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<b>Order No.</b>	<b>Description</b>	<b>Last Amended Date</b>	<b>Compiled Date</b>	<b>Price</b>
Complete LAC	<i>Louisiana Administrative Code</i> - Complete set including supplement and amendments	varies		\$ 1,080.00
19	Corporations and Business	1/97	3/97	\$ 15.00
22:IX-1	Felony Sentencing Guidelines	7/94	12/96	\$ 25.00
25:I-IX	Cultural Resources: Cultural Development; State Museums; State Library; State Parks	1/96	12/96	\$ 22.75
33:I	DEQ - Part I - Office of the Secretary	3/97	6/97	\$ 18.00
33:III-2	DEQ - Part III - Air	12/96	12/96	\$ 115.50
33:V-2	DEQ - Part V - Hazardous Waste and Hazardous Materials	11/96	12/96	\$ 164.75
33:VII-2	DEQ - Part VII - Solid Waste	6/97	6/97	\$ 43.00
33:IX/XIII	DEQ - Part IX, XIII - Water Quality; Groundwater Protection	6/97	6/97	\$ 85.00
34-2	Government Contracts, Procurement and Property Control	1/97	3/97	\$ 27.25
42-2	Louisiana Gaming: Charitable Bingo, Keno, Raffle; T.V. Bingo; Casino Gambling; Video Poker; Riverboat Gaming	1/97	2/97	\$ 51.00
42:XI-2	Video Poker	1/97	1/97	\$ 6.00
43:IX-XIII	Natural Resources: Office of Conservation-Natural Gas Policy Act, Pipeline Division, and Pipeline Safety	9/95	3/97	\$ 35.25
43:XIX	Natural Resources: Office of Conservation-General Operations	5/97	6/97	\$ 23.00
43:XXVII	Natural Resources: State Land Office	4/93	3/97	\$ 32.00
46:III	Professional and Occupational Standards-Auctioneers	12/94	3/97	\$ 3.50
46:XXI	Professional and Occupational Standards-Certified Shorthand Reporters	12/96	12/96	\$ 3.25
46:XXXIII	Professional and Occupational Standards-Dental Health Profession	2/97	3/97	\$ 7.50
46:XXXVII	Professional and Occupational Standards-Embalmers and Funeral Directors	11/95	3/97	\$ 3.75
67-1	Social Services: Secretary, Family Support, Community Serv., Rehabilitation Services	6/97	6/97	\$ 33.50
76	Wildlife and Fisheries	2/97	2/97	\$ 33.25

# Executive Orders

## EXECUTIVE ORDER MJF 97-26

### Individual Wastewater Treatment Systems Task Force

WHEREAS: Executive Order MJF 97-9, signed on January 31, 1997, established the Task Force on Individual Wastewater Treatment Systems (hereafter "Task Force"); and

WHEREAS: it is necessary to amend a provision in that Order;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and the laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: Section 3 of Executive Order MJF 97-9 is amended to provide as follows:

The Task Force shall consist of at least 17 members who shall be appointed by and serve at the pleasure of the governor. The membership of the Task Force shall be selected as follows:

\* \* \*

M. a representative of the Lake Pontchartrain Basin Foundation;

N. a representative of consumer organizations or groups; and

O. an at-large member.

SECTION 2: All other sections and subsections of Executive Order MJF 97-9 shall remain in full force and effect.

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 23rd day of June, 1997.

M.J. "Mike" Foster, Jr.  
Governor

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State  
9707#014

# Emergency Rules

## DECLARATION OF EMERGENCY

**Department of Agriculture and Forestry  
Office of Agricultural and Environmental Sciences  
Advisory Commission on Pesticides**

**Pesticide Use Restrictions—Azinphos-Methyl  
(LAC 7:XXIII.13138)**

In accordance with the Administrative Procedure Act, R.S. 49:953(B) and R.S. 3:3203(A), the commissioner of Agriculture and Forestry is exercising the emergency provisions of the Administrative Procedure Act in adopting the following rules for the implementation of regulations governing the use of the pesticide, azinphos-methyl.

Azinphos-methyl is an essential pesticide in the control of sugarcane pests. Without its use a substantial portion of the sugarcane crop in Louisiana could be damaged by pests. Because of its effectiveness as a pesticide Azinphos-methyl poses a substantial threat to the environment if it is misapplied. It was the cause of substantial fishkills in 1991. Because of its substantial threat to the environment the department has severely limited the use of Azinphos-methyl, even though its label allows a wider use. The application of Azinphos-methyl in accordance with its label, but inconsistent with the department's rules and regulation and the misuse of this pesticide poses an imminent peril to the public health, safety and welfare and to the environment, especially if it gets into the waterways of this state.

The department has, therefore, determined that these emergency rules are necessary in order to implement a monitoring program and registration and permitting requirements during the current crop year. Information will be gathered to determine whether the effectiveness of this chemical outweighs any potential risk to the public or the environment. The rule becomes effective upon signature and will remain in effect 120 days.

### Title 7

## AGRICULTURE AND ANIMALS

### Part XXIII. Pesticides

#### Chapter 131. Advisory Commission on Pesticides

##### Subchapter I. Application of Pesticides

##### §13138. Application of Azinphos-Methyl

###### A. Registration Requirements

1. The commissioner hereby declares that prior to making any aerial application of azinphos-methyl to sugarcane, the aerial owner/operator must first register such intent by notifying the Division of Pesticides and Environmental Programs (DPEP) in writing.

2. The commissioner hereby declares that prior to selling azinphos-methyl to be applied on sugarcane, the dealer must first register such intent by notifying the DPEP in writing.

3. The commissioner hereby declares that prior to making recommendation for application of azinphos-methyl to sugarcane, the agricultural consultant must first register such intent by notifying the DPEP in writing.

B. Grower Liability. Growers of sugarcane shall not force or coerce applicators to apply azinphos-methyl to their crops when the applicators, conforming to the Louisiana pesticide laws and rules and regulations or to the pesticide label, deem it unsafe to make such applications. Growers found to be in violation of this Section shall forfeit their right to use azinphos-methyl on their crops, subject to appeal to the Advisory Commission on Pesticides.

###### C. Azinphos-methyl Application Restriction

1. Application of Azinphos-methyl on sugarcane is limited to one application per season.

2. Do not apply by ground within 25 feet, or by air within 150 feet of lakes; reservoirs; rivers; permanent streams, marshes or natural ponds; estuaries and commercial fish farm ponds.

D. Procedures for Permitting Applications of Azinphos-methyl

1. Prior to any application or recommendation for application of Azinphos-methyl, approval shall be obtained in writing from the Louisiana Department of Agriculture and Forestry (LDAF). Such approval is good for five days from the date issued. Approval may be obtained by certified agricultural consultants from the DPEP. Where farmers do not use agricultural consultants, approval must be obtained by the private applicator or aerial applicators employed by such farmers from DPEP.

2. The determination as to whether a permit for application is to be given shall be based on criteria including but not limited to:

- a. weather patterns and predictions;
- b. soil moisture;
- c. propensity for run-off;
- d. drainage patterns;
- e. quantity of acreage to be treated;
- f. extent and presence of vegetation in the buffer zone between application site and water body;
- g. water monitoring results;
- h. targeted pest must exceed the following prescribed thresholds: yellow sugarcane aphid, 20 - 25 live aphids per leaf or sugarcane borer—a three-fold threshold (15 percent) i.e., one or more live borers in 15 different stalks per 100 stalks;
- i. Azinphos-methyl total acreage target shall not exceed 80,000 acres; and
- j. any other relevant data.

E. Monitoring of Azinphos-methyl. Agricultural consultants registered to recommend azinphos-methyl on sugarcane shall report daily to the DPEP, on forms prescribed

emergency rule, reimbursement for out-of-state inpatient hospital services was at 72 percent of billed charges. After a review of the prior authorization process for out-of-state care, the bureau has determined it is necessary to revise the reimbursement methodology for out-of-state inpatient hospital services rendered to recipients under the age of 21 by increasing the payment to 72 percent of billed charges. Outpatient services will continue to be reimbursed at 50 percent of billed charges except for ambulatory surgical procedures and outpatient laboratory procedures which are reimbursed in accordance with a fee schedule. This action is necessary to assure the health and welfare of these recipients by maintaining access to medical services when a recipient requires emergency care while out of state or when the medical services are not available in this state.

A subsequent emergency rule was published in the *Louisiana Register* (Volume 23, Number 3), effective April 1997.

#### **Emergency Rule**

Effective for dates of service on or after August 2, 1997, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases reimbursement to out-of-state hospitals to 72 percent of billed charges for inpatient services provided to recipients under the age of 21.

Bobby P. Jindal  
Secretary

9707#045

### **DECLARATION OF EMERGENCY**

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

#### **Medically Needy Program**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following emergency rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This emergency rule is in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted an emergency rule to terminate the Title XIX Medically Needy Program as an eligibility category under the Medicaid Program (*Louisiana Register*, Volume 22, Number 6). This action was taken to avoid a budget deficit in the medical assistance program due to the lack of sufficient state funds required to match the federal financial participation required under Title XIX of the Social Security Act. A subsequent

Program with limitations (*Louisiana Register*, Volume 22, Number 7).

In compliance with House Concurrent Resolution Number 108 of 1997, the department adopts the following rule to terminate the state-funded Medically Needy Program and reinstate the Title XIX Medically Needy Program for the month of July 1997. This action is necessary to protect the citizens of Louisiana from an imminent peril to their health and welfare that would result if they were unable to continue to receive necessary medical services. It is anticipated that the implementation of this emergency rule will increase expenditures by approximately \$5,000,000 for fiscal year 1997-98.

#### **Emergency Rule**

Effective for the month of July 1997, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing terminates the state-funded Medically Needy Program and reinstates the Title XIX Medically Needy Program in accordance with the House Concurrent Resolution Number 108 of 1997.

Interested persons may submit written comments to Thomas D. Collins, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this emergency rule.

A copy of this emergency rule is available for review by interested parties at parish Medicaid offices.

Bobby P. Jindal  
Secretary

9707#005

### **DECLARATION OF EMERGENCY**

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

#### **Medically Needy Program Restrictions**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following emergency rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This emergency rule is in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted an emergency rule to terminate the Title XIX Medically Needy Program as an eligibility category under the Medicaid Program, effective July 1, 1996 (*Louisiana Register*, Volume 22, Number 6). This action was taken to avoid a budget deficit in the Medicaid Program due to the lack of sufficient state funds required to match the federal financial



compliance with Executive Order MJF 96-17 to establish a state-funded Medically Needy Program with limitations (*Louisiana Register*, Volume 22, Number 7).

The department adopted an emergency rule to reinstate the Title XIX Medically Needy Program, effective July 1, 1997 (*Louisiana Register*, Volume 23, Number 7). The department has subsequently determined it is necessary to amend the July 1, 1997 emergency rule to place restrictions in service coverage under the reinstated Title XIX Medically Needy Program. The eligibility criteria under the reinstated Title XIX Medically Needy Program shall remain the same as the eligibility criteria utilized in the Title XIX Medically Needy Program prior to July 1, 1996. Service coverage under the reinstated Title XIX Medically Needy Program shall be restricted to:

- (1) inpatient and outpatient hospital services;
- (2) Intermediate Care Facility for the Mentally Retarded (ICF/MR) services;
- (3) Intermediate Care and Skilled Nursing Facility (ICF and SNF) services;
- (4) physician services and medical/surgical services by a dentist;
- (5) nurse midwife services;
- (6) Certified Registered Nurse Anesthetist (CRNA) and anesthesiologist services;
- (7) lab and x-ray services;
- (8) prescription drugs;
- (9) EPSDT (KIDMED) screening services;
- (10) rural health clinic services;
- (11) hemodialysis clinic services;
- (12) ambulatory surgery clinic services;
- (13) prenatal clinic services;
- (14) Federally Qualified Health Center (FQHC) services;
- (15) family planning services;
- (16) durable medical equipment;
- (17) rehabilitation services (PT, OT, ST);
- (18) nurse practitioner;
- (19) medical transportation (emergency and nonemergency);
- (20) home health services for individuals needing skilled nursing services only; and
- (21) radiation therapy.

The following services shall not be covered under the Title XIX Medically Needy Program:

- (1) dental services or dentures;
- (2) chiropractic;
- (3) optometry;
- (4) podiatry;
- (5) alcohol and substance abuse clinic services;
- (6) mental health clinic services;
- (7) home and community based waiver services;
- (8) home health (nurse aid and physical therapy);
- (9) case management services;
- (10) mental health rehabilitation services; and
- (11) psychiatric inpatient services for individuals under 22 years of age;
- (12) audiology;
- (13) Sexually Transmitted Disease (STD) Clinics; and
- (14) Tuberculosis Clinics.

All other components of the Title XIX Medically Needy Program shall be reinstated in accordance with the federal requirements as stated in the *Code of Federal Regulations*.

This action is necessary to protect the citizens of Louisiana from an imminent peril to their health and welfare that would result if they were unable to continue to receive necessary medical services and to avoid a budget deficit in the Medicaid Program.

It is anticipated that the implementation of this emergency rule will decrease expenditures by approximately \$11,444,191 for fiscal year 1997-98.

#### Emergency Rule

Effective August 1, 1997, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing establishes the following service coverage restrictions in the reinstated Title XIX Medically Needy Program:

#### Covered Services

- (1) inpatient and outpatient hospital services;
- (2) Intermediate Care Facility for the Mentally Retarded (ICF/MR) services;
- (3) Intermediate Care and Skilled Nursing Facility (ICF and SNF) services;
- (4) physician services and medical/surgical services by a dentist;
- (5) nurse midwife services;
- (6) Certified Registered Nurse Anesthetist (CRNA) and anesthesiologist services;
- (7) lab and x-ray services;
- (8) prescription drugs;
- (9) EPSDT (KIDMED) screening services;
- (10) rural health clinic services;
- (11) hemodialysis clinic services;
- (12) ambulatory surgery clinic services;
- (13) prenatal clinic services;
- (14) Federally Qualified Health Center (FQHC) services;
- (15) family planning services;
- (16) durable medical equipment;
- (17) rehabilitation services (PT, OT, ST);
- (18) nurse practitioner;
- (19) medical transportation (emergency and nonemergency);
- (20) home health services for individuals needing skilled nursing services only; and
- (21) radiation therapy.

#### Noncovered Services

- (1) dental services or dentures;
- (2) chiropractic;
- (3) optometry;
- (4) podiatry;
- (5) alcohol and substance abuse clinic/services;
- (6) mental health clinic services;
- (7) home and community based waiver services;
- (8) home health (nurse aid and physical therapy);
- (9) case management services;
- (10) mental health rehabilitation services; and
- (11) psychiatric inpatient services for individuals under 22 years of age;
- (12) audiology;

- (13) Sexually Transmitted Disease (STD) Clinics; and
- (14) Tuberculosis Clinics.

All other components of the Title XIX Medically Needy Program shall be in accordance with the federal requirements as stated in the *Code of Federal Regulations*.

Interested persons may submit written comments to Thomas D. Collins, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this emergency rule.

A copy of this emergency rule is available for review by interested parties at parish Medicaid offices.

Bobby P. Jindal  
Secretary

9707#047

### **DECLARATION OF EMERGENCY**

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

**Mentally Retarded/Developmentally Disabled Waiver  
Program—Annualized Individual Cost Cap**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This emergency rule is in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing administers the Mental Retardation/Developmentally Disabled (MR/DD) Waiver under the Home and Community Based Services Waiver Program. The department adopted an emergency rule to establish an annualized individual cost cap not to exceed \$100,000 for waiver services in the Mental Retardation/Developmentally Disabled (MR/DD) Waiver Program and to transfer authority for the issuance of the waiver services authorization (MR-14) form to the Health Standards Section (*Louisiana Register*, Volume 23, Number 4). This action was taken to assure continued cost effectiveness of the waiver and to maintain the integrity of the approved plan of care.

The department has subsequently determined that it is necessary to repeal the April 21, 1997 emergency rule that established an annualized individual cost cap and transferred authority for the issuance of the waiver services authorization (MR-14) form.

#### **Emergency Rule**

Effective July 1, 1997, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repeals the April 21, 1997 emergency rule establishing an annualized individual cost cap of \$100,000 for waiver services in the Mental Retardation/Developmentally

Disabled (MR/DD) Waiver Program and transferring authority for the issuance of the waiver services authorization (MR-14) form.

Bobby P. Jindal  
Secretary

9707#003

### **DECLARATION OF EMERGENCY**

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

**Pharmacy Program—Maximum Allowable Overhead Cost**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act and as directed by the 1996-97 General Appropriation Act, which states:

"The secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law."

This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and shall be in effect for the maximum period allowed by the Act.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing provides a pharmacy dispensing fee in the Pharmacy Program in accordance with the methodology approved in the State Plan for the Maximum Allowable Overhead Cost which includes a \$0.10 provider fee collected on all prescriptions dispensed to Louisiana residents by pharmacists. This dispensing fee is called the Louisiana Maximum Allowable Overhead Cost and is determined by updating the base rate through the application of certain economic indices to appropriate cost categories to assure recognition of costs which are incurred by efficiently and economically operated providers. During state fiscal year 1995-1996 the bureau maintained the Louisiana Maximum Allowable Overhead Cost at the state fiscal year 1994-1995 level. The following emergency rule continues the Louisiana Maximum Allowable Overhead Cost at the state fiscal year 1994-1995 level. This action is necessary to avoid a budget deficit in the medical assistance programs. It is estimated that this action will reduce expenditures in the Pharmacy Program by approximately \$7,242,000 for state fiscal year 1997 and 1998.

#### **Emergency Rule**

Effective for dates of service July 1, 1997 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following provisions applicable to the Maximum Overhead Cost under the Pharmacy Program.



### Maximum Allowable Overhead Cost

1. For state fiscal year 1997-98, the Maximum Allowable Overhead Cost will remain at the level established for state fiscal year 1994-95. This Maximum Allowable Overhead Cost was established by applying the 1993 indices to appropriate cost categories for a one-year period.

2. No inflation indices or any interim adjustments will be applied to the Maximum Allowable Overhead Costs for the time period July 1, 1997 through June 30, 1998.

Interested persons may submit written comments to Thomas D. Collins, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding the emergency rule.

A copy of this emergency rule may be obtained from the Medicaid parish office.

Bobby P. Jindal  
Secretary

9707#004

## DECLARATION OF EMERGENCY

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

### Substance Abuse Clinics

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following emergency rule in the Medical Assistance Program, as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act, and as directed by the 1997-98 General Appropriation Act, which states:

"The secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law."

This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing currently provides coverage for substance abuse clinic services under the Medicaid Program. In February of 1996, the bureau adopted a rule to reimburse substance abuse clinics for only one service-per-day-per-recipient (*Louisiana Register*, Volume 22, Number 2). The bureau has now determined it is necessary to establish a maximum service limit of 26 visits per year for recipients age 21 and older for individual and group counseling/therapy. A maximum service limit of 12 visits per year per eligible recipient is established for family counseling/therapy for recipients age 21 and older. Additionally, coverage for collateral counseling services is terminated under the Medicaid program. The reimbursement

rate for group counseling/therapy is reduced to \$10 per eligible recipient in the group up to a maximum of six participants. The department adopts the following emergency in accordance with Act 18 of the 1997-98 General Appropriation Act. It is estimated that this emergency rule will reduce expenditures in the Substance Abuse Clinic Program by approximately \$6,246,845 for state fiscal year 1997-98.

### Emergency Rule

Effective August 1, 1997, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing establishes service limits in the Substance Abuse Clinic Program as follows: 26 visits per year for individual and group counseling therapy and 12 visits per year per eligible recipient for family counseling therapy for recipients age 21 and older. Coverage for collateral counseling service in a substance abuse clinic is terminated. The reimbursement rate for group counseling/therapy is reduced to \$10 per eligible recipient in the group up to a maximum of six participants.

Interested persons may submit written comments to Thomas D. Collins, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this emergency rule.

A copy of this emergency rule is available for review by interested parties at parish Medicaid offices.

Bobby P. Jindal  
Secretary

9707#044

## DECLARATION OF EMERGENCY

**Department of Public Safety and Corrections  
Office of State Fire Marshal**

### Suspension of Use of Internal Inspection Tags for Portable Fire Extinguishers (LAC 55:V.3035)

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act and the authority, R.S. 40:1651(B), the Department of Public Safety and Corrections, Office of the State Fire Marshal hereby finds that an imminent peril to public safety may exist in that the National Fire Protection Association (NFPA) is in the process of reconsidering its recommended method of internally marking of portable fire extinguishers when serviced and accordingly adopted on June 30, 1997 the following emergency rule.

This emergency rule, effective immediately, hereby amends LAC 55:V:3035.C, D, E and F in that enforcement of those provisions is hereby suspended to allow the Office of the State Fire Marshal to adequately research the issue and make a determination as to the appropriate type of internal marking to be adopted.

This emergency rule shall take effect on June 30, 1997 and shall remain in effect for 90 days. At the conclusion of this

period, the Office of the State Fire Marshal will either resume enforcement of the suspended provisions, as they exist, or promulgate new rules and regulations in accordance with its findings.

**Title 55  
PUBLIC SAFETY**

**Part V. Fire Protection**

**Chapter 30. Fire Extinguisher and Fire Detection and Alarm System**

**§3035. Installation, Inspection and Service**

\* \* \*

G. Enforcement of foregoing Subsections C, D, E and F is hereby suspended effective June 30, 1997 for a period of 90 days, during which time the Office of the State Fire Marshal shall reconsider the issue of internal inspection stickers required by the suspended provisions. At the conclusion of the 90-day period, enforcement of the existing provisions will resume or new provisions shall be promulgated, depending upon the findings during the period of reconsideration.

AUTHORITY NOTE: Promulgated in accordance with R.S.40:1651(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 17: 273 (March 1991), amended LR 23:

Thomas H. Normile  
Undersecretary

9707#024

**DECLARATION OF EMERGENCY**

**Department of Treasury  
Board of Trustees of the State Employees  
Group Benefits Program**

Plan Document—Pre-Existing Condition  
for Overdue Application; Special Enrollment

Pursuant to the authority granted by R.S. 42:871(C) and 874(A)(2), vesting the Board of Trustees with the sole responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, the Board of Trustees hereby invokes the emergency rule provisions of R.S. 49:953(B) to adopt amendments to the Plan Document of Benefits.

The board finds that it is necessary to amend the Plan Document relative to the pre-existing condition exclusion for overdue applicants and to provide for special enrollments in order to implement changes included in the Health Insurance Portability and Accountability Act of 1996 (U.S. Public Law 104-191), effective July 1, 1997, and the rules and regulations promulgated pursuant thereto, in order to avoid sanctions or penalties from the United States.

These amendments are effective July 1, 1997, and shall remain effective for a maximum of 120 days or until promulgation of the final rule, whichever occurs first.

The Plan Document of Benefits for the State Employees Group Benefits Program is hereby amended in the following particulars:

**Amendment Number 1**

Amend the introduction to the Plan Document on page 3, after "Group Coverage: Self-insured and self-funded comprehensive medical benefits plan" by inserting the following on the next line:

Plan Year: July 1 - June 30

**Amendment Number 2**

Amend Article 1, Section I, by adding two new Subsections, designated as Subsections OO and PP, to read as follows:

OO. Group Health Plan—a plan (including a self-insured plan) of, or contributed to by, an employer (including a self-employed person) or employee organization to provide health care (directly or otherwise) to the employees, former employees, the employer, others associated or formerly associated with the employer in a business relationship, or their families.

PP. *Health Insurance Coverage*—benefits consisting of medical care (provided directly, through insurance or reimbursement, or otherwise) under any hospital or medical service policy or certificate, hospital or medical service plan contract, or HMO contract offered by a health insurance issuer. However, benefits described in Section 54.9804-1(b)(2) of the rules promulgated pursuant to the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191, are not treated as benefits consisting of medical care.

**Amendment Number 3**

Amend Article 1, Section II, Subsection B, Paragraph 2, to read as follows:

2. *Effective Date of Coverage.* Retiree coverage will be effective on the first of the month following the date of retirement, provided the employee and employer have agreed to make and are making the required contributions. Retirees shall not be eligible for coverage as overdue applicants or as special enrollees.

**Amendment Number 4**

Amend Article 1, Section II, Subsection D to read as follows:

D. *Pre-Existing Condition - Overdue Application.* The terms of the following paragraphs shall apply to all eligible employees who apply for coverage after 30 days from the date the employee became eligible for coverage and to all eligible dependents of employees and retirees for whom the application for coverage was not completed within 30 days from the date acquired.

1. ...

2. ...

3. Medical expenses incurred during the first 12 months that coverage for the employee and/or dependent is in force under this contract will not be considered as covered medical expenses if they are in connection with a disease, illness, accident or injury for which medical advice, diagnosis, care, or treatment was recommended or received during the six-month period immediately prior to the effective date of such coverage. In no event will the provisions of this Paragraph apply to pregnancy.

4. If the covered person was previously covered under a group health plan, health insurance coverage, Part A or B of Title XVII of the Social Security Act (Medicare), Title XIX of

the Social Security Act (Medicaid) other than coverage consisting solely of benefits under Section 1928 thereof, or other creditable coverage as defined in the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191, and the rules and regulations promulgated pursuant thereto, the duration of the prior coverage will be credited against the initial 12-month period used by the program to exclude benefits for a pre-existing condition provided, however, that termination under the prior coverage occurred within 63 days of the date of enrollment for coverage under the program.

**Amendment Number 5**

Amend Article 1, Section II, by inserting a new Subsection E to read as follows, and redesignating current Subsections E, F, and G as Subsections F, H, and I, respectively:

E. Special Enrollments. In accordance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191, and the regulations promulgated pursuant thereto, certain eligible persons for whom coverage was previously declined, and who would otherwise be considered overdue applicants, may enroll under the following circumstances, terms, and conditions for special enrollments:

1. Loss of Other Coverage. Special enrollment will be permitted for employees or dependents for whom coverage was previously declined because such employees or dependents had other coverage which has terminated due to:

a. loss of eligibility through separation, divorce, termination of employment, reduction in hours, or death of the plan participant; or

b. cessation of employer contributions for the other coverage, unless such employer contributions were ceased for cause or for failure of the individual participant; or

c. the employee or dependent having had COBRA continuation coverage under another plan, and the COBRA continuation coverage has been exhausted, as provided in HIPAA.

2. After Acquired Dependents. Special enrollment will be permitted for employees or dependents for whom coverage was previously declined when the employee acquires a new dependent by marriage, birth, adoption, or placement for adoption.

3. Special enrollment application must be made within 30 days of the termination date of the prior coverage or the date the new dependent is acquired. Persons eligible for special enrollment for whom application is made more than 30 days after eligibility will be considered overdue applicants, subject to the provisions of Article 1, Section II, Subsection D above.

4. The effective date of coverage shall be the first of the month following the date of the receipt by the State Employees Group Benefits Program of all required forms for enrollment.

5. The program will require that all special enrollment applicants complete a Statement of Physical Condition form and sign an acknowledgment of pre-existing condition form.

6. Medical expenses incurred during the first 12 months that coverage for the employee and/or dependent added through special enrollment is in force under this contract will not be considered as covered medical expenses if they are in connection with a disease, illness, accident or injury for which medical advice, diagnosis, care, or treatment was recommended or received during the six-month period immediately prior to the effective date of such coverage. In no event will the provisions of this Paragraph apply to pregnancy.

7. If the employee and/or dependent added through special enrollment was previously covered under a group health plan, health insurance coverage, Part A or B of Title XVII of the Social Security Act (Medicare), Title XIX of the Social Security Act (Medicaid) other than coverage consisting solely of benefits under Section 1928 thereof, or other creditable coverage as defined in the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191, and the rules and regulations promulgated pursuant thereto, the duration of the prior coverage will be credited against the initial 12-month period used by the program to exclude benefits for a pre-existing condition provided, however, that termination under the prior coverage occurred within 63 days of the date of coverage under the program.

James R. Plaisance  
Executive Director

9707#015

**DECLARATION OF EMERGENCY**

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

Alligator Season—1997

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and R.S. 49:967(D), which provides that the Wildlife and Fisheries Commission use emergency procedures to set the wild alligator season, the Wildlife and Fisheries Commission, at its regular meeting held July 8, 1997, in Baton Rouge, Louisiana, set the 1997 wild alligator season dates as follows:

The annual wild alligator season dates shall be September 6, 1997 through October 5, 1997.

