi, RN
Executive Director

1903#014

RULE

Department of Health

Board of Speech-Language Pathology and Audiology

Speech-Pathology and Audiology
(LAC 46:LXXV.119, and 135)

Editor's Note: Sections 109, 119 and 135 are being repromulgated to correct manifest typographical errors. The original Rule may be viewed in its entirety on pages 249-269 of the February 20, 2019 *Louisiana Register*.

In accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., and through the authority granted in R.S. 37:3085, the Board of Speech-Language Pathology and Audiology has amended its current regulations to make technical changes and clarifications, add definitions for telehealth/telepractice, remove hearing aid dispensing fee from renewal and initial applications, and add telehealth registration fees. This Rule is hereby adopted on the day of promulgation.

Title 46 PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXXV. Speech Pathology and Audiology

Chapter 1. General Rules

§119. Requirements to Upgrade License (Formerly §115)

A. The provisional speech-language pathology licensee who has not passed the examination at the time of initial licensure shall submit the following to upgrade his/her license status:

1. an official copy of a passing score on the Educational Testing Service area examination;
2. verification of 36 weeks of full-time postgraduate professional employment/experience or its part-time equivalent in the field the license is held;
3. proof of supervision through date of upgrade (Form 100);
4. upgrade fee of \$30.

B. The provisional speech-language pathology licensee who has not completed the thirty-six weeks of postgraduate professional employment/experience at the time of initial licensure shall submit the following to upgrade his/her license status:

1. verification of 36 weeks of full-time postgraduate professional employment/experience or its part-time equivalent in the field the license is held;
2. proof of supervision through date of upgrade (Form 100);
3. upgrade fee of \$30.

C. The provisional speech-language pathology assistant shall submit the following to upgrade his/her license status:

1. proof of 225 supervised clinical practicum hours shall be on file in the board's office. Only direct supervision hours and/or university practicum hours may be counted towards the 225 hours;
2. upgrade fee of \$30.

D. The restricted audiology or restricted speech-language pathology licensee who holds a master's degree or its equivalent in audiology or speech-language pathology shall submit the following documents to upgrade their license:

1. an official copy of a passing score on the Educational Testing Service area examination;
2. verification of 36 weeks of post-graduate professional employment/experience or its part-time equivalent in the field in which the license is held;
3. proof of supervision through date of upgrade (Form 100);
4. upgrade fee of \$30.

E. Only those hours that have been obtained on-the-job as paid professional experience may be counted towards an upgrade.

F. Restricted speech-language pathology licensees who hold a bachelor's degree who wish to change their status to a provisional speech-language pathology license shall submit an application for license and meet the requirements of R.S. 37:2659.

G. Speech-language pathology assistant licensees who wish to change their status to a provisional speech-language pathology license shall submit an application for license and meet the requirements of R.S. 37:2659.

H. Postgraduate professional employment/experience which counts toward upgrading the license status will only be accepted from the date that the licensee's application was received by the board.

I. It is the responsibility of the licensee to submit the documents and make a written request for upgrade of his/her license status. Licensees shall complete all supervision requirements consistent with the license held and immediately thereafter submit appropriate supervision forms to the board office along with a written request for license upgrade and the upgrade fee. The licensee shall remain under supervision until the upgrade has been approved by the board.

J. If a passing score on the Educational Testing Service's specialty area examination in speech-language pathology is not submitted within one year from the date of issuance of the license, a provisional licensee must apply for a speech-language pathology assistant license. This individual may perform only those duties as specified in §121 and must be supervised in accordance with the requirements specified in §131.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 22:349 (May 1996), amended LR 27:197 (February 2001), LR 28:1971 (September 2002), LR 30:2312 (October 2004), LR 33:2194 (October 2007), LR 37:2394 (August 2011), amended by the Department of Health, Board of Speech-Language Pathology and Audiology, LR 45:255 (February 2019), repromulgated LR 45:433 (March 2019).

§135. Telehealth

(Formerly §130)

A. Telehealth, regardless of where the service is rendered or delivered, constitutes the practice of audiology or speech-language pathology and shall require Louisiana licensure for in-state practitioners and telehealth registration for out-of-state licensed practitioners.

B. A provider of telehealth services shall be competent in both the type of services provided and the methodology and equipment used to provide the services.

C. A provider of telehealth services must use methods for protecting client information that include authentication and encryption technology.

D. The standard of care shall be the same as if the audiology or speech-language pathology services were delivered face-to-face. It is the responsibility of the provider to determine candidacy and to ensure that the client is comfortable with the technology being utilized.

E. The client shall be notified of telehealth services including but not limited to the right to refuse telehealth services, options for service delivery, and instructions on filing and resolving complaints, in all applicable jurisdictions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 39:1044 (April 2013), amended by

the Department of Health, Board of Speech-Language Pathology and Audiology, LR 42:1668 (October 2016), LR 45:261 (February 2019), repromulgated LR 45:434 (March 2019).

Jolie Jones
Executive Director

1903#001

RULE

Department of Health Bureau of Health Services Financing

Federally Qualified Health Centers
Alternative Payment Methodology
(LAC 50:XI.10703)

The Department of Health, Bureau of Health Services Financing has amended LAC 50:XI.10703 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XI. Clinic Services

Subpart 13. Federally-Qualified Health Centers

Chapter 107. Reimbursement Methodology

§10703. Alternate Payment Methodology

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

E. Effective for dates of service on or after April 1, 2019, the Medicaid Program shall establish an alternative payment methodology for behavioral health services provided in FQHCs by one of the following practitioners:

1. physicians with a psychiatric specialty;
2. nurse practitioners or clinical nurse specialist with a psychiatric specialty;
3. licensed clinical social workers; or
4. clinical psychologists.

F. The reimbursement for behavioral health services will equal the all-inclusive prospective payment system rate on file for the date of service. This reimbursement will be in addition to any all-inclusive prospective payment system rate on the same date for a medical/dental visit.

G. Dental services shall be reimbursed at the all-inclusive encounter prospective payment system rate on file for fee for service for the date of service. This reimbursement will be in addition to any all-inclusive prospective payment system rate made on the same date for a medical/behavioral health visit.

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 34:1033 (June 2008), amended by the Department of Health, Bureau of Health Services Financing, LR 44:1894 (October 2018), LR 44:2162 (December 2018), LR 45:434 (March 2019).

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.

Rebekah E. Gee MD, MPH
Secretary

1903#046

RULE

Department of Health Bureau of Health Services Financing

Intermediate Care Facilities for Individuals with
Intellectual Disabilities
Transitional Rates for Public Facilities
(LAC 50:VII.32969)

The Department of Health, Bureau of Health Services Financing has amended LAC 50:VII.32969 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part VII. Long Term Care

Subpart 3. Intermediate Care Facilities for Individuals with Intellectual Disabilities

Chapter 329. Reimbursement Methodology

Subchapter C. Public Facilities

§32969. Transitional Rates for Public Facilities

A. - C.6. ...

D. If the community home meets the above criteria and the individuals served require that the community home has a licensed nurse at the facility 24 hours per day, seven days per week, the community home may apply for a supplement to the transitional rate. The supplement to the rate shall not exceed \$25.33 per day per individual.

E. - G. ...

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 39:326 (February 2013), amended LR 40:2588 (December 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 44:60 (January 2018), LR 44:772 (April 2018), LR 45:435 (March 2019).

Rebekah E. Gee MD, MPH
Secretary

1903#047

RULE

Department of Health Bureau of Health Services Financing

Rural Health Clinics
Alternative Payment Methodology
(LAC 50:XI.16703)

The Department of Health, Bureau of Health Services Financing has amended LAC 50:XI.16703 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XI. Clinic Services

Subpart 15. Rural Health Clinics

Chapter 167. Reimbursement Methodology

§16703. Alternate Payment Methodology

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

E. Effective for dates of service on or after April 1, 2019, the Medicaid Program shall establish an alternative payment methodology for behavioral health services provided in RHCs by one of the following practitioners:

1. physicians with a psychiatric specialty
2. nurse practitioners or clinical nurse specialists with a psychiatric specialty
3. licensed clinical social workers; or
4. clinical psychologists

F. The reimbursement for behavioral health services will equal the all-inclusive encounter PPS rate on file for fee for service on the date of service. This reimbursement will be in addition to any all-inclusive PPS rate on the same date for a medical/dental visit.

G. Dental services shall be reimbursed at the all-inclusive PPS rate on file for fee-for-service on the date of service. This reimbursement will be in addition to any all-inclusive PPS rate made on the same date for a medical/behavioral health visit.

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 32:1905 (October 2006), repromulgated LR 32:2267 (December 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:2632 (September 2011), LR 40:83 (January 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 44:1903 (October 2018), LR 44:2162 (December 2018), LR 45:435 (March 2019).

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.

Rebekah E. Gee MD, MPH
Secretary

1903#048

RULE

Department of Health Bureau of Health Services Financing

Telemedicine—Claim Submissions
(LAC 50:I.503)

The Department of Health, Bureau of Health Services Financing has amended LAC 50:I.503 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to the Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part I. Administration

Subpart 1. General Provisions

Chapter 5. Telemedicine

§503. Claim Submissions

A. Medicaid covered services provided via an interactive audio and video telecommunications system (telemedicine) shall be identified on claim submissions by appending the Health Insurance Portability and Accountability Act (HIPAA) of 1996 compliant place of service (POS) or modifier to the appropriate procedure code, in line with current policy.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:2032 (August 2005), amended by the Department of Health, Bureau of Health Services Financing, LR 45:436 (March 2019).

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 the submission to CMS for review and approval is required.

Rebekah E. Gee MD, MPH
Secretary

1903#049

RULE

Department of Health Emergency Response Network Board

Trauma Program Recognition (LAC 48:I.19707)

In accordance with the provisions of R.S. 49:950 et seq., and the Administrative Procedure Act, the Louisiana Emergency Response Network Board amends LAC 48:I.Chapter 197, Section 19707, a Rule as revised by the Louisiana Emergency Response Network Board in a meeting

of August 16, 2018, the following “Trauma Program Recognition”, adopted as authorized by R.S. 9:2798.5. The Rule clarifies timeliness and requirements for hospitals seeking Trauma Program recognition. This Rule is hereby adopted on the day of promulgation.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 15. Emergency Response Network

Chapter 197. Trauma Program Recognition

§19707. Procedure for Trauma Program Recognition

A. - E. ...

F. After loss of trauma program status for failing the ACS verification visit and focused review visit, trauma program status may be regained provided the following conditions are met:

1. A LERN designee and either the LERN trauma medical director or a trauma surgeon must review the deficiencies and findings of the ACS at a site visit;

2. The hospital must develop a remediation plan and apply to the LERN board for approval of trauma program status;

3. The LERN board will review the LERN team assessment of deficiencies and the hospital’s remediation plan;

4. The LERN board must vote to approve the trauma program status request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2846(A), R.S. 40:2845(A)(1) and R.S. 9:2798.5.

HISTORICAL NOTE: Promulgated by the Department of Health, Emergency Response Network, LR 42:1932 (November 2016), LR 45:436 (March 2019).

Paige Hargrove
Executive Director

1903#004

RULE

Department of Health Professional Counselors Board of Examiners

Requirements, Fees and Exemptions
(LAC 46:LX.705, 801, 803, 901 and 1701)

In accordance with the applicable provisions of the Louisiana Administrative Procedures Act (R.S. 49:950 et seq.) and through the authority of the Mental Health Counselor Licensing Act (R.S. 37:1101 et seq.), the Louisiana Licensed Professional Counselors Board of Examiners has added to rules clarification on licensure requirements, fees and exemptions. This Rule is hereby adopted on the day of promulgation.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LX. Licensed Professional Counselors Board of Examiners

Subpart 1. Licensed Professional Counselors

Chapter 7. Application and Renewal Requirements for Licensed Professional Counselors

§705. Renewal

A. - D.1. ...

2. Application for renewal after two years days from the date of licensure lapse will not be considered for renewal; the individual must apply under the current licensure and/or privileging guidelines and submit recent continuing education hours (CEHs) as part of application for licensure or privileging designation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 41:719 (April 2015), amended by the Department of Health, Licensed Professional Counselors Board of Examiners LR 45:436 (March 2019).

Chapter 8. Licensed Professional Counselor Supervisors

§801. Licensed Professional Counselor Supervisor Requirements

A. -A.1.a. ...

b. Counseling Practice. The supervisor must have been practicing mental health counseling minimum of three years post licensure experience.

c. Training in supervision must be consistent with ACA, LCA, NBCC or CACREP standards, and completed within five years of application for board-approved supervision. Supervisors must have successfully completed either Clauses i or ii below.

i. Graduate-Level Academic Training. At least one graduate-level academic course in counseling supervision equivalent with CACREP. The course must have included at least 45 clock hours (equivalent to a three credit hour semester course) of supervision training.

ii. Professional Training. A professional training program in supervision approved by ACA, LCA, or NBCC. The training program must be a minimum of 25 clock hours of face-to-face interaction with the instructor.

2. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 41:721 (April 2015), amended by the Department of Health, Licensed Professional Counselors Board of Examiners LR 45:437 (March 2019).

§803. Supervised Experience of Provisional Licensed Professional Counselors

A. - A. 11. ...

12. Supervisors may employ provisional licensed professional counselors in their private practice setting. The agency or employer may bill for services provided by the PLPC. The PLPC may not bill directly for services provided to clients and the PLPC may not bill under another person's name.

13.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 41:722 (April 2015), amended by the Department of Health, Licensed Professional Counselors Board of Examiners LR 45:437 (March 2019).

Chapter 9. Fees

§901. General

A. - A.6. ...

7. application for expedited review—\$60;

8. -10. ...

11. late fee for licensure application—\$60;

12. late fee for renewal of provisional license—\$60;

13. late fee for renewal of appraisal, board-approved supervisor, and other specialty area—\$28;

14. - 17. ...

19. failure of notification—\$50.

B. Late fees will be incurred the day after a licensee's designated renewal deadline (no grace period). No part of any fee shall be refundable under any conditions. The renewal shall be deemed timely when:

B.1 - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:136 (February 2003), amended LR 29:2783 (December 2003), LR 39:1790 (July 2013), LR 41:723, amended by the Department of Health, Licensed Professional Counselors Board of Examiners LR 45:437 (March 2019).

Chapter 17. Exclusions for Licensed Professional Counselors

§1703. Exemptions

A. ...

B. Repealed.

C. Students at any accredited education institution shall be supervised by a professional mental health counselor while carrying out any fieldwork prescribed through coursework. Such students shall clearly indicate his/her student status to the public and the field in which he/she is being trained.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:136 (February 2003), amended LR 29:2783 (December 2003), LR 39:1790 (July 2013), LR 41:723, amended by the Department of Health, Licensed Professional Counselors Board of Examiners LR 45:437 (March 2019).

Jamie S. Doming
Executive Director

1903#008

RULE

Department of Health Professional Counselors Board of Examiners

Telehealth (LAC 46:LX.505)

In accordance with the applicable provisions of the Louisiana Administrative Procedures Act (R.S. 49:950 et seq.) and through the authority of the Mental Health Counselor Licensing Act (R.S. 37:1101 et seq.), the Louisiana Licensed Professional Counselors Board of

Examiners has added §505 to its rules. This Rule is hereby adopted on the day of promulgation.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS REVISED**

**Part LX. Licensed Professional Counselors Board of
Examiners**

Subpart 1. Licensed Professional Counselors

Chapter 5. License and Practice of Counseling

**§505. Teletherapy Guidelines for Licensees
(Formerly Diagnosing for Serious Mental
Illnesses)**

A. This Chapter defines and establishes minimum standards for the delivery of mental health counseling, psychotherapy, and marriage and family therapy services using technology-assisted media. Teletherapy references the provision of counseling and psychotherapy services from a distance which is consistent with the same standards of practice as in-person counseling settings.

B. Teletherapy is defined as a method of delivering mental health counseling, psychotherapy, and marriage and family therapy services as prescribed by R.S. 37:1101 and R.S. 37:1116 using interactive technology-assisted media to facilitate prevention, assessment, diagnosis, and treatment of mental, emotional, behavioral, relational, and addiction disorders to individuals, groups, organizations, or the general public that enables a licensee and a client(s) separated by distance to interact via synchronous video and audio transmission.

C. The board recognizes that safe and effective practices in teletherapy require specific training, skills, and techniques and has set forth the following regulatory standards to ensure competence and safety. This Rule shall not be construed to alter the scope of practice of any licensee or authorize the delivery of services in a setting, or in a manner, not otherwise authorized by law. Nothing in this Section shall preclude a client from receiving in-person counseling, psychotherapy, and marriage and family therapy services after agreeing to receive services via telemental health. Teletherapy shall be delivered in real-time (synchronous) using technology-assisted media such as telephonic and videoconferencing through computers and mobile devices. The use of asynchronous modalities (e-mail, chatting, texting, and fax) is not appropriate and shall not be used for teletherapy, except in a crisis to ensure the client's safety and stability.

D. Licensees shall provide services consistent with the jurisdictional licensing laws and rules in both the jurisdiction in which licensee is physically located and where the client is physically located. Licensees providing teletherapy services to clients outside of Louisiana must comply with the regulations in the state in which the client is located at the time of service. The licensee shall contact the licensing board in the state where the client is located and document all relevant regulations regarding teletherapy. A nonresident of Louisiana who wishes to provide teletherapy health services in Louisiana must be licensed by the board.

E. Teletherapy is a specialty area and requires board approval. Licensees who may provide teletherapy must meet the following requirements.

1. The licensee must be licensed in Louisiana.

2. The licensee must be licensed in the state where the client is located if licensing is required.

3. The licensee must have been practicing for at least one year.

4. The licensee must complete either option below.

- a. Graduate-Level Academic Training. At least one graduate-level academic course in telemental health counseling. The course must have included at least 45 clock hours (equivalent to a three-credit hour semester course).

- b. Professional Training with a minimum of nine synchronous clock hours in teletherapy. The presenter shall meet continuing education standards established by the board. Teletherapy education/training shall include but is not limited to:

- i. appropriateness of teletherapy;
- ii. teletherapy theory and practice;
- iii. theory integration;
- iv. modes of delivery;
- v. risk management;
- vi. managing emergencies;
- vii. legal/ethical issues.

5. Licensees privileged in teletherapy must accrue three clock hours of continuing education during each renewal period.

F. At the onset of teletherapy, the licensee shall obtain verbal and/or written informed consent from the client and shall document such consent in the client's record.

1. Electronic signature(s) and date may be used in the documentation of informed consent.

2. Provisions of informed consent for teletherapy services shall include:

- a. mode and parameter of technology-assisted media(s), and technical failure;
- b. scheduling and structure of teletherapy;
- c. risks of teletherapy;
- d. privacy and limits of confidentiality;
- e. contact between sessions;
- f. emergency plan;
- g. consultation and coordination of care with other professionals;
- h. referrals and termination of services;
- i. information and record keeping;
- j. billing and third-party payors;
- k. ethical and legal rights, responsibilities, and limitations within and across state lines and/or international boundaries.

G. The licensee shall provide each client with his/her declaration or statement of practice on file with the board office.

H. At the onset of each session the licensee shall verify and document the following:

1. The identity and location of the licensee and the client. If the client is a minor, the licensee must also verify the identity of the parent or guardian consenting to the minor's treatment. In cases where conservatorship, guardianship, or parental rights of the minor client have been modified by the court, the licensee shall obtain and review a copy of the custody agreement or court order before the onset of treatment.

2. The location and contact information of the emergency room and first responders nearest to the client's location.

I. The licensee shall determine if the client may be properly diagnosed and/or treated via teletherapy; and shall affirm that technology-assisted media are appropriate for clients with sensory deficits. The licensee shall affirm the client's knowledge and use of selected technology-assisted media(s) (i.e., software and devices). Clients who cannot be diagnosed or treated properly via teletherapy services shall be dismissed and treated in-person, and/or properly terminated with appropriate referrals. The licensee shall use technology assisted media(s) that is in compliance with HIPPA and HiTECH standards. The licensee shall not use social media platforms or functions (tweets, blogs, networking sites, etc.) in the delivery of teletherapy, and shall not reference clients generally or specifically on such formats.

J. Policies and procedures for the documentation, maintenance, access, transmission and destruction of record and information using technology assisted media shall be consistent with the same ethical and regulatory standards for in-person services. Services must be accurately documented in teletherapy services, denoting the distance between the licensee and the client. Documentation shall include verification of the licensee's and client's location, type of service(s) provided the date of service, and duration of service. The licensee shall inform clients of how records are maintained, type of encryption and security assigned to the records, and how long archival storage is maintained.

K. Telesupervision is defined as a method delivering clinical mental health and marriage and family therapy supervision as prescribed by R.S 37:1101 and R.S. 37:1116 using technology-assisted media that enables a supervisor and a supervisee separated by distance to interact via synchronous video and audio transmissions. Up to 25 percent of total supervision hours may be used within a telesupervision format.