This emergency adoption is necessary to allow department biologists adequate time to gather the biological data required to recommend season dates and harvest quotas based on up-to-date information.

The secretary of the Department of Wildlife and Fisheries shall have the authority to close, delay, reopen or extend this season as biologically justifiable.

Daniel J. Babin  
Chairman

9707#039

## **DECLARATION OF EMERGENCY**

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

#### **Shrimp Season Closure—Zone 2**

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all inside waters and a resolution adopted by the Wildlife and Fisheries Commission on May 1, 1997 which authorized the secretary of the Department of Wildlife and Fisheries to close the 1997 Spring Inshore Shrimp Season in

any area or zone when biological and technical data indicates the need to do so, the secretary hereby declares:

The 1997 Spring Inshore Shrimp Season shall be closed in all of Zone 2, of Louisiana's inshore waters from the eastern shore of South Pass of the Mississippi River west to the western shore of Vermilion Bay and Southwest Pass at Marsh Island, at 6 a.m., Tuesday, July 8, 1997.

Small white shrimp have been taken in recent shrimp samples by department personnel. These small white shrimp are widely distributed throughout Zone 2 and the number of white shrimp is expected to increase substantially over the next few weeks.

Zones 1 and 3 will remain open until further notice.

**James H. Jenkins, Jr.**  
Secretary

9707#022

# Rules

## RULE

**Department of Agriculture and Forestry  
Office of Agricultural and Environmental Sciences  
Advisory Commission on Pesticides**

**Registration of Pesticides (LAC 7:XXIII.13113)**

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Advisory Commission on Pesticides hereby amends the regulations regarding standard registrations of pesticides. These rules comply with and are enabled by R.S. 3:3203. The department published its notice of intent to amend these rules on pages 307-308 of the March, 1997 *Louisiana Register*. This rule has an effective date of July 20, 1997.

### Title 7

## AGRICULTURE AND ANIMALS

### Part XXIII. Pesticides

#### Chapter 131. Advisory Commission on Pesticides

#### Subchapter D. Registration of Pesticides

#### §13113. Standard Registrations

A. Application for registration shall consist of two types, namely initial registration and renewal registration. Initial registration application may be filed at any time of the year. Renewal registration application shall be filed by the first day of December each year. Application shall be made on forms or formats prescribed by the commissioner; or on forms or formats which have the prior, written approval of the commissioner.

1. Each application for the initial registration of a pesticide and for the re-registration of a pesticide for which the label has been changed shall be accompanied by the following information:

- a. the brand of the pesticide;
- b. the name, address and contact person of the manufacturer of the pesticide;
- c. two complete copies of the labeling of the pesticide, containing:
  - i. the specific name of each active ingredient in the pesticide;
  - ii. the percentage of the active ingredients in the pesticide;

- iii. the percentage of the inert ingredients in the pesticide;
- iv. the net contents of each package in which the pesticide will be sold;
- v. a statement of claims made for the pesticide;
- vi. directions for the use of the pesticide, including warnings or caution statements;
- d. the material safety data sheet prepared in accordance with the requirements of the Environmental Protection Agency;
- e. such other information as the commissioner may require.

2. Application for re-registration of a pesticide for which the label has not been changed shall be accompanied by the following information:

- a. the brand of the pesticide;
- b. the name, address and contact person of the manufacturer of the pesticide;
- c. such other information as the commissioner may require.

3. The registration requirements as described in LAC 7:XXIII.13113.A.1 shall be resubmitted for any pesticide for which the label has been changed within 60 days of the change.

B. Any registration may be denied by the commissioner if he determines that:

1. the composition of the pesticide is not sufficient to support the claims made for the pesticide;
2. the label on the pesticide does not comply with state and federal requirements;
3. use of the pesticide may produce unreasonable adverse effects on the environment;
4. information required in LAC 7:13113.A has not been furnished to the commissioner by the manufacturer.

C. Any pesticide registered in Louisiana must comply with the following:

1. Any pesticide sold or offered for sale or distribution must bear a label consistent with the label submitted in the registration application.
2. Each shipping container must bear the lot or batch number of the pesticide.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203 and R.S. 3:3221.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 15:76 (February 1989), LR 23:192 (February 1997), LR 23:853 (July 1997).

Bob Odom  
Commissioner

9707#016

**RULE**

**Department of Agriculture and Forestry  
Office of Agricultural and Environmental Sciences  
Horticulture Commission**

**Examination Application  
(LAC 7:XXIX.15107)**

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Horticulture Commission has amended LAC 7:XXIX.15107 regarding the deadlines to apply for retail florist and landscape architect examinations. These rules comply with and are enabled by R.S. 3:3801 et seq. No preamble regarding these rules is available.

**Title 7**

**AGRICULTURE AND ANIMALS  
Part XXIX. Horticulture Commission**

**Chapter 151. Horticulture  
§15107. Procedures for Application for Examination  
and Licensure or Permitting**

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**B. Retail Florist**

1. Applicants who desire to take the examination for retail florist must file the completed application, together with the fee required under LAC 7:15109.A at the commission's state office in Baton Rouge. The application must be postmarked or received no later than 45 days preceding the scheduled examination date.

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**C. Landscape Architect**

1. Applicants who desire to take the examination for landscape architect must file the completed application, together with any supporting evidence, official transcript(s), and affidavit(s) as may be necessary, and with the fee required under LAC 7:15109.B at the commission's state office in Baton Rouge. The application must be postmarked or received by the deadline date established for applying for examination, which date shall be published in a prior issue of the *Louisiana Register*.

\*\*\*

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3801, R.S. 3:3807 and R.S. 3:3808.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Horticulture Commission, LR 8:184 (April

1982), amended LR 14:7 (January 1988), LR 18:249 (March 1992), LR 20:639 (June 1994), LR 23:854 (July 1997).

Bob Odom  
Commissioner

9707#020

**RULE**

**Department of Agriculture and Forestry  
Office of Agricultural and Environmental Sciences  
Structural Pest Control Commission**

**Adjudicatory Hearing Violations (LAC 7:XXV.14121)**

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Structural Pest Control Commission hereby amends LAC 7:XXV.14121 regarding the violations which can be brought before the Structural Pest Control Commission at an adjudicatory hearing. These amended rules comply with and are enabled by R.S. 3:3366 and R.S. 3:3371. No preamble regarding these proposed rules is available.

**Title 7**

**AGRICULTURE AND ANIMALS  
Part XXV. Structural Pest Control**

**Chapter 141. Structural Pest Control Commission  
§14121. Adjudicatory Proceedings of the Commission;  
Violations**

**A. - D.21. ...**

- 22. operating faulty or unsafe equipment;
- 23. operating in a faulty, careless, or negligent manner.

\*\*\*

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:328 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15: 957 (November 1989), LR 23:854 (July 1997).

Bob Odom  
Commissioner

9707#028

**RULE**

**Department of Agriculture and Forestry  
Office of Agricultural and Environmental Sciences  
Structural Pest Control Commission**

**Wood Destroying Insects  
(LAC 7:XXV.Chapter 141)**

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Structural Pest Control Commission amends regulations governing wood destroying insects. These amendments comply with and are enabled by R.S.3:3366.

Title 7  
AGRICULTURE AND ANIMALS  
Part XXV. Structural Pest Control

Chapter 141. Structural Pest Control Commission  
§14101. Definitions

\* \* \*

*License*—a document issued by the commission which authorizes the practice and/or supervision of one or more phases of structural pest control work as follows:

1. *General Pest Control*—the application of remedial or preventive measures to control, prevent or eradicate household pests by use of pesticides used as sprays, dusts, aerosols, thermal fogs, barriers, traps and baits. Residential rodent control will be limited to the use of anti-coagulants rodenticide and traps.

2. *Commercial Vertebrate Control*—the application of remedial or preventive measures to control, prevent or eradicate vertebrates, including baits, chemicals, barriers, gases and traps, in nonresidential establishments, but not including tarpaulin fumigation.

3. *Termite Control*—the application of remedial or preventive measures for the control, prevention or eradication of termites and other wood-destroying insects.

4. *Fumigation*—the use of lethal gases and/or rodenticide in a gaseous form for the control, prevention or eradication of insect pests, rodents, or other pests in a sealed enclosure with or without a tarpaulin.

5. *Wood Destroying Insect Report (WDIR) Inspector*—the application of remedial or preventive measures for the control, prevention or eradication of termites and other wood-destroying insects and the inspection of structures for wood-destroying insects.

\* \* \*

*Registered Wood Destroying Insect Report (WDIR) Technician*—an employee qualified to conduct wood destroying insect report inspections.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:323 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15: 954 (November 1989), LR 17:251 (March 1991), LR 23:855 (July 1997).

**§14107. License to Engage in Structural Pest Control; Work Required; Qualifications of Applicant; Requirements for Licensure; Phases of Structural Pest Control License; Conditions of the License**

A. - G. ...

H. All applicants who are approved by the commission will, upon successfully completing the examination for licensure as set forth in §14109 hereof, receive a single license to engage in structural pest control work, which license shall specify on the face thereof the specific phase or phases of structural pest control work for which the license is issued, as follows:

1. General Pest Control
2. Commercial Vertebrate Control
3. Termite Control

4. Structural Fumigation
  5. Ship Fumigation
  6. Commodity Fumigation
  7. Wood Destroying Insect Report (WDIR) Inspector
- I. - P. ...

Q. Persons licensed in termite control on or before September 30, 1997 shall attend a wood destroying insect report training session prior to being qualified to become a licensed WDIR inspector. Said training session must have prior approval by LDAF. Persons licensed on or after October 1, 1997 and persons licensed in termite control on or before September 30, 1997 that do not attend a wood destroying insect report training session, shall complete the requirements set forth in §14107.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:326 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15: 955 (November 1989), LR 19:1009 (August 1993), LR 23:855 (July 1997).

**§14112. Registered Wood Destroying Insect Report Technician Requirements**

A. Persons, prior to registering as WDIR technicians, shall attend a wood destroying insect report training session and have conducted with licensed or registered WDIR inspector/technician, 40 WDIR inspections, approved by licensee, or shall have a wood destroying insect report training session and a minimum of one year of experience as a registered employee in the termite phase of pest control work under a termite phase licensee; and shall pass the appropriate test with a grade of 70 percent or better. Licensee shall verify in writing of technicians' work experience.

B. The fee for the examination for the WDIR technician shall be \$25.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 23:855 (July 1997).

**§14113. Obligations of the Licensee**

A. - E. ...

F.1. The licensee must maintain his commercial applicator certification in current status by:

- a. attending a continuing educational program for recertification approved by the Louisiana Department of Agriculture and Forestry;
- b. recertification at least once every three years;
- c. a minimum of six hours of technical training which shall include but not limited to the categories of general pest control, termite control, wood destroying insect report (WDIR) inspector and commercial vertebrate control;
- d. a minimum of six hours of technical training for the category of fumigation.

2. A licensee attending an approved recertification seminar must attend the entire approved program; otherwise the licensee shall not be recertified at this approved seminar.

3. Time and location for each licensee certification can be obtained by calling or writing to the Louisiana Department of Agriculture and Forestry.

G. A compound weighing device shall be considered one or more devices for the purpose of registration in accordance with the following:

1. A compound weighing device that consists of a single load receiving element and more than one indicating element shall be considered a single device when all indicating elements may be tested during the same test for the purpose of sealing the device as correct. Said device shall be considered separate devices for each separate test necessary for sealing.

2. A compound weighing device that consists of one indicating element and more than one load receiving element shall for the purpose of registration be considered a separate device for each load receiving element.

H. Applicants for registration may request application forms, verbally or in writing, from the Division of Weights and Measures of the Department of Agriculture and Forestry.

I. Each application for annual registration shall be accompanied by payment of required fee and said registration shall be valid until December 31. To remain valid, each annual registration must be renewed before January 1. The initial annual registration and fees due for scanning devices for calendar year 1997 shall be payable on or before April 30, 1997. Registration renewals and fees due for scanning devices for calendar years after 1997 shall be due and payable as set forth in this Section.

J. Any registration obtained without complying with all of the requirements of these regulations may be voided by the division.

K. Before a device may be sealed to certify the accuracy and correctness of a device, that device must be registered with the Division of Weights and Measures of the Louisiana Department of Agriculture and Forestry.

L. In accordance with R.S. 3:4611, no one shall use a weight, measure or weighing or measuring device which has not been sealed by the division, its director, or its inspectors, at its direction, within the year prior thereto, unless written notice has been given to the division to the effect that the weight, measure or weighing or measuring device is available for examination or is due for re-examination.

M. Application for registration or renewal of registration shall fulfill the requirement of notification in Subsection L of this Section.

N. Applications for annual renewal of registration shall be mailed by the Division of Weights and Measures of the Department of Agriculture and Forestry to all registrants, at the last address provided by the registrant, on or before November 15 and must be returned before January 1.

O. The record of all registrations shall be maintained by the Division of Weights and Measures and the director of the Division of Weights and Measures in its office in Baton Rouge.

P. Any registrant having a device registered under provisions of this regulation, and that is taken out of commercial use at the location shown on the application for registration, shall notify the commission's office in writing to remove said device from its records.

\*\*\*

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Commission of Weights and Measures, LR 13:158 (March 1987), amended LR 15:78 (February 1989), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 19:1534 (December 1993), LR 23:857 (July 1997).

Bob Odom  
Commissioner

9707#029

## RULE

### Department of Economic Development Economic Development Corporation

#### Repeal of Minority and Women Business Development Program (LAC 19:VII.Subpart 1, Chapters 3-13); and Small Business Equity Program (LAC 19:VII.Subpart 3, Chapters 7, 9, and 11)

(*Editor's Note:* When the above noted rule, proposed and referenced on page 864 of the September, 1997 *Louisiana Register*, was published as a final rule on pages 40-43 of the January, 1997 *Louisiana Register*, the Office of the State Register failed to denote those rule portions being repealed, and, where appropriate, replaced. Therefore, the following clarification is in order.)

Act 1136 of 1992 eliminated references to the Louisiana Minority and Women's Business Development Program and authorizes the Louisiana Economic Development Corporation to serve as the single review board for all financial assistance, grants, and investment programs administered by the Department of Economic Development, excluding those financial incentive programs administered by the State Board of Commerce and Industry.

This rule became effective January 20, 1997 and is being incorporated into the *Louisiana Administrative Code*, edited and compiled through March, 1997.

### Title 19

### CORPORATIONS AND BUSINESS

#### Part VII. Economic Development Corporation

##### Subpart 1. Small Business Loan Program

(formerly Minority and Women's Business Development Program)

##### Chapter 1. Loan Policies

(Refer to full text published on pages 40-43 of the January 1997 *Louisiana Register*, which includes amendment of §§101-115 and repeal of §§117, 119 and 121.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

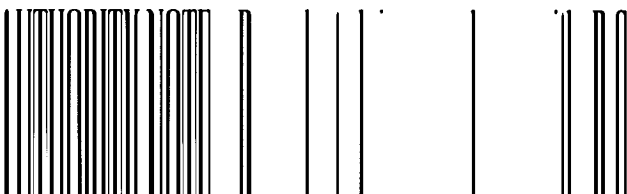
HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15:445 (June 1989), amended LR 23:40 (January 1997).

##### Chapter 3. Collateral

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of





**Chapter 5. Lending Criteria**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15:445 (June 1989), repealed LR 23:40 (January 1997).

**Chapter 7. Appraisers**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15:445 (June 1989), repealed LR 23:40 (January 1997).

**Chapter 9. Loan Terms, Payments, Delinquency, Foreclosure, and Charge-off Method**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15:445 (June 1989), repealed LR 23:40 (January 1997).

**Chapter 11. Reserve Requirement and Fees**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15:445 (June 1989), repealed LR 23:40 (January 1997).

**Chapter 13. Confidentiality and Conflict of Interest**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15:445 (June 1989), repealed LR 23:40 (January 1997).

**Subpart 3. (Reserved)**

(formerly Small Business Equity Program)

**Chapter 7. Loan Guaranty Program**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2351-2360.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15:453 (June 1989), repealed LR 23:40 (January 1997).

**Chapter 9. Loan Participation Program**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2351-2360.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15:456 (June 1989), repealed LR 23:40 (January 1997).

**Chapter 11. Feasibility Studies**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2351-2360.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15:460 (June 1989), repealed LR 23:40 (January 1997).

Brett Crawford  
Executive Director

9707#018

**Department of Environmental Quality  
Office of Water Resources  
Water Pollution Control Division**

**Extension of Produced Water Discharges  
(LAC 33:IX.708) (WP023)**

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Water Pollution Control Division regulations, LAC 33:IX.708.C (WP023).

The provisions of this rule are applicable to discharges of produced water associated with oil and natural gas production activities. The original rule required termination of produced water discharges in intermediate, brackish, and saline water areas inland of the territorial seas by January 1, 1995 with possible extensions out to January 1, 1997. The original rule also required discharges to freshwater areas to be terminated by July 1, 1992, unless the discharge was directed to a major deltaic pass of the Mississippi River or to the Atchafalaya River, including Wax Lake Outlet, below Morgan City. The freshwater area discharges which did not have a July 1, 1992 termination date would be allowed to continue discharging indefinitely.

This rule will allow continued produced water discharges for up to an additional two years (January 1, 1999) for operators to arrange for an alternate disposal method unless the discharge contains produced water of Outer Continental Shelf and/or territorial seas origin. The discharges of Outer Continental Shelf and/or territorial seas origin may continue for up to an additional three years (January 1, 2000). Pursuant to an approved schedule, produced water discharges shall not extend beyond the date upon which the produced water can reasonably be eliminated.

Various facilities have been unable to comply with the requirement to cease all discharges of produced water by January 1, 1997, because:

1. a number of facilities have applied to the Louisiana Department of Natural Resources (DNR) for permits to construct injection wells to receive the produced water that would otherwise be discharged. Due to personnel shortages at DNR, all of the permit applications will not be processed prior to January 1, 1997;

2. facilities that discharge to a major deltaic pass of the Mississippi River under the authority of LAC 33:IX.708.2.a.iv possess a valid LWDPs (state) permit which allows continued discharges of produced water. Upon the effective date of the federal guidelines on January 14, 1997, these dischargers still possessed a valid state permit which conflicts with the federal guidelines requiring zero discharge;

3. certain facilities (open bay areas) that had authority to discharge produced water relied upon a United States Department of Energy study to support an individual or general permit or a rule change to allow the discharge of produced water. These facilities are now required to attain zero discharge due to the federal guidelines.

**RULE**

**Department of Health and Hospitals  
Office of the Secretary  
and  
Department of Social Services  
Office of the Secretary**

Community and Family Support System  
Cash Subsidy (LAC 48:I.16103-16129)

The Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary amends this rule to implement Act 378 of the 1989 Regular Session of the Louisiana Legislature and Act 1011 of the 1991 Regular Session of the Louisiana Legislature which created the Community and Family Support System. The original rule was promulgated in order to implement the Community and Family Support Cash Subsidy which provides a cash stipend to families of eligible children with severe and profound disabilities.

**Title 48**

**PUBLIC HEALTH GENERAL**

**Part I. General Administration**

**Subpart 11. Community and Family Support System**

**Chapter 161. Community and Family Support  
System Cash Subsidy**

**§16103. Definitions**

*Agency*—the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities or the Office of Mental Health, which will administer the cash subsidy program for the population it is designated to serve.

*Cash Subsidy*—a monetary payment to eligible families of children with developmental disabilities to offset the costs of keeping their child at home.

*Child*—an individual under the age of 18.

*Department of Education 1508 Evaluation*—the evaluation completed on a child for the purpose of determining eligibility for special educational services and classifying the child by disability. For infants and toddlers this may be called a Multi-Disciplinary Evaluation for Part H Services.

*Developmental Disability for a Person Age 5 and Older*—a severe, chronic disability which:

1. is attributable to a mental or physical impairment or combination of mental and physical impairments;
2. is manifested before the person attains age 22;
3. is likely to continue indefinitely;
4. results in substantial functional limitations in three or more of the following areas of major life activity: self care, receptive and expressive language, learning, mobility, self-direction, and capacity for independent living; and
5. reflects the person's need for a combination and sequence of special, interdisciplinary or generic care, treatment or other services which are of life-long or extended duration and are individually planned and coordinated.

*Developmental Disability for an Individual from Birth Through Age 5*—a substantial developmental delay or specific congenital or acquired condition which has a high probability

of resulting in developmental disabilities if services are not provided.

*Individual Family Service Plan (IFSP)*—a written plan for each child with a disability providing early intervention services for ChildNet eligible children and their families.

*Individualized Education Program (IEP)*—a written educational plan for each child with a disability which is developed in a meeting by a representative of the local educational agency, the teacher, the parents or responsible caregiver of a child, or an approved home study plan. The plan must include the child's present level of educational performance; annual goals including short-term instructional objectives; specific special educational and related services to be provided to the child and the extent to which the child will be able to participate in regular educational programs; projected dates for initiation and anticipated duration of services; and objective criteria and evaluation procedures and schedules for determining, on an at-least-annual basis, whether the short-term instructional objectives are being met.

*Interagency Service Coordination Process (ISCP)*—the interagency process which involves children and their families in a multi-disciplinary case review to generate a Family Service Plan to provide appropriate and coordinated care for those children with severe emotional and behavioral impairments who are not adequately served by the routine services of a single agency and therefore require extensive interagency collaboration.

*Licensed Mental Health Professional*—a person credentialed to provide mental health services by a professional board, established and approved by the state of Louisiana, including those boards which examine physicians (psychiatrists), psychologists, social workers, counselors, nurse practitioners, etc.

*Out-of-Home Placement*—a placement out of the home that exceeds 30 days, or, in the case of psychiatric hospitalizations, that exceeds 90 days.

*Parent/Responsible Caregiver*—a child's natural or adoptive mother or father or the person who is responsible for the primary care and management of the child.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 28:772 and R.S. 36:258(E)(3).

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary and by the Department of Social Services, Office of the Secretary, LR 18:186 (February 1992), amended LR 23:862 (July 1997).

**§16105. Application Process**

A. Applications for cash subsidy are available from the regional offices of the Office for Citizens with Developmental Disabilities and the Office of Mental Health and may be requested by phone; requested applications must be mailed by the next working day.

B. The parent/responsible caregiver shall be responsible for completing the application and for submission of appropriate documentation. If available to the parent/responsible caregiver, a licensed case management agency may assist in the process.

C. The application shall be mailed to the appropriate regional program office to be logged in according to the post-mark date. If multiple applications are received on the same

date, a random process will be used to assign the order in which applications are processed.

D. The regional program office will review the application for completeness and supporting documentation; it will be logged-in for review only when complete and signed by the parent/responsible caregiver.

1. If complete, the parent/responsible caregiver will be notified that the application has been entered onto the waiting list for eligibility determination for the cash stipend.

2. If an application is received that is incomplete, the parent/responsible caregiver will be notified by telephone of the reasons the application cannot be entered onto the waiting list and requested to correct the problem. Appropriate documentation will be made in the case activity record.

3. If a parent/responsible caregiver cannot be reached by telephone, the regional program office will send a registered letter requesting contact within 30 days and informing the parent/responsible caregiver that the application cannot be placed on the waiting list until documentation is completed.

4. If an application is received by an agency that cannot serve the child because of the nature of the disability, the agency will forward the original application, with the original envelope attached, to the proper agency, no later than the next working day. The original post-mark date shall be used by the receiving agency.

E. The parent or responsible caregiver may be required to complete a new application annually and/or at the time that new funding becomes available if the original application is more than 1 year old.

F. There shall be no closing date for accepting applications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:772 and R.S. 36:258(E)(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and by the Department of Social Services, Office of the Secretary, LR 18:186 (February 1992), amended LR 23:862 (July 1997).

#### **§16107. Supporting Documentation for Applications**

A. To be deemed complete, the following supporting documents must accompany the application for children:

1. Program/Services page of the child's Individualized Education Program (IEP) in current use by the school system which states the child's primary and/or secondary exceptionalities; or

2. the Department of Education 1508 Evaluation, if an IEP has not yet been completed on the child; or

3. documentation from a licensed medical or mental health professional that a child meets the 1508 eligibility criteria for Autism, even in the absence of a 1508 Evaluation identifying Autism as an exceptionality.

B. To be deemed complete, the following supporting documents must accompany the application for infants and toddlers:

1. Program/Services page of the child's Individualized Education Program (IEP); or

2. the Individualized Family Services Plan (IFSP) for infants and toddlers, which states the child's exceptionality; or

3. the child's Department of Education 1508 Evaluation; or

4. the Multi-Disciplinary Evaluation for Part H Services if an IEP or IFSP has not yet been completed on the child; or

5. documentation from a licensed medical or mental health professional that an infant or toddler meets Part H eligibility criteria; or

6. documentation from a licensed medical or mental health professional that a child meets the 1508 eligibility criteria for Autism, even in the absence of a 1508 Evaluation identifying Autism as an exceptionality.

C. To be deemed complete, the following supporting documents must accompany the application for children with emotional/behavioral disorder:

1. treatment plan from a licensed community mental health center; or

2. evidence of present participation of child/family in an Interagency Service Coordination (ISC) process; or

3. an evaluation report from a private licensed mental health professional which indicates that the criteria for emotional/behavioral disorder in Department of Education Bulletin 1508 have been met, even in the absence of a 1508 evaluation identifying this as an exceptionality.

D. If there is a question whether the IEP and or 1508 Evaluation accurately reflects the child's disability, the parent/responsible caregiver should be encouraged to request a new evaluation. The child's status on the waiting list shall be maintained throughout the evaluation process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:772 and R.S. 36:258(E)(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and by the Department of Social Services, Office of the Secretary, LR 18:186 (February 1992), amended LR 23:863 (July 1997).

#### **§16109. Waiting Lists**

A. Once applications are found to be complete, applications will be placed on a waiting list for eligibility determination.

B. Families will be notified, in writing, within 30 days of receipt of the completed application, of their position on the waiting list for eligibility determination; they shall be notified annually thereafter of their updated position.

C. As cash stipends become available, the next applicant from the list will undergo an eligibility determination.

D. If a child on the waiting list for the cash subsidy moves into another region, the child's name shall remain on the waiting list in the original region. The child's name may also be entered onto the waiting list in the receiving region. As a slot becomes available for the child in either region, the eligibility determination shall be made in that region.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:772 and R.S. 36:258(E)(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and by the Department of Social Services, Office of the Secretary, LR 18:187 (February 1992), amended LR 23:863 (July 1997).

#### **§16111. Eligibility for Cash Subsidy**

A. Children must meet the criteria herein established for developmental disability and severity of disability to be eligible for the cash subsidy, except that children under the age of 5 who meet the severity criteria will be considered to be developmentally disabled.

B. Children who are classified with the following primary or secondary exceptionalities are automatically eligible for the

cash subsidy: Autism, deaf-blind, profoundly mentally handicapped, severely mentally handicapped, and multi-handicapped. Children with these exceptionalities will be considered to be developmentally disabled and eligible to receive the cash stipend.

C. Children who are classified with the following primary or secondary exceptionalities shall be screened to determine whether they met the developmental disabilities definition and severity criteria for their disability: emotional/behavioral disorder, orthopedically handicapped, health impaired, handicapped infant and toddler, traumatic brain injury, and noncategorical preschool handicapped.

1. The Developmental Disability Key Screening Checklist must be completed on all children age 5 and older prior to screening for severity.

2. The severity screening instrument particular to each of the disabling conditions referenced above, which indicates the minimum number of criteria that must be met to establish eligibility in that category, must be completed in its entirety.

3. Children who meet both the developmental disabilities definition and the severity criteria are eligible for the cash subsidy.

D. There shall be no financial criteria for eligibility for cash subsidy.

E. The family must be residing in the state of Louisiana to remain eligible for the cash subsidy and the child must be residing, or expected to reside with his or her parent/responsible caregiver. Proof of guardianship will not be required unless the status of the responsible caregiver is questioned.

F. Out-of-home placement disqualifies a child from participation in the cash subsidy program; residence in the Louisiana School for the Deaf and the Louisiana School for the visually impaired is considered an out-of-home placement.

1. Any removal of the cash subsidy recipient from the home of the parent/responsible caregiver that exceeds 30 days may be considered an out-of-home placement.

2. Psychiatric hospitalizations of up to 90 days are not automatically considered out-of-home placements; the regional office may grant exceptions for psychiatric hospitalization with proper documentation.

3. Acute care hospitalization does not disqualify a child from receiving the cash subsidy.

4. The regional office shall make an individual assessment of the continuation of the cash subsidy in light of the family situation and circumstances, if the child is removed from the home by a child welfare agency for more than 30 days.