1. Teletherapy supervision may include but is not limited to, the review of case presentation, audio tapes, video tapes, and observation to promote the development of the practitioner's clinical skills.

2. Teletherapy supervision shall be provided in compliance with the same ethical and regulatory standards as in-person supervision.

3. The supervisor shall inform supervisees of the potential risks and benefits associated with telesupervision.

4. The supervisor shall determine if the supervisee may be properly supervised via teletherapy supervision. Supervisees who cannot be supervised via teletherapy supervision shall be restricted to in-person supervision, and/or properly terminated with appropriate referrals.

5. The supervisor shall affirm the supervisee's knowledge and use of selected technology-assisted media(s) (i.e., software and devices).

6. The supervisor shall use technology assisted media(s) that is in compliance with HIPPA and HiTECH standards.

7. The supervisor shall not use social media platforms or functions (tweets, blogs, networking sites, etc.) in the delivery of teletherapy supervision, and shall not reference supervisee generally or specifically on such formats.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health, Licensed Professional Counselors Board of Examiners, LR 45:438 (March 2019).

Jamie S. Doming
Executive Director

1903#009

RULE

Department of Insurance Office of the Commissioner

Regulation 9—Deferred Payment of Fire Premiums in Connection with the Term Rule (LAC 37:XIII.Chapter 55)

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950, et seq., has repealed Regulation 9—Deferred Payment of Fire Premiums in Connection with the Term Rule.

The purpose of Regulation 9 was to provide for premium payment plans for fire insurance policies issued for three or five-year terms. This was a standard policy term when this regulation was promulgated in 1955. The industry standard policy term is now one year. The payment plans provided for in the regulation are no longer needed. Regulation 9 is now obsolete. This Rule is hereby adopted on the day of promulgation.

Title 37

INSURANCE

PART XIII. Regulations

Chapter 55. Regulation 9 - Deferred Payment of Fire Premiums in Connection with the Term Rule

§5501. Payment of Fire Premiums

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, April 4, 1955, repealed LR 45:439 (March 2019).

James J. Donelon
Commissioner

1903#022

RULE

Department of Insurance Office of the Commissioner

Regulation 16—Investment by Insurers of Part of Premium Paid, Return Guaranteed (LAC 37:XIII.Chapter 61)

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950, et seq., has repealed Regulation 16—Investment by Insurers of Part of Premium Paid, Return Guaranteed.

The purpose of Regulation 16 was to regulate insurance policies containing an investment feature whereby the insurer invests amounts paid by the policyholder in excess of the premium and guarantees the return of the excess to the policyholder or his or her beneficiary. This was a common type of insurance policy when the regulation was promulgated in 1958. These types of policies are no longer being issued by insurers. Regulation 16 is now obsolete. This Rule is hereby adopted on the day of promulgation.

Title 37

INSURANCE

PART XIII. Regulations

Chapter 61. Regulation 16 - Investment by Insurers of Part of Premium Paid, Return Guaranteed

§6101. Policy Directive Number Three to Insurance Companies

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, October 1, 1958, repealed LR 45:440 (March 2019).

James J. Donelon
Commissioner

1903#023

RULE

Uniform Local Sales Tax Board

Voluntary Disclosure Agreements (LAC 72:I.105)

Under the authority of the Uniform Local Sales Tax Code, R.S. 47:337.1 et seq., and in accordance with the Uniform Local Sales Tax Administrative Procedure Act, R.S. 47:337.91 et seq., the Louisiana Uniform Local Sales Tax Board has adopted LAC 72:I.105 regarding a uniform voluntary disclosure program for local sales and use tax.

Act 274 of the 2017 Regular Legislative Session enacted R.S. 47:337.102 to establish the Louisiana Uniform Local Sales Tax Board and to define its powers and authority. Under R.S. 47:337.102(F), the board shall promulgate rules to establish a uniform voluntary disclosure program for taxpayers seeking relief from penalties in cases where a liability to more than one local sales and use tax collector is owed, requires the board to accept applications from taxpayers seeking to participate in the program, and authorizes the board to issue a binding recommendation for the waiver of penalties for taxpayers who have complied with program requirements. The purpose of this regulation is to fulfill the board's obligations under the statute. This Rule is hereby adopted on the day of promulgation.

Title 72

UNIFORM LOCAL SALES TAX

Part I. General Provisions

Chapter 1. Administrative Procedures

§105. Voluntary Disclosure Agreements

A. Definitions. For purposes of this Section, the following terms have the meanings ascribed to them.

Applicant—any association, corporation, estate, firm, individual, joint venture, limited liability company, partnership, receiver, syndicate, trust, or any other entity, combination or group that has a local sales tax liability to more than one local sales and use tax authority and submits or arranges through a representative for the submission of an application to request a voluntary disclosure agreement for said undisclosed local sales tax. Applicants may be registered or unregistered with the collectors. If the application is submitted through a representative, anonymity of the applicant can be maintained until the board issues a binding recommendation for waiver of the delinquent penalty by the collectors.

Application—a completed “Application to Request Voluntary Disclosure Agreement” form filed with the board and all supplemental information including, but not limited to, cover letters, schedules, reports, and any other documents that provide evidence the applicant has complied with the requirements for a voluntary disclosure agreement. Supplemental information requested by the board or collectors and timely provided by the applicant shall be considered part of the application.

Application Date—the date a fully completed application requesting a voluntary disclosure agreement is received by the board. Supplemental information requested by the board or collectors and timely provided by the applicant shall not extend or delay the application date.

Binding Recommendation—a recommendation by the board, authorized under R.S. 47:337.102(F), declaring that an applicant has complied with the requirements of the voluntary disclosure program and for the waiver of delinquent penalties by the collectors upon full payment of taxes and interest. This recommendation shall be binding absent fraud, material misrepresentation, or misrepresentation of the facts by the taxpayer.

Board—the Louisiana Uniform Local Sales Tax Board and its duly authorized representatives.

Collector—the single collector for a parish as defined in Article VII, Section 3 of the *Constitution of Louisiana* and the collector's duly authorized representatives.

Delinquent Penalty—penalties imposed pursuant to R.S. 47:337.70 or R.S. 47:337.73 as a result of the failure of the taxpayer to timely make any required return or payment.

Local Sales Tax—a tax imposed by a local taxing authority under the provisions of Article VI, Section 29 of the *Constitution of Louisiana*.

Local Taxing Authority—a political subdivision of the state authorized to impose sales tax under the provisions of Article VI, Section 29 of the *Constitution of Louisiana*.

Look-Back Period—the period for which the applicant agrees to disclose and pay the tax and interest due.

Signature Date—the date when a collector physically or electronically signs the voluntary disclosure agreement. If the collector fails to physically or electronically sign the voluntary disclosure agreement within 30 days of notification by the board that the agreement is available for signature, the signature date shall be the thirtieth day after such notification.

Undisclosed Liability—a sales or use tax liability that became due during the look-back period and which has not been determined, calculated, researched, identified by or made known to the collector at the time of disclosure.

Voluntary Disclosure Agreement—a contractual agreement between an applicant and a collector wherein the applicant agrees to voluntarily pay the tax and interest due to a local taxing authority on a previously undisclosed liability involving a local sales or use tax and the collector agrees to waive payment of the whole of the delinquent penalty associated with that liability as such is described in R.S. 47:337.71 and to not pursue sales or use tax liabilities prior to the look-back period listed in the agreement.

B. Program Requirements

1. An undisclosed liability will qualify for a voluntary disclosure agreement if it results from the underpayment or non-payment of sales tax due to an error in the mathematical computation of the tax due on the return, interpretation of the law, or process of reporting the tax due on the return. An undisclosed liability also qualifies if it resulted from the merger or acquisition of a company that previously failed to properly report sales and use taxes to a collector.

a. An error in the mathematical computation of the tax due on the return is an error on the part of the taxpayer in mathematical computation on the face of the return or on any of the supporting documents or the unintentional failure to include all amounts necessary for calculating the correct amount of taxes due on the return.

b. An error in the interpretation of the law is a construction of the law on the part of the taxpayer contrary to the collector's construction of the law that caused the applicant to incorrectly determine that no tax or a smaller amount of tax was due.

c. An error in the process of reporting the tax due on the return is an error, omission, or a mistake of fact of consequence to the determination of the tax liability on the part of the taxpayer.

2. Notwithstanding the provisions of Paragraph 1 of this Subsection, an applicant shall fail to comply with the requirements for a voluntary disclosure agreement under the following conditions.

a. The applicant is registered as a dealer that is required to report retail sales or sales at retail, as defined in R.S. 47:301(10), to the collector on the application date and the undisclosed liability results from the applicant's failure to file returns for a local sales tax.

b. The undisclosed liability results from the filing of false, fraudulent, or grossly incorrect returns and the circumstances indicate that the taxpayer had intent to defraud the local taxing authority of the tax due under a local ordinance or the Uniform Local Sales Use Tax Code as provided in R.S. 47:337.1, et seq.

c. The applicant has been contacted by the collector to inquire about a tax matter, including but not limited to nexus, a potential tax liability or an audit of the taxpayer's records provided such contact occurred in writing and prior to the application date of the agreement.

d. The applicant is affiliated, as defined by law, with an entity that has been contacted by the collector for the purpose of performing an audit. An applicant shall be considered in compliance with the requirements of the voluntary disclosure program after the audit of the affiliated entity has been completed, provided the undisclosed liability qualifies under the criteria described in Paragraph 1 of this Subsection and the applicant is not disqualified under the criteria listed in Subparagraphs a, b or c of this Paragraph.

3. Notwithstanding the conditions listed in paragraphs 1 and 2 of this subsection, applicants that applied for a voluntary disclosure agreement with a collector prior to the effective date of this rule and subsequently entered into a voluntary disclosure agreement with the collector shall be deemed to have met the program requirements for that local taxing authority.

C. Application and Evaluation of Offer to Enter into a Voluntary Disclosure Agreement

1. Applications to enter into voluntary disclosure agreements by taxpayers seeking relief from penalties in cases where a liability to more than one local sales and use tax collector is owed shall be filed on forms provided and in the manner prescribed by the board. The applicant or his authorized representative, acting under the authority of a power of attorney, shall sign the application, provide a statement of the facts, and include any other information or declarations required to verify that the applicant has complied with program requirements. Taxpayers may apply anonymously or disclose their identity on the application form.

2. If unregistered, the applicant shall apply to the collectors for sales tax accounts within 30 days of the application date.

3. The board shall review the application and, based upon the information included therein, determine if the applicant complies with the requirements for a voluntary disclosure agreement.

a. If the board determines from the information included in the application that the applicant has complied with program requirements for a voluntary disclosure agreement, notification of the board's finding shall be sent to the applicant. The notification shall include the following statement:

The Louisiana Uniform Local Sales Tax Board has reviewed your application and determined from the information included therein that the requirements to qualify for a voluntary disclosure agreement have been met. Therefore, the Board hereby issues a recommendation for the local sales and use tax collector to enter into a voluntary disclosure agreement and to waive penalties upon full payment of the tax and interest due. As provided in R.S. 47:337.102(F), this recommendation shall be binding on the local sales and use tax collector absent fraud, material misrepresentation, or any such misrepresentation of the facts by the taxpayer.

b. If the board determines from the information included in the application that the applicant has not complied with program requirements for a voluntary disclosure agreement, the board shall send notice of its finding to the applicant with an explanation for the determination. The applicant may present additional information for consideration by the board within 30 days of the date of the notice. The board shall review the additional information and render a final determination regarding the applicant's compliance with program requirements.

i. If the board determines that the applicant has complied with program requirements after considering any additional information provided, a notification of binding recommendation shall be sent to the applicant that includes the statement contained in Subparagraph a of this Paragraph.

ii. If the board determines that the applicant has not complied with program requirements after considering any additional information provided, the applicant may request the application be sent to the collector for

consideration. The agreement may be signed, at the option of the collector, without a binding recommendation from the board.

c. Anonymous applicants who have complied with program requirements shall reveal their legal identity to the board and, if applicable, provide a copy of the power of attorney for the person who submitted the application on their behalf within five business days of receiving notification of the binding recommendation. The legal name of the taxpayer shall be used to prepare the voluntary disclosure agreement for signature.

D. Determining the Look-back Period and Treatment of Periods prior to the Look-back Period

1. Except for taxes collected and not remitted, the look-back period for existing entities shall include that portion of the current calendar year prior to and including the application date and the three immediately preceding calendar years.

2. Except for taxes collected and not remitted, the look-back period for a discontinued, acquired, or merged entity shall include the last calendar year in which the discontinued, acquired, or merged entity had nexus in a jurisdiction and the three immediately preceding calendar years.

3. For taxes collected and not remitted, the look-back period shall include all filing periods in which tax was collected and not remitted up to and including the application date. This look-back period shall not affect the look-back period described Paragraphs 1 or 2 of this Subsection for undisclosed liabilities unrelated to tax collected and not remitted.

4. The board or the collectors, in concurrence with the applicant, may adjust the look-back period to accommodate special circumstances.

5. Look-back periods shall be established from the application date, unless the liability results from a merged or acquired entity as described in Paragraph 2 of this Subsection or there is mutual agreement to adjust a look-back period as provided in Paragraph 4 of this Subsection.

6. Periods prior to the look-back period shall be considered part of the voluntary disclosure agreement. However, payment is not required for any taxes due for these periods.

E. Post Approval Procedures and Conditions

1. Once the board determines an applicant has complied with the qualifications for a voluntary disclosure agreement and issues a binding recommendation, the legal name of the taxpayer, which shall appear on the voluntary disclosure agreement, shall be provided to the board. The agreement shall be made available to the collector and the applicant for signature. Each party shall be notified when the agreement has been sent to the other party for signature.

2. The applicant and the collector shall sign the agreement within 30 days of its delivery by the board. The agreement shall become effective upon the signature of both parties. If the collector fails to sign the agreement within 30 days, the thirtieth day after notification by the board shall be the signature date of the agreement for the collector and that date shall be considered the date of the collector's signature. If the applicant fails to sign the agreement within 30 days, the collector may terminate the agreement. However, the

collector may grant an extension beyond the 30 days for the applicant to sign the agreement.

3. After the collector and the applicant sign the agreement, the board shall forward a signed copy to each party.

4. Under the agreement, the applicant and the collector agree to suspend prescription for the look-back period as follows:

a. through June 30 of the calendar year subsequent to the signature date when that date occurs on or after January 1 and on or before June 30; and

b. through December 31 of the calendar year subsequent to the signature date when that date occurs on or after July 1 and on or before December 31.

F. Payment of Tax, Interest, and Penalty Due

1. All tax due for the look-back period shall be paid within 60 calendar days of the signature date or within any extension of time granted by the collector beyond 60 calendar days of the signature date. The taxpayer shall include with this payment documentation detailing the local sales tax due by month and year.

2. The collector shall compute the interest and delinquent penalty due for the tax disclosed and prepare a schedule detailing the tax, interest and delinquent penalty. The schedule may be sent by mail, email, or any other appropriate method of delivery to the applicant or his authorized representative. The applicant shall submit payment for the full amount of interest within 30 calendar days from receipt of the schedule or within any extension of time granted by the collector to submit the payment. If payment of the full amount due has not been received at the expiration of such time, the collector may void the agreement. Once full payment of tax and interest has been received, the collector shall waive any delinquent penalty due.

G. Discovery of Fraud, Material Misrepresentation, or any such Misrepresentation

1. If a collector discovers evidence of fraud, material misrepresentation, or any such misrepresentation of the facts by the taxpayer that were relied upon by the board to determine the applicant met the qualifications for a voluntary disclosure agreement, the collector may:

a. void the agreement and take such administrative, judicial or other legal or equitable action available as if the agreement had never existed; or

b. agree to be bound by the terms of the voluntary disclosure agreement notwithstanding the existence of evidence that indicates the applicant engaged in fraud, material misrepresentation, or any such misrepresentation of the facts.

2. If a collector elects to void the agreement and pursue administrative, judicial or other legal or equitable action available as if the agreement had never existed, the taxpayer may, under rights granted to him by statute, dispute additional liabilities resulting from the collector's determination of fraud, material misrepresentation, or any such misrepresentation of the facts.

H. Information furnished to local taxing authorities under a voluntary disclosure agreement shall be considered and held confidential and privileged by the political subdivisions to the extent provided by R.S. 47:1508.

I. A collector may conduct an audit of the look-back period to confirm that the correct amount of tax has been paid. Interest and penalty may be assessed on tax found due in excess of the amounts reported under the voluntary disclosure agreement. The collector shall not assess additional interest or penalty for amounts reported and paid under the voluntary disclosure agreement except in cases of fraud, material misrepresentation, or any such misrepresentation of the facts by the taxpayer.

J. The terms of the voluntary disclosure agreement shall be valid, binding, and enforceable by and against all parties, including their transferees, successors, and assignees.

K. The board reserves the right to develop policies and procedures to accumulate and monitor information for evaluating the effectiveness of the voluntary disclosure agreement program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:337.102(C)(2) and (F).

HISTORICAL NOTE: Promulgated by the Louisiana Uniform Local Sales Tax Board, LR 45:440 (March 2019).

Roger Bergeron
Executive Director

1903#015

Notices of Intent

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 111—The Louisiana School, District, and State Accountability System—ACT Index Revisions (LAC 28:XI.411, 1103, and 2901)

Under the authority granted in R.S. 17:6 and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education proposes to amend *Bulletin 111—The Louisiana School, District, and State Accountability System*. The proposed revisions update the ACT/WorkKeys concordance table and align policy with Acts of the 2018 Regular Legislative Session related to honor roll designations and state annual reporting.

Title 28 EDUCATION

Part XI. Accountability/Testing

Subpart 1. Bulletin 111—The Louisiana School, District, and State Accountability System

Chapter 4. Assessment and Dropout/Credit Accumulation Index Calculations

§411. ACT/WorkKeys Index

A.1.- A.2.a. ...

b. The concordance tables below will be used to award points for performance score results and will be reevaluated annually for continued alignment with ACT performance.

WorkKeys Index Beginning 2019-2020 (2020 SPS)	
WorkKeys Level	Index Points
Platinum	120.4
Gold	103.4
Silver	70.0

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:449 (March 2018), LR 45:

Chapter 11. School Performance Categories

§1103. Honor Rolls

[Formerly LAC 28:LXXXIII.1103]

A. The LDE will establish an honor roll to recognize high-performing schools and high schools with exemplary graduation rates.

B. The honor roll will be published with school and district performance scores and letter grades.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:2121 (July 2011), amended LR 38:3111 (December 2012), LR 45:

Chapter 29. Progress Report

§2901. State Annual Reporting

[Formerly LAC 28:LXXXIII.2901]

A. - A.2.i. ...

B. For the 2018-2019 school year and beyond, whenever the state board makes any significant change in the criteria, methodology, or manner of calculating and determining the school and district performance scores and letter grades that could result in a significant number of schools or districts experiencing a change in letter grade, the board will consider whether to publish the performance score and letter grade that would have been calculated and reported, had the change not been implemented.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2751 (December 2003), amended LR 38:3113 (December 2012), LR 44:459 (March 2018), LR 45:

Family Impact Statement

In accordance with section 953 and 974 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Poverty Impact Statement

In accordance with section 973 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this section, the word “poverty” means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Analysis

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed rule on small businesses.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level 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 via the U.S. Mail until noon, April 9, 2019, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: ACT Index Revisions

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no anticipated costs or savings to the Department of Education or to local school districts as a result of the proposed revisions.

The ACT index for all high schools includes a student's highest score on the ACT or WorkKeys through the twelfth grade. The highest score is determined using a concordance table comparing ACT and WorkKeys scores. The ACT organization has adopted technical changes to the ACT® WorkKeys® assessments, including updating scoring criteria, which necessitates updating the concordance table for Louisiana, which will be used beginning with the 2019-2020 school year.

Additionally, the proposed revisions will align rules with Act 555 of 2018, which establishes honor roll designations for high performing schools and schools with exemplary graduation rates.

Finally, the changes implement the provisions of Act 522 of 2018 which requires the State Board of Elementary and Secondary Education (BESE) to consider publishing performance scores and letter grades under both old and new models if it makes significant changes to the criteria,

methodology, or manner of calculating and determining school and district performance scores and letter grades.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no estimated impacts on revenue collections as a result of the proposed policy revisions.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups as a result of the proposed policy revisions.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no estimated effects on competition and employment as a result of the proposed revisions.

Beth Scioneaux
Deputy Superintendent
1903#041

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 111—The Louisiana School, District, and State Accountability System—Inclusion in Accountability (LAC 28:XI.605)

Under the authority granted in R.S. 17:6 and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education proposes to amend *Bulletin 111—The Louisiana School, District, and State Accountability System*.

In October 2018, BESE approved revisions to Bulletin 111, *The Louisiana School, District, and State Accountability System*, which established a new rating formula for alternative education schools that is more closely aligned to the unique mission of serving students referred to alternative education for long-term services. In order to ensure the inclusion of a majority of alternative education schools in the accountability system, the proposed revisions clarify that alternative education schools will receive a school performance score and school letter grade with a minimum of 40 units.

Title 28

EDUCATION

Part XI. Accountability/Testing

Subpart 1. Bulletin 111—The Louisiana School, District, and State Accountability System

Chapter 6. Inclusion in Accountability

§605. Inclusion of Schools

[Formerly §519]

A. - B.2. ...

C. Alternative education schools, as defined in §3503 of this Part, shall have a minimum of 40 units as defined in Subsections A and B of this Section.

D. Each member of a cohort used to calculate a graduation index will be counted as 4 units when determining the minimum number of units required calculating an SPS.

E. Inclusion of Indices

1. A school must have 10 students in the graduation cohort to receive the cohort graduation indices.

2. For schools with early graduates, an increasing grade configuration, and without cohort graduation members, ACT assessment scores shall be banked for the calculation of school performance scores until the accountability cycle associated with those early graduates, per cohort graduation policy.

F. The number of schools in an LEA with fewer than 120 units is expected to remain stable over time. In the event that the number of schools with fewer than 120 units increases from the prior school year, the local superintendent of that LEA will provide a written justification to the state superintendent of education and BESE. BESE may choose to award a school performance score for any school newly identified with under 120 total units beginning with the 2018-2019 school year (fall 2019 release).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2741 (December 2003), amended LR 31:1512 (July 2005), LR 32:1022 (June 2006), LR 34:431 (March 2008), LR 36:1991 (September 2010), LR 38:3108 (December 2012), LR 40:2507 (December 2014), LR 41:1263 (July 2015), LR 44:453 (March 2018), LR 45:

Family Impact Statement

In accordance with section 953 and 974 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Poverty Impact Statement

In accordance with section 973 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this section, the word "poverty" means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Analysis

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed rule on small businesses.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level 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 via the U.S. Mail until noon, April 9, 2019, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 111—The Louisiana School, District, and State Accountability System Inclusion in Accountability

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed revisions to Bulletin 111 are not anticipated to result in any costs or savings for the Department of Education or local school districts. In October 2018, BESE approved revisions to Bulletin 111, The Louisiana School, District, and State Accountability System, which established a new rating formula for alternative education schools that is more closely aligned to the unique mission of serving students referred to alternative education for long-term services. In order to ensure the inclusion of a majority of alternative education schools in the accountability system, these proposed revisions provide that only those alternative education schools with a minimum of 40 testing units (fewer than 10 students) will not receive a school performance score and school letter grade, although subgroup scores will continue to be calculated for

those students in order to identify intervention needs based on that data.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no estimated impacts on revenue collections as a result of the proposed policy revisions.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups as a result of the proposed policy revisions.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no estimated effects on competition and employment as a result of the proposed revisions

Beth Scioneaux
Deputy Superintendent
1903#040

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Medical Event Reporting
(LAC 33:XV.613)(RP064)

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 Radiation Protection regulations, LAC 33:XV.613 (RP064).

This Rule makes changes to the medical event reporting regulations. Dose limits are being added to the reporting requirements in the regulations to lessen the burden on both the regulated community and the department.

The changes in the state regulations were prompted by the large number of reports of wrong patients or wrong body parts being X-rayed, but resulting in minimal patient doses. The basis and rationale for this Rule are to enable the state to provide clarification to the medical community on exactly when they need to report medical events to the department. 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 XV. Radiation Protection

Chapter 6. X-Rays in the Healing Arts §613. Notifications, Reports, and Records of Medical Events

A. A registrant shall report any medical event, except for an event that results from patient intervention, in which the administration of radiation involves the wrong patient, a procedure different than that which was authorized by the licensed practitioner of the healing arts, or a body site different from that which was authorized and intended to be exposed by the authorized X-ray procedure that results in:

1. unintended skin dose to the same area in a single procedure greater than two Gy (200 rad);

2. unintended dose other than skin dose in a single procedure greater than:

a. 20 percent of the facility's established protocol, or > 0.5 Gy (50 rad) to any organ; or

b. 20 percent of the facility's established protocol, or > 0.02 Sv (2 rem) effective dose;

3. exposure to the wrong patient or wrong site for the entire procedure when the resultant dose is:

a. greater than 0.5 Gy (50 rad) to any organ; or

b. an effective dose greater than 0.02 Sv (2 rem); or

4. a total effective dose that exceeds 0.02 Gy (2 rads) that involves any equipment failure, personnel error, accident, abnormal or other unusual occurrence with the administration of ionizing radiation.

B. Any administration of radiation involving a wrong patient, a procedure different than that which was authorized by a licensed practitioner, or a wrong body site imaged, including those reported in Subsection A of this Section, shall be internally reported, investigated, documented, and addressed within the facility. Each registrant shall retain a record of these occurrences for five years.

C. A registrant shall report any event resulting from intervention of a patient or human research subject in which the administration of radiation results or will result in unintended permanent functional damage to an organ or a physiological system, as determined by a physician.

D. All reports, notifications, and records shall be in accordance with LAC 33:XV.712.C, D, and F.

E. Aside from the notification requirement, nothing in this Section affects any rights or duties of registrants and physicians in relation to each other, the individual, or the individual's responsible relatives or guardians.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2104.B.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, LR 31:1064 (May 2005), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 45:

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 RP064. Such comments must be received no later than May 2, 2019, at 4:30 p.m., and should be sent to Deidra Johnson, Attorney Supervisor, Office of the Secretary, Legal Affairs and Criminal Investigations Division, P.O. Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-4068 or by e-mail to DEQ.Reg.Dev.Comments@la.gov. Copies of these proposed regulations can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of RP064. 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 April 25, 2019, 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
General Counsel

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Medical Event Reporting

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed change will have no effect on costs, including workload adjustments or any additional paperwork to the Department of Environmental Quality (DEQ). The proposed rule clarifies when certain medical events associated with x-rays in the healing arts must be reported to the department.

The proposed change will limit reporting requirements to only those events which meet the specified radiation dose limits, thereby reducing the number of events that must be reported to the department.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated increase or decrease in revenue collections of state or local governmental units from the proposed action.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

While there will be a reduction in the level of reports submitted by medical facilities and practitioners, the rules further specify events must be investigated, evaluated, documented and addressed internally. Since this requirement is already specified elsewhere in rule, it is not anticipated to have a material impact on affected entities.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed action will have no impact on competition or employment.

Herman Robinson
General Counsel
1903#027

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor Board of Architectural Examiners

Registration Information, Licenses, and Renewal Procedure
(LAC 46:I.1101, 1105, and 1301)

Notice is hereby given that the Board of Architectural Examiners, in accordance with the provisions of R.S. 49:950 et seq., and through the authority granted in R.S. 37:144(C), proposes to amend the title to Chapter 11 of its rules, LAC 46:I.1101 pertaining to registration information, LAC 46:I.1105 pertaining to licenses, and LAC 46:I.1301 pertaining to its renewal procedures.

The proposed Rule makes technical changes and clarifications; amend the title to Chapter 11 of its rules; increase the fees for the initial registration of in-state candidates for licensure; increase the renewal and delinquency fees for in-state and out of state architects; establish a fee for the replacement of a lost or destroyed license, and direct professional architectural corporations, architectural-engineering corporations, and architectural firms to the applicable rules which govern their registration and renewal of their certificates of authority.

Title 46 PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part I. Architects

Chapter 11. Licenses

§1101. Registration Information

A. To obtain information regarding registration to practice architecture in Louisiana, an individual should visit the board website, www.lsbac.com. Effective November 1, 2019, an in-state candidate shall be charged a fee of \$90, and an out of state candidate shall be charged a fee of \$150 for the issuance of his or her initial license.

B. The rules for registering and obtaining initial certificates of authority for professional architectural corporations, architectural-engineering corporations, and architectural firms are set forth in Chapter 17 infra.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners, LR 29:562 (April 2003), amended LR 45:

§1105. Licenses

A. Each holder of a license shall maintain the license in his or her principal office or place of business in this state.

B. A replacement license will be issued to a registrant to replace one lost or destroyed, provided the current annual registration renewal is in effect, the registrant makes proper request and submits an acceptable explanation of the loss or destruction of the original license, and the registrant pays a fee of \$30.

C. A registrant retired from practice who has either practiced architecture for 30 years or more or who is 65 years of age or older may request emeritus status. Only a registrant who is fully and completely retired from the practice of architecture may request emeritus status. Any

registrant who is presently receiving or who anticipates receiving in the future any salary, income, fees or other compensation (other than retirement income) from an architectural client, architectural firm, architect, design professional, or any other person for the practice of architecture is ineligible for emeritus status. The annual renewal fee for an approved emeritus registrant is \$5. Revocation and reinstatement rules apply to an emeritus registrant, just as they do to any other registrant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners, LR 29:563 (April 2003), amended LR 45:

Chapter 13. Administration

§1301. Renewal Procedure

A. A license for an individual architect shall expire and become invalid on December 31 of each year. An individual architect who desires to continue his or her license in force shall be required annually to renew same.

B. It is the responsibility of the individual architect to timely renew his or her license.

C. Prior to December 31 of each year, architects shall renew their licenses in accordance with the instructions set forth on the board website, www.lsbac.com. Effective November 1, 2019, the renewal fees shall be as follows: for an individual architect domiciled in Louisiana - \$90; for an individual architect domiciled outside Louisiana - \$175. Upon renewal, the architect may download from the board website a copy of his or her renewal license.

D. The failure to renew a license timely shall not deprive the architect of the right to renew thereafter. Effective November 1, 2019, the delinquent fees shall be as follows: an individual architect domiciled in Louisiana who transmits his renewal form and fee to the board subsequent to December 31 in the year when such renewal fee first became due shall be required to pay a delinquent fee of \$110. An individual architect domiciled outside Louisiana who transmits his renewal form and fee to the board subsequent to December 31 in the year when such renewal fee first became due shall be required to pay a delinquent fee of \$200. The delinquent fee shall be in addition to the renewal fee set forth in §1301.C.

E. The rules for renewing certificates of authority of professional architectural corporations, architectural-engineering corporations, and architectural firms are set forth in Chapter 17 *infra*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144-145.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners, LR 29:563 (April 2003); amended LR 35:2754 (December 2009), LR 36:1780 (August 2010), LR 45:

Family Impact Statement

In accordance with sections 953 and 974 of title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for amendment:

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Poverty Impact Statement

The proposed Rule should not have any foreseeable impact on any child, individual, or family as defined by R.S. 49:973. In particular, there should be no known or foreseeable effect on:

1. household income, assets, and financial security;
2. early childhood development and preschool through postsecondary education development;
3. employment and workforce development;
4. taxes and tax credits; or
5. child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

The impact of the proposed Rule on small business as defined in the Regulatory Flexibility Act has been considered. The proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors, has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Provider Impact Statement

The proposed Rule do not have any known or foreseeable impact on providers as defined in 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 provider 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 Katherine E. Hillegas by mail or by hand-delivery to 9625 Fenway Avenue, Suite B, Baton Rouge, LA 70809. Public comments must be dated and include the original signature of the person submitting the comment. All comments must be received by the close of business on April 10, 2019.

Katherine E. Hillegas
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Registration Information, Licenses, and Renewal Procedure

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes fall within the current regulatory scope of the LSBAC and are not anticipated to carry

any additional costs or savings. The proposed rule changes revise the Louisiana State Board of Architectural Examiners (LSBAE) fee schedule for architects and architectural candidates by increasing certain initial, renewal, and delinquency fees for in-state and out-of-state architects and in-state architectural candidates and establish a fee for the issuance of a replacement license. The proposed rule changes clarify that the LSBAE issues licenses, not certificates, to individual architects, and clarify that other rules are applicable to the registration, renewals of certificates of authority, and any delinquent renewals of professional architectural corporations, architectural-engineering corporations, and architectural firms.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The LSBAE will collect additional revenues from an increase in the initial license registration fee for in-state architectural candidates, increases in renewal and delinquent fees charged to in-state and out-of-state architects, and the establishment of a new fee for the issuance of a replacement license. The LSBAE estimates that its revenue collections will increase by an estimated \$67,800 annually as a result of the proposed rule changes.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule changes will result in increased costs to in-state architectural candidates, in-state architects, and out-of-state architects. The proposed rule changes increase the initial license registration fee for an in-state architectural candidate by \$15 (from \$75 to \$90), the license renewal fee for an in-state architect by \$15 (from \$75 to \$90), the license renewal fee for an out-of-state architect by \$25 (from \$150 to \$175), the delinquent fee for an in-state architect will increase by \$5 (from \$105 to \$110) and for an out-of-state architect by \$20 (from \$180 to \$200), and a fee of \$30 will be established for the issuance of a replacement license.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

While the proposed rule changes will impact fee schedules for in-state and out-of-state architects and in-state architectural candidates, the LSBAE does not anticipate the ability of such architects or architectural candidates to compete for projects or to provide architectural services in the public or private sectors will be impacted.

Katherine E. Hillegas
Executive Director
1903#025

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor

Board of Examiners of Certified Shorthand Reporters

Reciprocal Certification for Military Personnel and Spouses
(LAC 46:XXI.513)

In accordance with the Administrative Procedures Act, R. S. 49:950 et seq. Notice is hereby given that the Board of Examiners of Certified Shorthand Reporters proposes to adopt additions/changes made to the certification procedures.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS

Part XXI. Certified Shorthand Reporters

Chapter 5. Certificates

§513. Reciprocal Certification for Military Personnel and Spouses

A. The board may issue a license without examination to military personnel or their spouses who hold a current license, certification, or registration in another jurisdiction where requirements are substantially equivalent to the requirements for licensing in Louisiana, if the other jurisdiction grants reciprocity without more onerous requirements for military personnel and their spouses who apply from Louisiana. An applicant must comply with the following requirements.

1. An applicant who has completed a military program of training, been awarded a military occupational specialty, and performed satisfactorily in that specialty at a level that is substantially equivalent to the requirements for licensing in Louisiana is eligible for certification upon presenting the following:

a. verified documentary proof that the applicant has successfully completed a military program of training and been awarded a military occupational specialty in court reporting, identifying the methodology in which the applicant is certified to practice court reporting within the jurisdiction;

b. two affidavits from a lawyer or judge who has worked with the applicant, attesting that the applicant has performed satisfactorily in providing court reporting services;

c. two copies of transcripts produced by the applicant within one year before the date on which an application is submitted; and

d. an affidavit from the licensing authority attesting that the applicant is in good standing and has not been disciplined for an act that constitutes grounds for refusal, suspension, or revocation of a license to practice court reporting in Louisiana.

2. A military spouse who applies for certification must provide the following:

a. verified documentary proof of a current license, certification, or registration from another jurisdiction where requirements for licensing, certification, or registration are substantially equivalent to the requirements for licensing, certification, or registration in Louisiana;

b. an affidavit from the licensing authority in the other jurisdiction attesting that:

i. the applicant is in good standing and has not been disciplined; and

ii. identifying the methodology in which the applicant is certified to provide court reporting services within the jurisdiction;

c. Two affidavits from a lawyer or judge who has worked with the applicant, attesting that the applicant performed satisfactorily in providing court reporting services; and

d. An affidavit from the applicant attesting that the applicant is in good standing and has not been disciplined in any jurisdiction for an act that constitutes grounds for refusal, suspension, or revocation of a license to practice court reporting in Louisiana.

3. Paragraphs 1 and 2 of this Subsection do not apply to dishonorably discharged military personnel or the spouses of dishonorably discharged military personnel.

B. An applicant certified pursuant to the provisions of this section must obtain the mandatory hours of continuing education in ethics within not less than 12 months after obtaining a license.

C. An applicant who attains reciprocal admission as a Certified Digital Reporter may only practice for a judge or court.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2554, 2555, 2556 and R.S. 37:2557.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners of Certified Shorthand Reporters, LR 45:

Family Impact Statement

The proposed Rule changes have no known impact on family formation, 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 impact of the proposed Rule has been considered and will have no impact on poverty.

Provider Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the impact of the proposed Rule has been considered and will have no impact on provider.

Public Comments

Interested persons may submit written comments on the proposed changes until 4 p.m., December 10, 2018, to Judge John J. Lee, Jr., Chair of Board of Examiners of Certified Shorthand Reporters, 1450 Poydras St., Ste. 630, New Orleans, LA 70112.

Judge John J. Lee, Jr.
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Reciprocal Certification
for Military Personnel and Spouses**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will not result in any implementation costs (or savings) to state or local governmental units other than those one-time costs directly associated with the publication and dissemination of this rule. The proposed rule codifies SCR 83 of the 2018 Regular Session that requests Louisiana occupational and professional boards and commissions to display prominently on their website a link to licensing information for military-trained applicants and their family members.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections to 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 are no estimated costs to directly affected persons or non-governmental groups associated with the proposed rule change, but may benefit military-trained applicants and their family members seeking licensing information.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition or employment as a result of this rule change.

Judge John J. Lee, Jr.
Chairman
1903#024

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Commission on Law Enforcement and
Administration of Criminal Justice**

Peace Officer Standards and Training
(LAC 22:III. Chapter 47)

In accordance with the provision of R.S. 40:2401 et seq., the Peace Officer Standards and Training Act, and R.S. 40:905 et seq., which is the Administrative Procedure Act, the Peace Officer Standards and Training Council hereby gives notice of its intent to promulgate rules and regulations relative to the training of peace officers.

Title 22

**CORRECTIONS, CRIMINAL JUSTICE AND LAW
ENFORCEMENT**

**Part III. Commission on Law Enforcement and
Administration of Criminal Justice**

Subpart 4. Peace Officers

Chapter 47. Standards and Training

§4721. Firearms Qualification

A. - B.1b. ...

2. On a 25-yard range equipped with POST-approved P-1 targets, the student will fire the POST firearms qualification course at least four times. Scores must be averaged and the student must:

B.2.a. - C.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 13:434 (August 1987), amended LR 25:664 (April 1999), LR 35:1236 (July 2009), LR 43:316 (February 2017), LR 45:

§4723. POST Firearms Qualification Course

A. Official Post Course

Stage 1	*25 yards	6 rounds standing, strong side barricade, strong hand 6 rounds standing, barricade, strong hand or support hand, off-side (60 seconds)
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*NOTE: Movement to barricade required, maximum distance 5 yards.		
Stage II	*15 yards	3 rounds right side kneeling position** 3 rounds left side kneeling position** (35 seconds – movement time included) (30 seconds for indoor range)
*NOTE: Movement to kneeling position from 25-yard line to 15-yard line. **NOTE: Shooter will “simulate” the usage of a low barricade if no barricade is available.		
Stage III	7 yards	Phase I 6 rounds strong hand only from the holster. Ready gun after rounds are fired. (10 seconds)
		Phase II 6 rounds support hand only from ready gun (10 seconds)
		Phase III 6 rounds standing 6 rounds kneeling – reload while kneeling* (25 seconds)
*NOTE: Mandatory reloading for all weapons during Phase III.		
Stage IV	4 yards	Phase I **Headshots mandatory** 2 rounds body, 1 round head, step right, hold cover (3seconds) 2 rounds body, 1 round head, step left (3 seconds) scan and holster
		Phase II **Headshots mandatory** 2 rounds body, 1 round head, step left, hold cover (3seconds) 2 rounds body, 1 round head, step right (3 seconds) scan and holster
Stage V	2 yards	2 rounds, one or two hands (2 seconds) Close quarter shooting position from holster with one full step to the rear. Repeat twice

Target: LA P-1
Possible Points: 120
Qualification: 96 (80 percent overall)
Scoring: Inside ring = 2 points
Outside ring = 1 point
POST Course is fired using a “HOT LINE”!

B. Scoring of Target

* * *

C. The effective date for implementation of this POST qualification course is January 1, 2019.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 13:434 (August 1987), amended LR 25:665 (April 1999), LR 32:1043 (June 2006), LR 35:238 (February 2009), amended LR 45:

§4725. POST Approved Shotgun Course

A. Slug Phase

1. Option One (50 yards - Option one will always be used where a 50-yard shooting position is available) Time Limit: 25 seconds

a. The shooter will assembly load one rifled slug and take aim.

b. On command, the shooter will fire one round from the shoulder in the standing position, kneel, combat load one round in the kneeling position and fire from the kneeling position.

2. Option Two (25 yards) Time Limit: 25 seconds
a. The shooter will assembly load one rifled slug and take aim.

b. On command, the shooter will fire one round from the shoulder in the standing position, kneel, combat load one round in the kneeling position and fire from the kneeling position.