G. Children who are adopted are eligible for the cash subsidy, including families who are receiving a specialized adoption subsidy. Children in foster care or specialized foster care are not eligible.

H. Families who have more than one child who meets the eligibility criteria will be eligible for the cash subsidy amount for each child.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:772 and R.S. 36:258(E)(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and by the Department of Social Services, Office of the Secretary, LR 18:187 (February 1992), amended LR 23:863 (July 1997).

### **§16113. Eligibility Determination**

A. Regional offices of the Office for Citizens with Developmental Disabilities and the Office of Mental Health shall be responsible for determination of eligibility of all applicants for the cash subsidy for which they have responsibility.

B. Eligibility determinations for the family support/cash stipend shall be made at the time that a slot becomes available.

C. Regional office personnel will contact the family to schedule an appointment to complete the eligibility determination, including completion of the Developmental Disability Key Screening Checklist and/or screening instrument particular to the primary or secondary exceptionality.

1. If a family cannot be reached by telephone, written notice will be given, return receipt requested, stating that contact must be made within 30 days from the date of the notice to retain the child's status on the waiting list.

2. If no response is received within that 30 days, the child's name is removed from the waiting list with appropriate documentation to the case record.

D. Parents or responsible caregivers will be requested to provide the complete, current 1508 Evaluation and/or other supporting documentation by the time of the appointment as a reference for completing the Developmental Disabilities Checklist and/or screening instrument. With adequate documentation, the screening may be completed by telephone.

E. The Developmental Disabilities Checklist and/or screening instrument must be completed in its entirety and the documents are made a part of the case record. The date, method of completion and name of the person completing the form should be documented.

F. Once the eligibility decision is made, the applicant is notified in writing of the decision.

1. If found to be eligible for the cash stipend, the regional office shall complete an individual agreement and forward it to the eligible applicant for signature and return at the time funding for the cash subsidy becomes available.

2. The regional office shall complete a timely annual review of the child's eligibility for the cash subsidy so that established payments are not interrupted.

3. If ineligible, the regional office shall notify the family and inform them of their right to appeal the decision. If an appeal is requested, the available slot is held vacant until the final decision has been rendered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:772 and R.S. 36:258(E)(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and by the Department of Social Services, Office of the Secretary, LR 18:188 (February 1992), amended LR 23:864 (July 1997).

### **§16115. Central Registry**

A. A central registry of all cash subsidy recipients will be maintained by the OCDD Central Office to avoid duplicate payments to families.

B. Each regional office will submit the name of children found to be eligible for the cash subsidy to the OCDD Central Office prior to completing the individual agreement for the cash stipend.

C. If a duplication is found, OCDD Central Office will notify the originating office within five working days. That

office must contact the family to inform them that they cannot receive the subsidy from more than one agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:772 and R.S. 36:258(E)(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and by the Department of Social Services, Office of the Secretary, LR 18:188 (February 1992), amended LR 23:864 (July 1997).

#### **§16117. Participant Records**

\* \* \*

B. Each agency shall maintain a record on each application which shall contain: the original application and envelope; the annual parent/responsible caregiver report; supporting documentation for the eligibility decision, the Developmental Disabilities Checklist and/or severity screening instrument (if applicable); the Cash Subsidy individual agreement; a case activity sheet; release of information/confidentiality form (if applicable); and appeals procedure.

C. Each agency shall maintain additional information as required by their program office.

D. A review of each cash subsidy record shall be completed annually.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:772 and R.S. 36:258(E)(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and by the Department of Social Services, Office of the Secretary, LR 18:188 (February 1992), amended LR 23:865 (July 1997).

#### **§16119. Payment Guidelines**

A. The amount of the cash subsidy shall be \$258 monthly. Payments shall be automatic and should be received around the fifteenth of the month; no billing is required.

B. Payments will be issued directly to the family; families will not be required to document how the subsidy is used.

C. The child's payee must be identified before the first subsidy check is issued.

D. If a check is lost, stolen or not received by the twenty-third of the month, the payee should notify the regional office of the agency that authorizes payment. If the check is not located and has not been cashed by 10 working days after notification of loss, the agency may either issue a replacement check or defer further action until more information can be obtained.

E. The termination date for a child attaining age 18 shall be the first of the month following that birthday.

F. The agency shall enter into no third-party agreement and shall not make advance payments.

G. If a family receiving the cash subsidy moves from one region to another, the subsidy payment will be mailed to the new region with no interruption in receipt of the subsidy.

H. If for any reason a recipient receives excess payment, repayment of that amount will be requested. Failure to cooperate with repayment will be referred to DHH for recoupment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:772 and R.S. 36:258(E)(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and by the Department of Social Services, Office of the Secretary, LR 18:188 (February 1992), amended LR 23:865 (July 1997).

#### **§16121. Terminations**

A. When a client terminates from the program for any reason, the regional office must provide the family and their program office and/or the OCDD Central Office with notification of the termination as soon as possible.

B. Notification of termination shall include: the name of the client; the name and address of the parent/responsible caregiver; DHH and DOA individual agreement numbers; and the reason for and effective date of termination.

C. Reasons for termination shall include the following: family moves out of state; family requests termination of cash subsidy payment; child is placed out of the home; death of the child; judicial removal of the child from the home; fraud; termination or limitation of funding of the program; failure to comply with the provisions of the individual agreement; child's disability no longer meets eligibility criteria; child attains age 18; and parent/responsible caregiver fails to maintain the child in an approved educational program whether on-site or in-home.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:772 and R.S. 36:258(E)(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and by the Department of Social Services, Office of the Secretary, LR 18:188 (February 1992), amended LR 23:865 (July 1997).

#### **§16123. Annual Review Process**

A. Three months prior to the termination date of the individual agreement, the regional office which originated and administers the individual agreement will mail an Annual Parent Report to the family for completion and return to the office, with a copy of their child's current IEP Program/Services page or the current 1508 Evaluation.

B. If a family fails to provide this requested information by the termination date of the individual agreement, the subsidy payment must be terminated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:772 and R.S. 36:258(E)(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and by the Department of Social Services, Office of the Secretary, LR 18:188 (February 1992), amended LR 23:865 (July 1997).

#### **§16125. Ongoing Monitoring**

A. Regional staff in the area in which the family resides must contact families at least every 90 days to verify that the child is in the home and the conditions of the individual agreement are being met. This quarterly contact can be accomplished by telephone, a mailing, or a face-to-face meeting.

B. The regional program office in which the family resides shall monitor the individual agreement as long as the family resides in that region whether the individual agreement was originated and/or continued by that region.

C. If the child is enrolled in a licensed case management program, the agency shall be responsible for this quarterly contact and for reporting any changes to the regional office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:772 and R.S. 36:258(E)(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and by the Department of Social Services, Office of the Secretary, LR 23:865 (July 1997).

**§16127. Appeals**

A. All persons receiving an eligibility determination and/or cash subsidy shall have access to the Department of Health and Hospital's appeal process.

B. All persons receiving an eligibility determination and/or cash subsidy shall be informed of their right of appeal and of the process to make an appeal at the point of initial eligibility determination and at termination of a cash subsidy for any reason.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:772 and R.S. 36:258(E)(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and by the Department of Social Services, Office of the Secretary, LR 23:866 (July 1997).

**§16129. Program Evaluation**

An annual external evaluation based on consumer satisfaction with the program and performance indicators will be completed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:772 and R.S. 36:258(E)(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and by the Department of Social Services, Office of the Secretary, LR 23:866 (July 1997).

*(Editor's Note: Originally, this rule was correctly promulgated in LAC 48:I.Subpart 11, Chapter 161 (LR 18:186-188, February 1992). Subsequently, a portion of its text was amended and erroneously published under an incorrect Subpart and Chapter (LAC 48:I. Subpart 7, Chapter 1 [LR 18:1390-1391, December 1992] ). This July 1997 rule amends the December 1992 text and places all amended text into the correct Subpart and Chapter; however, in order to avoid conflicting rules and eliminate potential errors in publishing the Louisiana Administrative Code, the December 1992 rule version is being formally repealed as follows:)*

**Title 48**

**PUBLIC HEALTH GENERAL**

**Part I. General Administration**

**Subpart 7. Community and Family Support System**

**Chapter 1. Community and Family Support System**

**Cash Subsidy**

**§103. Definitions**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and by the Department of Social Services, Office of the Secretary, LR 18:185 (February 1992), amended LR 18:1390 (December 1992), repealed LR 23:866 (July 1997).

**§107. Application Procedures and Waiting List for Cash Subsidy**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and by the Department of Social Services, Office of the Secretary, LR 18:185 (February 1992), amended LR 18:1390 (December 1992), repealed LR 23:866 (July 1997).

**§115. Cash Subsidy Payment Procedures**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and by the Department of Social Services, Office of the Secretary, LR 18:185 (February 1992),

amended LR 18:1391 (December 1992), repealed LR 23:866 (July 1997).

Bobby P. Jindal, Secretary  
Health and Hospitals

Madlyn B. Bagneris, Secretary  
Social Services

9707#052

**RULE**

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

**Case Management Services Reimbursement  
Infants and Toddlers with Special Needs**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following rule as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

**Rule**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing will increase the maximum reimbursement for case management services for infants and toddlers with special needs from \$98 to \$115.

Bobby P. Jindal  
Secretary

9707#043

**RULE**

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

**Disproportionate Share  
Hospital Payment Methodologies**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following rule under the Medical Assistance Program as authorized by R.S. 46:153 et seq., and pursuant to Title XIX of the Social Security Act.

**Rule**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing replaces prior regulations governing disproportionate share hospital payment methodologies excluding disproportionate share qualification criteria and establishes the following regulations to govern the disproportionate share hospital payment methodologies for public state-operated, private hospitals and public nonstate hospitals.

## I. General Provisions

A. Reimbursement will no longer be provided for indigent care as a separate payment in hospitals qualifying for disproportionate share payments.

B. Disproportionate share payments cumulative for all DSH payments under all DSH payment methodologies shall not exceed the federal disproportionate share state allotment for each federal fiscal year or the state appropriation for disproportionate share payments for each state fiscal year. The department shall make necessary downward adjustments to hospitals' disproportionate share payments to remain within the federal disproportionate share allotment or the state disproportionate share appropriated amount.

C. Appropriate action shall be taken to recover any overpayments resulting from the use of erroneous data, or if it is determined upon audit that a hospital did not qualify.

D. DSH payments to a hospital determined under any of the methodologies below shall not exceed the hospital's uncompensated cost for the state fiscal year to which the payment is applicable.

E. Qualification is based on the hospital's latest year end cost report for the year ended during the period July 1 through June 30 of the previous year. Only hospitals that return DSH qualification documentation timely will be considered for disproportionate share payments. For hospitals with distinct part psychiatric units, qualification is based on the entire hospital's utilization.

F. Hospitals/units which close or withdraw from the Medicaid Program shall become ineligible for further DSH pool payments for the remainder of the current DSH pool payment cycle and thereafter.

G. Net Uncompensated Cost—cost of furnishing inpatient and outpatient hospital services net of Medicare costs, Medicaid payments (excluding disproportionate share payments), costs associated with patients who have insurance for services provided, private payor payments, and all other inpatient and outpatient payments received from patients. It is mandatory that qualifying hospitals seek all third-party payments including Medicare, Medicaid, and other third-party carriers. Hospitals not in compliance with free care criteria will be subject to recoupment.

H. Disapproval of any one of these payment methodology(ies) by the Health Care Financing Administration does not invalidate the remaining methodology(ies).

## II. Reimbursement Methodologies

### A. Public State-Operated Hospitals

#### 1. Definitions:

*Public State Operated Hospital*—a hospital that is owned or operated by the State of Louisiana.

2. Payment Methodology. DSH payments to individual public state-owned or operated hospitals are equal to 100 percent of the hospital's net uncompensated costs subject to the adjustment provision in 3 below. Final payment will be based on the uncompensated cost data per the audited cost report for the period(s) covering the state fiscal year.

3. In the event it is necessary to reduce the amount of disproportionate share payments to remain within the federal disproportionate share allotment each year or the state DSH

appropriated amount, the department shall calculate a pro rata decrease for each public (state) hospital based on the ratio determined by dividing that hospital's uncompensated cost by the total uncompensated cost for all qualifying public hospitals during the state fiscal year and then multiplying by the amount of disproportionate share payments calculated in excess of the federal disproportionate allotment or state DSH appropriated amount.

### B. Small Nonstate-Operated Local Government Hospitals and Small Private Rural Hospitals

1. Criteria for hospitals to be included in this group are as follows:

Qualifying hospitals must be (1) small and (2) either a nonstate public-owned and operated or a private rural hospital as defined below. Hospitals/beds located outside the service district area or rural area may not be included in this pool, but will be included in the all other hospitals pools. Beds located outside the service district will be used by DHH to determine qualification, but costs associated with these beds will not be used to determine reimbursement. Freestanding psychiatric hospitals are not included.

#### 2. Definitions

*Public Local Government Acute Hospitals*—local government-owned acute care general, rehabilitation, and long term care hospitals including distinct part psychiatric units are qualified for this designation. Only uncompensated costs attributable to beds/units located within the service district area qualify for inclusion.

*Private Rural Hospitals*—privately owned acute care general, rehabilitation and long-term care hospitals designated as rural hospitals by Medicare, including distinct part psychiatric units are qualified for this designation. Only uncompensated cost attributable to beds/units located within the rural area qualify for inclusion.

*Small*—having 60 or less licensed beds as of July 1 of the state fiscal year to which the payment is applicable. The number of beds includes distinct part psychiatric beds, and excludes nursery and skilled nursing beds.

3. Payment is based on each qualifying hospital's pro rata share of uncompensated cost for the previous state fiscal year for all hospitals meeting these criteria multiplied by the amount set for these facilities.

4. A pro rata decrease necessitated by conditions specified in I.B for nonstate hospitals described in this Section will be calculated based on the ratio determined by dividing the hospitals' uncompensated costs by the uncompensated costs for all qualifying nonstate hospitals in this Section, then multiplying by the amount of disproportionate share payments calculated in excess of the federal DSH allotment or the state DSH apportioned amount.

C. All Other Hospitals (Private Rural Hospitals over 60 Beds, All Private Urban Hospitals, Public Nonstate Hospitals over 60 Beds, and All Free-standing Psychiatric Hospitals Exclusive of State Hospitals)

1. Annualization of days for the purposes of the Medicaid days pools is not permitted. Payment is based on actual paid Medicaid days for a six-month period ending on the last day of the latest month at least 30 days preceding the date of payment which will be obtained by DHH from a report of paid Medicaid days by service date.



2. Payment is based on Medicaid days provided by hospitals in the following two pools:

a. Acute Care Hospital—acute care, rehabilitation, and long-term care hospitals not described in B.2 (excluding distinct part psychiatric units) are qualified for this designation. Acute care, rehabilitation, and long-term care hospitals/beds of small nonstate-operated local government hospitals (defined in B.2) located outside the service district area are included in this pool. Acute care, rehabilitation, and long-term care hospitals/beds of small private rural hospitals (defined in B.2) located outside the rural area are included in this pool.

b. Psychiatric Hospital—Freestanding psychiatric hospitals and distinct part psychiatric units not included in B.2 are qualified for this designation. Psychiatric hospitals/beds of small nonstate-operated local government hospitals (defined in B.2) located outside the service district area are included in this pool. Psychiatric hospitals/beds of small private rural hospitals (defined in B.2) located outside the rural area are included in this pool.

3. Disproportionate share payments for each pool shall be calculated based on the product of the ratio determined by dividing each qualifying hospital's actual paid Medicaid inpatient days for a six-month period ending on the last day of the month preceding the date of payment (which will be obtained by DHH from a report of paid Medicaid days by service date) by the total Medicaid inpatient days obtained from the same report of all qualified hospitals in the pool, and multiplying by an amount of funds for each respective pool to be determined by the director of the Bureau of Health Services Financing. Total Medicaid inpatient days include Medicaid nursery days but do not include skilled nursing facility or swing-bed days. Pool amounts shall be allocated based on the consideration of the volume of days in each pool or the average cost per day for hospitals in each pool.

4. No additional payments shall be made if an increase in days is determined after audit. Recoupment of overpayment from reductions in pool days originally reported shall be redistributed to the hospital that has the largest number of inpatient days attributable to individuals entitled to benefits under the State Plan of any hospitals in the state for the year in which the recoupment is applicable.

5. A pro rata decrease necessitated by conditions specified in I.B for hospitals described in this Section will be calculated based on the ratio determined by dividing the hospitals' Medicaid days by the Medicaid days for all qualifying hospitals in this Section, then multiplying by the amount of disproportionate share payments calculated in excess of the federal disproportionate share allotment or the state disproportionate share appropriated amount.

Bobby P. Jindal  
Secretary

9707#042

## RULE

### Department of Labor Office of Workers' Compensation

#### Individual Self-Insurer (LAC 40:I.1723)

Under the authority of the Workers' Compensation Act, particularly R.S. 23:1021 et seq., and in accordance with the provision of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Labor, Office of Workers' Compensation has amended the Office of Workers' Compensation rules, LAC 40:I.1723.

This amendment allows employers to post a surety bond so that the amount of the bond would be considered as part of the employer's net worth when seeking to be qualified as a self-insurer.

#### Title 40

#### LABOR AND EMPLOYMENT

#### Part I. Workers' Compensation Administration

#### Chapter 17. Fiscal Responsibility Unit

#### §1723. Individual Self-Insurer—Application

A. ...

B. Before considering the application, the office will require:

1. financial statement of a current date showing a net worth of not less than \$750,000 and a current ratio of more than 1.5 to 1 and a working capital of an amount establishing strength and liquidity of the business to pay normal compensation promptly. A surety bond as provided in §1725 shall be considered to be part of the net worth of the employer. However, companies qualified to be self-insured prior to the implementation of these rules who do not meet the requirement of a net worth of \$750,000 may nonetheless qualify for continued certification upon a showing that they meet all other requirements of these rules and that they have been continually operating as an approved self-insurer. The requirement for more than 1.5 to 1 current ratio may be waived in the case of a public utility or in those instances where generally recognized accounting principles peculiar to a particular industry make this requirement unreasonable. In no event shall the net worth be less than three times the annual loss fund, or in the event that aggregate excess insurance is not maintained, then the net worth shall be at least three times the self-insurer's annual standard premium. Financial statements dated six months or more prior to the date of application must be accompanied by an affidavit stating that there has been no material lessening of net worth nor significant deterioration of current ratio since the date of the statement.

An employer going through or recently acquired through a highly leveraged buy-out is not eligible to self-insure until the company has a well established and acceptable financial capacity. Judgment of the company's financial capacity will be based upon financial ratio analysis. This type of company must operate on an insured basis until the financial status is fully known.



2. - 7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1168.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Workers' Compensation, LR 17:959 (October 1991), amended by the Department of Labor, Office of Workers' Compensation, LR 23:868 (July 1997).

Ronald L. Menville  
Director

9707#025

**RULE**

**Department of Social Services  
Office of Family Support**

Electronic Benefits Transfer (LAC 67:III.401)

The Department of Social Services, Office of Family Support has amended LAC 67:III.Subpart 1, General Administrative Procedures.

This rule changes the implementation process of EBT by adding the number of "roll-in" phases and redistributing the parishes originally planned for Phase 2 and Phase 3.

**Title 67**

**SOCIAL SERVICES**

**Part III. Office of Family Support**

**Subpart 1. General Administrative Procedures**

**Chapter 4. Electronics Benefits Issuance System**

**§401. Electronic Benefits Transfer (EBT)**

\* \* \*

B. The EBT system will expand beyond the pilot parish in the following manner:

1. Phase 1 consists of the parishes of Avoyelles, Catahoula, Concordia, Grant, LaSalle, Rapides, Sabine, Winn, East and West Baton Rouge, East and West Feliciana, Livingston, St. Helena, and Tangipahoa.

2. Phase 2 consists of the parish of Orleans (five district offices).

3. Phase 3 includes the parishes of Jefferson, Plaquemines, St. Bernard, St. Tammany and Washington.

4. Phase 4 consists of the parishes of Ascension, Assumption, Iberville, Lafourche, St. Charles, St. James, St. John the Baptist, St. Mary, Terrebonne, Iberia, Pointe Coupee, St. Landry and St. Martin.

5. Phase 5 consists of the parishes of Acadia, Allen, Beauregard, Calcasieu, Cameron, Evangeline, Jefferson Davis, Lafayette, Vermilion and Vernon.

6. Phase 6 consists of the parishes of Bienville, Bossier, Caddo, Claiborne, DeSoto, Lincoln, Red River, Webster, Caldwell, East and West Carroll, Franklin, Jackson, Madison, Morehouse, Ouachita, Richland, Tensas and Union.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:450.1, 7 CFR 274.12 and 45 CFR 95(F).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 22:1231 (December 1996), amended LR 23:869 (July 1997).

Madlyn B. Bagneris  
Secretary

9707#010

**RULE**

**Department of Transportation and Development  
Board of Registration for Professional  
Engineers and Land Surveyors**

Seal and Signature (LAC 46:LXI.1701)

In accordance with R.S. 49:950 et seq., the Board of Registration for Professional Engineers and Land Surveyors has amended LAC 46:LXI.1701.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part LXI. Professional Engineers and Land Surveyors**

**Chapter 17. Use of Seals**

**§1701. Seal and Signature**

The following rules for the use of seals to identify work performed by a registered professional engineer or professional land surveyor shall be binding on every registrant:

1. - 2.e. ...

3. The application of the registrant's seal, signature, and date shall constitute certification that the work thereon was done by him or under his direct supervision.

a. Drawings and Plats. In case of multiple sealings, the first or title page shall be sealed and signed by the registrant or registrants in responsible charge. In addition, each sheet shall be sealed by the registrant or registrants responsible for each sheet. In the case of a firm, partnership or corporation, each sheet shall be sealed and signed by the registrant or registrants responsible for that sheet and the registrant(s) in responsible charge shall sign and seal the title or first sheet.

b. Specifications, Reports, Design Calculations and Information. In the case of specifications of multiple pages, the first or title page of each document shall be sealed and signed by the registrant or registrants involved. Subsequent revisions shall be dated and initialed by the registrant in responsible charge whose seal and signature appears on the first or title page. In the case of a firm, partnership or corporation, the registrant in responsible charge shall sign and seal the title or the first sheet.

4. No registrant shall affix his seal or signature to reports, plats, sketches, working drawings, specifications, design calculations or other engineering and land surveying documents developed by others not under his complete direction and control and not subject to the authority of that registrant, except as stated in Paragraph 8 below.

5. Plans, specifications, drawings, reports or other documents will be deemed to have been prepared under the personal supervision and complete direction and control of a registrant only when:

a. the client or any public or governmental agency requesting preparation of such plans, specifications, drawings, reports or other documents makes the request directly to the registrant, or the registrant's employee as long as the employee works in the registrant's place(s) of business; and

b. the registrant supervises the preparation of the plans, specifications, drawings, reports or other documents and has input into their preparation prior to their completion; and

c. the registrant reviews the final plans, specifications, drawings, reports or other documents; and

d. the registrant has the authority to, and does, make any necessary and appropriate changes to the final plans, specifications, drawings, reports or other documents.

6. No registrant shall affix his seal or signature to documents having titles or identities excluding the registrant's name unless:

a. such documents were indeed developed by the registrant under the registrant's personal supervision and direct control;

b. the registrant shall exercise full authority to determine their development; and

c. except as set forth in Paragraph 8 below.

7. In the case of a temporary permit issued to a registrant of another state, the registrant shall affix the seal of his state of registration, his signature, the date of execution and his Louisiana temporary permit number to all of his work.

8. In the case of an individual registrant checking the work of and taking the professional responsibility for an out of state individual registrant, the Louisiana registrant shall completely check and have complete dominion and control of the design. Such complete dominion and control shall include possession of the sealed and signed reproducible construction drawings, with complete signed and sealed design calculations indicating all changes in design.

#### 9. Seal Design Requirements

a. The design of the seal shall have the following minimum information:

State of Louisiana

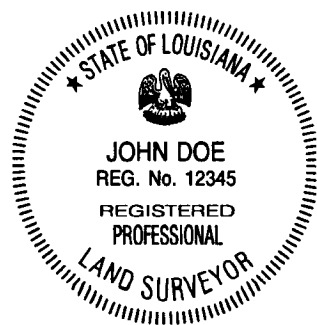
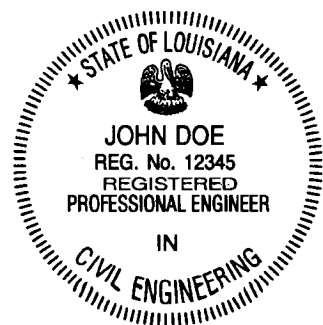
Registrant's Name

Registrant's Registration Number

Contain the words "Professional Engineer in \_\_\_\_\_

Engineering" or "Registered Professional Land Surveyor."

b. Indicated below is a sample of the seal design authorized by the board. Seals of two different sizes will be acceptable, a pocket seal, the size commercially designated as 1 5/8-inch seal, or a desk seal, commercially designated as a two-inch seal. Rubber stamps or computer generated stamps of the same design and size are acceptable for use. Facsimile signatures are not acceptable (Paragraph 2).



*Note: firm seals are not authorized in Louisiana.*

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:696.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 8:112 (April 1982), amended LR 12:692 (October 1986), LR 16:774 (September 1990), LR 17:273 (March 1991), LR 19:58 (January 1993), LR 22:287 (April 1996), LR 23:869 (July 1997).

H. Glen Kent, Jr., P.L.S.  
Executive Secretary

9707#007

## RULE

### Department of Treasury Board of Trustees of the State Employees Group Benefits Program

#### Plan Document—Prescription Drug Exclusions and Limitations

Pursuant to the authority granted by R.S. 42:871(C) and 874(A)(2), vesting the Board of Trustees with the sole responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, and in accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Trustees hereby amends the Plan Document of Benefits.

The board finds that it is necessary to amend the Plan Document to restrict benefits for Serostim, a new recombinant human growth hormone, to treatment of AIDS wasting. Accordingly, the Plan Document of Benefits for the State Employees Group Benefits Program is hereby amended in the following particulars:

Amend Article 3, Section VIII, Subsection W to read as follows:

#### VIII. Exceptions and Exclusions for all Medical Benefits No benefits are provided under this contract for:

\*\*\*

W. The following drugs, medicines, and related services:

1. appetite suppressant drugs;
2. dietary supplements;
3. topical forms of Minoxidil;
4. Retin-A dispensed for covered persons over age 26;
5. amphetamines dispensed for diagnoses other than Attention Deficit Disorder or Narcolepsy;
6. nicotine, gum, patches, or other products, services, or programs intended to assist an individual to reduce or cease smoking or other use of tobacco products;
7. nutritional or parenteral therapy;
8. vitamins and minerals;
9. drugs available over the counter; and

10. Serostim dispensed for any diagnoses or therapeutic purposes other than AIDS wasting;

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James R. Plaisance  
Executive Director

9707#026

**RULE**

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

Resident Game Hunting Season—1997-1998  
(LAC 76:XIX.101 and 103)

In accordance with the notice of intent published in the March 1997 *Louisiana Register*, the Louisiana Wildlife and Fisheries Commission, at its regular monthly meeting in July hereby amends its regulations on open hunting season dates, bag limits, methods of taking, and rules and regulations on department-operated wildlife management areas for the period September 1, 1997 through August 31, 1998. Authority to establish regulations is vested in the commission by §115 of Title 56 of the Louisiana Revised Statutes of 1950.

**Title 76**

**WILDLIFE AND FISHERIES**

**Part XIX. Hunting**

**Chapter 1. Resident Game Hunting Season**

**§101. General**

The Resident Game Hunting Season, 1997-98 regulations are hereby adopted by the Wildlife and Fisheries Commission. A complete copy of the regulation pamphlet may be obtained from the department.

**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 21:707 (July 1995), amended LR 22:585 (July 1996), LR 23:871 (July 1997).

**§103. Resident Game Birds and Animals 1997-98**

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.

Species	Season Dates	Daily Bag Limit	Possession Limit
Quail	Nov.27-Feb. 28	10	20
Rabbit	Oct. 4-Feb. 28	8	16
Squirrel	Oct. 4-Feb. 8	8	16
Deer	See Schedule	1 Antlered and 1 Antlerless (When Legal)	6

**C. Deer Hunting Schedule**

Area	Archery	Muzzleloader	Still Hunt	With or Without Dogs
1	Oct. 1 - Jan. 31	Nov.15-Nov.21 Jan.26-Feb. 1	Nov.22- Dec. 5 Jan.10- Jan.25	Dec. 6- Dec.14 Dec.20- Jan. 9
2	Oct. 1 - Jan. 31	Oct.18-Oct.24 Jan. 5-Jan.11	Oct.25- Dec. 5	Dec. 6- Jan. 4
3	Sept.20- Jan. 20	Oct. 4-Oct.10 Dec.13-Dec.19	Oct.11- Dec. 7 Dec.20- Jan. 4	
4	Oct. 1 - Jan. 31	Nov.15-Nov.21 Jan. 5-Jan.11	Nov.22- Jan. 4	
5	Oct. 1 - Jan. 31	Nov.15-Nov.21 Jan. 5-Jan.11 (Bucks only)	Nov.22- Nov.30	
6	Oct. 1 - Jan. 31	Nov.15-Nov.21 Jan.26-Feb. 1	Nov.22- Dec. 5	Dec. 6- Dec.14 Dec.20- Jan.25
7	Oct. 1 - Jan. 31	Oct. 4-Oct.10 Jan.19-Jan.25	Oct.11- Oct.26 Nov.22- Dec. 7	Dec.13- Jan.18

**D. Modern Firearm Schedule (Either Sex Seasons)**

Area	Basic Season Dates	Total Days	Exceptions (Those Portions of the Following Parishes)
1	Nov.22-23, 28-30 Dec.6-7, 13-14	9	Nov.22-23, 28-30 (Franklin, Catahoula, LaSalle, Caldwell) Nov.22-23, 28-30, Dec.6-7 (Avoyelles, Grant, Rapides)
2	Oct.25-26, Nov.1-2, 8-9, 28-30, Dec.6-7	11	Oct.25-26, Nov.28-30 (Caldwell, LaSalle) Oct.25-26, Nov.28-30, Dec.6-7 (Avoyelles)
3	Oct.11-12, 25-26, Nov.1-2, 8-9, 28-30	11	Oct.11-12, Nov.28-30, Dec.6-7 (St. Landry)
4	Nov.22-23, 28-30	5	Nov.22-23, 28-30, Dec.6-7, 13-14 (East Carroll)
5	None		
6	Nov.22-23, 28-30, Dec.6-7, 13-14	9	Nov.22-23, 28-30, Dec.6-7 (Avoyelles, Rapides, St. Landry)
7	Oct.11-12, Nov.22-23, 28-30, Dec.13-14	9	

**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 21:707 (July 1995), amended LR 22:585 (July 1996), LR 23:871 (July 1997).

Daniel J. Babin  
Chairman

9707#034

**RULE**

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

Spanish Lake State Game and  
Fishing Preserve (LAC 76:III.329)

The Wildlife and Fisheries Commission hereby adopts a rule establishing visitor regulations for Spanish Lake State Game and Fishing Preserve.

**Title 76**

**WILDLIFE AND FISHERIES**

**Part III. State Game and Fish Preserves  
and Sanctuaries**

**Chapter 3. Particular Game and Fish Preserves and  
Commissions**

**§329. Spanish Lake State Game and Fishing Preserve  
General**

1. The preserve will open one-half hour before official sunrise and close one-half hour after official sunset. It will be closed to all nighttime activities.

2. Existing gates will remain in place. Parking is restricted to designated parking areas.

3. The levee road will have one-way traffic with the entrance at the boat ramp and the exit on Bernard Drive.

4. ATVs (three wheelers and four wheelers) and motorbikes are prohibited on the levee.

5. Discharge of any firearms on the levees is prohibited.

6. Overnight camping is prohibited, except by special permit issued by Spanish Lake Game and Fishing Preserve Commission for supervised groups only.

7. The possession or use of commercial nets, including hoop nets, trammel nets, gill nets and fish seines, is prohibited, except by special permit issued by the Louisiana Department of Wildlife and Fisheries.

8. No trapping of furbearing animals, except by special permit issued by the Louisiana Department of Wildlife and Fisheries.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6, R.S. 56:721 et seq., R.S. 56: 801 and R.S. 36:610.

HISTORICAL NOTE: Promulgated by Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 23:872 (July 1997).

Daniel J. Babin  
Chairman

9707#035

# Notices of Intent

## NOTICE OF INTENT

### Department of Economic Development Board of Architectural Examiners

Limited Liability Company (LAC 46:I.1335)

Under the authority of R.S. 37:144 and in accordance with the provisions of R.S. 49:950 et seq., the Board of Architectural Examiners gives notice that rulemaking procedures have been initiated to amend LAC 46:I.1335 pertaining to the name of a limited liability company practicing architecture. The proposed rule provides that the name of a limited liability company practicing architecture shall contain the words "limited liability company"; the abbreviation "L.L.C."; or the abbreviation "L.C."

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part I. Architects

#### Chapter 13. Titles, Firm Names, and Assumed Names §1335. Limited Liability Company

The name of a limited liability company must comply with R.S. 12:1306 and shall include the words "limited liability company"; the abbreviation "L.L.C."; or the abbreviation "L.C."

Allowed	Not Allowed
Smith and Jones, Architects, A Limited Liability Company	Smith and Jones, Architects (if the entity is a limited liability company)
Smith and Jones, Architects, L.L.C.	
Smith and Jones, Architects, L.C.	

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:145-146.

**HISTORICAL NOTE:** Promulgated by the Department of Economic Development, Board of Architectural Examiners, LR 20:996 (September 1994), amended LR 23:

Interested persons may submit written comments on this proposed rule to Mary "Teeny" Simmons, Executive Director, Board of Architectural Examiners, 8017 Jefferson Highway, Suite B2, Baton Rouge, LA 70809.

Mary "Teeny" Simmons  
Executive Director

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

**RULE TITLE:** Limited Liability Company

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no estimated implementation costs (savings) to state or local governmental units associated with this proposed rule.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections of state or local governmental units associated with this proposed rule.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits to directly affected persons or nongovernmental groups.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition or employment associated with this proposed rule.

Mary "Teeny" Simmons  
Executive Director  
9707#006

Richard W. England  
Assistant to the  
Legislative Fiscal Officer

## NOTICE OF INTENT

### Department of Economic Development Board of Certified Public Accountants

Comprehensive Rule Revisions  
(LAC 46:XIX.Chapters 3-31)

*(Editor's Note: A portion of the following notice of intent, which appeared on pages 759 through 775 of the June 20, 1997 Louisiana Register, is being republished to correct typographical errors.)*

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part XIX. Certified Public Accountants

#### Chapter 3. Operating Procedures

#### §309. Duties of the Treasurer

The duties of the treasurer include, but are not limited to:

1. responsibility for the maintenance of the accounts of the board and the preparation of a financial report once a year, as of June 30; and

2. submittal of an annual budget to the board for its approval.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:75.

**HISTORICAL NOTE:** Promulgated by the Department of Commerce, Board of Certified Public Accountants, LR 4:358 (October 1978), amended LR 6:2 (January 1980), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 23:

#### Chapter 5. Rules of Professional Conduct

#### §507. Other Responsibilities and Practices

A. - E. ...

F. Firm Name

1. The name under which a licensee practices public accounting must indicate clearly whether he is an individual practicing in his own name or a named member of a firm. If

the name includes the designation "and Company" or "and Associates" or "Group" or abbreviations thereof, there must be at least two licensees involved in the practice, who may be either partners, shareholders, members or employees of the firm. However, names of one or more past partners, shareholders, or members may be included in the firm name of a successor firm.

2. - 3. ...

G. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:75.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Certified Public Accountants, LR 3:308 (July 1977), amended 4:358 (October 1978), LR 6:2 (January 1980), LR 9:207 (April 1983), LR 10:278 (April 1984), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17:1068 (November 1991), LR 23:

### Chapter 13. Examination

#### §1303. Educational Requirements

A. ...

	Undergraduate Semester Hours	Graduate Semester Hours
Accounting Courses:		
Intermediate	6	3
Cost	3	3
Income Tax	3	3
Auditing	3	3
Accounting Electives:	9	9
3 semester hours from one of the following: Advanced Financial Accounting, Not-for-Profit Accounting/Auditing, Theory		
6 semester hours in accounting above the basic and beyond the elementary level		
<b>Total Accounting Courses</b>	<b><u>24</u></b>	<b><u>21</u></b>

Business Courses (other than Accounting Courses):

Including at least 3 semester hours in Commercial Law, as it affects accountancy for CPA examination candidates

<b>Total Business Courses</b>	<b><u>24</u></b>	<b><u>24</u></b>
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1. - 6. ...

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:78.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated LR 6:6 (January 1980), amended LR 11:757 (August 1985), LR 13:13 (January 1987), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 15:616 (August 1989), LR 17:1070 (November 1991), LR 23:

### Chapter 25. Renewals of Certification, Licensing

#### §2501. Annual Renewals, Reinstatement, Fees

A. - H. ...

I. Failure to Timely Remit or Respond

1. - 2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:82 and R.S. 84.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated LR 6:8 (January 1980), amended LR 9:209 (April 1983), LR 11:758 (August 1985), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17:1070 (November 1991), LR 23:

### Chapter 31. Petitions for Rulemaking

#### §3103. Definitions—as Used in this Chapter

*Interested Person*—a person who or which:

1. holds or has applied for any certification, license or permit issued by the board; or
2. is subject to the regulatory jurisdiction of the board; or
3. is or may be affected by the practice of public accounting in the state of Louisiana.

*Person*— ...

*Rulemaking*— ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:952(2), 953(C), R.S. 37:75(A)(3), (B)(2).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Certified Public Accountants, LR 23:

Michael A. Henderson  
Executive Director

9707#013

### NOTICE OF INTENT

**Department of Environmental Quality  
Office of Air Quality and Radiation Protection  
Air Quality Division**

Standards of Performance for  
Crematories (LAC 33:III.2531)(AQ155)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality Division regulations, LAC 33:III.2531 (AQ155).

The proposed changes would remove the operator training requirement for crematory operators and would remove the term "reconstruction" from the regulation. These changes eliminate a requirement that has no environmental benefit that can justify the cost of the requirement. The term "reconstruction" is used in the regulation when the term "modification" would be sufficient. The definition of this term also refers to LAC 33:III.3129, which has been repealed. Deleting the term will simplify the regulation and will not result in any increase in emissions.

This proposed rule meets the exceptions listed in R.S. 30:2019(D)(3) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

**Title 33**

**ENVIRONMENTAL QUALITY**

**Part III. Air**

**Chapter 25. Miscellaneous Incineration Rules**

**Subchapter D. Crematories**

**§2531. Standards of Performance for Crematories**

A. The provisions of this Subchapter apply to all new, modified, and existing crematories used in the disposal of Type IV wastes and their appropriate containers.

B. Definitions. Terms used in this Section are defined in LAC 33:III.111 of these regulations with the exception of those terms specifically defined below as follows:

\* \* \*

[See Prior Text]

*Crematory*—any furnace or incinerator used in the process of burning Type IV waste for the purpose of reducing the volume of the waste by removing combustible matter and vaporizing of moisture through the application of heat.

*Type IV Waste*—human and animal remains consisting of carcasses, organs, and solid organic wastes comprising up to 85 percent moisture and 5 percent incombustible solids.

\* \* \*

[See Prior Text in C-D]

1. Any new or modified facility regulated under Subsection A of this Section for which a complete application for a permit to construct was received after October 20, 1994, shall comply with all of the requirements of this Subchapter before operation may commence.

\* \* \*

[See Prior Text in D.2-2.a]

b. control equipment requirements of Subsection G of this Section shall be complied with no later than one year after promulgation of this regulation; and

c. incinerator physical parameter requirements of Subsection H of this Section shall be complied with no later than two years after promulgation of this regulation.

\* \* \*

[See Prior Text in E-F.4]

5. All equipment, accessories, and appurtenances, (e.g., secondary burners, control equipment, etc.) of a crematory incinerator shall be maintained in proper working condition and shall be operational at all times when the crematory is in use.

\* \* \*

[See Prior Text in G-H]

1. Any facility regulated under Subsection A of this Section which commences construction or modification after October 20, 1994, shall provide design calculations to confirm a sufficient volume in the secondary (or last) chamber combustion zone to provide for at least a 1.0 second gas residence time at 1800°F. Primary chamber and stack shall not be used in calculating this residence time. The actual operating temperature of the secondary (or last) chamber combustion zone will be not less than 1600°F throughout the combustion process. The primary chamber shall not be

charged unless the secondary (or last) chamber combustion zone temperature is equal to or greater than 1600°F.

\* \* \*

[See Prior Text in H.2]

**I. Recordkeeping and Reporting**

1. The facility owner/operator shall maintain the following records on the facility premises at all times, and present them to an authorized representative of the department upon request:

- a. application approval records and permit to construct/operate;
- b. all other necessary permits and authorizations from local and/or other state regulatory agencies;
- c. equipment maintenance records;
- d. copies of all test results;
- e. daily record of the number of hours of operation; and
- f. all records of upset conditions with time and duration of upset noted.

2. A copy of all test results shall be submitted to the Louisiana Department of Environmental Quality, Air Quality Division for review and approval within 45 days of completion of testing.

**J. Testing**

1. All crematories with a design charge rate greater than 500 pounds per hour shall conduct emissions testing within 180 days of initial start-up to verify compliance with Subsections E.1-2 and F.1 of this Section using the following test methods:

- a. Method 5 - Determination of Particulate Emissions from Stationary Sources (40 CFR part 60, appendix A, as incorporated by reference at LAC 33:III.3003);
- b. Method 10 - Determination of Carbon Monoxide Emissions from Stationary Sources (40 CFR part 60, appendix A, as incorporated by reference at LAC 33:III.3003);
- c. Method 9 - Visual Determination of the Opacity of Emissions from Stationary Sources (40 CFR part 60, appendix A, as incorporated by reference at LAC 33:III.3003); and
- d. other tests which may be added at pretest meetings.

2. The owner/operator shall provide the department at least 30 days prior notice of any emission test to afford the department the opportunity to conduct a pretest conference and to have an observer present. The department has the authority to invalidate any testing where such notice is not provided.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1107 (October 1994), amended LR 22:1127 (November 1996), LR 22:1212 (December 1996), LR 23:

A public hearing will be held on August 28, 1997, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. 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 Patsy Deaville at the address given below or at (504) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by AQ155. Such comments must be received no later than September 4, 1997, at 4:30 p.m., and should be sent to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA 70884 or to FAX (504) 765-0486.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; or on the Internet at <http://www.deq.state.la.us/olae/irdd/olaeregs.htm>.

Gus Von Bodungen  
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Standards of Performance for Crematories**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
The proposed rule will reduce operating costs for state and local governmental units. Savings to the state are estimated at \$2,080 due to reduction in the amount of paperwork currently required. Savings to local governmental units that operate a crematory unit is anticipated at \$500 - \$1,500 annually due to a reduction in the costs associated with employee training.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There will be no effect on revenue collections of state or local governmental units as a result of this proposed rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
Estimated cost savings to directly affected persons are \$500-\$1,500 annually.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
Effects on competition within the industry will be negligible. The proposed change will affect the entire industry equally and will result in reduced costs thereby improving competition and employment.

Gus Von Bodungen  
Assistant Secretary  
9707#033

Richard W. England  
Assistant to the  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Department of Environmental Quality  
Office of Waste Services  
Solid Waste Division**

**Alternative Solid Waste Site  
Selection (LAC 33:VII.523)(SW026)**

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 Solid Waste Division regulations, LAC 33:VII.523.D (SW026).

This proposed rule amends existing language requiring facilities seeking a solid waste permit to consider other potential sites for the location of the new facility. This action is required to adjust the existing language in the solid waste regulations to correspond to the court-mandated "IT" Questions.

This proposed rule meets the exceptions listed in R.S. 30:2019(D)(3) 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 VII. Solid Waste**

**Chapter 5. Solid Waste Management System  
Subchapter C. Permit Application**

**§523. Part III: Additional Supplementary Information**

The following supplementary information is required for all solid waste processing and disposal facilities. All responses and exhibits must be identified in the following sequence to facilitate the evaluation:

\* \* \*

[See Prior Text in A-C]

D. a discussion of possible alternative sites that would offer more protection to the environment without unduly curtailing nonenvironmental benefits; and

\* \* \*

[See Prior Text in E]

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Waste Services, Solid Waste Division, LR 23:

A public hearing will be held on August 28, 1997, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. 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 Patsy Deaville at (504) 765-0399 or at the address given below.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by SW026. Such comments must be received no later than September 4, 1997, at 4:30 p.m., and should be sent to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA 70884 or to FAX (504) 765-0486.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501



H.M. Strong  
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Alternative Solid Waste Site  
Selection**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There are no implementation costs anticipated for either state or local governmental units as a result of the proposed revisions to Solid Waste Division regulations. This revision merely requires that facilities seeking a solid waste permit must address the selection of other potential sites for the facility.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There is no anticipated effect on revenue collections on either state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
There are no anticipated estimated costs and/or economic benefits to directly affected persons or nongovernmental groups because this regulation is merely changing the manner in which the "IT" Question is responded to.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
There will be no estimated effect on competition or employment to facilities or individuals within the state.

H.M. Strong  
Assistant Secretary  
9707#032

Richard W. England  
Assistant to the  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Board of Veterinary Medicine**

**Appeals and Review (LAC 46:LXXXV.105)**

The Board of Veterinary Medicine proposes to amend LAC 46:LXXXV.105.B in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Veterinary Practice Act, R.S. 37:1518 et seq.

The proposed amendment to Chapter 1 provides that a party requesting an appeal under LAC.46.LXXXV.105, shall pay all costs incurred by the Board of Veterinary Medicine to conduct the review or appeal. These costs shall include, but not be limited to, board member expenses, court reporter fees, investigative fees, attorney's fees, and administrative costs.

**Title 46  
PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part LXXXV. Veterinarians**

**Chapter 1. Board of Veterinary Medicine  
§105. Appeals and Review**

- A. ...
- B. Persons Aggrieved by a Decision of the Board

1. - 3. ...

4. The party requesting the appeal shall pay all costs incurred by the board for review and appeal proceedings called in accordance with this Section, and such costs shall include, but not be limited to, board member expenses, court reporter fees, investigative fees, attorney's fees, and administrative costs.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 8:65 (February 1982), amended LR 19: 345 (March 1993), LR 23:

Interested parties may submit written comments to Charles B. Mann, Executive Director, Board of Veterinary Medicine, Box 3298, Baton Rouge, LA 70821. Comments will be accepted through the close of business on August 28, 1997.

A public hearing on the proposed changes will be held on August 27, 1997, at 9 a.m. at the State National Life Building, 263 Third Street, Suite 104, Baton Rouge, LA. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

Charles B. Mann  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Appeals and Review**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There will be no costs or savings to state or local governmental units, except for those associated with publishing the amendments (estimated \$80). The veterinary profession will be informed of this rule change via the board's regular newsletter, which is already a budgeted cost of the board.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There may be an increase in the revenue collections of the Board of Veterinary Medicine. However, any revenue collected is intended to pay the costs associated with a review or appeals proceeding. The amount of revenue collected will depend upon the number of review or appeal proceedings that are requested in accordance with this rule and the actual expenses associated with them. Actual expenses could vary depending on the complexity of the case. It is estimated that actual costs could range from \$250 to \$1,200 per proceeding. The board does not anticipate more than two proceedings per year. Therefore, total estimated effect on revenue collection is \$500 to \$2,400 per year. There will be no effect on revenue collections of local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Persons requesting appeal and review proceedings before the board would bear the costs of the proceeding. These are estimated to be between \$250 and \$1,200 per proceeding.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on employment and competition.

Charles B. Mann  
Executive Director  
9707#021

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Office of Public Health**

**Sanitary Code—Mechanical Sewage  
Treatment Plant (Chapter XIII)**

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the secretary of the Department of Health and Hospitals proposes to amend Chapter XIII, Appendix A, of the State Sanitary Code by adding Section A:6.10, Consumer Alert, to alert consumers of their responsibility to have the electrical components of individual mechanical sewage treatment plants wired and properly connected.

**Proposed Rule  
Chapter XIII. Sewage Disposal**

\* \* \*

Add Section A:6.10 to read:

**A:6.10 Consumer Alert**

If a consumer currently owns, is contemplating purchasing and having installed, or is an installer of individual mechanical sewage treatment plants, that consumers should pay particular attention to this notice.

It has become apparent that the electrical components of individual mechanical sewage treatment plants which require connection to a source of electricity may not be properly connected to that electrical source in some cases. Specifically, mechanical sewage treatment plants using electrical power may require a properly installed Ground Fault Current Interrupter (GFCI).

The Office of Public Health has specific statutory authority and mandates to protect the public health from the improper treatment and disposal of sewage. This office will offer the public consultation with regard to the appropriate sewage treatment system that should be used in a specific application, considering system design for properly treating sewage, sizing for the number of people using the system, location of the system, and other health considerations, as necessary. However, the Office of Public Health does not have the authority to inspect or approve electrical connections, are not qualified in the area of such electrical connections and will not assume responsibility for such electrical safety considerations.

Accordingly, this is an advisory that proper electrical connections must be made to the air pump/blower and/or any

other electrical components that are integral parts of an individual mechanical sewage treatment plant, and that a qualified electrician should perform or examine the installations for appropriate wiring and installation, as well as the connection to the Ground Fault Current Interrupter.

\* \* \*

Interested persons may submit written comments to Frank L. Deffes, Jr., Chief, Sanitarian Services, Box 60630, New Orleans, LA 70160 by close of business on Friday, August 29, 1997. He is responsible for responding to inquiries regarding this proposed rule.

A public hearing on the proposed changes will be held on Monday, August 25, 1997 at 10 a.m., at 1201 Capitol Access Road, DHH Building, Fourth Floor Conference Room in Baton Rouge. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing.

Bobby P. Jindal  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Sanitary Code—Mechanical  
Sewage Treatment Plant**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no estimated implementation costs or savings to state or local units. There will be approximately a \$40 charge for printing costs associated with publication of this proposed rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections of state or local governmental units.

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 nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Bobby P. Jindal  
Secretary  
9707#041

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Office of Public Health**

**Sanitary Code—Notification of Contacts  
to Persons with HIV Infection (Chapter II)**

Under the authority of R.S. 40:5 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of Public Health proposes to amend Chapter II of the *Louisiana Sanitary Code*.

The epidemic of AIDS and infection with Human Immunodeficiency Virus (HIV) is a severe health threat to Louisiana, and there are many aspects to the efforts by the state health officer and his representatives to control the epidemic. The following Paragraph is to be added to the *Sanitary Code* to clarify the role of the state health officer in notification of sexual partners of persons infected with human immunodeficiency virus. While other sections of Chapter II of the *Sanitary Code* give the state health officer broad authority to institute control measures whenever a case of a communicable disease occurs, questions have been raised as to how this authority is to be used regarding cases of HIV infection. The procedure described in the proposed Paragraph is consistent with current and historical practices and with national guidelines.

#### **Chapter II. The Control of Diseases**

**2:009-1** The state health officer shall make a good faith effort to notify individuals who are spouses and/or sexual contacts to persons with Human Immunodeficiency Virus (HIV) infection of their exposure, offer them counseling about their risk of infection, and offer them testing for HIV infection. In performing this activity, the state health officer or his/her designee shall initially contact the primary medical provider of the person who has HIV infection, if such medical provider can be identified, and ask if the infected person or the medical provider intends to conduct this notification. If neither the infected person nor the medical provider intends to notify spouses or sexual partners of the exposure, the state health officer or his/her designee shall attempt to interview the infected person directly to identify these partners for counseling and testing. Notification of partners shall be conducted in such a manner as to maintain the confidentiality of the infected person.

Interested persons may submit written comments or questions to Dr. Tom Farley, Medical Director, STD/HIV/AIDS Unit, Epidemiology Section, Office of Public Health, Department of Health and Hospitals, Box 60630, New Orleans, LA, 70160.

Bobby P. Jindal  
Secretary

#### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

##### **RULE TITLE: Sanitary Code—Notification of Contacts to Persons with HIV Infection**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There are no estimated implementation costs or savings to state or local units. There will be approximately a \$40 charge for printing costs associated with publication of this rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There is no estimated effect on revenue collections of state or local governmental units.
- 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 nongovernmental groups.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There is no estimated effect on competition and employment.

Bobby P. Jindal  
Secretary  
9707#050

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

#### **NOTICE OF INTENT**

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

##### **Nonemergency Medical Transportation Program**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following, as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This proposed rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing provides coverage for nonemergency medical transportation services. The department previously adopted a rule to establish additional enrollment requirements, sanctions and procedures for suspensions or terminations in the Nonemergency Medical Transportation Program (*Louisiana Register*, Volume 19, Number 5). These changes were implemented in the transportation program in an effort to assure greater safety, easier access to covered medical services and more efficient utilization of nonemergency medical transportation for the Medicaid eligible population. Current regulations require that all enrolled vehicles have a painted sign in 2-inch high letters displaying the provider's name and telephone number. The department now finds it necessary to amend the enrollment criteria to include a requirement for those vehicles funded by the Department of Transportation and Development (DOTD). The DOTD transit logo displayed on these vehicles will be accepted as appropriate identification for enrollment in the Nonemergency Medical Transportation Program.

##### **Proposed Rule**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the enrollment requirement for participation in the Nonemergency Medical Transportation Program to include a requirement for those vehicles funded by the Department of Transportation and Development (DOTD). The DOTD transit logo displayed on these vehicles will be accepted as appropriate identification for enrollment in the Nonemergency Medical Transportation Program.

Interested persons may submit written comments to Thomas D. Collins, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821. He is responsible for responding to inquiries regarding this proposed rule.

A public hearing will be held on this matter on Tuesday, August 26, 1997 at 9:30 a.m. in the auditorium of the Department of Transportation and Development,

1201 Capitol Access Road, Baton Rouge, LA. At that time all interested parties will be afforded an opportunity to submit data, views or arguments, orally or in writing. The deadline for the receipt of all comments is 4:30 p.m., on the day following the public hearing.

Bobby P. Jindal  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Nonemergency Medical  
Transportation Program**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There is no fiscal impact as a result of this proposed rule for state fiscal years 1997, 1998, and 1999. However, an \$80 promulgation cost will be incurred in SFY 1997.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
Federal revenue collections will reflect \$40 for the federal share of promulgation of this proposed rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
There is no cost or economic benefit to providers of nonemergency medical transportation services. Providers of these services will not experience a reduction or an increase in reimbursement as a result of this proposed rule.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
There is no known effect on competition and employment.

Thomas D. Collins  
Director  
9707#049

Richard W. England  
Assistant to the  
Legislative Fiscal Officer

**NOTICE OF INTENT**

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

**Nursing Homes—Minimum Licensure  
Standards (LAC 48:I.Chapters 97, 98, and 99)**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, proposes to adopt the following rule as authorized by R.S. 40:2009.1-2116.4. This proposed rule is in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The department published a notice of intent to revise the minimum licensing standards for nursing homes (*Louisiana Register*, Volume 23, Number 5). As a result of comments received during the public hearing conducted on August 21, 1996, it was determined that certain provisions needed either additional clarification or revision. Therefore, the department has determined it is necessary to revise the previous notice of intent.

The purpose of the nursing home licensing law and requirements is to provide for development, establishment, and enforcement of standards of care of individuals in nursing homes and for the construction, maintenance, and operation of nursing homes which will promote safe and adequate treatment of such individuals in nursing homes. Minimum standards for the licensing of nursing homes were last adopted in 1987 with the publication of these regulations as identified above under the *Louisiana Administrative Code*. Since that time there has been a tremendous expansion of federal regulations governing long-term care. Therefore, the department is now proposing to repeal current nursing home licensing regulations and establish new licensing regulations in order to assure that a high quality of care is provided to persons residing in nursing homes.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to repeal current licensing regulations for all nursing homes in Louisiana and to adopt the following regulations which are to be contained in LAC 48:I, Subpart 3, Chapters 97, 98, and 99.

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

**Chapter 97. Nursing Homes  
Subchapter A. General Provisions  
§9701. Definitions**

*Abuse*—the willful infliction of physical or mental injury or the causing of the deterioration of a resident by means including, but not limited to, sexual abuse, exploitation, or extortion of funds or other things of value to such an extent that his health, moral, or emotional well-being is endangered.

*Administrator*—any individual who is, or may be charged with, the general administration of a nursing home, and who has been licensed and registered by the Board of Examiners of Nursing Home Administrators in accordance with the provisions of R.S. 37:2501.