B. Transition Phase*: 4 Yards (no shotgun rounds / 2 handgun rounds) Total time: 4 seconds

a. Upon instruction operate the slide/action several times to ensure empty.

b. On command dry fire empty shotgun, transition and fire two rounds center mass of target.

C. Buckshot Phase:(Recommend use of 9-pellet “OO” Buckshot - may be fired with any buckshot.)

1. 15 Yards (5 rounds Buckshot) Total time: 35 seconds

a. On command assembly load two rounds of buckshot and come to “ready gun position”. Shooter will have three additional rounds of buckshot on his/her person.

b. On command, Shooter will fire two rounds from the shoulder (standing), then combat load three rounds and fire three rounds from the shoulder (kneeling).

2. 25 Yards (5 rounds Buckshot) Total time: 35 seconds

a. On command assembly load two rounds of buckshot and come to “ready gun position”. Shooter will have three additional rounds of buckshot on his/her person.

b. On command, Shooter will fire two rounds from the shoulder (standing), then combat load three rounds and fire three rounds from the shoulder (kneeling).

Target: POST qualification (LA P-1)
Possible Score:
Transition / Slug / Buckshot: 102 point possible*
Slug / Buckshot: 100 point possible

Scoring:
Slug: Five points for hit on green of P-1 target.
Transition: One point for hit on green of P-1 target
Buckshot: One 1 point for hit on green of P-1 target
Total score should equal 80 per cent

*NOTE: The transition phase is not required for Level 3 and Non-POST Certified shooters. Without the transition phase scoring will be a 100pt. course.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 30:435 (March 2004), amended LR 31:2009(August 2005), amended LR 45:

§4727. POST Approved Low Light/Modified Light Course

A. Low Light/Modified Light Course

Stage I	*25 yards	(with light) (25 yard stage is not mandatory) 6 rounds standing, strong side barricade, strong hand 6 rounds standing, barricade, strong hand or support hand, off-side (60 seconds)
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*NOTE: Movement to barricade required, maximum distance 5 yards.		
Stage II	*15 yards	(with light) 3 rounds right side kneeling position** 4 rounds if 25yd not used 3 rounds left side kneeling position** 4 rounds if 25yd not used (35 seconds – movement time included) (30 seconds for indoor range)
*NOTE: Movement to kneeling position from 25-yard line to 15-yard line. **NOTE: Shooter will “simulate” the usage of a low barricade if no barricade is available.		
Stage III	7 yards	Phase I (with light) 6 rounds strong hand only from the holster (10 seconds)
		Phase II (with or without light) 6 rounds support hand only from ready gun (10 seconds)
		Phase III (with light) 6 rounds standing 6 rounds kneeling – reload while kneeling* (25 seconds)
*NOTE: Mandatory reloading for all weapons during Phase III.		
Stage IV	4 yards	Phase I - Headshots mandatory (with light) 2 rounds body, 1 round head, step right, hold cover (3seconds) 2 rounds body, 1 round head, step left (3 seconds) scan and holster
		Phase II - Headshots mandatory (with light) 2 rounds body, 1 round head, step left, hold cover (3seconds) 2 rounds body, 1 round head, step right (3 seconds) scan and holster
Stage V	2 yards	(with or without light) 2 rounds, one or two hands (2 seconds) Close quarter shooting position from holster with one full step to the rear. Repeat twice.

(Using all stages)

Target: LA P-1
Possible Points: 120
Qualification: 96 (80% overall)
Scoring: Inside ring = 2 points
Outside ring = 1 point

(Deleting Stage I adding 2rds to Stage II)

Target: LA P-1
Possible Points: 100
Qualification: 80 (80% overall)
Scoring: Inside Ring = 2 points
Outside ring = 1 point
POST Course is fired using a “HOT LINE”!
(Course approved 12/6/18)

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 45:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule has been considered. This proposed Rule will have no impact on family functioning, stability, or autonomy as described in R.S. 49:972 since it only modifies the provisions for peace officer firearm qualification.

Poverty Impact Statement

The proposed Rule should not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973. B. In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through post-secondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect of the staffing level requirement or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments on this proposed Rule no later than May 15, 2019, at 5 pm to Bob Wertz, Peace Officer Standards and Training Council, Louisiana Commission on Law Enforcement, Box 3133, Baton Rouge, LA 70821.

Jim Craft
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Peace Officer Standards and Training

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Implementation of the proposed rule will not have any impact on expenditures for state or local governmental units. The proposed rule updates the POST firearms qualification course for both handguns and shotguns to contemporary standards. It also adds an approved low light course of fire.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will not increase revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule will have little or no effect on directly affected persons or non-governmental groups. The POST firearms qualification courses are being updated to contemporary standards.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition or employment in the public or private sector as a result of this proposed amendment.

Jim Craft
Executive Director
1903#031

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Division of Administration
Racing Commission**

Petition for Adoption of Rules (LAC 35:I.304)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 4:148, notice is hereby given that the Racing Commission proposes to adopt LAC 35:I.304 by notice of intent. The proposed Rule sets forth the procedure that interested parties shall follow when petitioning the Louisiana State Racing Commission to promulgate, amend, or repeal any rule.

**Title 35
HORSE RACING**

Part I. General Provisions

Chapter 3. General Rules

§304. Petition for Adoption of Rules

A. All rules of the commission shall be adopted, amended or repealed in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

B. The commission, on its own motion or on the petition of any interested person, may request the promulgation, amendment, or repeal of a rule.

- 1. Such petition shall:
 - a. be in writing;
 - b. state the name and address of its author;
 - c. contain a statement of either the terms or substance of the proposed rule, amendment, or repeal;
 - d. state the reasons or grounds for the proposed rule, amendment, or repeal;
 - e. include any data, views or arguments in support of the rules, amendment, or repeal.

2. The commission shall forward such petition of any interested person or party to the Rules Committee who shall consider the petition, and make recommendations to the full commission on proceeding with rulemaking in accordance with this part and the Administrative Procedure Act.

3. If the requested promulgation, amendment, or repeal of a rule is commenced by the commission on its own motion, the commission may initiate rulemaking in accordance with this part and the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 45:

Family Impact Statement

This proposed Rule has no known impact on family formation, stability, and/or autonomy as described in R.S. 49:972.

Poverty Impact Statement

This proposed Rule has no known impact on poverty as described in R.S. 49:973.

Small Business Analysis

This proposed Rule has no known measurable impact on small businesses as described in R.S. 49:965.6.

Provider Impact Statement

This proposed Rule has no known impact on providers of services for individuals with developmental disabilities.

Public Comments

The domicile office of the Louisiana State Racing Commission is open from 8 a.m. to 4:30 p.m. Monday - Friday, and interested parties may submit oral or written comments, data, views, or arguments relative to this proposed Rule for a period up to 20 days (exclusive of weekends and state holidays) from the date of this publication to Rhea Loney, Assistant Attorney General, 320 North Carrollton Avenue, Suite 2-B, New Orleans, LA 70119-5100.

Charles A. Gardiner III
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Petition for Adoption of Rules**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule will not result in any costs or savings to state or local governmental units. The proposed rule provides for the procedure that interested parties shall follow when petitioning the Louisiana State Racing Commission to promulgate, amend, or repeal any rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will not affect revenue collections for state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule is not estimated to cause any economic cost or benefit to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition and employment as a result of the proposed administrative rule change.

Charles A. Gardiner
Executive Director
1903#013

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Home and Community-Based Services Waivers
Community Choices Waiver
Programmatic Allocation of Waiver Opportunities
(LAC 50:XXI.8105)

The Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services propose to amend LAC 50:XXI.8105 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services propose to amend the provisions governing the programmatic allocation of waiver opportunities in the Community Choices Waiver in order to give priority to individuals not receiving any other Medicaid home and community-based service.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXI. Home and Community Based Services

Waivers

Subpart 7. Community Choices Waiver

Chapter 81. General Provisions

§8105. Programmatic Allocation of Waiver Opportunities

A. ...

B. Community choices waiver opportunities shall be offered to individuals on the registry according to priority groups. The following groups shall have priority for community choices waiver opportunities, in the order listed:

1. - 4. ...

5. individuals who are not presently receiving home and community-based services (HCBS) under another Medicaid program, including, but not limited to:

a. Program of All-Inclusive Care for the Elderly (PACE);

b. long-term – personal care services (LT-PCS); and/or

c. any other 1915(c) waiver; and

d. Repealed.

B.6. - E.2.e. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:3517 (December 2011), amended LR 39:319 (February 2013), LR 39:1778 (July 2013), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 44:1896 (October 2018), LR 45:

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 positive impact on family functioning, stability and autonomy as described in R.S. 49:972 by making services more quickly available to individuals who receive no other home and community-based services.

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 a positive impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 as

it may allow working adults to devote more time to employment rather than having to work fewer hours or miss work in order to fulfill caretaker responsibilities.

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 Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821—9030. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at close of business, 4:30 p.m., on April 29, 2019.

Public Hearing

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on April 9, 2019. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on April 25, 2019 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Stanley Bordelon at (225) 219-3454 after April 9, 2019. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Home and Community-Based Services Waivers—Community Choices Waiver Programmatic Allocation of Waiver Opportunities

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 18-19. It is anticipated that \$540 (\$270 SGF and \$270 FED) will be expended in FY 18-19 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 18-19. It is anticipated that \$270 will be collected in FY 18-19 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 the programmatic allocation of waiver opportunities in the Community Choices Waiver (CCW) in order to give priority to individuals not receiving any other Medicaid home and community-based service. There is no anticipated impact as a result of this proposed rule because there is no change in the reimbursement methodology and no increase in the number of CCW slots offered or filled. It is anticipated that implementation of this proposed rule will not have economic costs or benefits to Community Choices Waiver providers for FY 18-19, FY 19-20 and FY 20-21.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Jen Steele
Medicaid Director
1903#044

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health
Bureau of Health Services Financing**

**Nursing Facilities
Reimbursement Methodology
(LAC 50:II.20026)**

The Department of Health, Bureau of Health Services Financing proposes to adopt LAC 50:II.20026 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:950 et seq.

The Department of Health, Bureau of Health Services Financing proposes to adopt a reimbursement methodology for a nursing facility that is operated by an entity that has a Cooperative Endeavor Agreement (CEA) with Louisiana State University (LSU) to conduct a geriatric nursing facility training program at the location of the current John J. Hainkel, Jr. Home and Rehabilitation Center, or any other location approved by the parties and the department.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part II. Nursing Facilities

Subpart 5. Reimbursement

Chapter 200. Reimbursement Methodology

§20026. Geriatric Training Nursing Facility

Reimbursement Rate

A. Effective for dates of service on or after July 1, 2019, LDH shall provide a private nursing facility reimbursement rate of \$365.68 per resident per day to an entity that meets the following criteria:

1. the entity has a cooperative endeavor agreement (CEA) with Louisiana State University (LSU) to operate the current John J. Hainkel, Jr. Home and Rehabilitation Center or any other location approved by the parties and the department, as a geriatric training nursing facility.

B. The private nursing facility reimbursement rate established in Subsection A above is all-inclusive.

1. Add-ons, including, but not limited to, technology dependent care (TDC), nursing facility rehabilitation services and nursing facility complex care services add-ons shall not be permitted under this reimbursement rate.

C. Any nursing facility that meets the criteria set forth in Subsection A above shall file an annual cost report with LDH within five months following the end of the facility's fiscal year.

D. The provisions of this Rule shall be subject to approval by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) of a State Plan amendment authorizing such payment.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 45:

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 may have an adverse impact on family functioning, stability and autonomy as described in R.S. 49:972 in the event that nursing facility provider participation in the Medicaid Program is diminished as a result of the reduction in payments.

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 may have an adverse impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 in the event that access to nursing facility services is reduced as a result of diminished provider participation due to the reduction in payments.

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 Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. Steele is

responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at close of business, 4:30 p.m., on April 29, 2019.

Public Hearing

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on April 9, 2019. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on April 25, 2019 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Stanley Bordelon at (225) 219-3454 after April 9, 2019. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Rebekah E. Gee MD, MPH
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Nursing Facilities
Reimbursement Methodology**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will result in estimated state general fund net programmatic costs of approximately \$270 for FY 18-19, \$1,376,214 for FY 19-20 and \$3,120,246 for FY 20-21. The state match shall be funded through an intergovernmental transfer of state funds from Louisiana State University to the department to secure federal match. It is anticipated that \$540 (\$270 SGF and \$270 FED) will be expended in FY 18-19 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 66.40 percent in FYs 19-20 and 20-21.

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 \$270 for FY 18-19, \$2,719,660 for FY 19-20 and \$6,166,555 for FY 20-21. It is anticipated that \$270 will be collected in FY 18-19 for the federal share of the 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 66.40 percent in FYs 19-20 and 20-21.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule adopts provisions governing nursing facility reimbursement to establish reimbursement for a facility

that is operated by an entity that has a Cooperative Endeavor Agreement (CEA) with Louisiana State University (LSU) to conduct a geriatric nursing facility training program at the location of the current John J. Hainkel, Jr. Home and Rehabilitation Center, or any other location approved by the parties and the department. This rule will provide an enhanced rate to compensate the parties to the CEA to provide high quality geriatric care in both an institutional and community setting. It is anticipated that implementation of this Rule will increase Medicaid programmatic expenditures by approximately \$4,095,874 for FY 19-20 and \$9,286,981 for FY 20-21.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Jen Steele
Medicaid Director
1903#045

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health
Emergency Response Network Board**

LERN Destination Protocol: BURN
(LAC 48:I.19201)

Notice is hereby given that the Louisiana Emergency Response Network Board has exercised the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and intends to codify in LAC 48:I.Chapter 192, Section 19201, a rule revised by the Louisiana Emergency Response Network Board in a meeting of January 17, 2019, the following "LERN Destination Protocol: BURN", adopted as authorized by R.S. 9:2798.5. The rule establishes the destination protocol for use by the LERN Communication Center for patients with burn injuries.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 15. Emergency Response Network

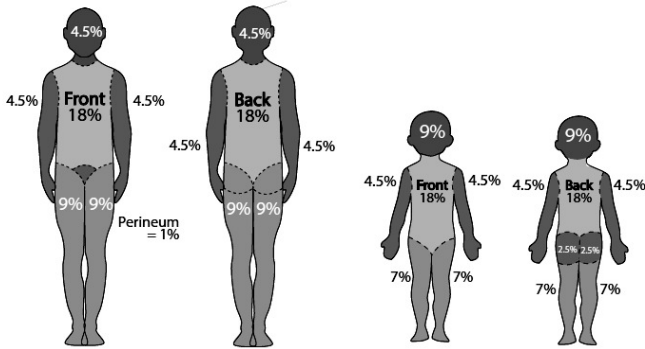
Chapter 192. Burn Protocols

§19201. LERN Destination Protocol: BURN

A. Call LERN Communication Center at 1-866-320-8293 for patients meeting the following criteria.

Burn Patient with Trauma	Yes→	See LERN Trauma Destination Protocol
↓ No		
<ul style="list-style-type: none"> Burn patient without patent airway Patients with facial / airway burns or anticipated airway compromise Burn patient with > 40 % BSA without IV or IO access 	Yes→	Transport to Closest ED
↓ No		
<ul style="list-style-type: none"> 2nd and 3rd degree burns involving: <ul style="list-style-type: none"> > 10% BSA Face, hands, feet, genitalia, perineum, or major joints Circumferential Burns Electrical burns, including lightning injury Chemical burns Or 	Yes→	Transport to Closest Burn Center <i>* If distance or patient condition impedes transport to burn center, consider transport to most appropriate resourced hospital.</i>

<ul style="list-style-type: none"> Inhalation injury All Third Degree Burns 		
↓ No		
Transport per Local EMS Protocols		
<ul style="list-style-type: none"> In the event of a burn disaster, each burn center should immediately contact LERN. LERN Call Center (LCC) will conduct a bed poll. In the event of a burn disaster and excess beyond capacity, the next geographically closest burn center should be alerted immediately by LERN. 		



AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2846(A), R.S. 40:2845(A)(1) and R.S. 9:2798.5.

HISTORICAL NOTE: Promulgated by the Department of Health, Emergency Response Network, LR 45:

Family Impact Statement

1. What effect will this Rule have on the stability of the family? The proposed Rule will not affect the stability of the family.
2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? The proposed Rule will not affect the authority and rights of persons regarding the education and supervision of their children.
3. What effect will this have on the functioning of the family? The Rule will not affect the functioning of the family.
4. What effect will this have on family earnings and family budget? This Rule will not affect the family earnings or family budget.
5. What effect will this have on the behavior and personal responsibility of children? This Rule will not affect the behavior or personal responsibility of children.
6. Is the family or local government able to perform the function as contained in this proposed Rule? No, the proposed Rule will have no impact.

Poverty Impact Statement

The proposed Rulemaking will have no impact on poverty as described in R.S. 49:973.

Small Business Analysis

The impact of the proposed Rule on small business has been considered and it is estimated that the proposed action is not expected to have a significant adverse impact on small business 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 business.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of these proposed Rules have been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, and no increase on direct or indirect cost. The proposed Rule 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 relative to the proposed Rule until 4:30 p.m., Wednesday, April 10, 2019 to Paige Hargrove, Louisiana Emergency Response Network, 14141 Airline Hwy., Suite B, Building 1, Baton Rouge, LA 70817, or via email to paige.hargrove@la.gov.

Paige Hargrove
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: LERN Destination Protocol: BURN**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change is anticipated to increase expenditures for the Louisiana Emergency Response Network (LERN) by approximately \$429 in FY 19 and \$213 in FY 20 for the publication of the proposed rule. It is not anticipated that any other state or local governmental units will incur costs or savings as a result of this rule change.

The proposed rule adopts Louisiana Administrative Code (LAC) Title 48 – Public Health General, Part I – General Administration Subpart 15 – Emergency Response Network, Chapter 192 – Burn Protocols, Section 19201 – Destination Protocol: Burn. The Louisiana Emergency Response Network (LERN) Board is authorized to adopt protocols for the transport of trauma and time sensitive ill patients. The LERN Board developed a destination protocol for use by the LERN Communication Center to direct burn patients to the most appropriate burn center or emergency room for treatment. This rule codifies the burn destination protocol.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of the proposed rule will have no 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)

Implementation of this proposed rule will have no cost or economic benefit to directly affected persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on employment. The establishment of the destination protocol for the burn patients includes the four existing state burn centers. Geography is the primary factor dictating the hospital destination. Therefore, this rule should have little to no effect on competition.

Paige B. Hargrove
Executive Director
1903#026

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Insurance Office of the Commissioner

Regulation 100—Coverage of Prescription Drugs through a Drug Formulary (LAC 37:XIII.Chapter 14)

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby gives notice of its intent to amend Regulation 100 to provide clarification in regards to the requirement of obtaining approval from the commissioner whenever a health insurance issuer implements a modification affecting drug coverage in accordance with Act No. 316 in the 2012 Regular Session.

Title 37

INSURANCE

Part XIII. Regulations

Chapter 41. Regulation 100—Coverage of Prescription Drugs through a Drug Formulary

§14101. Purpose

A.

B. The purpose of the amendment to Regulation 100 is to provide clarification set forth in R.S. 22:1068(F) and R.S. 22:1074(F) in regards to the requirement of obtaining approval from the commissioner whenever a health insurance issuer modifies health insurance coverage offered in the group and individual markets.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 1068(F) and R.S. 22:1074 (F).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 38:1028 (April 2012), amended LR 45:

§14111. Requirements for the Modification Affecting Drug Coverage

A. - A5. ...

B. A health insurance issuer shall notify the commissioner in writing of a modification affecting drug coverage 120 days prior to the renewal date of the policy form as to those modifications enumerated in R.S. 22:1061(5) and set forth in §14111.A herein. A health insurance issuer shall provide the notice of modification affecting drug coverage as provided for in R.S. 22:1068(D)(3) and R.S. 22:1074(D)(3) and shall only modify the policy or contract of insurance at the renewal of the policy or contract of insurance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1068(F) and R.S. 22:1074(F).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 38:1028 (April 2012), amended LR 45:

§14115. Requirements for Modifying a Group Insurance Product

A. Pursuant to R.S. 22:1068, a health insurance issuer may modify its drug coverage offered to a group health plan if each of the following conditions is met.

1. The modification occurs at the time of coverage renewal.

2. The modification is approved by the commissioner. However, modification affecting drug coverage as defined in

R.S. 22:1061(5)(y) and found in §14111.A. of this regulation shall not require approval by the commissioner.

3. The modification is consistent with state law.

4. The modification is effective on a uniform basis among all small or large employers covered by that group health plan.

5. The health insurance issuer, on the form approved by the Department of Insurance, notifies the small or large employer group and each enrollee therein of the modification no later than the sixtieth day before the date the modification is to become effective.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1068(F) and R.S. 22:1074(F).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 38:1028 (April 2012), amended LR 45:

§14117. Requirements for Modifying an Individual Insurance Product

A. Pursuant to R.S. 22:1074, a health insurance issuer may modify its drug coverage offered to individuals if each of the following conditions is met.