*Advanced-Practice Registered Nurse (APRN)*—a licensed registered nurse who is certified by a nationally-recognized certifying body as having an advanced nursing specialty, and who meets the criteria for an advanced-practice registered nurse as established by the Louisiana State Board of Nursing. An advanced-practice registered nurse shall include certified nurse midwife, certified registered nurse anesthetist, clinical nurse specialist, or nurse practitioner.

*Ancillary Service*—a service such as, but not limited to, podiatry, dental, audiology, vision, physical therapy, speech pathology, occupational therapy, psychological and social services.

*Applicant*—the legal entity that applies for the license to open, conduct, manage, or maintain a nursing home.

*Biological*—a preparation used in the treatment or prevention of disease that is derived from living organisms or their by-product.

*Change of Ownership*—any change in the legal entity responsible for the operation of the facility. Management agreements are generally not changes of ownership if the former owner continues to retain policy responsibility and approve or concur in decisions involving the nursing home's

operation. However, if these ultimate legal responsibilities, authorities, and liabilities are surrendered and transferred from the former owner to the new manager, then a change of ownership has occurred.

**Charge Nurse**—an individual who is licensed by the state of Louisiana to practice as an RN or LPN and designated as a charge nurse by the nursing home.

**Chemical Restraint**—a psychopharmacologic drug that is used for discipline or convenience and not required to treat medical symptoms.

**Controlled Dangerous Substance**—a drug, substance, or immediate precursor in Schedule I through V of R.S. 40:964.

**Dietary Manager**—a person who:

1. is a qualified dietitian; or
2. is a graduate of a dietetic technician program; or
3. has successfully completed a course of study, by correspondence or classroom, which meets the eligibility requirements for certification by the Dietary Manager's Association; or
4. has successfully completed a training course at a state approved school (vocational or university) which includes coursework in foods, food service supervision, and diet therapy. Documentation of an eight-hour course of formalized instruction in diet therapy, conducted by the employing facility's qualified dietitian, is permissible if the course meets only the foods, and food service supervision requirements; or
5. is currently enrolled in an acceptable course of not more than 12 months which will qualify an individual upon completion.

**Director of Nursing (DON)**—a registered nurse, licensed by the state of Louisiana, who directs and coordinates nursing services in a nursing home.

**Drug Administration**—an act in which a single dose of a prescribed drug or biological is given to a resident by an authorized person in accordance with all laws and regulations governing such acts. The complete act of administration entails removing an individual dose from a previously dispensed, properly labeled container (including a unit dose container); verifying it with the physician's orders; giving the individual dose to the proper resident; monitoring the ingestion of the dose; and promptly recording the time and dose given.

**Drug Dispensing**—an act which entails the interpretation of an order for a drug or biological and, pursuant to the order, the proper selection, measuring, labeling, packaging, and issuance of the drug or biological for a resident or for a service unit of the facility by a licensed pharmacist, physician, or dentist.

**Fees**—remittance required by rules published by the department in *Louisiana Register*, June 20, 1989 (Volume 15, Number 6).

**Licensed Bed**—a bed set up, or capable of being set up, within 24 hours in a nursing home for the use of one resident (unless authorized otherwise in writing by the department for sharing).

**Licensed Practical Nurse (LPN)**—an individual currently licensed by the Louisiana State Board of Practical Nurse Examiners to practice practical nursing in Louisiana.

**Major Alteration**—any repair or replacement of building materials and equipment which does not meet the definition of minor alteration.

**Medical Director**—a physician licensed in Louisiana who directs and coordinates medical care in a nursing home.

**Minor Alteration**—repair or replacement of building materials and equipment with materials and equipment of a similar type that does not diminish the level of construction below that which existed prior to the alteration. This does not include any alteration to the function or original design of the construction.

**Neglect**—the failure to provide the proper or necessary medical care, nutrition, or other care necessary for a resident's well-being.

**Nurses' Call System**—a system that audibly registers calls electronically from its place of origin (which means the resident's bed, toilet, or bathing facility) to the place of receivership (which means the nurses' station).

**Nursing Home**—any private home, institution, building, residence, or other place, serving two or more persons who are not related by blood or marriage to the operator, whether operated for profit or not, and including those places operated by a political subdivision of the state of Louisiana which undertakes, through its ownership or management, to provide maintenance, personal care, or nursing for persons who, by reason of illness or physical infirmity or age, are unable to properly care for themselves. The term does not include the following:

- a. a home, institution, or other place operated by the federal government or agency thereof, or by the state of Louisiana;
- b. a hospital, sanitarium, or other institution whose principal activity or business is the care and treatment of persons suffering from tuberculosis or from mental diseases;
- c. a hospital, sanitarium, or other medical institution whose principal activity or business is the diagnosis, care, and treatment of human illness through the maintenance and operation of organized facilities therefore;
- d. any municipal, parish, or private child welfare agency, maternity hospital, or lying-in home required by law to be licensed by some department or agency;
- e. any sanitarium or institution conducted by and for Christian Scientists who rely on the practice of Christian Science for treatment and healing;
- f. any nonprofit congregate housing program which promotes independent living by providing assistance with daily living activities such as cooking, eating, dressing, getting out of bed, and the like to persons living in a shared group environment who do not require the medical supervision and nursing assistance provided by nursing homes. No congregate housing program, except those licensed or operated by the state of Louisiana, shall:
  - i. use the term "nursing home" or any other term implying that it is a licensed health care facility; or
  - ii. administer medications or otherwise provide any other nursing or medical service.

**Physical Restraint**—any physical or mechanical device, material, or equipment attached or adjacent to the resident's

body that the individual cannot remove easily which restricts freedom of movement or normal access to one's body.

*Physician*—an individual currently licensed by the Louisiana State Board of Medical Examiners to practice medicine and/or surgery in Louisiana.

*Physician Assistant*—a person who is a graduate of a program accredited by the Council on Medical Education of the American Medical Association or its successors, or who has successfully passed the national certificate examination administered by the National Commission on the Certification of Physicians' Assistants, or its predecessors, and who is approved and licensed by the Louisiana State Board of Medical Examiners to perform protocol services under the supervision of a physician or group of physicians approved by the board to supervise such assistant.

*Registered Dietitian*—a dietitian who is qualified based on registration by the Commission on Dietetic Registration of the American Dietetic Association, and licensed by the Louisiana Board of Examiners in Dietetics and Nutrition.

*Registered Nurse (RN)*—an individual currently licensed by the Louisiana State Board of Nursing to practice professional nursing in Louisiana.

*Registered Pharmacist*—an individual currently licensed by the Louisiana State Board of Pharmacy to practice pharmacy in Louisiana.

*Resident*—an individual admitted to the nursing home by and upon the recommendation of a physician, and who is to receive the medical and nursing care ordered by the physician.

*Resident Activities Director*—an individual responsible for directing or providing the activity services of a nursing home.

*Restorative Nursing Care*—activities designed to resolve, diminish, or prevent the needs that are inferred from the resident's problem; including the planning, implementation and evaluation of said activities in accordance with the Louisiana State Board of Nursing Legal Standards of Nursing Practice.

*Social Service Designee*—an individual responsible for arranging or directly providing medically-related social services.

*Sponsor*—an adult relative, friend, or guardian of a resident who has an interest or responsibility in the resident's welfare.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 40:2009.1-2116.4.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:

### **§9703. Licensing Process**

A. No application for a nursing home license, renewal of a license, or change in the existing license will be considered unless such application is in writing, on a form supplied by the department, containing the name(s) and address(es) of the owner(s), and signed by either the applicant or his representative.

1. It shall be accompanied by the fees and documentary evidence required by these licensing requirements.

2. When the secretary finds that an application is in proper order, he/she will cause whatever investigations are necessary to be made.

3. He/She may also cause routine, periodic inspections to be made of licensed nursing homes and such special

inspections and investigations as he/she may consider necessary.

B. The applicant or applicant's designee shall disclose to the department the name and address of all individuals with 5 percent or more ownership interest, and, in the instance where the nursing home is a corporation or partnership, the name and address of each officer or director, and board members.

C. If the nursing home is operated by a management company, or leased in whole or in part by another organization, the applicant or applicant's designee shall disclose to the department the name of the management firm and employer identification number, or the name of the leasing organization.

D. The nursing home shall complete the licensing application form and return it to the department at least 15 days prior to the initial licensing survey or expiration date of the current license, accompanied by a nonrefundable, per annum licensing fee as provided by law. All fees shall be submitted only by certified or company check, or U.S. postal money order, made payable to DHH. All state-owned facilities are exempt from fees. The nursing home shall reapply for licensing on an annual basis.

E. The nursing home shall only accept that number of residents for which it is licensed, unless prior written approval has been secured from the department.

F. If a nursing home is in substantial compliance with the licensing requirements for nursing homes and the nursing home licensing law, a license shall be issued by the department for a period of not more than 12 months, determined by the department. If a nursing home is not in substantial compliance with the licensing requirements for nursing homes and the nursing home licensing law, the department may issue a provisional license for a period of up to six months if there is no immediate and serious threat to the health and safety of residents.

G. For an increase in bed capacity as a result of new construction, renovations or alterations, a fee as provided by law shall be remitted to the department. Approval shall be granted after an on-site survey or through the submission of a signed and dated attestation to the compliance with these licensing requirements.

H. For a replacement license, when changes such as name change, address change, or bed reduction are requested, in writing, by the nursing home, a fee as provided by law shall be remitted.

I. For a change in licensee or premises, the buyer(s) shall submit to the department a completed application for nursing home licensing with a licensing fee, as provided by law. Nursing home licensing is not transferable from one entity or owner(s) to another.

J. A processing fee, as provided by law, shall be submitted by the nursing home for issuing a duplicate facility license with no changes.

K. The license shall be conspicuously posted in the nursing home.

L. Licensing inspection visits should be a source of help and guidance to the management. During these inspection visits the representatives of the department, in addition to

checking compliance by the home with fire, sanitation, diet and health regulations, will review with the operator the overall plan for the care of residents and the personnel needs of the home and will also offer recommendations designed to improve the service of the home, unless contraindicated by a more stringent rule, regulation, or policy.

**M. Exceptions to these Licensing Requirements**

1. Where any requirement on an existing nursing home would impose a financial hardship but would not adversely affect the health and safety of any resident, the existing nursing home may submit a request for exception (waiver) to the department.

2. Where a more stringent requirement on an existing nursing home would impose an unreasonable hardship, the existing nursing home may submit a written request for exception, along with supporting documentation, to the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:

**§9705. License Denial, Revocation; or Nonrenewal of License**

The department also may deny, suspend, or revoke a license where there has been substantial noncompliance with these requirements in accordance with the nursing home licensing law. If a license is denied, suspended, or revoked, an appeal may be requested as outlined in the nursing home licensing law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:

**§9707. Approval of Plans**

A. All new construction, other than minor alterations, shall be done in accordance with the specific requirements of the Office of State Fire Marshal and the Bureau of Engineering and Consulting Services of the Department of Health and Hospitals, covering new construction in nursing homes, including submission of preliminary plans and the submission of final work drawings and specifications to each of these agencies.

B. No new nursing home shall hereafter be constructed, nor shall major alterations be made to existing nursing homes, without prior written approval, and unless in accordance with plans and specifications approved in advance by the Bureau of Engineering and Consulting Services of the Department of Health and Hospitals and the Office of State Fire Marshal. The review and approval of plans and specifications shall be made in accordance with these licensing requirements for nursing homes and the *State of Louisiana Sanitary Code*.

C. Before any new nursing home is licensed, or before any alteration or expansion of a licensed nursing home can be approved, the applicant must furnish one complete set of plans and specifications to the Bureau of Engineering and Consulting Services of the Department of Health and Hospitals and one complete set of plans and specifications to the Office of State Fire Marshal, together with fees and other information as may be required.

1. Plans and specifications for new construction, other than minor alterations, shall be prepared by or under the direction of a licensed architect and/or a qualified licensed engineer.

2. No residential conversions will be considered for a nursing home license.

D. In the event that submitted materials do not satisfactorily comply with the aforementioned publications, the Department of Health and Hospitals shall furnish a letter to the party submitting the plans which shall list the particular items in question and request further explanation and/or confirmation of necessary modifications.

E. Notice of satisfactory review from the Department of Health and Hospitals and the Office of State Fire Marshal constitutes compliance with this requirement, if construction begins within 180 days of the date of such notice. This approval shall in no way permit and/or authorize any omission or deviation from the requirements of any restrictions, laws, regulations, ordinances, codes, or rules of any responsible agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:

**§9709. Fire Protection**

All nursing homes required to be licensed by the law shall comply with the rules, established fire protection standards, and enforcement policies as promulgated by the Office of State Fire Marshal.

1. It shall be the primary responsibility of the Office of State Fire Marshal to determine if applicants are complying with those requirements.

2. No initial license shall be issued without the applicant furnishing a certificate from the Office of State Fire Marshal that such applicant is complying with their provisions.

3. A provisional license may be issued to the applicant if the Office of State Fire Marshal issues the applicant a conditional certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:

**§9711. Sanitation and Patient Safety**

All nursing facilities required to be licensed by the law shall comply with the rules, sanitary code and enforcement policies as promulgated by the Office of Public Health.

1. It shall be the primary responsibility of the Office of Public Health to determine if applicants are complying with those requirements.

2. No initial license shall be issued without the applicant furnishing a certificate from the Office of Public Health that such applicant is complying with their provisions.

3. A provisional license may be issued to the applicant if the Office of Public Health issues the applicant a conditional certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:



## Subchapter B. Organization and General Services

### §9713. Delivery of Services

A nursing home shall be administered in a manner that promotes the highest level of functioning and well-being of each resident.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:

### §9715. Governing Body

A. The nursing home shall have a governing body that is legally responsible for establishing and implementing policies regarding the management and operation of the nursing home. The governing body shall develop and approve policies and procedures which define and describe the scope of services offered. They shall be revised as necessary and reviewed at least annually.

B. The governing body shall be responsible for the operation of the nursing home.

C. The governing body shall appoint, in writing, a licensed administrator responsible for the management of the nursing home.

D. The governing body shall notify the department, in writing by certified mail, when a change occurs in the administrator position within 30 calendar days after the change occurs. The notice shall include the identity of the individual and the specific date the change occurred.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:

### §9717. Administration

A. There shall be a full-time Louisiana licensed nursing facility administrator. The administrator shall be engaged in the act of administration, and the activity shall be the major function of the person performing the act.

B. Another full-time employee shall be authorized, in writing, to act in the administrator's behalf when he/she is absent.

C. The administrator shall notify the department in writing when a change occurs in the director of nursing position within 30 calendar days after the change occurs. The notice shall include the identity of the individual and the specific date the change occurred.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:

### §9719. Personnel

A. There shall be sufficient qualified personnel to properly operate each department of the nursing home to assure the health, safety, proper care, and treatment of the residents. Time schedules shall be maintained indicating the numbers and classification of all personnel, including relief personnel, who work on each tour of duty. The time schedules shall reflect all changes so as to indicate who actually worked.

Should there be a need to commingle the nursing service staff with other personnel:

a. nurse aides shall not work in food preparation after having provided personal care to residents;

b. laundry and housekeeping personnel shall not provide nursing care functions to residents;

c. nursing service personnel, while assigned to care for residents, shall not be assigned routine housekeeping duties that should be performed by employees hired to perform the day-to-day routine housekeeping functions.

B. Personnel records shall be current and available for each employee and shall contain sufficient information to assure that they are assigned duties consistent with his or her job description and level of competence, education, preparation, and experience.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:

### §9721. Criminal History Provisions; Screening

A. Nursing homes shall have criminal history checks performed on nonlicensed personnel in accordance with R.S. 40:1300.5 et seq.

B. All personnel requiring licensure to provide care shall be licensed to practice in the state of Louisiana. Credentials of all licensed full-time, part-time and consultant personnel shall be verified on an annual basis, in writing, by a designated staff member.

C. TB Testing. All personnel, including volunteer workers, involved in direct resident care, shall adhere to Section 3, Chapter II of the *State of Louisiana Sanitary Code*, Sections 2:022-2:025-1 and 2:026.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:

### §9723. Policies and Procedures

A. There shall be written policies and procedures:

1. available to staff, residents, and the public governing all areas of care and service provided by the nursing home;

2. ensuring that each resident receives the necessary care and services to promote the highest level of functioning and well-being of each resident;

3. developed with the advice of a group of professional personnel consisting of at least a licensed physician, the administrator, and the director of nursing service;

4. approved by the governing body;

5. revised, as necessary, but reviewed by the professional group at least annually;

6. available to admitting physicians, sponsoring agencies, residents, and the public; and

7. reflecting awareness of, and provision for, meeting the total medical and psychosocial needs of residents, including admission, transfer, and discharge planning; and the range of services available to residents, including frequency of physician visits by each category of residents admitted.

B. The administrator, or his designee, is responsible, in writing, for the execution of such policies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.



HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:

**§9725. Assessments and Care Plans**

A. An assessment of the resident's nursing, medical, functional, activity and psychosocial needs/problems shall be performed and documented in each resident's clinical record by the appropriate discipline.

B. The assessment shall be used to develop the resident's plan of care which reflects the specific needs/problems of the resident, interventions to meet those needs/problems, and measurable objectives.

C. The assessment and care plan shall be completed within 21 days of admission.

D. The care plan shall be revised, as necessary, and reviewed, at least quarterly, by the personnel involved in the care of the resident.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:

**§9727. Staff Orientation, Training and Education**

A. New employees shall have an orientation program of sufficient scope and duration to inform the individual about his/her responsibilities and how to fulfill them.

B. The orientation program shall include at least a review of policies and procedures, job description, and performance expectations prior to the employee performing his/her responsibilities.

C. A staff development program shall be conducted by competent staff and/or consultants and planned based upon employee performance appraisals, resident population served by the nursing home, and as determined by facility staff. All employees shall participate in in-service education programs which are planned and conducted for the development and improvement of their skills.

D. The in-service training shall include at least problems and needs common to the age of those being served; prevention and control of infections; fire prevention and safety; emergency preparedness; accident prevention; confidentiality of resident information; and preservation of resident dignity and respect, including protection of privacy and personal and property rights.

E. The in-service training shall be sufficient to ensure the continuing competence of the staff but must be no less than 12 hours per year.

F. Records of in-service training shall be maintained indicating the content, time, names of employees in attendance, and the name of the presenter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:

**§9729. Emergency Preparedness**

A. The nursing home shall have an emergency preparedness plan (which conforms to the Office of Emergency Preparedness model plan) designed to manage the consequences of natural disasters or other emergencies that

disrupt the nursing home's ability to provide care and treatment or threaten the lives or safety of the nursing home residents.

B. As a minimum, the program shall have a written plan that describes:

1. the evacuation of residents to a safe place, either within the nursing home or to another location;

2. the delivery of essential care and services to nursing home residents, whether residents are housed off-site or when additional residents are housed in the nursing home during an emergency;

3. the provisions for the management of staff, including distribution and assignment of responsibilities and functions, either within the nursing home or at another location;

4. a plan for coordinating transportation services required for evacuating residents to another location; and

5. assurance that the resident's family or sponsor is notified if resident is evacuated to another location.

C. The nursing home's plan shall be activated at least annually, either in response to an emergency or in a planned drill. The nursing home's performance during the activation of the plan shall be evaluated and documented. The plan shall be revised if indicated by the nursing home's performance during the planned drill.

D. The nursing home's plan shall utilize community-wide resources in coordination with the local/parish Office of Emergency Preparedness.

E. The plan shall be available to representatives of the Office of the State Fire Marshal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:

**§9731. Complaint Process**

A. Provisions for Complaints. In accordance with R.S. 40:2009.13 et seq., the following requirements are established for receiving, evaluating, investigating, and correcting grievances pertaining to resident care in licensed nursing homes. They also provide for mandatory reporting of abuse and neglect in nursing homes.

B. Nursing Home Complaints, Procedure, Immunity

1. Any person having knowledge of the alleged abuse or neglect of a resident of a nursing home; or who has knowledge that a state law, licensing requirement, rule, or regulation, or correction order promulgated by the department, or any federal certification rule pertaining to a nursing home has been violated; or who otherwise has knowledge that a nursing home resident is not receiving care and treatment to which he is entitled under state or federal laws, may submit a complaint regarding such matter to the secretary (Department of Health and Hospitals). The complaint shall be submitted to the Health Standards Section of DHH in writing, by telephone, or by personal visit where the complainant will complete and sign a form furnished by the member of the secretary's staff receiving the complaint.

2. The secretary shall designate a staff member whose responsibility shall be to assure that all complaints received are referred to the appropriate office of the department (Health Standards Section).

3. If the complaint involves an alleged violation of any criminal law pertaining to nursing homes, the secretary shall refer the complaint to the Medicaid fraud control unit for investigation.

4. If the complaint involves any other matter, the secretary shall refer the complaint to the appropriate office for investigation in accordance with this Section.

5. Any person who, in good faith, submits a complaint pursuant to this Section shall have immunity from any civil liability that otherwise might be incurred or imposed because of such complaint. Such immunity shall extend to participation in any judicial proceeding resulting from the complaint.

#### C. Procedure for Investigation by the Office; Confidentiality of Complaints

1. The office of the department which has received the complaint from the secretary shall review the complaint and determine whether there are reasonable grounds for an investigation. No complaint shall be investigated if:

a. in the opinion of the office, it is trivial or not made in good faith;

b. it is too out dated and delayed to justify present investigation; or

c. the complaint is not within the investigating authority of the office.

2. If the office determines that grounds for an investigation do not exist, it shall notify the complainant of its decision and the reasons within 15 work days after receipt of such complaint.

3. If grounds for an investigation do exist, the office shall initiate an investigation of such complaint and make a report to the complainant on its findings within 30 work days after receipt of the complaint.

4. The substance of the complaint shall be given to the nursing home no earlier than at the commencement of the investigation of the complaint.

5. When the substance of the complaint is furnished the nursing home, it shall not identify the complainant or the patient unless he/she consents, in writing, to the disclosure. If the disclosure is considered essential to the investigation or if the investigation results in a judicial proceeding, the complainant shall be given the opportunity to withdraw the complaint.

#### D. Investigation Report

1. The investigation report of the department shall state whether any nursing home licensing law, or any licensing requirement, rule, regulation, or correction order of the Department of Health and Hospitals, or any standard relating to the health, safety, care, or treatment of residents in nursing homes has been violated.

a. If such violation is found to exist, the appropriate departmental staff shall immediately provide notice of such violation to the secretary.

b. The report shall also contain a deficiency statement to the nursing home. A copy of the report shall be sent by certified mail or hand-delivered to the complainant and to the nursing home.

2. The deficiency statement shall describe the violation; list the rule or law violated; and solicit corrective actions to be taken by the nursing home.

3. A nursing home which is ordered to correct deficiencies may file a written request that the department review the corrective action taken by the home and, if necessary, reinspect the home.

a. The department shall comply with the request in a timely manner.

b. If no such request is received, the department shall review the steps taken by the home in order to comply with the corrective order and, if necessary, reinspect the home on the final date fixed for completion of the correction of the violation.

4. If the violation is found to continue to exist on the correction date, the office shall notify the appropriate department to take further action as indicated applicable by state and/or federal regulations.

#### E. Hearing

1. A complainant or nursing home who is dissatisfied with the department's determination or investigation may request a hearing.

2. A request for a hearing shall be submitted, in writing, to the secretary within 30 days after the department's report has been mailed in accordance with the provisions of R.S. 40:2009.15A(1).

3. Notice of the time and place fixed for the hearing shall be sent to the complainant and the nursing home.

4. All appeal procedures shall be conducted in accordance with the Administrative Procedure Act.

F. Prohibition Against Retaliation. No discriminatory or retaliatory action shall be taken by any health care facility or government agency against any person or client by whom or for whom any communication was made to the department or unit, provided the communication is made in good faith for the purpose of aiding the office or unit to carry out its duties and responsibilities.

G. Notice of the Complaint Procedure. Notice of the complaint procedure, complete with the name, address, and telephone number of the Health Standards Section of the Office of the Secretary of the Department of Health and Hospitals, shall be posted conspicuously in the nursing home at places where residents gather, including, but not limited to, the administrative office, the dining hall, the activity room, and all nurses' stations.

H. In accordance with R.S. 14:403.2, 14:93.3, 14:93.4 and 14:93.5, all nursing homes shall adhere to the adult protective services laws.

#### I. Duty to Make Complaints; Penalty; Immunity

1. Any person who is engaged in the practice of medicine, social services, facility administration, psychological or psychiatric treatment; or any registered nurse, licensed practical nurse, or nurse's aid, who has actual knowledge of the abuse or neglect of a resident of a health care facility shall, within 24 hours, submit a complaint to the secretary or inform the unit or local law enforcement agency of such abuse or neglect.

2. Any person who knowingly or willfully violates the provisions of this Section shall be fined not more than \$500; or imprisoned for not more than two months; or both.

3. Any person who, in good faith, submits a complaint pursuant to this Section shall have immunity from any civil

liability that otherwise might be incurred or imposed because of such complaint. Such immunity shall extend to participation in any judicial proceeding resulting from the complaint.

4. Any person, other than the person alleged to be responsible for the abuse or neglect, reporting pursuant to this Section in good faith, shall have immunity from any civil liability that otherwise might be incurred or imposed because of such report. Such immunity shall extend to participation in any judicial proceeding resulting from such report.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:

### **Subchapter C. Resident Rights**

#### **§9733. Statement of Rights and Responsibilities**

A. In accordance with R.S. 40:2010.8 et seq., all nursing homes shall adopt and make public a statement of the rights and responsibilities of the residents residing therein and shall treat such residents in accordance with the provisions of the statement. The statement shall assure each resident the following:

1. the right to civil and religious liberties including, but not limited to, knowledge of available choices; the right to independent personal decision; and the right to encouragement and assistance from the staff of the facility in the fullest possible exercise of these civil and religious rights:

a. the right to private and uncensored communications including, but not limited to, receiving and sending unopened correspondence; access to a telephone; visitation with any person of the resident's choice; and overnight visitation outside the facility with family and friends in accordance with nursing home policies and physician's orders without the loss of his bed;

b. nursing home visiting hours shall be flexible, taking into consideration special circumstances such as out-of-town visitors and working relatives or friends. With the consent of the resident and in accordance with the policies approved by the Department of Health and Hospitals, the home shall permit recognized volunteer groups, representatives of community-based legal, social, mental health, and leisure and planning programs, and members of the clergy access to the home during visiting hours for the purpose of visiting with and providing services to any resident;

2. the right to present grievances on behalf of himself or others to the nursing home's staff or administrator, to governmental officials, or to any other person; to recommend changes in policies and services to nursing home personnel; and to join with other residents or individuals within or outside the home to work for improvements in resident care, free from restraint, interference, coercion, discrimination or reprisal. This right includes access to the resident's sponsor and the Department of Health and Hospitals; and the right to be a member of, to be active in, and to associate with advocacy or special interest groups;

3. the right to manage his own financial affairs or to delegate such responsibility to the nursing home, but this delegation may be only to the extent of the funds held in trust

for the resident by the home. A quarterly accounting of any transactions made on behalf of the resident shall be furnished to the resident and his sponsor, if requested. A copy shall be retained in the resident's records on file in the home;

4. the right to be fully informed, in writing and orally, prior to or at time of admission and during his stay, of services not covered by the basic per diem rates and of bed reservation and refund policies of the home;

5. the right to be adequately informed of his medical condition and proposed treatment, unless otherwise indicated by the resident's physician; to participate in the planning of all medical treatment, including the right to refuse medication and treatment, unless otherwise indicated by the resident's physician; and to be informed of the consequences of such actions;

6. the right to receive adequate and appropriate health care and protective and support services, including services consistent with the resident care plan, with established and recognized practice standards within the community and with rules promulgated by the Department of Health and Hospitals;

7. the right to have privacy in treatment and in caring for personal needs:

a. to have closed room doors, and to have facility personnel knock before entering the room, except in case of an emergency or unless medically contraindicated;

b. to have confidentiality in the treatment of personal and medical records; and

c. to be secure in storing and using personal possessions, subject to applicable state and federal health and safety regulations and the rights of other residents;

d. privacy of the resident's body shall be maintained during, but not limited to, toileting, bathing, and other activities of personal hygiene, except as needed for resident safety or assistance;

8. the right to be treated courteously, fairly, and with the fullest measure of dignity and to receive a written statement and oral explanations of the services provided by the home, including statements and explanations required to be offered on an as-needed basis;

9. the right to be free from mental and physical abuse and from physical and chemical restraints, except those restraints authorized by the attending physician for a specified and limited period of time or those necessitated by an emergency:

a. in case of an emergency, restraint may only be applied by a qualified licensed nurse, who shall set forth, in writing, the circumstances requiring the use of the restraint, and, in case of a chemical restraint, the attending physician shall be consulted immediately thereafter;

b. restraints shall not be used in lieu of staff supervision or merely for staff convenience or resident punishment, or for any reason other than resident protection or safety;

10. the right to be transferred or discharged:

a. a resident can be transferred or discharged only if necessary for his welfare and if his needs cannot be met in the facility; his health has improved sufficiently so that he no longer needs the services provided by the facility; the safety of individuals in the facility is endangered; the health of

individuals in the facility would otherwise be endangered; he has failed, after reasonable and appropriate notice, to pay or have paid for a stay at the facility; or the facility ceases to operate;

b. both the resident and his legal representative or interested family member, if known and available, have the right to be notified, in writing, in a language and manner they understand, of the transfer and discharge. The notice must be given no less than 30 days in advance of the proposed action, except that the notice may be given as soon as is practicable prior to the action in the case of an emergency. In facilities not certified to provide services under Title XVIII or Title XIX of the Social Security Act, the advance notice period may be shortened to 15 days for nonpayment of a bill for a stay at the facility;

c. the resident, or his legal representative or interested family member, if known and available, has the right to appeal any transfer or discharge to the Department of Health and Hospitals, which shall provide a fair hearing in all such appeals;

d. the facility must ensure that the transfer or discharge is effectuated in a safe and orderly manner. The resident and his legal representative or interested family member, if known and available, shall be consulted in choosing another facility if facility placement is required;

11. the right to select a personal physician; to obtain pharmaceutical supplies and services from a pharmacy of the resident's choice, at the resident's own expense; and to obtain information about, and to participate in, community-based activities and programs, unless medically contraindicated, as documented by the attending physician in the resident's medical record, and such participation would violate infection control laws or regulations;

12. the right to retain and use personal clothing and possessions, as space permits, unless to do so would infringe upon the rights of other residents or unless medically contraindicated, as documented by the attending physician in the resident's medical record. Clothing need not be provided to the resident by the home, except in emergency situations. If provided, it shall be of reasonable fit;

13. the right to have copies of the nursing home's rules and regulations and an explanation of the resident's responsibility to obey all reasonable rules and regulations of the nursing home and of his responsibility to respect the personal rights and private property of other residents;

14. the right to be informed of the bed reservation policy for a hospitalization:

a. the nursing home shall inform a private pay resident and his sponsor that his bed shall be reserved for any single hospitalization for a period up to 30 days, provided the nursing home receives reimbursement;

b. notice shall be provided within 24 hours of the hospitalization;

15. the right to receive a prompt response to all reasonable requests and inquiries;

16. the right of the resident to withhold payment for physician visitation if the physician did not examine the resident;

17. the right to refuse to serve as a medical research subject without jeopardizing access to appropriate medical care;

18. the right to use tobacco, at his own expense, under the home's safety rules and under applicable laws and rules of the state, unless the facility's written policies preclude smoking in designated areas;

19. the right to consume a reasonable amount of alcoholic beverages, at his own expense, unless:

a. not medically advisable, as documented in his medical record by the attending physician; or

b. unless alcohol is contraindicated with any of the medications in the resident's current regime; or

c. unless expressly prohibited by published rules and regulations of a nursing home owned and operated by a religious denomination which has abstinence from the consumption of alcoholic beverages as a part of its religious belief;

20. the right to retire and rise in accordance with his reasonable requests, if he does not disturb others and does not disrupt the posted meal schedules and, upon the home's request, if he remains in a supervised area unless retiring and rising in accordance with the resident's request is not medically advisable, as documented in his medical record by the attending physician;

21. the right to have any significant change in his health status immediately reported to him and his legal representative or interested family member, if known and available, as soon as such a change is known to the home's staff.

B. A sponsor may act on a resident's behalf to assure that the nursing home does not deny the resident's rights under the provisions of R.S. 40:2010.6 et seq., and no right enumerated therein may be waived for any reason whatsoever.

C. Each nursing home shall provide a copy of the statement required by R.S. 40:2010.8(A) to each resident and sponsor upon or before the resident's admission to the home and to each staff member of the home. The statement shall also advise the resident and his sponsor that the nursing home is not responsible for the actions or inactions of other persons or entities not employed by the facility, such as the resident's treating physician, pharmacists, sitter, or other such persons or entities employed or selected by the resident or his sponsor. Each home shall prepare a written plan and provide appropriate staff training to implement the provisions of R.S. 40:2010.6 et seq., including but not limited to, an explanation of the following:

1. the residents' rights and the staff's responsibilities in the implementation of those rights;

2. the staff's obligation to provide all residents who have similar needs with comparable services, as required by state licensing standards.

D. Any violations of the residents' rights set forth in R.S. 40:2010.6 et seq. shall constitute grounds for appropriate action by the Department of Health and Hospitals.

1. Residents shall have a private right of action to enforce these rights, as set forth in R.S. 40:2010.9. The state courts shall have jurisdiction to enjoin a violation of resident's rights and to assess fines for violations, not to exceed \$100 per individual violation.

2. In order to determine whether a home is adequately protecting residents' rights, inspection of the home by the Department of Health and Hospitals shall include private, informal conversations with a sample of residents to discuss residents' experiences within the home with respect to the rights specified in R.S. 40:2010.6 et seq., and with respect to compliance with departmental standards.

E. Any person who submits or reports a complaint concerning a suspected violation of residents' rights or concerning services or conditions in a home or health care facility or who testifies in any administrative or judicial proceedings arising from such complaint shall have immunity from any criminal or civil liability therefor, unless that person has acted in bad faith with malicious purpose, or if the court finds that there was an absence of a justiciable issue of either law or fact raised by the complaining party.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:

#### **Subchapter D. Sanctions and Appeal Procedures**

##### **§9735. Authority and Scope**

Any person or entity found to be in violation of any provision of R.S. 40:2009.1 through 40:2009.11 may be sanctioned by revocation of license, nonrenewal of license, or by civil fines as mandated by state law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:

##### **§9737. Considerations**

The secretary shall impose the sanction(s) which will bring the nursing home into compliance in the most efficient and effective manner, with the care and well-being of the residents being the paramount consideration. The secretary's decision shall be based on an assessment of some or all of the following factors:

1. whether the violations pose an immediate threat to the health or safety of the residents;
2. the duration of the violations;
3. whether the violation (or one that is substantially similar) has previously occurred during the last three consecutive surveys.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:

##### **§9739. Repeat Violations**

The Department of Health and Hospitals shall have the authority to determine whether a violation is a repeat violation and shall inform the facility in its notice of that determination. Violations may be considered repeat violations by the Department of Health and Hospitals if the one or more of the following conditions are found to exist.

1. Where the Department of Health and Hospitals has established the existence of a violation as of a particular date, and the violation is one that may be reasonably expected to continue until corrective action is taken, the department may

elect to treat said continuing violation as a repeat violation subject to appropriate fines for each day following the date on which the initial violation is established, until such time as there is evidence establishing a date by which the violation was corrected.

2. Where the Department of Health and Hospitals has established the existence of a violation, and another violation which is the same or substantially similar to the previous violation occurs within 18 months, the subsequent violation and all other violations thereafter shall be considered repeat violations subject to fines and other sanctions appropriate for repeat violations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:

##### **§9741. Notice and Appeal Procedure**

A. Unless otherwise indicated, any sanction may be administratively appealed in the manner described in the nursing home law in Section 2009.11.

Notice to Facility of Violation. When the Department of Health and Hospitals has reasonable cause to believe, through an on-site survey, a complaint investigation, or other means that there exists or has existed a threat to the health, safety, welfare, or rights of a nursing facility resident, the department shall give notice of the violation(s) in the following manner.

a. The head of the survey team shall conduct an exit conference and give the facility administrator or his designee the preliminary finding of fact and the possible violations before leaving the facility.

b. The department shall follow the discussion with confirmed written notice, given by certified mail or hand delivery, to the facility administrator.

c. The department's written notice of deficiencies shall be consistent with the findings delineated at the conference and shall:

- i. specify the violation(s);
- ii. cite the legal authority which established such violation(s);
- iii. cite any sanctions assessed for each violation;
- iv. inform the administrator that the facility has 10 days from receipt of notice, sent by certified mail or hand delivery, within which to request a reconsideration of the proposed agency action;
- v. inform the administrator of the facility that the consequences of failing to timely request an administrative appeal will be that the departmental determination will be considered final, and that no further administrative or judicial review will be had;
- vi. inform the administrator of the facility if the department has elected to regard the violation(s) as repeat violation(s) or as continuing violation(s) and the manner in which sanctions will be imposed.

B. The facility may request administrative reconsideration of the department's findings. This request must be made, in writing, within 10 days after receipt of the initial notice from the state survey agency. This reconsideration of findings shall be conducted by designated employees of the department who did not participate in the initial decision to cite the

deficiencies. Reconsideration shall be made on the basis of documents before the designated employees and shall include the survey report and statement of deficiencies and all documentation the facility submits to the department at the time of its request for reconsideration. Correction of a deficiency shall not be a basis for reconsideration. Oral presentations can be made by department spokesmen and facility spokesmen. This process is not in lieu of the appeals process. The designated employees shall have authority only to affirm the survey findings; revoke some or all of the cited deficiencies; or request additional information from either the department or the facility. The department shall notify the facility of its decision within three working days after the oral presentation and receipt of all requested documentation. Participation in the reconsideration does not delay the imposition of recommended remedies.

C. If the facility requests an administrative appeal, such request shall:

1. state which violation(s) the facility contests and the specific reasons for disagreement;

2. be submitted to the Department of Health and Hospitals within 30 days of receipt of the secretary's decision on the final agency action by certified mail or hand delivery;

D. the administrative hearing shall be limited to those issues specifically contested and shall not include any claim or argument that the violation(s) have been corrected. Any violations not specifically contested shall become final, and sanctions shall be enforced at the expiration of the time for appeal. All violations/sanctions not contested shall become final at the expiration of the appeal request time period.

E. If the facility does not request an administrative appeal in a timely manner or does not submit satisfactory evidence to rebut the department's findings of a violation, the decision to impose sanctions will be final and the secretary shall have the authority to enforce sanctions, as provided in these regulations.

F. The department may institute all necessary civil court action to collect fines imposed and not timely appealed. No nursing facility may claim fines as reimbursable costs, nor increase charges to residents as a result of such fines. Interest shall begin to accrue at the current judicial rate on the day following the date on which any fines become due and payable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:

#### §9743. Civil Money Penalties (Fines)

A. The following listed civil fines pertaining to classified violations may be assessed by the secretary against nursing homes. In the case of class "A" violations, the following civil fines shall be assessed. In the cases of class "B," "C," "D," or "E" violations, the secretary, in his discretion, may elect to assess the following civil fines or may allow a specified period of time for correction of said violation. For class "D" and "E" violations, the facility will be given notice of the fine at the time of the first violation and may be given an opportunity to demonstrate compliance before the fine becomes final.

1. If compliance is demonstrated on the follow-up visit, payment of the fine may be waived. In all instances the violation is counted and recorded.

2. If compliance is not demonstrated at the next visit, the penalty for a repeat violation will be assessed. No facility shall be penalized because of a physician's or consultant's nonperformance beyond the facility's control or if the violation is beyond the facility's control, if the situation and the efforts to correct it are clearly documented.

3. It is not the intent that every violation found on a survey, inspection, or related visit should be accompanied by an administrative penalty.

B. Class "A" violations are subject to a civil fine which shall not exceed \$2,500 for the first violation. A second class "A" violation occurring within an 18-month period from the first violation shall not exceed \$5,000 per day.

C. Class "B" violations are subject to a civil fine which shall not exceed \$1,500 for the first violation. A second Class "B" violation occurring within an 18-month period from the first violation shall not exceed \$3,000 per day.

D. Class "C" violations are subject to a civil fine which shall not exceed \$1,000 for the first violation. A second Class "C" violation occurring within an 18-month period from the first violation shall not exceed \$2,000 per day.

E. Class "D" violations are subject to a civil fine which shall not exceed \$100 for the first violation. Each subsequent Class "D" violation within an 18-month period from the first violation shall not exceed \$250 per day.

F. Class "E" violations are subject to a civil fine which shall not exceed \$50 for the first violation. Each subsequent Class "E" violation occurring within an 18-month period from the first violation shall not exceed \$100 per day.

G. The total amount of fines assessed for violations determined in any one month shall not exceed \$5,000, except that the aggregate fines assessed for Class "A" or "B" violations shall not exceed \$10,000 in any one month.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:

#### §9745. Classes of Violations Defined

A. *Class "A" Violations*—those violations which create a condition or occurrence relating to the operation and maintenance of a nursing home which result in death or serious harm to a resident.

B. *Class "B" Violations*—those violations which create a condition or occurrence relating to the operation and maintenance of a nursing home which create a substantial probability that death or serious physical harm to a resident will result from the violation.

C. *Class "C" Violations*—conduct, acts, or omissions which do not result in death or serious physical harm to a resident or the substantial probability thereof but create a condition or occurrence relating to the operation and maintenance of a nursing home that create a potential for harm by directly threatening the health, safety, rights or welfare of a resident are Class "C" violations.

D. *Class "D" Violations*—those violations which are related to administrative and reporting requirements that do

not directly threaten the health, safety, rights, or welfare of a resident.

E. *Class "E" Violations*—Class "E" violations are defined as the failure of any nursing home to submit a statistical or financial report in a timely manner as required by regulations. The failure to timely submit a statistical or financial report shall be considered a separate Class "E" violation during any month or part thereof in noncompliance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:

#### **9747. Collection of Civil Fines Assessed**

Civil fines assessed shall be final if:

1. no timely or proper appeal was requested;
  2. the facility admits the violations and agrees to pay;
- and
3. the administrative hearing is concluded with findings of violations and time for seeking judicial review has expired. When civil fines become final, they shall be paid in full within 10 days of their commencement unless the department allows a payment schedule in light of a documented financial hardship. Such documentation shall be submitted within the 10-day period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:

#### **§9749. Revocation of License**

A. The secretary of the Department of Health and Hospitals may deny an application for a license or refuse to renew a license or may revoke an outstanding license when an investigation reveals that the applicant or licensee is in nonconformance with or in violation of the provisions of R.S. 40:2009.6, provided that in all such cases, the secretary shall furnish the applicant or licensee 30 calendar days written notice specifying reasons for the action.

B. The secretary, in a written notice of denial, nonrenewal, or revocation of a license shall notify the applicant or licensee of his right to file a suspensive appeal with the office of the secretary within 30 calendar days from the date the notice, as described in this Subchapter, is received by him. This appeal or request for a hearing shall specify, in detail, reasons why the appeal is lodged and why the appellant feels aggrieved by the action of the secretary.

C. When any appeal, as described in this Subchapter, is received by the secretary, if timely filed, he shall appoint an impartial three-member board to conduct a hearing on the appeal, at such time and place as such members deem proper, and after such hearing, to render a written opinion on the issues presented at the hearing.

The written decision or opinion of a majority of the members conducting the hearing shall constitute final administrative action on the appeal.

D. Any member of said board or the secretary shall have power to administer oaths and to subpoena witnesses on behalf of the board or any party in interest and compel the production of books and papers pertinent to any investigation

or hearing authorized by this Subchapter, provided that in all cases witness fees and transportation and similar hearing costs shall be paid by the appellant or by the Department of Health and Hospitals if the appellant is found innocent of charges. Any person, having been served with a subpoena, who shall fail to appear in response to the subpoena or fail or refuse to answer any question or fail to produce any books or papers pertinent to any investigation or hearing or who shall knowingly give false testimony therein shall be guilty of a misdemeanor and shall, upon conviction, be punished by a fine of not less than \$100, nor more than \$500, or by imprisonment of not less than one month nor more than six months, or by both such fine and imprisonment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:

### **Chapter 98. Nursing Homes**

#### **Subchapter A. Physician Services**

##### **§9801. Medical Director**

A. The nursing home shall designate, pursuant to a written agreement, a physician currently holding an unrestricted license to practice medicine by the Louisiana State Board of Medical Examiners to serve as medical director.

B. The medical director shall be responsible for the overall coordination of the medical care in the nursing home by providing oversight and supervision of physician services and the medical care of residents.

C. The medical director shall approve all medical care policies and procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:

##### **§9803. Physician Supervision**

A. A resident shall be admitted to the nursing home only with an order from a physician licensed to practice in Louisiana.

1. Each resident shall remain under the care of a physician licensed to practice in Louisiana and shall have freedom of choice in selecting his/her attending physician.

2. The nursing home shall be responsible for assisting in obtaining an attending physician, with the resident's or sponsor's approval, when the resident or sponsor is unable to find one.

B. Another physician supervises the medical care of residents when their attending physician is unavailable.

C. Any required physician task may also be satisfied when performed by an advanced-practice registered nurse or physician assistant who is not an employee of the nursing home, but who is working under the direction and supervision of a physician.

D. The nursing home shall provide or arrange for the provision of physician services 24 hours a day, in case of emergency.

E. The name and telephone numbers of the attending physicians and the physicians to be called in case of emergency, when the attending physician is not available,



shall be posted at each nursing station. Upon request, the telephone numbers of the attending physician or his/her replacement in case of emergency shall be provided to the resident, guardian, or sponsor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:

#### **§9805. Physician Visits and Responsibilities**

A. At the time each resident is admitted, the nursing home shall have attending physician's orders for the resident's immediate care. At a minimum, these orders shall consist of dietary, drugs (if necessary), and routine care to maintain or improve the resident's functional abilities.

B. If the orders are from a physician other than the resident's attending physician, they shall be communicated to the attending physician and verification entered into the resident's clinical record by the nurse who took the orders.

C. A physical examination shall be performed by the attending physician within 72 hours after admission, unless such examination was performed within 30 days prior to admission, with the following exceptions:

1. if the physical examination was performed by another physician, the attending physician may attest to its accuracy by countersigning it and placing a copy in the resident's record; or

2. if the resident is transferring from another nursing home with the same attending physician, a copy of the previous physical examination may be obtained from the transferring facility with the attending physician initialing its new date. The clinical history and physical examination, together with diagnoses shall be in the resident's medical record.

D. Each resident shall be seen by his/her attending physician at intervals to meet the medical needs of the resident, but at least annually.

E. At each visit, the attending physician shall write, date and sign progress notes.

F. The physician's treatment plan (physician's orders) shall be reviewed by the attending physician at least once annually.

G. Physician telephone/verbal orders shall be received only by physicians, pharmacists, or licensed nurses. These orders shall be reduced to writing in the resident's clinical record and signed and dated by the authorized individual receiving the order. Telephone/verbal orders shall be countersigned by the physician within seven days.

H. Use of signature stamps by physicians is allowed when the signature stamp is authorized by the individual whose signature the stamp represents. The administrative office of the nursing home shall have on file a signed statement to the effect that the physician is the only one who has the stamp and uses it. There shall be no delegation of signature stamps to another individual.

I. At the option of the nursing home attending physician, any required physician task in a nursing home may also be satisfied when performed by an advanced-practice registered nurse when these tasks are within their realm of education and practice, or physician assistant when these tasks are so identified within their protocols, and who is not an employee

of the nursing home, but who is working under the direction and supervision of an attending physician.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:

#### **§9807. Standing Orders**

A. Physician's standing orders are permissible but shall be individualized, taking into consideration such things as drug allergies, sex-specific orders, and the pertinent physical condition of the resident.

B. Only over-the-counter drugs are to be utilized on a physician's standing orders. Controlled or prescription drugs must be an individual order reduced to writing on the physician's order sheet as either a routine or pro re nata (prn) order. Each order shall include the following:

1. name of the medication;
2. strength of the medication;
3. specific dose of the medication (not a dose range);
4. route of administration;
5. reason for administration;
6. time interval between doses for administering the medication;
7. maximum dosage or number of times to be administered in a specific time frame; and
8. when to notify the attending physician if the medication is not effective.

C. Standing orders shall be signed and dated by the attending physician initially and at least annually thereafter.

D. A copy of the standing orders shall be maintained in the resident's active clinical record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:

### **Subchapter B. Nursing Services**

#### **§9809. General Provisions**

The nursing home shall have sufficient nursing staff to provide nursing and related services that meet the needs of each resident. The nursing home shall assure that each resident receives treatments, medications, diets, and other health services as prescribed and planned, all hours of each day.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:

#### **§9811. Nursing Service Personnel**

A. The nursing home shall provide a sufficient number of nursing service personnel consisting of registered nurses, licensed practical nurses, and nurse aides to provide nursing care to all residents in accordance with resident care plans 24 hours per day.

1. As a minimum, the nursing home shall provide 1.5 hours of care per patient each day.

2. Nursing service personnel shall be assigned duties consistent with their education and experience, and based on



the characteristics of the resident load and the kinds of nursing skills needed to provide care to the residents.

3. Nursing service personnel shall not be deemed to be on duty unless actively participating and directing the delivery of resident care. Licensed nurse coverage shall be provided 24 hours per day.

B. The nursing home shall designate a registered nurse to serve as the director of nursing services on a full-time basis during the day-tour of duty. The director of nursing services may serve as charge nurse only when the nursing home has an average daily occupancy of 60 or fewer residents.

C. If the director of nursing services has non-nursing administrative responsibility for the nursing home on a regular basis, there shall be another registered nurse assistant to provide direction of care-delivery to residents.

D. There shall be on duty, at all times, at least one licensed nurse to serve as charge nurse responsible for the supervision of the total nursing activities in the nursing home or assigned nursing unit.

E. Nurse aides shall be assigned duties consistent with their training and successful demonstration of competencies.

F. In building complexes or multistory buildings, each building or floor housing residents shall be considered a separate nursing unit and staffed separate, exclusive of the director of nursing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:

#### **§9813. Nursing Care**

A. Each resident shall receive personal attention and nursing care in accordance with his/her condition and consistent with current acceptable nursing practice. Residents unable to carry out activities of daily living shall receive the necessary services to maintain good nutrition, grooming, and personal and oral hygiene.

B. Each resident shall be kept clean, dry, free of offensive body and mouth odor, well-groomed and dressed appropriately to the time of day and the environment. Skin care shall be provided to each resident as needed to prevent dryness, scaling, irritation, itching and/or pressure sores.

C. Restorative nursing care shall be provided to each resident to achieve and maintain the highest possible degree of function, self-care, and independence. Restorative nursing care shall be provided for the residents requiring such care.

D. Residents requiring assistance at mealtimes shall be assisted promptly when necessary.

E. The nursing home shall endeavor to keep residents free from pressure sores with measures taken toward their prevention.

F. Residents requiring restraints shall be restrained with standard types of devices, applied in a manner consistent with manufacturer's specifications, and that permits speedy removal in the event of an emergency. Each restrained resident shall be monitored every 30 minutes and released for 10 minutes every two hours. Restraints shall not be used for punishment nor convenience of staff.

G. The nursing home shall promptly inform the resident; consult with the resident's attending physician; notify the

resident's legal representative or interested family member, if known; and maintain documentation when there is an accident which results in injury and requires physician intervention, or significant change in the resident's physical, mental or psychosocial status.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:

#### **Subchapter C. Dietetic Services**

##### **§9815. General Provisions**

The nursing home shall provide each resident with a nourishing, palatable, well-balanced diet that meets the daily nutritional and special dietary needs of each resident.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:

##### **§9817. Dietary Service Personnel**

A. The nursing home shall employ a registered dietitian either full-time, part-time or on a consultant basis. A minimum consultation time shall be not less than eight hours per month to ensure nutritional needs of residents are addressed timely. There shall be documentation to support that the consultation time was given.

B. If a registered dietitian is not employed full-time, the nursing home shall designate a full-time person to serve as the dietary manager.

C. Residents at nutritional risk shall have an in-depth nutritional assessment conducted by the consulting dietitian.

D. The nursing home shall employ sufficient support personnel competent to carry out the functions of the dietary services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:

##### **§9819. Menus and Nutritional Adequacy**

A. Menus shall be planned, approved, signed and dated by a registered dietitian prior to use in the nursing home to meet the nutritional needs of the residents in accordance with the recommended dietary allowances of the Food and Nutrition Board of the National Research Council and the National Academy of Sciences, taking into account the cultural background and food habits of residents, or as modified in accordance with the orders of the practitioner(s) responsible for the care of the resident:

1. menus shall be written for each therapeutic diet ordered;

2. if cycle menus are used, the cycle shall cover a minimum of three weeks and shall be different each day of the week;

3. each day's menu shall show the actual date served and shall be retained for six months;

4. menus for the current week shall be posted in a public place or supplied to the residents and where food is prepared

and served for dietary personnel. Portion sizes shall be reflected either on the menu or within the recipe used to prepare the meal.

B. Therapeutic diets shall be prescribed by the medical practitioner responsible for the care of the resident. Each resident's diet order shall be documented in the resident's clinical record. There shall be a procedure for the accurate transmittal of dietary orders to the dietary service and informing the dietary service when the resident does not receive the ordered diet or is unable to consume the diet, with action taken as appropriate.

1. The nursing home shall maintain a current list of residents identified by name, room number, and diet order, and such identification shall accompany each resident's meal when it is served.

2. A current therapeutic diet manual, approved by a registered dietitian, shall be readily available to attending physicians, nursing staff, and dietetic service personnel and shall be the guide used for ordering and serving diets.

C. Each resident shall receive and the nursing home shall provide:

1. at least three meals daily, at regular times comparable to normal mealtimes in the community;

2. food prepared by methods that conserve nutritive value, flavor, and appearance;

3. food that is palatable, attractive and at the proper temperature;

4. food prepared in a form designed to meet individual needs; and

5. substitutes offered of similar nutritional value to residents who refuse food or beverages served.

D. A list of all menu substitutions shall be kept for 30 days.

E. There shall be no more than 14 hours between a substantial evening meal and breakfast the following day. A substantial evening meal is defined as an offering of three or more menu items at one time, one of which includes a high-quality protein such as meat, fish, eggs, or cheese.

F. There shall be no more than 16 hours between a substantial evening meal and breakfast the following day when a nourishing snack is offered at bedtime. A nourishing snack is defined as a verbal offering of items, single or in combination, from the basic food groups.

G. Bedtime nourishments shall be offered nightly to all residents, unless contraindicated by the resident's medical practitioner, as documented in the resident's clinical record.

H. If residents require assistance in eating, food shall be maintained at appropriate serving temperatures until assistance is provided. Feeder trays shall be delivered at the time staff is immediately available for feeding.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:

#### §9821. Equipment and Supplies

A. Special eating equipment and utensils shall be provided for residents who need them. At least a one week supply of staple food with a three-day supply of perishable food conforming to the approved menu shall be maintained on the

premises. Food purchase records reflecting the kind and amount of food purchased shall be maintained for one year.

B. An approved lavatory shall be convenient and properly equipped for dietary services staff use.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:

#### §9823. Sanitary Conditions

A. All food shall be procured, stored, prepared, distributed, and served under sanitary conditions to prevent food borne illness. This includes keeping all readily perishable food and drink at or below 41°F, except when being prepared and served.

B. Refrigerator temperatures shall be maintained at 41°F or below; freezers at 0°F or below.

C. Hot foods shall leave the kitchen or steam table at or above 140°F, and cold foods at or below 41°F.

D. In-room delivery temperatures shall be maintained at 120°F or above for hot foods and 55°F or below for cold items.

E. Food shall be transported to residents' rooms in a manner that protects it from contamination, while maintaining required temperatures.

F. Refrigerated food which has been opened from its original package shall be covered, labeled, and dated.

G. All food shall be procured from sources that comply with all laws and regulations related to food and food labeling.

H. Food shall be in sound condition, free from spoilage, filth, or other contamination and shall be safe for human consumption.

I. All equipment and utensils used in the preparation and serving of food shall be properly cleansed, sanitized, and stored. This includes:

1. maintaining a water temperature in dishwashing machines at 140°F during the wash cycle (or according to the manufacturer's specifications or instructions) and 180°F for the final rinse; or

2. maintaining water temperature in low temperature machines at 120°F (or according to the manufacturer's specification or instructions) with 50 ppm (parts per million) of hypochlorite (household bleach) on dish surfaces; or

3. maintaining a wash water temperature of 75°F, for manual washing in a three-compartment sink, with 25 ppm of hypochlorite or equivalent, or 12.5 ppm of iodine in the final rinse water; or a hot water immersion at 170°F for at least 30 seconds shall be maintained.