1. The modification occurs at the time of coverage renewal.

2. The modification is approved by the commissioner. However, modification affecting drug coverage as defined in R.S. 22:1061(5)(y) and found in §14111.A. of this regulation shall not require approval by the commissioner.

3. The modification is consistent with state law.

4. The modification is effective on a uniform basis among all individuals with that policy form.

5. The health insurance issuer, on a form approved by the Department of Insurance, notifies each affected individual of the modification no later than the sixtieth day before the date the modification is to become effective.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1068(F) and R.S. 22:1074(F).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 38:1028 (April 2012), amended LR 45:

§14119. Modification Affecting Drug Coverage

A. To facilitate the ability of the commissioner to comply with his statutory duty, the commissioner shall have the authority to enter into a contract with any person or entity he deems applicable, relevant and/or appropriate to provide advice and/or make a recommendation to the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1068(F) and R.S. 22: 1074(F).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 38:1028 (April 2012), amended 45:

§141120. Effective Date

A. This regulation shall be effective upon final publication in the Louisiana Register.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1068(F) and R.S. 22:1074(F).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 45:

Family Impact Statement

1. Describe the Effect of the Proposed Regulation on the Stability of the Family. The proposed amended regulation should have no measurable impact upon the stability of the family.

2. Describe the Effect of the Proposed Regulation on the Authority and Rights of Parents Regarding the

Education and Supervision of their Children. The proposed amended regulation should have no impact upon the rights and authority of children regarding the education and supervision of their children.

3. Describe the effect of the Proposed Regulation on the Functioning of the Family. The proposed amended regulation should have no direct impact upon the functioning of the family.

4. Describe the Effect of the Proposed Regulation on Family Earnings and Budget. The proposed amended regulation should have no direct impact upon family earnings and budget.

5. Describe the Effect of the Proposed Regulation on the Behavior and Personal Responsibility of Children. The proposed amended regulation should have no impact upon the behavior and personal responsibility of children.

6. Describe the Effect of the Proposed Regulation on the Ability of the Family or a Local Government to Perform the Function as Contained in the Rule. The proposed amended regulation should have no impact upon the ability of the family or a local governmental unit to perform the function as contained in the rule.

Poverty Impact Statement

1. Describe the Effect on Household Income, Assets, and Financial Security. The proposed amended regulation should have no effect on household income assets and financial security.

2. Describe the Effect on Early Childhood Development and Preschool through Postsecondary Education Development. The proposed amended regulation should have no effect on early childhood development and preschool through postsecondary education development.

3. Describe the Effect on Employment and Workforce Development. The proposed amended regulation should have no effect on employment and workforce development.

4. Describe the Effect on Taxes and Tax Credits. The proposed amended regulation should have no effect on taxes and tax credits.

5. Describe the Effect on Child and Dependent Care, Housing, Health Care, Nutrition, Transportation and Utilities Assistance. The proposed amended regulation should have no effect on child and dependent care, housing, health care, nutrition, transportation and utilities assistance.

Provider Impact Statement

1. Describe the Effect on the Staffing Level Requirements or Qualifications Required to Provide the Same Level Of Service. The proposed amended regulation will have no effect.

2. The Total Direct and Indirect Effect on the Cost to the Provider to Provide the Same Level of Service. The Proposed Amended Regulation Will Have No Effect.

3. The Overall Effect on the Ability of the Provider to Provide the Same Level of Service. The proposed amended regulation will have no effect.

Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Such comments must be received no later than February 19, 2019 by close of business or by 4:30 p.m. and should be addressed to Claire Lemoine, Louisiana Department of Insurance, and may be mailed to P.O. Box 94214, Baton Rouge, LA 70804-9214, faxed to (225) 342-1632. If comments are to be shipped or

hand-delivered, please deliver to Poydras Building, 1702 North Third Street, Baton Rouge, LA 70802.

James J. Donelon
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Regulation 100—Coverage of Prescription Drugs through a Drug Formulary

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes will not result in additional costs or savings for state or local governmental units. The proposed rules incorporate and reference the current editions of handbooks, guidelines, forms, and instructions adopted by the National Association of Insurance Commissioners (NAIC) and referenced in the Louisiana Insurance Code. The current editions of these publications serve as the most current professional guidance for entities regulated by the LA Dept. of Insurance.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will not affect revenue collections for state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change will not result in any costs and/or economic benefits to health insurers. The purpose of this amendment is to align the administrative rules with Act 316 of the 2012 Regular Session, regarding the coverage of prescription drugs through a drug formulary. Act 316 removes the requirement of health insurers to obtain approval from the Commissioner when implementing modifications to health insurance plans affecting drug coverage.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will not affect competition or employment.

Nicholas Lorusso
Chief Deputy Commissioner
1903#003

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Natural Resources Office of Conservation

Oilfield Site Restoration
(LAC 43:I.2301 and 2303)

The Department of Natural Resources, Office of Conservation proposes to amend 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 current rule reflects the law at the time the rule was first promulgated in 1995. Since then, the law has been changed multiple times, but the regulations have not been amended to reflect those changes. The proposed rule changes will make the regulations consistent with the law by incorporating the applicable law by reference.

Title 43
NATURAL RESOURCES
Part I. Office of the Secretary
Subpart 2. Oilfield Site Restoration

Chapter 23. Oilfield Site Restoration Fund

§2301. Establishment of the Fund

A. The Oilfield Site Restoration Fund is in the custody of the state treasurer and shall be a special custodial trust fund administered by the secretary in accordance with R.S. 30:86.

B. The fund shall be and remain the property of the commission.

C. The monies in the fund shall be used solely for the purposes of this Part.

D. The secretary shall make certifications to the Secretary of the Department of Revenue as required by R.S. 30:86.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:80 et seq.

HISTORICAL NOTE: Promulgated by Department of Natural Resources, Office of Conservation, LR 21:398 (April 1995), repromulgated LR 21:471 (May 1995), amended LR 45:

§2303. Assessment of Fees

A. Fees shall be assessed in the amounts set forth in and as provided for in R.S. 30:87.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:80 et seq.

HISTORICAL NOTE: Promulgated by Department of Natural Resources, Office of Conservation, LR 21:398 (April 1995), repromulgated LR 21:472 (May 1995), amended LR 45:

Family Impact Statement

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Poverty Impact Statement

This Rule has no known impact on poverty as described in R.S. 49:973.

Small Business Analysis

This Rule has no known impact on small businesses as described in R.S. 49:965.6.

Provider Impact Statement

This Rule has no known impact on providers as described in HCR 170 of 2014.

Public Comments

All interested parties will be afforded the opportunity to submit data, views, or arguments, in writing. Written comments will be accepted by hand delivery or USPS only, until 4 p.m., April 10, 2019, at Office of Conservation, Executive Division, P.O. Box 94275, Baton Rouge, LA 70804-9275; or Office of Conservation, Executive Division, 617 North Third Street, Room 931, Baton Rouge, LA 70802. Reference Docket No. R A 2019-02. All inquiries should be directed to John Adams at the above addresses or by phone to (225) 342-7889. No preamble was prepared.

Thomas Harris
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Oilfield Site Restoration**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no anticipated implementation costs to the department (DNR) or local governmental units as a result of the

proposed rule changes. The current rule reflects the law at the time the rule was first promulgated in 1995. Since then, the law has been changed multiple times, but the regulations have not been amended to reflect those changes. The proposed rule changes will make the regulations consistent with the law by incorporating the applicable law by reference.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will have no effect on revenue collections of state or local government units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no anticipated costs to directly affected persons or non-governmental groups. Operators of producing wells are currently assessed all applicable rates as specified in law. Modifying the regulations to accurately reflect existing law will have no effect on the rates being paid by well operators.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes are not anticipated to have any impact on competition or employment.

Thomas H. Harris
Secretary
1903#032

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Revenue
Office of Alcohol and Tobacco Control**

Low Alcohol Content Beverages, Malt Beverages and
Ciders—Handling Stocking, Pricing, and Rotating
(LAC 55:VII.320)

Under the authority of R.S. 26:922 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Office of Alcohol and Tobacco Control, hereby gives notice of its intent to promulgate §320 that would address handling, stocking, pricing, and rotating low alcohol content beverages, malt beverages and ciders since this is not addressed otherwise by existing law or regulation. The promulgation of §320 will assist the Office of Alcohol and Tobacco Control by providing guidelines to wholesalers and retailers relative to handling, stocking, pricing, and rotating low alcohol content beverages, malt beverages and ciders since this is not addressed otherwise by existing law or regulation.

**Title 55
PUBLIC SAFETY**

**Part VII. Alcohol and Tobacco Control
Chapter 4. Alcohol Public Safety Regulations
§320. Low Alcohol Content Beverages, Malt Beverages
and Ciders—Handling, Stocking, Pricing, and
Rotating**

A. Persons holding valid Louisiana wholesale beverage alcohol permits, their agents, servants or employees, manufacturers' agents, importers and brokers may price, stock and rotate merchandise at retail premises only to the following extent.

1. Dealers in beverages of not more than 6 percent alcohol by volume, malt beverages or ciders may handle,

build and stock displays of their product on the premises of retail dealers.

2. All dealers in beverages of not more than 6 percent alcohol by volume, malt beverages and ciders are prohibited from requiring other dealers to provide services including stocking, rotating, and frequency in delivery of product. Wholesale dealers are prohibited from pricing, and affixing security tags on product at a retail outlet.

3. Except as authorized under this Chapter, employees of a wholesale dealer shall not, in connection with the sale or delivery of alcoholic beverages to a retail dealer, provide any services whatsoever to a retail dealer.

B. The Commissioner of the Office of Alcohol and Tobacco Control may seek a suspension or revocation of the permit or permits of a violator and may impose such other penalties or administrative remedies as are prescribed by law for violators of the Alcoholic Beverage Control Law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:922.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control LR 43:1556 (August 2017), amended LR 45:

Family Impact Statement

1. The effect of this Rule on the stability of the family. This Rule should have no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

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

1. 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 the R.S. 49:973.

2. 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 Analysis

1. 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, R.S. 49:965.2 et seq.

2. 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 Commissioner Juana Marine-Lombard, Office of Alcohol and Tobacco Control, P.O. Box 66404, Baton Rouge, LA 70896 or at legal.department@atc.la.gov. Written comments will be accepted through the close of business, April 15, 2019.

Juana Marine-Lombard
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Low Alcohol Content Beverages, Malt Beverages and Ciders Handling Stocking, Pricing, and Rotating

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Proposed rule provides guidance on handling, stocking, pricing, and rotating low alcohol content beverages, malt beverages and ciders. It provides that dealers may handle, build, and stock product displays on the premises of retail dealers, but are prohibited from pricing or affixing security tags on products at retail outlets. Additionally, it provides that no dealers may require other dealers to provide services, including stocking, rotating, or frequency in delivery of product, and that employees of wholesale dealers may not provide any services whatsoever to a retail dealer.

No direct costs or savings to state or local governmental units are anticipated due to this proposed rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This proposed rule amendment is not anticipated to materially impact ATC self-generated revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

No material impact on Louisiana licensed manufacturers, wholesalers, and retailers is anticipated due to this rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No material impact on competition or employment is anticipated due to this proposed rule.

Juana Marine-Lombard
Commissioner
1902#012

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue Office of Alcohol and Tobacco Control

Private Label Alcohol
(LAC 55:VII.405)

Under the authority of R.S. 26:922 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Office of Alcohol and Tobacco Control, hereby gives notice of its intent to promulgate §405 that would address private labels for alcohol since this is not addressed otherwise by existing law or regulation. The promulgation of §405 will assist the Office of Alcohol and Tobacco Control by providing guidelines to manufacturers, retailers, and wholesalers relative to private labels for alcohol.

Title 55

PUBLIC SAFETY

Part VII. Alcohol and Tobacco Control

Chapter 4. Alcohol Public Safety Regulations

§405. Private Label Alcohol

A. Alcohol manufacturers and suppliers licensed in Louisiana may produce private labeled alcohol for Louisiana licensed alcohol retailer, but said private labeled alcohol shall:

1. not make use of a retailer's name, logo, or likeness;
2. be distributed through Louisiana licensed alcohol wholesalers;
3. be available for purchase by all Louisiana licensed alcohol retailers with the same private label at the same price;
4. abide by all other provisions of Louisiana's three-tier system and tied house prohibitions.

B. A Louisiana licensed alcohol retailer for whom a private label is being produced by a Louisiana licensed alcohol manufacturer or supplier shall exercise no control or authority over the manufacturer with regard to the private label alcohol, except that the retailer and manufacturer may enter into a licensing agreement which specifies the composition of the alcohol to be produced under the private label and the duration of the agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:922.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control LR 43:1556 (August 2017), amended LR 45:

Family Impact Statement

1. The effect of this Rule on the stability of the family. This Rule should have no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

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

1. 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 the R.S. 49:973.

2. 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 Analysis

1. 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, R.S. 49:965.2 et seq.

2. 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 Commissioner Juana Marine-Lombard, Office of Alcohol and Tobacco Control, P.O. Box 66404, Baton Rouge, LA 70896 or at legal.department@atc.la.gov. Written comments

will be accepted through the close of business, April 15, 2019.

Juana Marine-Lombard
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Private Label Alcohol**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Proposed rule provides guidance to manufacturers, retailers, and wholesalers relative to private labels for alcohol. It provides that manufacturers and suppliers licensed in Louisiana may produce private labeled alcohol for retailers licensed in Louisiana, but that the private labeled beverages shall: clearly state the manufacturer on its labeling and marketing, be distributed through wholesalers licensed in Louisiana, be available for purchase by all Louisiana retailers with the same private label and price, and abide by all existing provisions of Louisiana's three-tier system and Tied House prohibitions. Additionally, it provides that no retailer shall exercise control or authority over the manufacturer with regard to the production of the private labeled alcohol, and that a retailer may not exclusively carry private label alcohol or promote a private label product over a non-private label product. It provides that retailers and manufacturers may enter into a licensing agreement specifying the composition of the alcohol to be produced and the duration of the agreement, but nothing of value may be exchanged between the retailer and manufacturer or supplier as a result of a licensing agreement.

No direct costs or savings to state or local governmental units are anticipated due to this proposed rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This proposed rule amendment is not anticipated to materially impact ATC self-generated revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

No material impact on Louisiana licensed manufacturers, wholesalers, and retailers is anticipated due to this rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No material impact on competition or employment is anticipated due to this proposed rule.

Juana Marine-Lombard
Commissioner
1902#011

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Treasury
Board of Trustees of the Teachers' Retirement System**

**Military Service Purchases and Compliance with the
Uniformed Services Employment and Reemployment
Rights Act (LAC 58:III.2101)**

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. 11:152.1 and 826 that the Board of Trustees of the Teachers' Retirement System of Louisiana (TRSL) has approved for advertisement the

adoption of LAC 58:III.2101 in order to ensure harmonization of the Uniformed Services Employment and Reemployment Rights Act (USERRA) and various provisions of state statute relating to military time and TRSL benefits. A preamble to this proposed action has not been prepared.

**Title 58
RETIREMENT**

**Part III. Teachers' Retirement System of Louisiana
Chapter 21. Uniformed Services Employment and
Reemployment Rights Act (USERRA)**

**§2101. Military Service Purchases and Compliance with
the Uniformed Services Employment and
Reemployment Rights Act (USERRA)**

A. This Section is adopted in accordance with R.S. 11:152, R.S. 11:152.1, R.S. 11:153, R.S. 29:411, et seq., and the Uniformed Services Employment and Reemployment Rights Act (USERRA, 38 U.S.C. 4301 et seq.).

B. Purchase of service credit for military service shall be in accordance with R.S. 11:153.

C. The board shall comply with the requirements of the Uniformed Services Employment and Reemployment Rights Act (USERRA, 38 U.S.C. 4301 et seq.) as well as rules and regulations issued by the United States Department of Labor relating to USERRA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:152.1 and 826.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 45:

Family Impact Statement

The proposed adoption of LAC 58:III.2101, relative to harmonization of the Uniformed Services Employment and Reemployment Rights Act (USERRA) and various provisions of statute relating to TRSL benefits should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically, there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children; or
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

The proposed adoption of LAC 58:III.2101, relative to harmonization of the Uniformed Services Employment and Reemployment Rights Act (USERRA) and various provisions of statute relating to TRSL benefits should not have any known or foreseeable impact on any child, individual or family poverty as defined in R.S. 49:973(D). Specifically, there should be no known or foreseeable effect on:

1. household income, assets, and financial security;
2. early childhood development and preschool through postsecondary education development;
3. employment and workforce development;

4. taxes and tax credits; and
5. child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact on small businesses.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. Per HCR 170, "provider" means an organization that provides services for individuals with developmental disabilities. In particular, it is anticipated that these proposed Rules 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 on the proposed changes until 4:30 p.m., April 10, 2019, to Matt Tessier, Deputy General Counsel, Board of Trustees for the Teachers' Retirement System of Louisiana, P.O. Box 94123, Baton Rouge, LA 70804-9123.

Dana L. Vicknair
Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Military Service Purchases and Compliance with the Uniformed Services Employment and Reemployment Rights Act

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule will have no fiscal impact on state or local government units, other than the publication fees associated with the proposed rule changes.

The proposed rule ensure compliance with R.S. 11:152.1 as enacted by Act 255 of the 2018 Regular Legislative Session, which requires state retirement systems to promulgate rules to be uniform with the federal Uniformed Service Employment, and Reemployment Rights Act (USERRA) as it relates to retirement credit for military service. TRSL's existing practices were in compliance with USERRA before Act 225 of 2018 and continue to be in compliance; therefore, the proposed rule has no fiscal impact.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will not impact state or local governmental revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change will not impact costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment.

Dana L. Vicknair
Director
1903#033

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Treasury
Board of Trustees of the Teachers' Retirement System**

**Rulemaking Procedures and Commentary
(LAC 58:III.103)**

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. 11:826 and 49:953(C) that the Board of Trustees of the Teachers' Retirement System of Louisiana (TRSL) has approved for advertisement the adoption of LAC 58:III.103 in order to ensure compliance with R.S. 49:953(C) requiring state agencies to prescribe the form and procedures for interested persons to petition such agency requesting adoption, amendment, or repeal of a rule, and requiring state agencies to conduct hearings within certain time periods for the purpose of allowing interested persons the opportunity to comment on rules of the agency. A preamble to this proposed action has not been prepared.

**Title 58
RETIREMENT**

**Part III. Teachers' Retirement System of Louisiana
Chapter 1. General Provisions
§103. Rulemaking Procedures and Commentary**

A. All rules of the board shall be adopted, amended or repealed in accordance with the Administrative Procedure Act.

B. The board, on its own motion or in response to the petition of any interested person, may request the adoption, amendment, or repeal of a rule pursuant to La. R.S. 49:953(C).

C. Request by an interested person shall be made on an approved form.

1. Such petition shall be in writing; and
 - a. clearly state that it is a petition for adoption, amendment or repeal of a rule;
 - b. state the name, address, telephone number, and e-mail address of its author;
 - c. be signed and dated by its author;
 - d. contain a brief description stating:
 - i. whether the petition is requesting the adoption, amendment or repeal of a rule;

ii. the need for the adoption, amendment or repeal of the proposed rule;

iii. the specific citation of any legal authority purporting to authorize the adoption, amendment or repeal of the proposed rule, if known; and

iv. the fiscal impact of the adoption, amendment or repeal of the proposed rule, if known.

e. state the reasons or grounds for the proposed adoption, amendment or repeal;

f. contain proposed wording, content or description of the suggested language of a newly proposed rule and/or the suggested language of a proposed amendment to an existing rule;

i. A petition for the repeal of an existing rule shall cite the rule to be repealed. The interested person may attach a copy of the rule with a strike through of all portions proposed to be repealed.

g. contain specific citation to any statute that specifically relates to the content of the requested rule change, if known; and

h. include any data, views or arguments in support of the rule's adoption, amendment, or repeal.

2. The petition for a rule change shall be addressed to the director and shall be mailed or hand delivered to Teachers' Retirement System of Louisiana, 8401 United Plaza Blvd., Suite 300, Baton Rouge, LA 70809.