J. Dietary staff shall not store personal items within the food preparation and storage areas.

K. The kitchen shall not be used for dining of residents or personnel.

L. Dietary staff shall use good hygienic practices.

M. Dietary employees engaged in the handling, preparation and serving of food shall use effective hair restraints to prevent the contamination of food or food contact surfaces.

N. Staff with communicable diseases or infected skin lesions shall not have contact with food if that contact will transmit the disease.

O. There shall be no use of tobacco products in the dietary department.

P. Toxic items such as insecticides, detergents, polishes, and the like shall be properly stored, labeled and used.

Q. Garbage and refuse shall be kept in durable, easily cleanable, insect and rodent-proof containers that do not leak and do not absorb liquids. Containers used in food preparation and utensil washing areas shall be kept covered when meal preparation is completed and when full.

R. All ice intended for human consumption shall be free of visible trash and sediment.

1. Ice used for cooling stored food and food containers shall not be used for human consumption.

2. Ice stored in machines outside the kitchen shall be protected from contamination.

3. Ice scoops shall be stored in a manner so as to protect them from becoming soiled or contaminated between usage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:

#### **Subchapter D. Pharmaceutical Services**

##### **§9825. General Requirements**

A. The nursing home shall provide emergency drugs and biologicals to its residents from an emergency kit licensed by the Louisiana State Board of Pharmacy and shall provide routine and emergency drugs and biologicals, ordered by a licensed practitioner, from a licensed pharmacy. Whether drugs and biologicals are obtained from the emergency kit(s) or from a community or institutional pharmacy permitted by the Louisiana State Board of Pharmacy, the nursing home is responsible for ensuring the timely availability of such drugs and biologicals for its residents and that pharmaceutical services are provided in accordance with accepted professional standards and all appropriate federal, state, and local laws and regulations.

B. The most current edition of drug reference materials shall be available.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:

##### **§9827. Consultant**

A. If the nursing home does not employ a licensed pharmacist, it shall have a designated consultant pharmacist that provides services in accordance with accepted pharmacy principles and standards. The minimum consultation time shall not be less than one hour per quarter, which shall not include drug regimen review activities.

B. There shall be documentation to support that the consultation time was given.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:

##### **§9829. Labeling**

A. All drug and biological containers shall be properly labeled by a licensed pharmacist following the guidelines established by the Louisiana State Board of Pharmacy.

B. The label on prepackaged (unit dose) containers shall follow the established guidelines of the Louisiana State Board of Pharmacy.

C. Over-the-counter (nonprescription) medications and biologicals, may be purchased in bulk packaging and shall be plainly labeled with the medication name and strength and any additional information in accordance with the nursing home's policies and procedures. Over-the-counter medications specifically purchased for a resident shall be labeled as previously stipulated to include the resident's name. The manufacturer's labeling information shall be present in the absence of prescription labeling.

D. The nursing home shall develop procedures to assure proper labeling for medications provided a resident for a temporary absence.

E. The nursing home shall have a procedure for the proper identification and labeling of medication brought into the nursing home from an outside source.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:

##### **§9831. Storage**

A. All drugs and biologicals shall be stored in a locked area/cabinet and kept at proper temperatures and lighting. The medicine room or medication preparation area shall have an operable sink with hot and cold water, paper towels, and a soap dispenser.

B. Access to drug storage areas shall be limited to licensed nursing personnel, the licensed nursing home administrator, and the consultant pharmacist as authorized in the nursing home's policy and procedure manual. Any unlicensed, unauthorized individual (e.g., housekeepers, maintenance personnel, etc.) needing access to drug storage areas shall be under the direct visual supervision of licensed authorized personnel.

C. Medication requiring refrigeration shall be kept separate from foods, in separate containers, within a refrigerator and stored at a temperature range of 36° to 46°F.

1. Laboratory solutions or materials awaiting laboratory pickup shall not be stored in refrigerators with food and/or medication.

2. Medication for "external use only" shall be stored separate from other medication and food.

D. Separately locked, permanently affixed compartments shall be provided for storage of controlled drugs listed in Schedule II of the Comprehensive Drug Abuse Prevention and Control Act of 1976 and other drugs subject to abuse.

E. Medications of each resident shall be kept and stored in their originally received containers, and transferring between containers is forbidden.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:

##### **§9833. Disposition**

A. Prescription and Over-The-Counter (OTC) medications and biologicals are to be disposed of in the following manner:

1. If medication(s) and/or biological are discontinued, or the resident is discharged to the hospital, the nursing home will retain the medication(s) for up to 60 days and then destroy as described in §9833.C.2. These must be stored in an appropriately secured storage area approved by the DON and consultant pharmacist. If the resident is deceased, the medication will be disposed of as described in §9833.C.2, unless a written order of the attending physician specifies otherwise. If the resident is transferred to another facility, the medication will accompany the resident to the receiving facility, on the written order of the attending physician.

2. Controlled drugs shall not be released or sent with a resident upon transfer or discharge, except on the written order of the attending physician.

B. If the resident/legal representative receives the medications or biologicals, upon written order of the physician, documentation containing the name and the amount of the medication or biological to be received shall be completed and signed by the resident or legal representative and a facility representative acknowledging their receipt. This document shall be placed in the resident's clinical record.

C. Expired medication(s) shall not be available for resident or staff use. These shall be destroyed on-site by nursing home personnel no later than 90 days from their expiration/discontinuation date utilizing the following methods:

1. Controlled drugs shall be destroyed on-site by a licensed pharmacist after receiving DEA authorization to do so on a continuing basis, and witnessed by a state or local law enforcement officer or other licensed nursing home individual, such as RN, LPN or MD. All controlled substances to be destroyed shall be inventoried and listed on a DEA Form 41, a copy of which shall be maintained on the premises, and a copy mailed to the Louisiana State Board of Pharmacy. These drugs shall also be listed on the resident's individual accumulative drug destruction record.

2. For noncontrolled drugs, there shall be documentation of the resident's name; name, strength, and quantity of the drug destroyed; prescription number; method and date of destruction; signatures of at least two individuals (which shall be either licensed nurses who are employees of the nursing home, or the consultant pharmacist) witnessing the destruction. Medications of residents transferred to a hospital may be retained until the resident's return. Upon the resident's return, the physician's order shall dictate whether or not the resident is to continue the same drug regimen as previously ordered. Medications not reordered by the physician shall be destroyed, using the procedures outlined above.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:

#### **§9835. Administration**

A. Drugs and biologicals shall not be administered to residents unless ordered by a practitioner (e.g., physician, dentist, or Doctor of Osteopathy) duly licensed to prescribe drugs. Such orders shall be in writing over the practitioner's signature. Drugs and biologicals shall be administered only by medical personnel or licensed nurses authorized to administer drugs and biologicals under their practice act.

B. Drugs and biologicals shall be administered as soon as possible after doses are prepared, not to exceed two hours. They shall be administered by the same person who prepared the doses for administration, except under unit dose package distribution systems.

C. An individual resident may self-administer drugs if permissible by the nursing home's policy and procedure, and if an interdisciplinary team has determined that this practice is safe. The team shall also determine who will be responsible for storage and documentation of the administration of drugs. The resident's care plan shall reflect approval to self-administer medications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:

#### **§9837. Drug Regimen Review**

The drug regimen of each resident shall be reviewed as often as dictated by the resident's condition. Irregularities shall be reported, in writing, to the resident's attending physician and director of nursing, and these reports shall be acted upon.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:

#### **§9839. Emergency Medication Kit**

A. If an emergency medication kit is used in the nursing home, a permit shall be obtained and maintained in accordance with the Louisiana State Board of Pharmacy.

B. A separate permit is required for each emergency medication kit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:

#### **§9841. Medication Record Keeping**

##### **A. General Records**

1. Each resident shall have a Medication Administration Record (MAR) on which the dose of each drug or biological administered shall be properly recorded by the person administering the drug or biological to include:

- a. name, strength and dosage of the medication;
- b. method of administration including site, if applicable;
- c. time of administration; and
- d. the initials of persons administering the medication along with a legend of the initials.

2. Medication errors and drug reactions shall be reported immediately to the resident's attending physician by a licensed nurse, and an entry made in the resident's record.

3. Medications not specifically prescribed as to time or number of doses shall automatically be stopped after a reasonable time that is predetermined by the nursing home's written policy and procedures. The attending physician shall be notified of an automatic stop order prior to the last dose so that he/she may decide if the administration of the medication is to be continued or altered.

## B. Controlled Drugs

1. The nursing home shall establish a system of records of receipt and disposition of all controlled drugs in sufficient detail to enable an accurate accounting of all controlled drugs received, administered, and destroyed or otherwise disposed. Only licensed medical personnel shall be allowed to receive and sign for delivery of controlled drugs.

2. Control records of schedule II drugs shall be maintained. The individual resident records shall list each type and strength of drug and the following information:

- a. date;
- b. time administered;
- c. name of resident;
- d. dose;
- e. physician's name;
- f. signature of person administering the dose; and
- g. the balance on hand.

C. Noncontrolled Drugs. Records of noncontrolled medication destruction shall be maintained in the resident's clinical record and shall include the following:

1. resident's name;
2. name, strength, and quantity of the medication;
3. prescription number;
4. method and date of destruction;
5. signatures of at least two individuals (which shall be either licensed nurses, who are employees of the nursing home, or the consultant pharmacist) witnessing the destruction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:

## Subchapter E. Activity Services

### §9843. Activities Program

A. A nursing home shall provide for an ongoing program of diverse and meaningful activities designed to meet the interests and the physical, mental, and psychosocial well-being of each resident.

B. An individualized program of activities shall be developed for each resident based upon his/her specific needs and interests.

C. The activities program encourages each resident's voluntary participation and choice of activities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:

### §9845. Activity Service Personnel

The activities program shall be directed by a resident activities director. The resident activities director shall be responsible to the administrator or his/her designee for administration and organization of the activities program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:

## Subchapter F. Social Services

### §9847. Social Services

A nursing home shall provide medically-related social services to meet the physical, mental, and psychosocial needs of each resident.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:

### §9851. Social Service Personnel

An employee of the facility shall be designated as responsible for social services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:

## Subchapter G. Rehabilitation Services

### §9853. Delivery of Service

Rehabilitative services, when provided in the nursing home, shall be delivered in a safe and accessible area. Rehabilitation services shall be provided under the written order of the resident's attending physician. These services shall be provided by appropriately credentialed individuals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:

### §9855. Record Keeping

An initial assessment, established by the appropriate therapist, and a written rehabilitation plan of care shall be developed. The resident's progress will be recorded by the therapist at the time of each visit. This information will be maintained in the resident's clinical record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:

## Subchapter H. Resident Clinical Records

### §9857. General Provisions

The nursing home shall maintain clinical records on each resident in accordance with accepted professional standards and practices. Each resident's clinical record shall be complete, accurately documented, readily accessible, and systematically organized to facilitate retrieving and compiling information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:

### §9859. Maintenance of Records

A. The overall supervisory responsibility for the resident record service shall be assigned to a responsible employee of the facility.

B. All entries in the clinical record shall be either typewritten or legibly written in ink, dated, and signed.

C. If electronic signatures are used, the nursing home shall develop a procedure to assure the confidentiality of each

electronic signature and to prohibit the improper or unauthorized use of any computer generated signature.

D. If a facsimile communications system (FAX) is used, the nursing home shall take precautions when thermal paper is used to ensure that a legible copy is retained as long as the clinical record is retained.

E. A nursing home record may be kept in any written, photographic, microfilm, or other similar method or may be kept by any magnetic, electronic, optical, or similar form of data compilation which is approved for such use by the department.

F. No magnetic, electronic, optical, or similar method shall be approved unless it provides reasonable safeguards against erasure or alteration.

G. A nursing home may, at its discretion, cause any nursing home record or part to be microfilmed, or similarly reproduced, in order to accomplish efficient storage and preservation of nursing home records.

H. Upon an oral or written request, the nursing home shall give the resident or his/her legal representative access to all records pertaining to himself/herself including current clinical records within 24 hours, excluding weekends and holidays. After receipt of his/her records for inspection, the nursing home shall provide, upon request and two working days notice, at a cost consistent with the provisions of R.S. 40:1299(A)(2)(b), photocopies of the records or any portions of them.

I. The nursing home shall ensure that all clinical records are completed within 90 days of discharge, transfer, or death. All information pertaining to a resident's stay is centralized in the clinical record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:

#### **§9861. Content**

A. The clinical record contains sufficient information to identify the resident clearly, to justify the diagnosis and treatment, and to document the results accurately.

B. As a minimum, each clinical record shall contain:

1. sufficient information to identify the resident;
  2. physician's orders;
  3. progress notes by all practitioners and professional personnel providing services to the resident;
  4. a record of the resident's assessments;
  5. the plan of care;
  6. entries describing treatments and services provided;
- and
7. reports of all diagnostic tests and procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:

#### **§9863. Confidentiality**

The nursing home shall safeguard clinical record information against loss, destruction or unauthorized use. The nursing home shall ensure the confidentiality of resident records, including information in a computerized record

system, except when release is required by transfer to another health care institution, law, third party payment contract, or the resident. Information from or copies of records may be released only to authorized individuals, and the nursing home must ensure that unauthorized individuals cannot gain access to or alter resident records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:

#### **§9865. Retention**

A. Clinical records shall be retained for a minimum of six years following a resident's discharge or death, unless the records are pertinent to a case in litigation, in which instance they shall be retained indefinitely or until the litigation is resolved.

B. A nursing home which is closing shall notify the department in writing at least 14 days prior to cessation of operation of their plan for the disposition of residents' clinical records for approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:

### **Chapter 99. Nursing Homes**

#### **Subchapter A. Physical Environment**

##### **§9901. General Provisions**

The nursing home shall be designed, constructed, equipped and maintained to protect the health and safety of residents, personnel, and the public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:

##### **§9903. Nurses' Station**

A. Each floor of a multistory nursing home shall have a nurses' station.

B. Each nurse's station shall be provided with working space and accommodations for recording and charting purposes by nursing home staff with storage space for in-house resident records.

C. The nurses' station shall be equipped to audibly receive resident calls electronically through a call system from resident rooms and toilet and bathing facilities. There shall be a medicine preparation room or area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:

##### **§9905. Resident Rooms**

A. Resident bedrooms shall be designed and equipped for adequate nursing care, comfort, and privacy of residents. Each resident bedroom shall have a floor, walls, and ceilings in good repair and so finished as to enable satisfactory cleaning.

B. Each resident's bedroom shall have a floor at or above grade level; accommodate no more than four residents; have

a minimum width of not less than 10 feet; have a ceiling height of at least 7 feet; have electrical outlets in accordance with the *National Electrical Code*; have direct access to an exit corridor; and be so situated that passage through another resident's bedroom is unnecessary.

C. A ceiling height of at least 8 feet shall be provided in nursing homes or additions to nursing homes in which construction plans were initially approved by DHH and the State Fire Marshal's Office after May 1, 1997.

D. Private resident bedrooms shall measure at least 100 square feet of bedroom area.

E. Multiple resident bedrooms shall measure at least 80 square feet of bedroom area for each resident.

F. There shall be at least three feet between the sides and foot of the bed and any wall, other fixed obstruction, or other bed, unless the furniture arrangement is the resident's preference and does not interfere with service delivery. In nursing homes or additions to nursing homes in which construction plans were initially approved by DHH and the State Fire Marshal's Office after May 1, 1997, there shall be at least 4 feet between the sides and foot of the bed and any wall, other fixed obstruction, or other bed, unless the furniture arrangement is the resident's preference and does not interfere with service delivery.

G. Each resident's bedroom shall have at least one window opening to the outside atmosphere. Windows with sills less than 30 inches from the floor shall be provided with guard rails.

H. Each resident's bedroom window shall be provided with shades, curtains, drapes, or blinds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:

#### §9907. Resident Room Furnishings

A. Each resident shall be provided with an individual bed of proper size and height for the convenience of the resident and equipped with:

1. a clean spring in good repair;
2. a clean, comfortable, well-constructed mattress at least 5 inches thick with waterproof ticking and correct size to fit the bed;
3. a clean, comfortable pillow shall be provided for each bed with extra pillows available to meet the needs of the residents;
4. adequate bed rails, when necessary, to meet the needs of the resident; and
5. sheets and covers appropriate to the weather and climate.

B. Screens or noncombustible ceiling-suspended privacy curtains which extend around the bed shall be provided for each bed in multiresident bedrooms to assure resident privacy. Total visual privacy without obstructing the passage of other residents either to the corridor, closet, lavatory, or adjacent toilet room nor fully encapsulating the bedroom window must be provided.

C. The nurses' call system cords, buttons, or other communication mechanisms shall be placed where they are within reach of each resident.

D. Each resident shall be provided a bedside table with at least two drawers, and an enclosed hanging space for clothing that is accessible to the resident. As appropriate to resident needs, each resident shall have a comfortable chair with armrests, waste receptacle, and access to mirror unless medically contraindicated.

E. Each resident who has tray service to his/her room shall be provided with an adjustable overbed table positioned so that the resident can eat comfortably.

F. Each resident shall be provided with a bedside light or over-the-bed light capable of being operated from the bed for nursing homes in which construction plans were initially approved by DHH and the State Fire Marshal's Office after May 1, 1997.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:

#### §9909. Locked Units

A. Nursing homes providing locked units must develop admission criteria. There must be documentation in the resident's record to indicate the unit is the least restrictive environment possible, and placement in the unit is needed to facilitate meeting the resident's needs.

B. Guidelines for admission shall be provided to either the resident, his/her family, and his/her legal representative.

C. Locked units are designed and staffed to provide the care and services necessary for the resident's needs to be met.

D. There must be sufficient staff to respond to emergency situations in the locked unit at all times.

E. The resident on the locked unit has the right to exercise those rights which have not been limited as a result of admission to the unit.

F. Care plans shall address the reasons for the resident being in the unit and how the facility is meeting the resident's needs.

G. Admission to a locked unit must be in compliance with R.S. 40:1299.53 and 40:2010.8.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:

#### §9911. Toilet; Hand Washing; and Bathing Facilities

A. Each floor occupied by residents shall be provided with a toilet, lavatory, and bathtub, whirlpool or shower.

B. Each bedroom shall be equipped with or conveniently located near adequate toilet and bathing facilities appropriate in number, size, and design to meet the needs of residents.

C. In nursing homes built prior to August 26, 1958, the following ratio shall be provided (whenever calculations include any fraction of a fixture, the next higher whole number of fixtures shall be installed):

Lavatories	1:10 beds
Toilets	1:10 beds
Showers or tubs	1:15 beds
Whirlpools (optional)	1:20 beds



D. In nursing homes built subsequent to August 26, 1958, the following ratio shall be provided (whenever calculations include any fraction of a fixture, the next higher whole number of fixtures shall be installed):

Lavatories	1 per bedroom or immediately adjacent thereto
Toilets	1:8 beds
Showers or tubs	1:10 beds
Whirlpools (optional)	1:20 beds

E. Bathrooms shall be easily accessible, conveniently located, well lighted, and ventilated to the outside atmosphere. Doors to bathrooms and toilet rooms used by residents shall be at least 2 feet 8 inches wide. The fixtures shall be of substantial construction, in good repair, and of such design to enable satisfactory cleaning.

F. Tub and shower bath bottoms shall be of nonslip material. Grab bars shall be provided to prevent falling and to assist in getting in and out of the tub or shower.

G. Separate toilet and lavatory facilities for use by employees shall be provided. Separate bathtubs, whirlpools, or showers shall be provided for employees who live on the premises.

H. Lights must be controlled by wall switches, which must be so placed that they cannot be reached from the bathtub, whirlpool, or shower.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:

### §9913. Dining and Resident Activities

A. The nursing home shall provide one or more areas designated for resident dining and activities.

B. The dining room(s) or area(s) shall seat not less than 50 percent of the licensed capacity of the nursing home at one seating. No smoking shall be allowed in these areas during meal times.

C. There shall be sufficient space and equipment to comfortably accommodate the residents who participate in group and individual activities. These areas shall be well lighted and ventilated and be adequately furnished to accommodate all activities.

D. Areas used for corridor traffic or for storage of equipment shall not be considered as areas for dining or activities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:

### §9915. Linen and Laundry

A. The nursing home shall have available, at all times, a quantity of bed and bath linen essential for proper care and comfort of residents.

B. All linen shall be free from rips and tears.

C. All used linen shall be bagged or enclosed in appropriate containers for transportation to the laundry.

D. Soiled linen storage areas shall be ventilated to the outside atmosphere.

E. Linen from residents with a communicable disease shall be bagged, in readily identifiable containers distinguishable from other laundry, at the location where it was used.

F. Linen soiled with blood or body fluids shall be placed and transported in bags that prevent leakage.

G. If hot water is used, linen shall be washed with detergent in water at least 160°F for 25 minutes. If low-temperature (less than or equal to 158°F) laundry cycles are used, chemicals suitable for low-temperature washing, at proper use concentration, shall be used.

H. Provisions shall be made for laundering personal clothing of residents.

I. Clean linen shall be transported in covered containers and stored in a manner to prevent its contamination.

J. Nursing homes providing in-house laundry services shall have a laundry system designed to eliminate crossing of soiled and clean linen.

K. There shall be hand washing facilities for employees in the laundry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:

### §9917. Equipment and Supplies

A. The nursing home shall maintain all essential mechanical, electrical, and resident care equipment in safe operating condition.

B. Therapeutic, diagnostic, and other resident care equipment shall be maintained and serviced in accordance with the manufacturer's recommendations.

C. Wheelchairs shall be available for temporary use by residents who are not fully ambulatory.

D. Equipment for taking vital signs shall be maintained.

E. At least one oxygen tank shall be readily accessible for emergency use.

F. An adequate number of battery-generated lamps or flash lights shall be available for staff use in case of electrical power failure.

G. There shall be at least one telephone adapted for use by residents with hearing impairments at a height accessible to bound residents who use wheelchairs and be available for resident use where calls can be made without being overheard.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:

### §9919. Other Environmental Conditions

A. The nursing home shall provide a safe, clean, orderly, homelike environment free from offensive odors.

B. The minimum resident capacity of a nursing home shall be 150 square feet gross area per resident. Bedroom square footage per bed is a part of this gross area.

C. There shall be a well lighted and ventilated living/community room with sufficient furniture.



D. There shall be a clean utility room designed for proper storage of nursing equipment and supplies.

E. There shall be a separate soiled utility room designed for proper cleansing, disinfecting, and sterilizing of equipment and supplies. As a minimum, it shall contain equipment to satisfactorily clean resident care equipment, a clinic service sink, and provisions for the storage of cleaning supplies (e.g., mops and pails) and chemical supplies.

F. A hard surfaced off-the-road parking area to provide parking for one car per five licensed beds shall be provided. This requirement is minimum and may be exceeded by local ordinances. Where this requirement would impose an unreasonable hardship, a written request for a lesser amount may be submitted to the department for waiver consideration.

G. The nursing home shall make arrangements for an adequate supply of safe potable water even when there is a loss of normal water supply. Service from a public water supply must be used, if available. Private water supplies, if used, must meet the requirements of the *State Sanitary Code*.

H. An adequate supply of hot water shall be provided which shall be adequate for general cleaning, washing, and sterilizing of cooking and food service dishes and other utensils, and for bathing and laundry use. Hot water supply to the hand washing and bathing faucets in the resident areas shall have automatic control to assure a temperature of not less than 100°F, nor more than 120°F, at the faucet outlet.

I. The nursing home shall be connected to the public sewerage system, if such a system is available. Where a public sewerage is not available, the sewerage disposal system shall conform to the requirements of the *State Sanitary Code*.

J. There shall be a comfortable sound level maintained, based on the needs of the nursing home residents.

K. All plumbing shall be properly maintained and conform to the requirements of the *State Sanitary Code*.

L. There shall be at least one toilet room for employees and the public.

M. There shall be adequate outside ventilation by means of window, or mechanical ventilation or a combination of the two.

N. All openings to the outside atmosphere shall be effectively screened. Entrance doors equipped with closers in air conditioned buildings need not have screens.

O. Each room used by residents shall be capable of being heated to not less than 71°F in the coldest weather and capable of being cooled to not more than 81°F in the warmest weather.

P. Lighting levels in all areas shall be adequate to support task performance by staff personnel and independent functioning of residents. A minimum of 6' to 10' candles over the entire stairway, corridors, and resident rooms measured at an elevation of 30 inches above the floor and a minimum of 20' to 30' candles over areas used for reading or close work shall be available.

Q. Corridors used by residents shall be equipped on each side with firmly secured handrails, affixed to the wall.

R. There shall be an effective pest control program so that the nursing home is free of pest and rodent infestation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:

## **Subchapter B. Infection Control and Sanitation**

### **§9921. Organization**

A nursing home shall establish and maintain an infection control program designed to provide a safe, sanitary, and comfortable environment and to help prevent the development and transmission of disease and infection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:

### **§9923. Infection Control Program**

A. An infection control committee shall be established consisting of the medical director and representatives from at least administration, nursing, dietary, and housekeeping personnel.

B. The committee shall establish policies and procedures for investigating, controlling, and preventing infections in the nursing home, and monitor staff performance to ensure proper execution of policies and procedures.

C. The committee shall approve and implement written policies and procedures for the collection, storage, handling, and disposal of medical waste.

D. The committee shall meet at least quarterly, documenting the content of its meetings.

E. Reportable diseases as expressed in the *State Sanitary Code* shall be reported to the local parish health unit of the Office of Public Health.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:

### **§9925. Employee Health Policies and Procedures**

A. Nursing home employees with a communicable disease or infected skin lesions shall be prohibited from direct contact with residents or their food, if direct contact will transmit the disease.

B. The nursing home shall require staff to wash their hands after each direct resident contact for which hand washing is indicated by accepted professional practice. An antimicrobial gel or waterless cleaner may be used between resident contact, when appropriate. The nursing home shall follow the Centers for Disease Control's *Guideline for Hand Washing and Hospital Environmental Control*, 1985 for hand washing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:

### **§9927. Isolation**

When the infection control program determines that a resident needs isolation to prevent the spread of infection, the nursing home shall isolate the resident.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:

**§9929. Housekeeping**

There shall be sufficient housekeeping personnel to maintain a safe, clean, and orderly interior.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:

**§9931. Nursing Care Equipment**

A. Bedpans, urinals, emesis basins, wash basins, and other personal nursing items shall be thoroughly cleaned after each use and sanitized as necessary. Water pitchers, when provided, shall be sanitized as necessary.

B. All catheters, irrigation sets, drainage tubes, or other supplies or equipment for internal use, and as identified by the manufacturer as one-time use only, will be disposed of in accordance with the manufacture's recommendations.

C. Disposable syringes used for feeding purposes shall be disposed of in accordance with the manufacturer's recommendations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:

**§9933. Waste and Hazardous Materials Management**

The nursing home shall have a written and implemented waste management program that identifies and controls wastes and hazardous materials. The program shall comply with all applicable laws and regulations governing wastes and hazardous materials.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:

Interested persons may submit written comments to Thomas D. Collins, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821. He is responsible for responding to inquiries regarding this proposed rule.

A public hearing will be held on this matter on Tuesday, August 26, 1997 at 9:30 a.m. in the auditorium of the Department of Transportation and Development, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested parties will be afforded an opportunity to submit data, views or arguments, orally or in writing. The deadline for the receipt of all comments is 4:30 p.m. on the day following the public hearing.

Bobby P. Jindal  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Nursing Homes—Minimum Licensure  
Standards**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There is no fiscal impact resulting from the implementation of this proposed rule for SFY 1998, 1999, and 2000; however, the cost of promulgating this rule is \$1,700 and will be incurred in SFY 1998.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF  
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

Implementation of this proposed rule will not impact federal revenue collections as there is no federal funding available for state licensure functions.

**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 nongovernmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND  
EMPLOYMENT (Summary)**

There is no effect on competition and employment.

Thomas D. Collins  
Director  
9707#048

Richard W. England  
Assistant to the  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Department of Insurance  
Office of the Commissioner**

**Insurance Property and Casualty  
Cost of Defense (Regulations 38 and 41)**

Pursuant to the provisions of R.S. 49:950 et seq., the commissioner of Insurance hereby gives notice of his intent to repeal Regulation 38 and Regulation 41 in their entirety. These are duplicative regulations, both of which address the use of defense expense shifting provisions in liability insurance contracts.