3. The director retains sole discretion to grant, deny or defer a petition in whole or in part.

a. The director will consider the petition within 90 days after receipt.

i. The director may solicit the petitioner for further information regarding the request. If further information is sought, the ninety day period will commence from the date further information is received or 90 days from the date further information is requested if no response is made by the petitioner.

b. The determination of the director will be stated in writing and mailed, via usual means to the petitioner.

c. If the petitioner is not satisfied with the determination of the director, the petitioner may request a reconsideration within 30 days.

d. The director will consider the petition for reconsideration within 90 days after receipt.

e. The determination of the director regarding the reconsideration will be stated in writing and mailed, via usual means to the petitioner.

f. If the petitioner is not satisfied with the determination of the director, the petitioner may request an appeal to the board within 30 days.

i. The board will consider the appeal within 90 days after receipt.

ii. The board may defer the ruling on a petition to review the petition further or gather facts related to the petition.

iii. The board retains the discretion to grant or deny the petitioner a hearing.

iv. The determination of the board will be stated in writing and mailed, via usual means to the petitioner.

v. All determinations of the board are final and not appealable.

4. Nothing herein shall be construed to require the director or the board, in granting a petition of adoption, amendment or repeal of a rule, to employ the specific language or form requested by the petitioner.

D. The agency shall conduct a public hearing, at least once every six years, for the purpose of allowing interested persons the opportunity to comment on any rule believed to be contrary to law, outdated, unnecessary, overly complex or burdensome in accordance with R.S. 49:953(C).

1. Written comments by interested persons shall be in the same format as prescribed by Subsection C of this Section and shall be addressed to the director and mailed or hand delivered to Teachers' Retirement System of Louisiana, 8401 United Plaza Blvd., Suite 300, Baton Rouge, LA 70809.

2. The director shall appoint a committee of agency personnel to conduct the public hearing.

a. The committee will submit to the director, within 30 days:

i. the written submission by the interested person;

ii. any statement by the agency explaining the basis and/or rationale for the rule in question; and

iii. any data or evidence by the agency relating to the rule.

b. The director will consider the submission within 90 days after receipt.

i. The director may solicit the petitioner for further information regarding the request. If further information is sought, the 90-day period will commence from the date further information is received or 90 days from the date further information is requested if no response is made by the petitioner.

c. The determination of the director will be stated in writing and mailed, via usual means to the petitioner.

d. If the petitioner is not satisfied with the determination of the director, the petitioner may request a reconsideration within 30 days.

e. The director will consider the petition for reconsideration within 90 days after receipt.

f. The determination of the director regarding the reconsideration will be stated in writing and mailed, via usual means to the petitioner.

g. If the petitioner is not satisfied with the determination of the director, the petitioner shall request an appeal to the board within 30 days.

i. The board will consider the appeal within 90 days after receipt.

ii. The board may defer the ruling on a petition to review the petition further or gather facts related to the petition.

iii. The board retains the discretion to grant or deny the petitioner a hearing.

iv. The determination of the board will be stated in writing and mailed, via usual means to the petitioner.

v. All determinations of the board are final and not appealable.

3. Nothing herein shall be construed to require the board, in granting a petition of adoption, amendment or repeal of a rule, to employ the specific language or form requested by the petitioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11: 826 and 49:953(C).

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 45:

Family Impact Statement

The proposed adoption of LAC 58:III.103, relative to interested parties requesting the review of rules promulgated by the Teachers' Retirement System of Louisiana should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically, there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children; or
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

The proposed adoption of LAC 58:III.103, relative to interested parties requesting the review of rules promulgated by the Teachers' Retirement System of Louisiana should not have any known or foreseeable impact on any child, individual or family poverty as defined in R.S. 49:973(D). Specifically, there should be no known or foreseeable effect on:

1. household income, assets, and financial security;
2. early childhood development and preschool through postsecondary education development;
3. employment and workforce development;
4. taxes and tax credits; and
5. child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rules that will accomplish the objectives of applicable statutes while minimizing the adverse impact on small businesses.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. Per HCR 170, "provider" means an organization that provides services for individuals with developmental disabilities. In particular, it is anticipated that these 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 on the proposed changes until 4:30 p.m., April 10, 2019, to Matt Tessier, Deputy General Counsel, Board of Trustees for the Teachers' Retirement System of Louisiana, P.O. Box 94123, Baton Rouge, LA 70804-9123.

Dana L. Vicknair
Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: **Rulemaking Procedures and Commentary**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rules will have no fiscal impact on state or local government units, other than the publication fees associated with the proposed rule changes.

The proposed rule simply ensures compliance with R.S. 49:953(C) as amended by Act 454 of the 2018 Regular Legislative Session. R.S. 49:953(C), among other things, requires an agency at least once prior to January 1, 2020, and at least once in every six year period, to conduct a public hearing for the purpose of allowing interested persons the opportunity to comment on any rule of the agency which the person believes is contrary to the law, outdated, unnecessary, overly complex, or burdensome. Subsection (D) of the proposed rule outlines the procedures for conducting such a hearing. R.S. 49:953(C) also requires an agency to prescribe by rule the form and procedure by which interested persons may petition an agency requesting the adoption, amendment, or repeal of a rule. Subsection (C) of the proposed rule outlines this procedure.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will not impact state or local governmental revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change will not impact costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment.

Dana L. Vicknair
Director
1903#034

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

2019-2020 Hunting Regulations and Seasons (LAC 76:XIX.103)

Editor's Note: Section 103 is being repromulgated to correct a typographical error in Table D, Deer Hunting Schedule 2020-2021. This Notice of Intent may be viewed in its entirety on pages 147-181 of the January 20, 2019 *Louisiana Register*.

Title 76

WILDLIFE AND FISHERIES

Part XIX. Hunting and WMA Regulations

Chapter 1. Resident Game Hunting Season

§103. Resident Game Birds and Animals

A. Shooting Hours—one-half hour before sunrise to one-half hour after sunset.

B. Consult Regulation Pamphlet for Seasons or Specific Regulations on Wildlife Management Areas or Specific Localities.

Notice is hereby given that the Wildlife and Fisheries Commission proposes to amend the cervid carcass importation ban, the general and wildlife management area rules and regulations for the 2019-2020 season, the resident game hunting season for the 2019-2021 hunting seasons, the general and wildlife management area rules and regulations for the turkey season, the turkey hunting areas, and seasons, and bag limits for the 2020 turkey season, and the migratory bird seasons, regulations, and bag limits for the 2019-2021 hunting season.

Species	Season Dates	Daily Bag Limit	Possession Limit
Quail	OPENS: 3rd Saturday of November CLOSES: Last Day of February	10	30
Rabbit and Squirrel	OPENS: 1st Saturday of October CLOSES: Last Day of February	8	24
Squirrel*	OPENS: 1st Saturday of May for 23 days	3	9
Deer 2019-2020	See Schedule	1 antlered and 1 antlerless (when legal)	Deer Areas 1,2,3,5,6,7,8, and 9 6/season (not to exceed 3 antlered deer or 4 antlerless deer). Deer Areas 4 and 10 limit 3/season (not to exceed 2 antlered or 2 antlerless deer).

*NOTE: Spring squirrel season is closed on the Kisatchie National Forest, National Wildlife Refuges, U.S. Army Corps of Engineers property. Some state wildlife management areas will be open, check WMA season schedule.

C. Deer Hunting Schedule 2019-2020

Area	Archery	Primitive Firearms (All Either Sex Except as Noted)	Still Hunt (No dogs allowed)	With or Without Dogs
1	OPENS: 1st day of Oct. CLOSES: Last day of Jan.	OPENS: 2nd Sat. of Nov. CLOSES: Fri. after 2nd Sat. of Nov. OPENS: Mon. after the next to last Sun. of Jan. CLOSES: Last day of Jan.	OPENS: Sat. before Thanksgiving Day EXCEPT when there are 5 Sats. in Nov., then it will open on the 3rd Sat. of Nov. CLOSES: Fri. before 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov. and then it will close on the Fri. before the 1st Sat. of Dec. OPENS: Mon. after 1st Sat. of Jan. CLOSES: next to last Sun. of Jan.	OPENS: 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov., then it will open on the 1st Sat. of Dec. CLOSES: Sun. after 1st Sat. of Jan.
2	OPENS: 1st day of Oct. CLOSES: Last day of Jan.	OPENS: Next to last Sat. of Oct. CLOSES: Fri. before last Sat. of Oct. OPENS: Mon. after the last day of Modern Firearm Season in Jan. CLOSES: After 7 days.	OPENS: Last Sat. of Oct. CLOSES: Tues. before 2nd Sat. of Dec. in odd numbered years and on Wed. during even numbered years EXCEPT when there are 5 Sats. in Nov. and then it will close on the Tues. in odd numbered years or Wed. during even numbered years before the 1st Sat. of Dec.	OPENS: Wed. before the 2nd Sat. of Dec. in odd numbered years and on Thurs. during even numbered years EXCEPT when there are 5 Sats. in Nov., then it will open on the Wed. before the 1st Sat. of Dec. on odd years and Thurs. during even numbered years CLOSES: 40 days after opening in odd numbered years or 39 days after opening in even numbered years
3	OPENS: 3rd Sat. of Sept. CLOSES: Jan. 15	OPENS: 2nd Sat. of Oct. CLOSES: Fri. before 3rd Sat. of Oct. OPENS: Mon. after last day of Modern Firearm Season CLOSES: After 7 days	OPENS: 3rd Sat. of Oct. CLOSES: Sun. after Thanksgiving Day	OPENS: Mon. after Thanksgiving Day CLOSES: After 35 days

Area	Archery	Primitive Firearms (All Either Sex Except as Noted)	Still Hunt (No dogs allowed)	With or Without Dogs
4	OPENS: 1st day of Oct. CLOSES: Last day of Jan.	OPENS: 2nd Sat. of Nov. CLOSES: Fri. after 2nd Sat. of Nov. OPENS: Mon. after the next to last Sun. of Jan. CLOSES: Last day of Jan.	OPENS: Sat. before Thanksgiving Day EXCEPT when there are 5 Sats. in Nov., then it will open on the 3rd Sat. of Nov. CLOSES: Fri. before 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov. and then it will close on the Fri. before the 1st Sat. of Dec. OPENS: Mon. after 1st Sat. of Jan. CLOSES: next to last Sun. of Jan.	OPENS: 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov., then it will open on the 1st Sat. of Dec. CLOSES: Sun. after 1st Sat. of Jan.
5	OPENS: 1st day of Oct. CLOSES: Feb. 15 (1st 15 days are BUCKS ONLY)	(All Either Sex except as noted.) OPENS: 2nd Sat. of Nov. CLOSES: Fri. before 3rd Sat. of Nov. OPENS: Mon. after next to last Sun. of Jan. Bucks Only CLOSES: Last day of Jan.	OPENS: Sat. before Thanksgiving Day EXCEPT when there are 5 Sats. in Nov., then it will open on the 3rd Sat. of Nov. CLOSES: Fri. before 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov. and then it will close on the Fri. before the 1st Sat. of Dec. (BUCKS ONLY UNLESS EITHER SEX SEASON IS IN PROGRESS) OPENS: Sat. before Thanksgiving Day EXCEPT when there are 5 Sats. In Nov., then it will open on the 3rd Sat. of Nov. CLOSES: Sun. of the same weekend. EITHER SEX: OPENS: Fri. after Thanksgiving Day. CLOSES: Sun. after Thanksgiving day. (EITHER SEX)	OPENS: 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov., then it will open on the 1st Sat. of Dec. CLOSES: Next to last Sun. of Jan. (BUCKS ONLY UNLESS EITHER SEX SEASON IS IN PROGRESS) OPENS: 2nd Sat. of Dec. CLOSES: Sun. after 2nd Sat. of Dec. (EITHER SEX) OPENS: Sat. before Christmas. CLOSES: Sun. before Christmas (EITHER SEX).
6	OPENS: 1st day of Oct. CLOSES: Feb. 15 (1st 15 days are BUCKS ONLY)	OPENS: 2nd Sat. of Nov. CLOSES: Fri. before 3rd Sat. of Nov. OPENS: Mon. after the next to last Sun. of Jan. CLOSES: Last day of Jan.	OPENS: Sat. before Thanksgiving Day EXCEPT when there are 5 Sats. in Nov., then it will open on the 3rd Sat. of Nov. CLOSES: Fri. before 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov. and then it will close on the Fri. before the 1st Sat. of Dec.	OPENS: 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov., then it will open on the 1st Sat. of Dec. CLOSES: Next to last Sun. of Jan.
7	OPENS: 3rd Sat. of Sept. CLOSES: Jan. 15.	OPENS: 2nd Sat. of Oct. CLOSES: Fri. before 3rd Sat. of Oct. OPENS: Mon. after last day of Modern Firearm Season CLOSES: After 7 days	OPENS: 3rd Sat. of Oct. CLOSES: Sun. after Thanksgiving	OPENS: Mon. after Thanksgiving Day CLOSES: After 35 days
8	OPENS: 3rd Sat. of Sept. CLOSES: Jan. 15	OPENS: 2nd Sat. of Oct. CLOSES: Fri. before 3rd Sat. of Oct. OPENS: Mon. after last day of Modern Firearm Season CLOSES: After 7 days	OPENS: 3rd Sat. of Oct. CLOSES: Sun. after Thanksgiving Day.	OPENS: Mon. after Thanksgiving Day CLOSES: After 35 days
9	OPENS: 1st day of Oct. CLOSES: Feb. 15 (1st 15 days are BUCKS ONLY)	OPENS: 2nd Sat. of Nov. CLOSES: Fri. before 3rd Sat. of Nov. OPENS: Mon. after next to last Sun. of Jan. Bucks Only CLOSES: Last day of Jan. Bucks Only	OPENS: Sat. before Thanksgiving Day EXCEPT when there are 5 Sats. in Nov., then it will open on the 3rd Sat. of Nov. CLOSES: Fri. before 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov. and then it will close on the Fri. before the 1st Sat. of Dec. (BUCKS ONLY UNLESS EITHER SEX SEASON IS IN PROGRESS) OPENS: Sat. before Thanksgiving Day EXCEPT when there are 5 Sats. in Nov., then it will open on the 3rd Sat. of Nov. CLOSES: Sunday of the same weekend. EITHER SEX OPENS: Fri. after Thanksgiving Day. CLOSES: Sun. after Thanksgiving day. (EITHER SEX)	OPENS: 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov., then it will open on the 1st Sat. of Dec. CLOSES: Next to last Sun. of Jan. (BUCKS ONLY UNLESS EITHER SEX SEASON IS IN PROGRESS) OPENS: 2nd Sat. of Dec. CLOSES: Sun. after 2nd Sat. of Dec. (EITHER SEX) OPENS: Sat. before Christmas. CLOSES: Sun. before Christmas.
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D. Deer Hunting Schedule 2020-2021

Area	Archery	Primitive Firearms (All Either Sex Except as Noted)	Still Hunt (No dogs allowed)	With or Without Dogs
1	OPENS: 1st day of Oct. CLOSES: Last day of Jan.	OPENS: 2nd Sat. of Nov. CLOSES: Fri. after 2nd Sat. of Nov. OPENS: Mon. after the next to last Sun. of Jan. CLOSES: Last day of Jan.	OPENS: Sat. before Thanksgiving Day EXCEPT when there are 5 Sats. in Nov., then it will open on the 3rd Sat. of Nov. CLOSES: Fri. before 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov. and then it will close on the Fri. before the 1st Sat. of Dec. OPENS: Mon. after 1st Sat. of Jan. CLOSES: next to last Sun. of Jan.	OPENS: 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov., then it will open on the 1st Sat. of Dec. CLOSES: Sun. after 1st Sat. of Jan.
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4	OPENS: 1st day of Oct. CLOSES: Last day of Jan.	OPENS: 2nd Sat. of Nov. CLOSES: Fri. after 2nd Sat. of Nov. OPENS: Mon. after the next to last Sun. of Jan. CLOSES: Last day of Jan.	OPENS: Sat. before Thanksgiving Day EXCEPT when there are 5 Sats. in Nov., then it will open on the 3rd Sat. of Nov. CLOSES: Fri. before 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov. and then it will close on the Fri. before the 1st Sat. of Dec. OPENS: Mon. after 1st Sat. of Jan. CLOSES: next to last Sun. of Jan.	OPENS: 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov., then it will open on the 1st Sat. of Dec. CLOSES: Sun. after 1st Sat. of Jan.
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Area	Archery	Primitive Firearms (All Either Sex Except as Noted)	Still Hunt (No dogs allowed)	With or Without Dogs
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E. Farm-raised white-tailed deer on supplemented shooting preserves:

1. archery, firearm, primitive firearms—October 1-January 31 (either-sex).

F. Exotics on supplemented shooting preserves:

1. either sex—no closed season.

G. Spring squirrel hunting:

1. season dates—opens 1st Saturday of May for 23 days;

2. closed areas:

a. Kisatchie National Forest, national wildlife refuges, and U.S. Army Corps of Engineers property and all WMAs except as provided in Paragraph 3 below;

3. wildlife management area schedule—opens first Saturday of May for nine days on all WMAs except Fort Polk, Peason Ridge, Camp Beauregard, Pass-a-Loutre and Salvador. Dogs are allowed during this season for squirrel hunting;

4. limits—daily bag limit is three and possession limit is nine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115, R.S. 56:109(B) and R.S. 56:141(C).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 21:707 (July 1995), amended LR 22:585 (July 1996), LR 23:871 (July 1997), LR 24:1324 (July 1998), LR 25:1290 (July 1999), repromulgated LR 25:1526 (August 1999), LR 26:1506 (July 2000), LR 27:1061 (July 2001), LR 28:1615 (July 2002), LR 29:1122 (July 2003), repromulgated LR 29:1521 (August 2003), amended LR 30:1494 (July 2004), LR 31:1627 (July 2005), LR 32:1254 (July 2006), LR 33:115 (January 2007), LR 33:1399 (July 2007), LR 34:1447 (July 2008), LR 35:1278 (July 2009), LR 35:2856 (December 2009), LR 36:1580 (July 2010), LR 37:2207 (July 2011), LR 38:1747 (July 2012), LR 39:2307 (August 2013), LR 40:1535 (August 2014), LR 41:958 (May 2015), LR 42:1108 (July 2016), LR 43:1420 (July 2017), LR 44:1273 (July 2018), LR 45:

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent and the final Rule, including but not limited to, the filing of the Fiscal and Economic Impact Statement, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Family Impact Statement

In accordance with Act 1183 of 1999 Regular Session of the Louisiana Legislature, the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent. This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Provider Impact Statement

This Rule has no known impact on providers as described in HCR 170 of 2014.

Public Comments

Interested persons may submit written comments relative to the proposed Rule until Thursday, March 7, 2019 to Tommy Tuma, Wildlife Division, Department of Wildlife and Fisheries, P. O. Box 98000, Baton Rouge, LA 70898-9000 or via e-mail to ttuma@wlf.la.gov.

Robert J. Samanie, III
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: 2019-2020 Hunting Regulations and Seasons

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes are not anticipated to have any costs to state and local governmental units from the various changes to Department of Wildlife and Fisheries' hunting regulations for 2019 – 2021. The proposed rule changes include allowing the hunting of nuisance animals without a permit, the collection of American lotus seeds and pods on Wildlife Management Areas (WMA), and the use of airboats

on the Maurepas Swamp WMA pursuant to Act 618 of 2018. It clarifies the definition of "no wake zones" on WMAs, requires individuals participating in activities on WMAs to possess a WMA Self-Clearing Permit (SCP) for each day they are present on a WMA, permits the use of an electronic or mobile SCP through the LDWF website or application ("app"), makes the regulations in regards to SCPs consistent on all WMAs, and increases the bag limit for raccoons and opossum on WMA from one to two a day.

Proposed rule changes revise the turkey hunting season and requirements on several WMAs including reducing days of open season and prohibiting use of motorized turkey decoys. It prohibits the use of natural deer urine as an attractant for deer hunting, the use of unmanned aerial vehicles on WMAs, commercial fishing on Big Lake WMA and on Wonder Lake in the Pointe-aux-Chenes WMA, and all nighttime activities on the Pointe-aux-Chenes WMA.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes are anticipated to have no impact on revenue collections of the state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule changes may impact hunters and persons utilizing Wildlife Management Areas. A majority of the changes pertain to game limits, hunting seasons and use of certain equipment on Wildlife Management Areas. While the aforementioned groups may incur additional costs or benefits as a result of the proposed rules, the impacts are not anticipated to be material.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment as a result of the proposed rule changes.

Bryan McClinton
Undersecretary
1903#036

Evan Brasseaux
Staff Director
Legislative Fiscal Office

Potpourri

POTPOURRI

Department of Environmental Quality Office of the Secretary

Legal Affairs and Criminal Investigations Division

Public Hearing—Substantive Changes to Proposed Rule
AQ380 Project Emissions Accounting and Offset
Requirements in Specified Parishes (LAC 33:III.504)

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 the department is seeking to incorporate substantive changes to proposed regulation LAC 33:III.504 (Log # AQ380S), which was originally noticed as AQ380 in the September 20, 2018, issue of the *Louisiana Register*. (1903Pot1)

The department has proposed substantive changes to address comments received during the public comment period of proposed rule AQ380. The changes clarify the status of creditable emission reductions from sources located in Livingston Parish. In the interest of clarity and transparency, the department is providing public notice and opportunity to comment on the proposed changes to the amendments of the regulation in question. The department is also providing an interim response to comments received on the initial regulation proposal.

A strikeout/underline/shaded version of the proposed rule that distinguishes original proposed language from language changed by this proposal and the interim response to comments are available on the department's website under Rules and Regulations at <http://deq.louisiana.gov/page/rules-regulations>.

The following changes are to be incorporated into the Notice of Intent:

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. - M.5.b....

6. Creditable emission reductions from sources located in Livingston Parish achieved prior to the removal of Livingston Parish from the list of affected parishes in LAC 33:III.504.M (and for which an ERC application has been submitted in accordance with LAC 33:III.615) shall remain eligible for use as offsets. However, emission reductions from sources located in Livingston Parish realized after Livingston Parish has been removed from the aforementioned list of affected parishes shall no longer be eligible for use as offsets for purposes of LAC 33:III.504.M.

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 41:2135 (October 2015), LR 42:403 (March 2016), LR 43:926 (May 2017), LR 45:

Public Hearing

A public hearing on the substantive changes will be held on April 25, 2019, 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 substantive changes. 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.

All interested persons are also invited to submit written comments on the substantive changes. Persons commenting should reference this proposed regulation as AQ348S. Such comments must be received no later than April 25, 2019, at 4:30 p.m., and should be sent to Deidra Johnson, Attorney Supervisor, Office of the Secretary, Legal Affairs and Criminal Investigations Division, P.O. Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-4068 or e-mailed to DEQ.Reg.Dev.Comments@la.gov. The comment period for the substantive changes ends on the same date as the public hearing. Copies of these substantive changes 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 AQ380S. These proposed regulations are available on the internet at <http://deq.louisiana.gov/page/rules-regulations>.

These substantive changes to AQ380 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; and 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

Herman Robinson
General Counsel

1903#028

POTPOURRI

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

State Implementation Plan Revision—Withdrawal of Stage II Vapor Recovery Systems Requirements

Under the authority of the Louisiana Environmental Quality Act, R. S. 30:2001 et seq., the secretary gives notice that the Office of Environmental Assessment, Air Planning and Assessment Division, will submit a proposed revision to the State Implementation Plan (SIP) for the Stage II Vapor Recovery System as required under the Clean Air Act (CAA). (1903Pot2)

Pursuant to the authority provided by Section 202(a)(6) of the Clean Air Act (42 USC 7521(a)(6)), the administrator of the United States Environmental Protection Agency (EPA) has determined onboard refueling vapor recovery (ORVR) technology is in widespread use throughout the motor vehicle fleet. The administrator also determined that emission reductions from ORVR are essentially equal to and have surpassed the emission reductions achieved by vapor recovery systems required by section 182(b)(3) and (42 USC 7511a(b)(3)), (i.e. Stage II).

Pursuant to EPA’s determination, the Louisiana Department of Environmental Quality (LDEQ) has promulgated a revision to state regulations and will submit a revision to its state implementation plan (SIP) concerning Stage II vapor recovery (LAC 33:III.2132) in the affected parishes of Ascension, East Baton Rouge, Iberville, Livingston, Pointe Coupee, and West Baton Rouge. The revisions:

1. terminate the requirements to install Stage II vapor recovery systems at motor vehicle fuel dispensing facilities (MVFDF);
2. provide standards and requirements to decommission existing Stage II equipment at MVFDF; and
3. require the decommissioning of existing Stage II equipment within 18 months of final approval of a SIP revision by the EPA to eliminate Stage II requirements.

The LDEQ invites all interested persons to submit written comments concerning the SIP revision no later than 4:30 p.m., April 25, 2019, to Vivian H. Aucoin, Office of Environmental Assessment, Box 4314, Baton Rouge, LA., 70821-4314, or e-mail at vivian.aucoin@la.gov.

A copy of the proposal may be viewed on the LDEQ website or at LDEQ headquarters at 602 North 5th Street, Baton Rouge, Louisiana 70802.

Herman Robinson
General Counsel

1903#029

POTPOURRI

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

**Withdrawal of Log Number OS092—Revisions to the Risk Evaluation/Corrective Action Program (RECAP)
(LAC 33:I.1307)**

This potpourri notice announces the withdrawal of rulemaking for log number OS092 to allow LDEQ to further engage stakeholders and allow additional outreach. This rule was proposed on January 20, 2019. The rulemaking process has been terminated. No further action will be taken on log number OS092.

Herman Robinson
General Counsel

1903#030

POTPOURRI

**Department of Public Safety and Corrections
Oil Spill Coordinator’s Office**

**Notice of Restoration Planning for Oil Spill
Bay Long Oil Spill**

Action:

Notice of Intent to Conduct Restoration Planning (NOI) for Bay Long Oil Spill, Plaquemines Parish, LA.

Agencies:

Louisiana Oil Spill Coordinator’s Office, Department of Public Safety and Corrections (LOSCO); Louisiana Coastal Protection and Restoration Authority (CPRA); Louisiana Department of Environmental Quality (LDEQ); Louisiana Department of Natural Resources (LDNR); and Louisiana Department of Wildlife and Fisheries (LDWF) (collectively, the “Trustees”).

Authorities:

The Oil Pollution Act of 1990 (OPA) (33 U.S.C. § 2701 et seq.) and the Louisiana Oil Spill Prevention and Response Act of 1991 (OSPRA) (La. Rev. Stat. 30:2451 et seq.) are the principal federal and state statutes, respectively, authorizing designated federal and state agencies and tribal officials to act on behalf of the public to (1) assess damages for injuries to natural resources and services resulting from a discharge of oil or the substantial threat of a discharge and (2) develop and implement a plan for the restoration, rehabilitation, replacement, or acquisition of the equivalent of the injured resources. OPA implementing regulations may be found at 15 C.F.R. Part 990 and OSPRA regulations at La. Admin. Code Title 43:XXIX. By letter dated March 27, 2017, and pursuant to 33 U.S.C. § 2706(b)(3), the Governor

of Louisiana designated the Trustees to act on behalf of the public under OPA. Harvest Pipeline Company (“Harvest”), a subsidiary of Hilcorp Energy Company, as the operator of the pipeline, is the identified Responsible Party and is therefore liable according to 33 U.S.C. § 2702 and La. Rev. Stat. 30:2480 for any natural resource damages resulting from the Incident.

Purpose:

As required by 15 C.F.R. §§ 990.41 and 990.42, the Trustees have determined that impacts to natural resources and services resulting from the unauthorized discharge of oil from 2 underwater pipelines near Bay Long, Louisiana beginning on or about September 05, 2016 (hereinafter, the “Incident”) (La. NRDA case file # LA2016_0905_1017) warrant proceeding with a Natural Resource Damage Assessment (NRDA) to pursue restoration for this Incident. In accordance with 15 C.F.R. § 990.44 and LAC 43:XXIX.123, the Trustees are issuing this NOI to inform the public that they are proceeding to the Restoration Planning Phase of the NRDA, during which trustees evaluate information on potential injuries and use that information to determine the need for, type of, and scale of restoration as described in subpart E of 15 C.F.R. Part 990. The Trustees will be opening an Administrative Record (AR) pursuant to 15 C.F.R. § 990.45 and LAC 43:XXIX.127. The AR will be available to the public and document the basis for the Trustees’ decisions pertaining to injury assessment and selection of restoration alternatives.

Summary of Incident:

On or about September 05, 2016, a subcontractor for Great Lakes Dredge and Dock Company struck two 12” pipelines owned and operated by Harvest with an excavation marsh buggy while performing restoration activities on an outer coast restoration project on Chenier Ronquille in Bay Long, a sub-estuary of Barataria Bay. An estimated 150 barrels of crude oil were released into Bay Long, connecting waterways, marshes, and onto a nearby barrier island before the lines were shut in and repaired. Response actions continued for several weeks, and at the height of the response approximately 175 personnel were on-scene assisting with the clean-up of spilled oil. Harvest clean-up operations included, among others, hard and sorbent booms, use of skimmers, pumps, excavation, low pressure high volume flushing, various washing techniques, removal of oiled habitat, and use of vacuum trucks, cranes, and airboats. Natural resources within the area that provide services to the public were impacted by oil and response actions resulting in injuries and mortality to a variety of wildlife, including, but not limited to, birds. Wildlife response personnel observed over 200 oiled birds. Salt marsh and the services that that resource provides, among others, were also potentially impacted as a result of the discharged oil and response activities.

The Trustees began the Pre-assessment/field investigation Phase of the NRDA in accordance with 15 C.F.R. § 990.43 and LAC 43:XXIX.117 to determine if they had jurisdiction to pursue restoration under OPA and OSPRA, and, if so, whether it was appropriate to do so. During the Pre-assessment Phase, the Trustees collected and analyzed, and are continuing to analyze, the following: (1) data reasonably expected to be necessary to make a determination of jurisdiction and/or a determination to conduct restoration

planning, (2) ephemeral data, and (3) information needed to design or implement anticipated assessment activities as part of the Restoration Planning Phase. Activities included, among other things, collection of dead fish and wildlife, collection of qualitative, quantitative and observational data about oiled habitats and wildlife, and sediment and oil sample collection and analysis.

Under the NRDA regulations applicable to OPA and OSPRA, the Trustees prepare and issue a Notice of Intent to Conduct Restoration Planning (NOI) if they determine conditions that confirm the jurisdiction of the Trustees and the appropriateness of pursuing restoration of natural resources have been met. This NOI announces that the Trustees have made the determination to proceed with restoration planning to evaluate, assess, quantify, and develop plans for restoring, rehabilitating, replacing, and/or acquiring the equivalent of injured natural resources and losses resulting from the Incident. The restoration planning process will include collection of information that the Trustees determine is appropriate for identifying and quantifying the injuries and losses of natural resources, including services, and to determine the need for, and the type and scale of restoration alternatives.

Determinations

Determination of Jurisdiction: The Trustees have made the following findings pursuant to 15 C.F.R. § 990.41 and LAC 43:XXIX.101:

1. The Incident resulted in the discharge of oil into or upon navigable waters of the United States. Such occurrence constitutes an “incident” within the meaning of 15 C.F.R. § 930.30.
2. The Incident was not authorized under a permit issued pursuant to federal, state, or local law; was not from a public vessel; and was not from an onshore facility subject to the Trans-Alaska Pipeline Authority Act, 43 U.S.C. § 1651, et seq.
3. Natural resources under the trusteeship of the Trustees have been injured as a result of the Incident.

As a result of the foregoing determinations, the Trustees have jurisdiction to pursue restoration under OPA and OSPRA.

Determination to Conduct Restoration Planning: The Trustees have determined, pursuant to 15 C.F.R. § 990.42(a), that:

1. Data collected pursuant to 15 C.F.R. § 990.43 demonstrate that injuries to natural resources have resulted from the Incident, as described above.
2. The response actions did not adequately address the injuries resulting from the Incident.
3. Feasible primary and/or compensatory restoration actions exist to address injuries from the Incident.

Based upon the foregoing determinations, the Trustees intend to proceed with restoration planning for this Incident.

Public Participation:

The Trustees invite the public to participate in restoration planning for this Incident. Public participation in decision-making is encouraged and will be facilitated through a publically available AR (described above) and publication of public notices in the Louisiana Register. Opportunities to participate in the process will be provided by the Trustees at important junctures throughout the planning process and will include requests for input on restoration alternatives and

review of planning and settlement documents. Public participation is consistent with all State and Federal laws and regulations that apply to the NRDA process, including Section 1006 of the Oil Pollution Act (OPA), 33 U.S.C. § 2706; the regulations for NRDA under OPA, 15 C.F.R. Part 990; Section 2480 of OSPRA, La. Rev. Stat. 30:2480; and the regulations for NRDA under OSPRA, La. Admin. Code 43:XXIX, Chapter 1.

For Further Information:

For more information or to view the AR please contact the Louisiana Oil Spill Coordinator's Office, P.O. Box 66614, Baton Rouge, LA 70896, (225) 925-6606 (Attn: Gina Muhs Saizan).

Marty J. Chabert
Oil Spill Coordinator

1903#018

POTPOURRI

**Department of Public Safety and Corrections
Oil Spill Coordinator's Office**

Notice of Restoration Planning for Oil Spill
Lake Grand Ecaille Oil Spill

Action:

Notice of Intent to Conduct Restoration Planning (NOI) for Lake Grand Ecaille Oil Spill, Plaquemines Parish, LA.

Agencies:

Louisiana Oil Spill Coordinator's Office, Department of Public Safety and Corrections (LOSCO); Louisiana Coastal Protection and Restoration Authority (CPRA); Louisiana Department of Environmental Quality (LDEQ); Louisiana Department of Natural Resources (LDNR); and Louisiana Department of Wildlife and Fisheries (LDWF) (collectively, the "Trustees").

Authorities:

The Oil Pollution Act of 1990 (OPA), 33 U.S.C. § 2701 et seq., and the Louisiana Oil Spill Prevention and Response Act of 1991 (OSPRA), La. Rev. Stat. 30:2451 et seq., are the principal federal and state statutes, respectively, authorizing designated federal and state agencies and tribal officials to act on behalf of the public to (1) assess damages for injuries to natural resources and services resulting from a discharge of oil or the substantial threat of a discharge and (2) develop and implement a plan for the restoration, rehabilitation, replacement, or acquisition of the equivalent of the injured resources. OPA implementing regulations may be found at 15 C.F.R. Part 990 and OSPRA regulations at La. Admin. Code tit. 43, pt. XXIX. By letter dated March 27, 2017, and pursuant to 33 U.S.C. §2706(b)(3), the Governor of Louisiana designated the Trustees to act on behalf of the public under OPA. Hilcorp Energy Company ("Hilcorp"), as the owner and operator of the pipeline, is the identified Responsible Party and is therefore liable according to 33 U.S.C. §2702 and La. Rev. Stat. 30:2480 for any natural resource damages resulting from the Incident.

Purpose:

As required by 15 C.F.R. §§ 990.41 and 990.42, the Trustees have determined that impacts to natural resources and services resulting from the unauthorized discharge of oil from a flow line near Port Sulphur, Louisiana beginning on

or about July 25, 2016 (hereinafter, the "Incident") (La. NRDA case file # LA2016_0725_0630) warrant proceeding with a Natural Resource Damage Assessment (NRDA) to pursue restoration for this Incident. In accordance with 15 C.F.R. § 990.44 and LAC 43:XXIX.123, the Trustees are issuing this NOI to inform the public that they are proceeding to the Restoration Planning Phase of the NRDA, during which trustees evaluate information on potential injuries and use that information to determine the need for, type of, and scale of restoration as described in subpart E of 15 C.F.R. Part 990. The Trustees will be opening an Administrative Record (AR) pursuant to 15 C.F.R. § 990.45 and LAC 43:XXIX.127. The AR will be available to the public and document the basis for the Trustees' decisions pertaining to injury assessment and selection of restoration alternatives.

Summary of Incident:

On or about July 25, 2016, Hilcorp located a discharge of crude oil from an out of service three-inch flow line. The discharge was due to corrosion on the flow line and a faulty check valve on an operational well. The Trustees were notified that the discharge resulted in the release of an estimated 30-100 barrels of crude oil into the connecting waterways and wetlands of Lake Grand Ecaille. Response actions and active maintenance were ongoing for over two months after the release. Hilcorp's cleanup operations included, among others, hard and sorbent booming, low pressure flushing, the use of absorbents and skimmers. Natural resources within the area that provide services to the public were impacted by oil and response activities resulting in injuries to wildlife and brackish marsh.

The Trustees began the Pre-assessment/field investigation Phase of the NRDA in accordance with 15 C.F.R. §990.43 and LAC 43:XXIX.117 to determine if they had jurisdiction to pursue restoration under OPA and OSPRA, and, if so, whether it was appropriate to do so. During the Pre-assessment Phase, the Trustees collected and analyzed, and are continuing to analyze, the following: (1) data reasonably expected to be necessary to make a determination of jurisdiction and/or a determination to conduct restoration planning, (2) ephemeral data, and (3) information needed to design or implement anticipated assessment activities as part of the Restoration Planning Phase. Activities included, among other things, collection of qualitative, quantitative and observational data about oiled habitats and wildlife during multiple site visits.

Under the NRDA regulations applicable to OPA and OSPRA, the Trustees prepare and issue a Notice of Intent to Conduct Restoration Planning (NOI) if they determine conditions that confirm the jurisdiction of the Trustees and the appropriateness of pursuing restoration of natural resources have been met. This NOI announces that the Trustees have made the determination to proceed with restoration planning to evaluate, assess, quantify, and develop plans for restoring, rehabilitating, replacing, and/or acquiring the equivalent of injured natural resources and losses resulting from the Incident. The restoration planning process will include collection of information that the Trustees determine is appropriate for identifying and quantifying the injuries and losses of natural resources, including services, and to determine the need for, and the type and scale of restoration alternatives.

POTPOURRI

Department of Public Safety and Corrections Oil Spill Coordinator's Office

Notice of Restoration Planning for Oil Spill Terrebonne Bay Oil Spill

Determinations

Determination of Jurisdiction: The Trustees have made the following findings pursuant to 15 C.F.R. § 990.41 and LAC 43:XXIX.101:

1. The Incident resulted in the discharge of oil into or upon navigable waters of the United States. Such occurrence constitutes an "incident" within the meaning of 15 C.F.R. § 930.30.

2. The Incident was not authorized under a permit issued pursuant to federal, state, or local law; was not from a public vessel; and was not from an onshore facility subject to the Trans-Alaska Pipeline Authority Act, 43 U.S.C. § 1651, et seq.

3. Natural resources under the trusteeship of the Trustees have been injured as a result of the Incident.

As a result of the foregoing determinations, the Trustees have jurisdiction to pursue restoration under OPA and OSPRA.

Determination to Conduct Restoration Planning: The Trustees have determined, pursuant to 15 C.F.R. § 990.42(a), that:

1. Data collected pursuant to 15 C.F.R. § 990.43 demonstrate that injuries to natural resources have resulted from the Incident, as described above.

2. The response actions did not adequately address the injuries resulting from the Incident.

3. Feasible primary and/or compensatory restoration actions exist to address injuries from the Incident. Based upon the foregoing determinations, the Trustees intend to proceed with restoration planning for this Incident.

Public Participation:

The Trustees invite the public to participate in restoration planning for this Incident. Public participation in decision-making is encouraged and will be facilitated through a publically available AR (described above) and publication of public notices in the Louisiana Register. Opportunities to participate in the process will be provided by the Trustees at important junctures throughout the planning process and will include requests for input on restoration alternatives and review of planning and settlement documents. Public participation is consistent with all state and federal laws and regulations that apply to the NRDA process, including Section 1006 of the OPA, 33 U.S.C. § 2706; the regulations for NRDA under OPA, 15 C.F.R. Part 990; Section 2480 of OSPRA, La. Rev. Stat. 30:2480; and the regulations for NRDA under OSPRA, La. Admin. Code tit. 43, pt. XXIX, ch. 1.

For Further Information:

For more information or to view the AR please contact the Louisiana Oil Spill Coordinator's Office, P.O. Box 66614, Baton Rouge, LA 70896, (225) 925-6606 (Attn: Gina Muhs Saizan).

Marty J. Chabert
Oil Spill Coordinator

1903#020

Action:

Notice of Intent to Conduct Restoration Planning (NOI) for Terrebonne Bay Oil Spill, Terrebonne Parish, LA.

Agencies:

Louisiana Oil Spill Coordinator's Office, Department of Public Safety and Corrections (LOSCO); Louisiana Coastal Protection and Restoration Authority (CPRA); Louisiana Department of Environmental Quality (LDEQ); Louisiana Department of Natural Resources (LDNR); and Louisiana Department of Wildlife and Fisheries (LDWF) (collectively, the "Trustees").

Authorities:

The Oil Pollution Act of 1990 (OPA), 33 U.S.C. § 2701 et seq., and the Louisiana Oil Spill Prevention and Response Act of 1991 (OSPRA), La. Rev. Stat. 30:2451 et seq., are the principal federal and state statutes, respectively, authorizing designated federal and state agencies and tribal officials to act on behalf of the public to (1) assess damages for injuries to natural resources and services resulting from a discharge of oil or the substantial threat of a discharge and (2) develop and implement a plan for the restoration, rehabilitation, replacement, or acquisition of the equivalent of the injured resources. OPA implementing regulations may be found at 15 C.F.R. Part 990 and OSPRA regulations at La. Admin. Code tit. 43, pt. XXIX. By letter dated March 27, 2017, and pursuant to 33 U.S.C. §2706(b)(3), the Governor of Louisiana designated the Trustees to act on behalf of the public under OPA. Hilcorp Energy Company ("Hilcorp"), as the operator of the pipeline, is the identified Responsible Party and is therefore liable according to 33 U.S.C. §2702 and La. Rev. Stat. 30:2480 for any natural resource damages resulting from the Incident.

Purpose:

As required by 15 C.F.R. §§ 990.41 and 990.42, the Trustees have determined that impacts to natural resources and services resulting from the unauthorized discharge of oil from the Caillou Island Tank Battery 25 in Terrebonne Bay, Louisiana beginning on or about October 8, 2016 (hereinafter, the "Incident") (La. NRDA case file # LA2016_1008_0400) warrant proceeding with a Natural Resource Damage Assessment (NRDA) to pursue restoration for this Incident. In accordance with 15 C.F.R. § 990.44 and LAC 43:XXIX.123, the Trustees are issuing this NOI to inform the public that they are proceeding to the Restoration Planning Phase of the NRDA, during which trustees evaluate information on potential injuries and use that information to determine the need for, type of, and scale of restoration as described in subpart E of 15 C.F.R. Part 990. The Trustees

will be opening an Administrative Record (AR) pursuant to 15 C.F.R. § 990.45 and LAC 43:XXIX.127. The AR will be available to the public and document the basis for the Trustees' decisions pertaining to injury assessment and selection of restoration alternatives.

Summary of Incident:

On or about October 8, 2016, Hilcorp operators located a leak from a pigging valve on Caillou Island Tank Battery 25. Oil from the release impacted the adjacent waterway and nearby barrier island and marsh. Response actions continued for several weeks. Hilcorp clean-up operations included, among others, hard and sorbent booming, use of skimmers, sorbent pads, low pressure flushing, washing, and excavation and removal of oiled sand. According to response documents, an estimated 16,260 bags of oiled sand were removed from nearby Timbalier Island. Natural resources within the area that provide services to the public were impacted by oil and response actions. Wildlife response personnel observed fiddler crabs and periwinkle snails in the impacted area. Mangroves, *Spartina* marsh, and sandy beach/algal flats habitat and the services that those resources provide, among others, were also adversely impacted as a result of the discharged oil and response activities.

The Trustees began the Pre-assessment/field investigation Phase of the NRDA in accordance with 15 C.F.R. § 990.43 and LAC 43:XXIX.117 to determine if they had jurisdiction to pursue restoration under OPA and OSPRA, and, if so, whether it was appropriate to do so. During the Pre-assessment Phase, the Trustees collected and analyzed, and are continuing to analyze, the following: (1) data reasonably expected to be necessary to make a determination of jurisdiction and/or a determination to conduct restoration planning, (2) ephemeral data, and (3) information needed to design or implement anticipated assessment activities as part of the Restoration Planning Phase. Activities included, among other things, collection of qualitative, quantitative, and observational data about oiled habitats and wildlife.

Under the NRDA regulations applicable to OPA and OSPRA, the Trustees prepare and issue a Notice of Intent to Conduct Restoration Planning (NOI) if they determine conditions that confirm the jurisdiction of the Trustees and the appropriateness of pursuing restoration of natural resources have been met. This NOI announces that the Trustees have made the determination to proceed with restoration planning to evaluate, assess, quantify, and develop plans for restoring, rehabilitating, replacing, and/or acquiring the equivalent of injured natural resources and losses resulting from the Incident. The restoration planning process will include collection of information that the Trustees determine is appropriate for identifying and quantifying the injuries and losses of natural resources, including services, and to determine the need for, and the type and scale of restoration alternatives.

Determinations

Determination of Jurisdiction: The Trustees have made the following findings pursuant to 15 C.F.R. §990.41 and LAC 43:XXIX.101:

1. The Incident resulted in the discharge of oil into or upon navigable waters of the United States. Such occurrence constitutes an "incident" within the meaning of 15 C.F.R. §930.30.

2. The Incident was not authorized under a permit issued pursuant to federal, state, or local law; was not from a public vessel; and was not from an onshore facility subject to the Trans-Alaska Pipeline Authority Act, 43 U.S.C. § 1651, et seq.

3. Natural resources under the trusteeship of the Trustees have been injured as a result of the Incident.

As a result of the foregoing determinations, the Trustees have jurisdiction to pursue restoration under OPA and OSPRA.

Determination to Conduct Restoration Planning: The Trustees have determined, pursuant to 15 C.F.R. § 990.42(a), that:

1. Data collected pursuant to 15 C.F.R. § 990.43 demonstrate that injuries to natural resources have resulted from the Incident, as described above.

2. The response actions did not adequately address the injuries resulting from the Incident.

3. Feasible primary and/or compensatory restoration actions exist to address injuries from the Incident.

Based upon the foregoing determinations, the Trustees intend to proceed with restoration planning for this Incident.

Public Participation:

The Trustees invite the public to participate in restoration planning for this Incident. Public participation in decision-making is encouraged and will be facilitated through a publically available AR (described above) and publication of public notices in the *Louisiana Register*. Opportunities to participate in the process will be provided by the Trustees at important junctures throughout the planning process and will include requests for input on restoration alternatives and review of planning and settlement documents. Public participation is consistent with all state and federal laws and regulations that apply to the NRDA process, including Section 1006 of OPA, 33 U.S.C. §2706; the regulations for NRDA under OPA, 15 C.F.R. Part 990; Section 2480 of OSPRA, La. Rev. Stat. 30:2480; and the regulations for NRDA under OSPRA, La. Admin. Code tit. 43, pt. XXIX, ch. 1.

For Further Information:

For more information or to view the AR please contact the Louisiana Oil Spill Coordinator's Office, P.O. Box 66614, Baton Rouge, LA 70896, (225) 925-6606 (Attn: Gina Muhs Saizan).

Marty J. Chabert
Oil Spill Coordinator

1903#019

POTPOURRI

Department of Health Board of Dentistry

Public Hearing Notice

The Louisiana State Board of Dentistry hereby gives notice of a public hearing pursuant to R.S. 49:953(C)(2)(a) (Act 454 of the 2018 Regular Legislative Session) for the purpose of allowing any interested person the opportunity to comment on any rule of the board which the person believes

is contrary to law, outdated, unnecessary, overly complex, or burdensome.

The hearing will take place at the board office, 1201 North Third Street, Baton Rouge, LA 70802 following the annual meeting of the Louisiana State Board of Dentistry, which commences on May 17, 2019 at 1 p.m.

To request reasonable accommodations for persons with disabilities call the board office at 225-219-7330.

Please direct any views, if in writing, regarding the Board's Rules, to Arthur Hickham, Jr. DDS at P.O. Box 5256, Baton Rouge, LA 70821-5256. Deadline for submitting written comments is May 10, 2019.

Oral comments regarding the board's rules will be considered, but in order to be submitted to the legislative oversight committees the comments must be in writing.

Arthur Hickman, Jr. DDS
Executive Director

1903#002

POTPOURRI

**Department of Natural Resources
Office of Conservation**

Orphaned Oilfield Sites

Office of Conservation records indicate that the Oilfield Sites listed in the table below have met the requirements as set forth by Section 91 of Act 404, La. R.S. 30:80 et seq., and as such are being declared Orphaned Oilfield Sites.

Operator	Field	District	Well Name	Well Number	Serial Number
Levi Gas Co., Inc.	Monroe	M	Spencer	001	177758
Levi Gas Co., Inc.	Monroe	M	Spencer	002	182375
Levi Gas Co., Inc.	Monroe	M	Exxon 15	001	216483
LL and H Energy, Inc.	Wildcat-So La New Orleans Dis	S	Keller-Planche	001	88031
Mission Resources Corporation	Lac Blanc	L	Lac 73 ra su;SI 3050	008	71557(30)
Petroleum Development Co.	Caddo Pine Island	S	Muslow	001	29896
Ross Exploration, Inc.	Caddo Pine Island	S	Muslow G	004	25655(30)
Stanolind Oil and Gas Co.	East Hackberry	L	N Little	001	19711

Operator	Field	District	Well Name	Well Number	Serial Number
Unknown	Red River-Bull Bayou	S	Laffitte	001	990489

Richard P. Ieyoub
Commissioner

1903#021

POTPOURRI

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

Public Hearing—Substantive Changes to Notice of Intent
Cervid Carcass Importation Ban and 2019-2021
Hunting Regulations and Seasons
(LAC 76:V.119 and LAC 76:XIX.Chapter 1)

The Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission published a Notice of Intent to amend its rules in the January 20, 2019 edition of the *Louisiana Register*. The Wildlife and Fisheries Commission proposes to amend the original Notice of Intent in relation to clarifying the language for the cervid carcass importation ban, allowing the nighttime take of nuisance animals and outlaw quadrupeds only from the last day of February through the last day of August, providing consistent regulations on limited access areas and returning the teal bag and possession limits to 6 per day bag limit and possession limit of 18.

Title 76

WILDLIFE AND FISHERIES

Part V. Wild Quadrupeds and Wild Birds

Chapter 1. Wild Quadrupeds

§119. Cervid Carcass Importation

A. Definitions

Cervid—any animal of the family *Cervidae* including, but not limited to, white-tailed deer, mule deer, elk, moose, caribou, fallow deer, axis deer, sika deer, red deer and reindeer.

B. No person shall import, transport or possess any cervid carcass or part of a cervid carcass originating outside of Louisiana except for: meat that is cut and wrapped; meat that has been boned out; quarters or other portions of meat with no part of the spinal column or head attached, antlers, clean skull plates with antlers, cleaned skulls without tissue attached, capes, tanned hides, finished taxidermy mounts and cleaned cervid teeth. This restriction shall also prohibit transport of any cervid carcass or part of a cervid carcass originating from Louisiana lands east of the Mississippi River in East Carroll, Madison, Tensas and Concordia Parishes to any other part of the state, unless it is transported in the manner prescribed herein. Any and all bones shall be disposed of in a manner where its final destination is at an approved landfill or equivalent.

C. Approved parts or deboned meat transported from other states must be legally possessed from the state it was taken. Approved parts and deboned meat from other states must contain a possession tag with the hunter's name, out-of-state license number (if required), address, species, date and location (county and state) of harvest. All cervids transported into or through this state in violation of the provisions of this ban shall be seized and disposed of in accordance with Wildlife and Fisheries Commission and Department of Wildlife and Fisheries rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Constitution, Article IX, Section 7, R.S. 56:1, R.S. 56:5, R.S. 56:6(10), (13) and (15), R.S. 56:20, R.S. 56:112, R.S. 56:116.1 and R.S. 56:171 et seq.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 43:344 (February 2017), LR .

Part XIX. Hunting and WMA Regulations

Chapter 1. Resident Game Hunting Season

§111. General

A. - D.8. ...

9. Nighttime Take of Nuisance Animals and Outlaw Quadrupeds. On private property, the landowner, or his lessee or agent with written permission from the landowner and the landowner's contact information in his possession, may take outlaw quadrupeds (coyotes, armadillos and feral hogs), nutria, or beaver during the nighttime hours from one-half hour after official sunset on the last day of February to one-half hour after official sunset the last day of August of that same year or as provided for by LAC 76:V.126. Such taking may be with or without the aid of artificial light, infrared or laser sighting devices, or night vision devices. In addition, pursuant to R.S. 56:116(D)(3) any person who is authorized to possess a firearm suppressor may use a firearm fitted with a sound suppressor when taking outlaw quadrupeds, nutria, or beaver. Any person attempting to take outlaw quadrupeds under the provisions of the paragraph, within 24 hours prior to the attempted taking, shall notify the sheriff of the parish in which the property is located and the LDWF Enforcement Division by calling (800) 442-2511 of their intention to attempt to take outlaw quadrupeds under the provision of this Paragraph.

D.10. - G.1.p. ...

q. Limited Access Areas (LAA): Operation of internal combustion powered vessels prohibited September through January. Vehicles prohibited November through January. Limited access areas are on Atchafalaya Delta, Boeuf, Dewey W. Wills, Joyce, Manchac, Pass-a-Loutre, Pointe-aux-Chenes and Russell Sage WMAs. See WMA maps for specific locations.

2. - 17.b.iii. ...

c. Atchafalaya Delta. Self-Clearing Permit required for all activities. All persons must either check in/check out electronically through the LDWF WMA Self-Clearing Permit app/Internet Web Portal or obtain a WMA Self-Clearing Permit from an information station located at Main Delta campground, Wax Delta Campground, Cul-de-sac on Big Island, and Berwick Public Boat Launch (Jesse Fontenot Boat Launch). Camping and houseboat mooring allowed ONLY in designated campgrounds. Houseboat mooring allowed by permit only (see Subparagraph G. 6. Camping b. for details). Vessels/Vehicles: Mudboats or air-cooled propulsion vessels powered by more than 36 total

horsepower are prohibited on the WMA. All ATVs/UTVs, motorcycles, horses and mules prohibited EXCEPT as permitted for authorized WMA trappers. Big Island: CLOSED to all activities during the month of October, EXCEPT LDWF Lottery Hunts.

c.i. - j.vi. ...

k. Boeuf. Area Closed to all south of LA 4 EXCEPT Youth Deer Hunters when youth deer season is open. North of LA 4 open to all activities. Internal combustion engines and craft limited to 10 hp rating or less in the Greentree Reservoir.

k.i. - o.iv. ...

p. Dewey Wills. Area Closed: to all EXCEPT Youth and Physically Challenged Deer Hunters during the Physically Challenged and Youth Deer Hunt only on that portion of the area north of the Diversion Canal.

p.i. - w.v. ...

x. Joyce. Swamp Walk: Closed from 30 minutes after sunset to 30 minutes before sunrise. No loaded firearms or hunting allowed within 100 yards of walkways. Check hunting schedule and use walkway at your own risk.

x.i. - bb.iii. ...

cc. Manchac.

cc.i. - ee.iv. ...

ff. Pass-A-Loutre. Self-Clearing Permit required for all activities. Permits available at Pass-a-Loutre Headquarters, Camp Canal and all designated camping areas. Oyster harvesting is prohibited. Camping allowed ONLY in designated areas. See self-clearing permit station at headquarters and WMA map for designated camping areas. Vessels/Vehicles: All ATVs/UTVs, motorcycles, horses and mules are prohibited. Mud boats or air-cooled propulsion vessels powered by more than 36 total horsepower prohibited. Operation of mud boats and air-cooled propulsion engines prohibited after 2:00 p.m. Sept. 1 - Jan. 31, EXCEPT allowed after 2:00 p.m. in South Pass, Pass-a-Loutre, Southeast Pass, Loomis Pass, Dennis Pass, and Cadro Pass.

ff.i. - hh.iv. ...

ii. Pointe-Aux-Chenes. All nighttime activities prohibited. Possession of more than one daily limit of fish/crab/shrimp while on the WMA is prohibited. Self-clearing permits available at Grand Bayou Boat Launch and at Point Farm gate behind Montegut Middle School. Parking of vehicles on levees prohibited. Vessels/Vehicles: All boats powered by internal combustion engines having total horsepower above 25 Hp are not allowed in the Grand Bayou, Montegut and Pointe-aux-Chenes water management units. Public is permitted to travel anytime through the WMA for access purposes only, in the waterways known as Grand Bayou, Humble Canal, Little Bayou Blue, Grand Bayou Blue, St. Louis Canal, and Bayou Pointe-aux-Chenes unless authorized by LDWF. All ATVs/UTVs, motorcycles, horses and mules are prohibited.

ii.i. - kk.vii. ...

ll. Russell Sage. AREA CLOSED: Last Sat. of Oct. for 2 days South of I-20 only to all EXCEPT Youth and Physically Challenged Deer Hunters. North of I-20 open to all other allowable activities. Wham Brake: September 1-Jan. 31 all motorized vessels prohibited 2:00pm-4:00am, and all nighttime activities prohibited during open waterfowl season. Waterfowl Refuge: North of LA Highway 15 closed

to all hunting, fishing, trapping and ATV use during duck season including early teal season, EXCEPT hunting allowed during Falconry Waterfowl Season. Transporting trash or garbage on WMA roads is prohibited. All nighttime activities prohibited EXCEPT as otherwise provided. Chauvin Tract: All season dates on Chauvin Tract (US 165 North) same as outside, EXCEPT still hunt only, EXCEPT deer hunting restricted to archery only, and EXCEPT small game shotgun only. All vehicles including ATVs prohibited. Wham Brake Area: Waterfowl hunting open during either-sex deer season.

17.ii.i. - 18.a.i.(a). ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115 and R.S. 56:116.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 25:1279 (July 1999), amended LR 26:1494 (July 2000), LR 27:1049 (July 2001), LR 28:1603 (July 2002), LR 29:1124 (July 2003), repromulgated LR 29:1522 (August 2003), amended LR 30:1495 (July 2004), LR 31:1611 (July 2005), LR 32:1251 (July 2006), LR 33:1382 (July 2007), LR 34:1429 (July 2008), LR 35:1264 (July 2009), LR 36:1566 (July 2010), LR 37:2190 (July 2011), LR 38:1732 (July 2012), LR 39:2292 (August 2013), LR 40:1540 (August 2014), LR 41:963 (May 2015), LR 42:1112 (July 2016), LR 43:1423 (July 2017), LR 44:1277 (July 2018), LR 45:

§117. Migratory Bird Seasons, Regulations, and Bag Limits

A. Seasons and Bag Limits

Species	Season Dates	Daily Bag Limit	Possession Limit
Mourning and White Winged Doves and fully-dressed Eurasian and Collared Doves	South Zone: Sept. 7-Sept. 15 Oct. 12-Nov. 17 Dec. 19-Jan. 31 North Zone: Sept. 7-Sept. 29 Oct. 12-Oct. 17 Dec. 28-Jan. 26	15 (in aggregate)	45 (in aggregate)
Woodcock	Dec. 18-Jan. 31	3	9
Teal (Blue-winged, Green-winged and Cinnamon)	Sept. 14-Sept. 29	6	18
King and Clapper Rails	Sept. 14-Sept. 29 Nov. 9-Jan. 1	15 (in aggregate)	45 (in aggregate)
Sora and Virginia Rails	Sept. 14-Sept. 29 Nov. 9-Jan. 1	25 (in aggregate)	75 (in aggregate)
Gallinules	Sept. 14-Sept. 29 Nov. 9-Jan. 1	15	45
Snipe	Coastal Zone: Nov. 2-Dec. 8 Dec. 21-Feb. 28 West Zone: Nov. 2-Dec. 8 Dec. 21-Feb. 28 East Zone: Nov. 2-Dec. 8 Dec. 21-Feb. 28	8	24
Ducks, Coots and Mergansers	Coastal Zone: Nov. 2-3 (youth only) Nov. 9-Dec. 8 Dec. 21-Jan.19 West Zone: Nov. 9 (youth only) Nov. 16-Dec. 8 Dec. 21-Jan. 26 Feb. 1 (youth hunt) East Zone: Nov. 16 (youth only) Nov. 23-Dec. 8 Dec. 14-Jan. 26 Feb. 1 (youth only)	Daily bag limit on ducks is 6 and may include no more than 4 mallards (no more than 2 of which may be females), 2 canvasbacks, 1 mottled duck, 1 black duck, 3 wood ducks, 3 scaup, 2 redheads, and 1 pintail. Daily bag limit on coots is 15. Daily bag limit on mergansers is 5, only 2 of which may be hooded mergansers. Merganser limits are in addition to the daily bag limit for ducks.	Three times the daily bag limit.

Species	Season Dates	Daily Bag Limit	Possession Limit
Light Geese (Snow, Blue, and Ross') and White-Fronted Geese	North Zone: Nov. 16-Dec. 8 Dec. 14-Feb. 2 South Zone: Nov. 16-Dec. 8 Dec. 14-Feb. 2	Daily bag limit on Light Geese (snow, blue, and ross') is 20. Daily bag limit on White-Fronted Geese is 3.	No possession limit on Light Geese (snow, blue, and ross') Possession limit on White-Fronted Geese is 6.
Canada Geese	North Zone: Nov. 2-Dec. 8 Dec. 21-Jan. 31 South Zone: Nov. 2-Dec. 8 Dec. 21-Jan. 31	1	3

B. Conservation Order for Light Geese Seasons and Bag Limits

Species	Season Dates	Daily Bag Limit	Possession Limit
Light Geese (Snow, Blue, and Ross')	North Zone: Dec. 9-Dec. 13 Feb. 3-Mar. 15 South Zone: Dec. 9-Dec. 13 Feb. 3-Mar. 15	No daily bag limit.	No possession limit.

C. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 42:1130 (July 2016), amended LR 43:1427 (July 2017), LR 45:

Public Hearing

In accordance with R.S. 49:968(H)(2), a public hearing on proposed substantive changes will be held by the

Department of Wildlife and Fisheries on April 22, 2019 at 10 a.m. in the Joe L. Herring Louisiana Room of the Wildlife and Fisheries Headquarters Building, 2000 Quail Drive, Baton Rouge, LA, 70808.

Alfred R. Sunseri
Chairman

1903#035

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