**Preamble**

Like the majority of states, the Louisiana Department of Insurance (hereafter LDOI) has held to a long-standing policy that the costs associated with the investigation and defense of a claim are to be borne by the liability insurer in addition to the limits of liability. This departmental policy is rooted in the custom of the industry which, since the inception of liability coverage, has been to provide the insured with a defense for any claim which might trigger coverage under the policy even if the claim was "groundless, false or fraudulent," and the costs incurred in defending such a claim were paid by the insurer. This tradition is so ingrained that liability coverage is frequently referred to as "litigation insurance," Jeffery W. Stempel, *Interpretation of Insurance Contracts—Law and Strategy for Insurers and Policyholders*, at 780 (Ed. 1994). While it is said that the insurer "bears the cost of defense," actually, those costs (investigation and defense) are key components of the rate structure and are included in the premium paid by the insured. Thus, by providing a defense, the insurer is merely performing the obligation for which it has already received consideration.

With the adoption of Regulation 38 in 1991 and Regulation 41 in 1993, Louisiana made a slight deviation from its traditional position by making an allowance for the approval of policies which included the cost of defense within the limits of liability. This discretionary approval was applicable to three types of professional coverage and for directors' and officers' coverage. The impetus for this shift in position was to keep Louisiana competitive by remaining current with nationwide market changes.

However, at the same time there remained a deep concern on the part of the LDOI about protecting the interests and expectations of the public and policyholders. The past few years, since the adoption of Regulation 41, have seen the proliferation of insurance contracts containing a variety of provisions which seek to shift the cost of defending a suit away from the insurer and onto the insured. In order to respond to these new variations the LDOI finds that it is necessary to revisit the issue of defense costs.

In reviewing this issue we are guided by the following principles extrapolated from the *Louisiana Insurance Code*:

1. "Insurance is a business affected with the public interest, and it is the purpose of this code to regulate that business in all its phases." (See LSA-R.S. 22:2)

2. Insurers are required to obtain prior approval for any rate or policy which they intend to use in Louisiana. The purpose for prior approval is to protect policyholders and the public. (See LSA-R.S. 22:620, 22:623 and 22:1403)

3. Liability policies are issued for the protection of injured persons. (See LSA-R.S. 22:655)

We also take guidance from traditional civilian principles found in the *Civil Code* and in the jurisprudence. It is important to remember that insurance contracts are contracts of adhesion. See the "Comments to Civil Code" Article 2056 and 15 *Civil Law Treatise* §3. As was stated by the Louisiana Supreme Court in *South Central Bell v. Cajon Food Stores*, 637 So.2d 133 (La. 1994), in an insurance contract, "the parties' relationship ... involves no open-term bargaining of comparably informed equals, but 'adhesion contract' qualities and a significant disparity in insurance expertise."

It is the statutory duty of the LDOI to bring some equality to the bargaining table by monitoring contractual provisions in order to protect the interests of the public and policyholders. At the same time, a balance must be maintained in order to keep a viable and competitive insurance market in Louisiana.

The common rationale provided by the industry in advocating the various revisions to the defense obligation is that shifting back to the insured part of the risk of the cost of defense is a more viable option than increasing premiums, and that because of the escalating costs of providing a defense, one or the other is unavoidable. However, the industry has not provided any hard data to substantiate their position. Nor has it demonstrated that other viable options for controlling the cost of defense are not available. In the absence of such information, the LDOI has determined that it will not approve the wholesale use of contractual provisions which shift the costs of defending a suit, or a portion thereof, to the insured.

However, the LDOI has determined that the repeal of Regulations 38 and 41 will provide it with the flexibility necessary to keep pace with changing market forces. The LDOI, utilizing its normal procedures for review of policy forms, will consider for approval the use of certain contractual provisions which offset the cost of defense for limited classes of insureds, under specific types of coverage, and with minimum liability limits.

#### Proposed Rule

#### **Regulation 38. Defense Costs within Limits—Directors and Officers Liability Only**

Repealed in its entirety.

#### **Regulation 41. Costs of Defense within Limits**

Repealed in its entirety.

The proposed repeal of Regulations 38 and 41 is to become effective October 20, 1997.

All interested persons will be afforded an opportunity to make comments on the proposed repeal of these regulations until 4:30 p.m., September 25, 1997. Oral comments may be made to C. Noël Wertz at (504) 342-1252. Written comments may be sent to C. Noël Wertz, Senior Attorney, Box 94214, Baton Rouge, LA 70804-9214 or by facsimile transmission at (504) 342-7401.

James H. "Jim" Brown  
Commissioner

#### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Insurance Property and Casualty Cost of Defense**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is not anticipated that the Department of Insurance will incur any costs or savings as a result of the repealing of these regulations. The purpose of this regulation is to repeal certain existing regulations of the Department of Insurance deemed no longer needed by the department.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

Adoption of the proposed rule, which repeals existing duplicative rules relative to the use of "defense cost within limits" provisions in liability insurance policies, will not have any effect on revenue collections by the state or local governmental units.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

It is not anticipated that the proposed repealing of these regulations would impose additional costs or create an economic benefit to insurers or any other nongovernmental group.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

It is not anticipated that adoption of this proposed repealing of these regulations would have any effect on employment or competition.

Brenda St. Romain  
Assistant Commissioner  
Management and Finance  
9707#012

Richard W. England  
Assistant to the  
Legislative Fiscal Officer

#### **NOTICE OF INTENT**

#### **Department of Public Safety and Corrections Office of Motor Vehicles**

Vehicle Registration License  
Tax (LAC 55:III.351-365)

The Department of Public Safety and Corrections, Public Safety Services, Office of Motor Vehicles hereby gives notice of intent to adopt rules pertaining to the implementation of the annual registration license tax for motor vehicles. Currently,

every vehicle registered in this state that is intended to be operated on the public highways is required to be registered and is subject to the vehicle registration license tax.

**Title 55**

**PUBLIC SAFETY**

**Part III. Motor Vehicles**

**Chapter 3. License Plates**

**Subchapter B. Vehicle Registration License Tax**

**§351. Definitions**

As used in this Subchapter, the following terms have the meanings described below:

*Acquired*—any transfer of full ownership from one juridical person to another including but not limited to sales, donations, exchanges, or inheritances.

*Assistant Secretary*—the assistant secretary of the Department of Public Safety and Corrections, Office of Motor Vehicles.

*Damage*—the dollar value of repairs to the motor vehicle necessary to return the motor vehicle to its fair market value.

*Department*—the Department of Public Safety and Corrections, Office of Motor Vehicles.

*Low Bills of Sale*—values determined to be below 75 percent of the retail value as shown by the most current *N.A.D.A. Official Used Car Guide, South-Western Edition* (or its successor).

*Motor Vehicle*—each passenger carrying automobile, van, or other motor vehicle carrying only passengers and their personal effects exclusively, not meeting the requirements of R.S. 47:463.5 or using or operating on rails or upon permanent tracks and operated only for personal use.

*N.A.D.A. Official Older Used Car Guide*—periodical published by the National Appraisal Guide, Inc., which contains value projections of used motor vehicles for years not covered by the *N.A.D.A. Official Used Car Guide, South-Western Edition*.

*N.A.D.A. Official Used Car Guide, South-Western Edition*—periodical published by N.A.D.A. Official Used Car Guide Company which contains value projections of used motor vehicles.

*Trial Court of Limited Jurisdiction*—a court other than a district court having jurisdiction over civil matters including but not limited to city courts, parish courts, justice of the peace courts, and mayor's courts.

*Value Guide to CARS of Particular Interest*—periodical published by CPI, Ltd., which contains value projections of domestic and imported collectible cars produced since 1946.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:463(A)(2).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 23:

**§353. Valuation of Vehicles under the Vehicle Registration License Tax Registered on or after January 1, 1990**

A. For all Louisiana motor vehicle registrations that were issued prior to and expire on or after January 1, 1990, the renewal tax shall be assessed and collected as provided in §357, except that the value of the motor vehicle for purposes of the vehicle registration license tax shall be \$10,000 at the time of the first renewal of the registration after January 1, 1990, and for each subsequent renewal of the registration until such time as the motor vehicle is transferred

to a new owner, or the registration is canceled and the license plate is returned to the Office of Motor Vehicles.

B. For all Louisiana motor vehicle registrations that are issued on or after January 1, 1990, the value of the motor vehicle shall be determined as provided in §355, except that the value of the motor vehicle for first and subsequent renewals shall remain the same as was determined at the initial registration and will remain the same until such time as the motor vehicle is transferred to a new owner, or the registration is canceled and the license plate is returned to the Office of Motor Vehicles.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:463(A)(2).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 23:

**§355. Valuation of Motor Vehicles for Purposes of Initial and Subsequent Registration on or after January 1, 1990**

A. Except in cases of damaged motor vehicles, donations, out-of-state transfers, or low bills of sale, the value of the motor vehicle shall be determined by the purchase price as indicated on the bill of sale or invoice.

B. In the case of donations, out-of-state transfers, or low bills of sale, the value shall be determined and based upon 75 percent of the value contained in the most current *N.A.D.A. Official Used Car Guide, South-Western Edition* (or its successor) as maintained by the office of motor vehicles. In the case of classic automobiles or other automobiles of particular interest not included in the *N.A.D.A. Official Used Car Guide, South-Western Edition* (or its successor), 75 percent of the value shall be determined by reference to the *N.A.D.A. Official Older Used Car Guide* or the *Value Guide to CARS of Particular Interest*. If the value of the motor vehicle cannot be determined by reference to any of these three guide books, the actual value of the motor vehicle shall be determined by the Office of Motor Vehicles based upon such information supplied by the person seeking to register the vehicle and such information that may be required from such person by the assistant secretary or his designee.

C. The valuation of a damaged motor vehicle shall be the value of the motor vehicle at time of acquisition as determined pursuant to this Subsection. The following must be presented to the Office of Motor Vehicles to establish an actual value on such a vehicle of less than 75 percent of the book value:

1.a. An affidavit by the seller or transferor of the motor vehicle specifying in detail the nature of damage to the vehicle and a written invoice from a bona fide mechanic or repairman showing a detailed estimate of the cost of repair to said vehicle. The assistant secretary or his designee may require additional information or documentation to determine the value of the motor vehicle. Upon review of all documentation and information, the assistant secretary or his designee may add the proven damages to the sales price of the motor vehicle as is reflected in the bill of sale submitted in connection with the application to register the motor vehicle. If the total of the proven damages and the sales price is within \$1,000 of 75 percent of the book value as determined in Subsection A.2, the vehicle shall be valued according to the sales price. If the total of the proven damages and the sales prices differs by more than \$1,000 from 75 percent of the

book value as determined in Subsection A.2, the value of the motor vehicle shall be determined by deducting the proven damages from 75 percent of the book value as determined in Subsection A.2.

b. Upon a showing of good cause by the person applying to register the damaged motor vehicle, the assistant secretary or his designee may assign a value other than the value established pursuant to Subsection B.1.a. The applicant for registration shall provide the department with such documentation as is necessary to justify this alternative valuation.

2. If the seller is a licensed new or used motor vehicle dealer, then the dealer or an employee of such dealer shall submit an affidavit specifying the nature of the damage and the sales price. The assistant secretary or his designee may require additional information or documentation to determine the value of the motor vehicle. Upon review of all documentation and information, the assistant secretary or his designee shall calculate the value of the motor vehicle in the same manner and under the same conditions as provided in Subsection B.1 of this Section.

D. Motor vehicles, the ownership of which is re-acquired by the original owner within a period of two years from date of original acquisition, shall be registered at the original value upon renewal or registration by the original owner. Upon a showing of good cause by the person seeking to register the motor vehicle, the assistant secretary of the Office of Motor Vehicles may permit the vehicle to be valued as provided in Subsections B or C as the case may be.

E. Additional documentation may be required of any applicant for license or registration, including renewals, by the assistant secretary of the Office of Motor Vehicles or his designee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:463(A)(2).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 23:

### **§357. Assessment of the Vehicle Registration License Tax**

A. Every motor vehicle registered in Louisiana shall be subject to the motor vehicle license tax at a rate implemented in R.S. 47:463(A)(2) as amended by Acts 1989, Second Extraordinary Session, Number 23, §1. The vehicle registration license tax shall be assessed and collected at the time of acquisition and initial registration and at each subsequent renewal of the registration until such time as the motor vehicle is transferred to a new owner, or the registration is canceled and the license plate is returned to the Office of Motor Vehicles.

B. The vehicle registration license tax shall be assessed and collected as follows:

1. Each motor vehicle shall be taxed at a minimum of \$10 per year for the first \$10,000 value, plus \$1 per \$1,000 value in excess of \$10,000.

2. For the purpose of computing the additional tax of \$1 per each \$1,000 value, any amount of \$500 or more shall be rounded off to the next highest \$1,000 and any amount less than \$500 shall be disregarded.

3. Except as otherwise provided in this Subchapter, the value of the motor vehicle shall be determined at the time of the first registration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:463(A)(2).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 23:

### **§359. Declaratory Orders and Rulings**

A. Any person desiring a ruling on the applicability of R.S. 47:463 or any other statute, or the applicability or validity of any rule, to the payment of the vehicle registration license tax as it applies to the transfer, registration, or renewal of the registration of any motor vehicle shall submit a written petition to the assistant secretary. The written petition shall cite all constitutional provisions, statutes, ordinances, cases, and rules which are relevant to the issue presented or which the person wishes the assistant secretary to consider prior to rendering an order or ruling in connection with the petition. The petition shall be typed, printed or written legibly, and signed by the person seeking the ruling or order. The petition shall also contain the person's full printed name, the complete physical and mailing address of the person, and a daytime telephone number.

B. If the petition seeks an order or ruling on a transaction handled by the Office of Motor Vehicles, the person submitting the petition shall notify the person or persons who submitted the transaction, if other than the person submitting the petition, including any lienholder, lessee, and registered owner. Such notice shall be sent by certified mail, return receipt requested. In such case, the petition shall not be considered until proof of such notice has been submitted to the assistant secretary, or until the person petitioning for the order or ruling establishes that the person or persons cannot be notified after a due and diligent effort. The notice shall include a copy of the petition submitted to the assistant secretary.

C. The assistant secretary may request the submission of legal memoranda to be considered in rendering any order or ruling. The assistant secretary or his designee shall base the order or ruling on the documents submitted including the petition and legal memoranda. If the assistant secretary or his designee determines that the submission of evidence is necessary for a ruling, the matter may be referred to a hearing officer prior to the rendering of the order or ruling for the taking of such evidence.

D. Notice of the order or ruling shall be sent to the person submitting the petition as well as the persons receiving notice of the petition at the mailing addresses provided in connection with the petition.

E. The assistant secretary may decline to render an order or ruling if the person submitting the petition has failed to comply with any requirement in this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:463(A)(2) and R.S. 49:962.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 23:

### **§361. Administrative Actions**

A. The department may deny any application to register any motor vehicle if it is determined that information, documentation, or other materials submitted in connection with the application is false, inaccurate, misleading, or incomplete, or if the incorrect amount is submitted as payment of the vehicle registration license tax. The department may

retain, or return to the person submitting the application, any such information, documentation or other material. The department, in its discretion, may make copies of the information, documentation or other material prior to returning said things to the person submitting the items. The notice of the denial shall be issued at the time the application is rejected and may be hand delivered to the applicant or the person submitting the application on behalf of the applicant, or may be mailed to the applicant at the discretion of the department.

B. The department may cancel, suspend or revoke the registration of any motor vehicle if it is subsequently determined that information, documentation, or other materials submitted in connection with the application to register the motor vehicle was false, inaccurate, misleading, or incomplete, or if the incorrect amount was submitted as payment of the vehicle registration license tax. The department, in its discretion, may allow the applicant a reasonable opportunity to correct any problems prior to canceling, suspending, or revoking the registration. The notice of cancellation, suspension, or revocation shall be mailed to the applicant.

C. The applicant shall have 30 days from the date of any notice required by this Section to request an administrative hearing to review the action of the department. Any request for an administrative hearing shall only be mailed to the department at P.O. Box 64886, Baton Rouge, Louisiana, 70896-4886, or hand delivered to the Office of Motor Vehicle Headquarters in Baton Rouge, Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:463(A)(2).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 23:

### **§363. Payment under Protest**

A. Any person resisting the payment of any amount of the tax imposed by R.S. 47:463 shall provide notice to the assistant secretary at the time of the payment of the tax of the person's intention to file suit for the recovery of the contested amount of the tax.

B. If the contested payment of the license registration tax is submitted with an application for registration to a public tag agent, the applicant's notice required in Subsection A shall be submitted to the public tag agent and a copy of the notice sent to the assistant secretary.

C. If a person other than the applicant for registration of the motor vehicle submits the contested payment with the application to the department, the applicant's notice required in Subsection A shall be submitted to the department by the person submitting the application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:463(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 23:

### **§365. Valuation of Motor Vehicles Awarded Pursuant to a Judgment of a Court of Limited Jurisdiction**

A. The following guidelines shall be used when determining the value of a motor vehicle, the ownership of which is acquired pursuant to a written judgment of a trial court of limited jurisdiction:

1. If the written judgment, or written reasons for judgment do not indicate that the court made a determination

as to the value of the motor vehicle, the value shall be determined pursuant §355.

2. If the written judgment or the written reasons for judgment contain a determination as to the value of the motor vehicle, and such value is not less than the value of the vehicle as determined in §355, then the motor vehicle shall be valued at such amount for purposes of collecting the vehicle registration license tax.

3. If the written judgment or the written reasons for judgment contain a determination as to the value of the motor vehicle, and such value is less than the value of the vehicle as determined in §355, then the following shall apply:

a. If the judgment or reasons for judgment contain specific factual findings as to why that particular value was assigned to the motor vehicle, then the motor vehicle shall be valued at such amount for purposes of collecting the vehicle registration license tax.

b. If the judgment or reasons for judgment do not contain specific factual findings as to why that particular value was assigned to the motor vehicle, then the motor vehicle shall be valued pursuant to §355.B.

4. Any judgment that is not reduced to writing shall not be used in the determination of the value of the motor vehicle for purposes of this Subchapter.

5. If the person submitting the application to register the motor vehicle refuses to pay the vehicle registration license tax as required in this Section, the department shall deny or refuse the transaction.

B. No judgment shall be processed for purposes of titling or registering a motor vehicle unless the written judgment or the written reasons for judgment contains the following information:

1. the make, model and model year of the motor vehicle;

2.a. the vehicle identification number of the motor vehicle, chassis number, or serial number as assigned by the manufacturer; or

b. the state police vehicle number assigned by a commissioned Louisiana state trooper after a physical inspection of the vehicle if the vehicle does not have a vehicle identification number assigned by the manufacturer;

3. the full name of each person or business entity in which the vehicle is to be titled and registered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:463(A)(2).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 23:

Persons having comments or inquiries may contact Stephen A. Quidd, Attorney, Office of Motor Vehicles, Box 66614, Baton Rouge, LA 70896, by telephone (504)925-4068, or by facsimile (504) 925-3974. These comments and inquiries should be received by August 18, 1997.

A public hearing on these proposed rules is currently scheduled for Wednesday, August 27, 1997, at 9 a.m. in the Middle Management Conference Room at the Office of Motor Vehicle Headquarters at 109 South Foster Drive, Baton Rouge, LA 70806. Any person wishing to attend the public hearing should call to confirm the time and the location of the hearing.

Thomas H. Normile  
Undersecretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Vehicle Registration License Tax**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There should be no savings or cost to state or local governments. These proposed rules implement R.S. 47:463(A) as it relates to the assessment and collection of the vehicle registration license. The proposed rules reflect the current policies of the Office of Motor Vehicles. This tax is not collected by local governments, and as a result these proposed rules should have no impact on local government.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There should be no effect on the collection of revenues derived from the vehicle registration license tax [R.S. 47:463(A)]. These proposed rules reflect the current policies of the Office of Motor Vehicles as it relates to the collection of this tax. This proposed rule will not have any effect on the collection of revenues by local governments as these political subdivisions of the state do not collect the vehicle registration license tax.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
Any person who seeks to operate a motor vehicle on the public highways of this state must first register his motor vehicle and pay the vehicle registration license tax. Citizens of this state are already paying this tax when they register their motor vehicles. These rules are being promulgated by the department to put the public on notice as to how the department is implementing R.S. 47:463(A).
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
These proposed rules should have no effect on competition and employment. This tax is imposed on the ultimate consumer or purchaser of motor vehicles. All persons who purchase motor vehicles for the purpose of carrying passengers and their personal effects for personal use only are subject to this tax. As this tax is already being assessed and collected, and since the manner of assessment and collection are not being changed, these rules should have no effect on competition and employment.

Thomas H. Normile  
Undersecretary  
9707#040

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Social Services  
Office of Community Services**

**Children's Trust Fund—Child Abuse  
and Neglect Prevention (LAC 67:V.1001)**

The Department of Social Services, Office of Community Services proposes to amend LAC 67:V.1001 as follows:

**Title 67**

**SOCIAL SERVICES**

**Part V. Community Services**

**Subpart 1. General Administration**

**Chapter 10. Children's Trust Fund**

**§1001. Plan for Preventing Child Abuse and Neglect**

A. In accordance with R.S. 46:2406, the Louisiana Children's Trust Fund Board has adopted a plan for preventing child abuse and neglect in Louisiana for 1997-1999, which establishes criteria for grant awards and other activities of the Louisiana Children's Trust Fund. The plan became effective subsequent to adoption by the Louisiana Children's Trust Fund Board and will form the basis for future activities of the Children's Trust Fund.

B. A copy of the plan is available for review by the public at the Louisiana Children's Trust Fund Office, 333 Laurel Street, Baton Rouge, LA 70801. Interested persons may call the office at (504) 342-2245 to make arrangements to review the plan.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 46:2406.

**HISTORICAL NOTE:** Promulgated by the Department of Social Services, Office of Community Services, LR 20:898 (August 1994), amended LR 23:

A copy of the plan is also available for review by the public at the Office of the State Register, 1051 North Third Street, Baton Rouge, LA.

Persons interested in attending a public hearing on the above should submit written notification within 20 days of the date of publication of this notice to Shirley Goodwin, Assistant Secretary, Office of Community Services, Box 3318, Baton Rouge, LA 70821.

Madlyn Bagneris  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Children's Trust Fund—Child Abuse  
and Neglect Prevention**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
The only costs to the state will be the printing and distribution of the plan, once approved, at approximately \$7,000.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
The plan approval process will not affect revenue collections of state and local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
Upon approval of the plan for preventing child abuse and neglect, all future grant awards and other activities of the Louisiana Children's Trust Fund will be based upon the plan. It will be necessary for all budget requests submitted by a nonprofit agency to the Legislature for funding programs related to child abuse prevention to conform to the plan.



IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Implementation of this proposed rule will not significantly impact competition and employment in the public and private sectors although Children's Trust Fund contracts will be awarded based upon the plan as adopted.

Shirley B. Goodwin  
Assistant Secretary  
9707#011

Richard W. England  
Assistant to the  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Department of Social Services  
Office of Family Support**

**Support Enforcement—Federal  
Administrative Offsets (LAC 67:III.2532)**

The Department of Social Services, Office of Family Support proposes to adopt LAC 67:III.2532, which amends Support Enforcement Services (SES), the child support enforcement program.

Pursuant to Public Law 104-134, the Debt Collection Improvement Act of 1996, and Presidential Executive Order 13019 of September 1996, Support Enforcement Services will implement collection of past due support by authorizing the interception of certain funds payable by the federal government. This rule is being proposed to strengthen the agency's role in the enforcement of support. To broaden the subject base, Subchapter I is also being renamed.

**Title 67**

**SOCIAL SERVICES**

**Part III. Office of Family Support**

**Subpart 4. Support Enforcement Services**

**Chapter 25. Support Enforcement**

**Subchapter I. Tax and Other Income Offset**

**§2532. Federal Administrative Offsets**

SES will collect past-due support by referral of appropriate cases to the United States Financial Management Service, Department of the Treasury, effective November 1, 1997. The Financial Management Service is authorized to intercept any funds payable by the federal government, not otherwise exempt from seizure, which are due a noncustodial parent who owes past-due support. Payments may include but are not limited to wages, salary, retirement benefits, vendor and expense reimbursement. The debt remains subject to collection until it is paid in full. The noncustodial parent will receive a 30-day advance notice prior to the referral. SES will deduct any processing fee charged by the Financial Management Service from the payment submitted to the custodial parent.

**AUTHORITY NOTE:** Promulgated in accordance with P.L. 104-134 and 3 CFR 13019.

**HISTORICAL NOTE:** Promulgated by the Department of Social Services, Office of Family Support, LR 23:

Interested persons may submit written comments within 30 days to Vera W. Blakes, Assistant Secretary, Office of Family Support, Box 94065, Baton Rouge, LA 70804-9065. She is responsible for responding to inquiries regarding this proposed rule.

A public hearing on the proposed rule will be held on August 27, 1997, at the Department of Social Services, Second Floor Auditorium, 755 Third Street, Baton Rouge, LA beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (504)342-4120 (Voice and TDD).

Madlyn B. Bagneris  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Support Enforcement—Federal  
Administrative Offsets**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The administrative nature of the rule will require minor policy changes and on-line form revisions; however, the immediate cost of implementation in FY 97/98 is negligible. There are no anticipated costs or savings to local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no way to determine the number of cases that will be affected at this time. Increased collections are expected but no amounts can be projected at this time. There is no effect on revenue collections of local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Persons to whom monies are payable by the federal government will be subject to lose all or part of their funds. Custodial parents to whom support is owed will benefit from increased support payments. There is no data available to provide estimates on receipts or income.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated impact on competition and employment.

Vera W. Blakes  
Assistant Secretary  
9707#009

Richard W. England  
Assistant to the  
Legislative Fiscal Officer

**NOTICE OF INTENT**

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

**Turkey Hunting Season—1998**

The Wildlife and Fisheries Commission does hereby give notice of its intent to promulgate rules and regulations governing the hunting of wild turkeys.

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 correspondences to other agencies of government.

### **1998 Turkey Hunting Season Schedule**

(Shooting Hours: One-half hour before sunrise to one-half hour after sunset)

Daily limit is one gobbler, three gobblers per season. Still hunting only. Use of dogs, baiting, electronic calling devices and live decoys is illegal. Turkeys may be hunted with shotguns, including muzzle loading shotguns, using shot not larger than Number 2 lead or BB steel shot, and bow and arrow but by no other means. Shooting turkeys from a moving or stationary vehicle is prohibited.

No person shall hunt, trap or take turkeys by the aid of baiting or on or over any baited area. Baiting means placing, exposing, depositing or scattering of corn (shelled, shucked or unshucked), wheat or other grain, salt, or other feed so as to constitute a lure, attraction or enticement to, on or over any areas where hunters are attempting to take turkeys.

A baited area is any area where corn (shelled, shucked or unshucked), wheat or other grain, salt, or other feed capable of luring, attracting or enticing turkeys is directly or indirectly placed, exposed, deposited, distributed or scattered. Such areas remain baited areas for 15 days following complete removal of all such corn, wheat or other grain, salt, or other feed.

Wildlife agents are authorized to close such baited areas and to place signs in the immediate vicinity designating closed zones and dates of closure.

The Louisiana Department of Wildlife and Fisheries strongly discourages "feeding" agricultural grains to wild turkeys as this practice increases the risk of birds contracting potentially lethal diseases. Repeatedly placing grain in the same area may expose otherwise healthy birds to disease contaminated soils, grain containing lethal toxins and other diseased turkeys using the same feeding site. Properly distributed food plots (clovers, wheat, millet and chufa) are far more desirable for turkeys and have the added benefit of appealing to a wide variety of wildlife.

It is unlawful to take from the wild or possess in captivity any live wild turkeys or their eggs. No pen raised turkeys from within or without the state shall be liberated (released) within the state.

All licensed turkey hunters are required to have a turkey stamp in their possession while turkey hunting in addition to basic and big game licenses.

### **1998 Turkey Hunting Season**

Open Only in the Following Areas

#### **Area A**

March 21-April 26

All of the following parishes are open:

East Baton Rouge, East Feliciana, Grant, Livingston, Natchitoches, Rapides, Sabine, St. Helena, St. Tammany, Tangipahoa, Vernon, Washington, West Baton Rouge, West Feliciana (including Raccourci Island).

Portions of the following parishes are also open:

Allen: North of La. 26 from DeRidder to the junction of La. 104 and north of La. 104.

Avoyelles: That portion bounded on the east by the Atchafalaya River northward from Simmesport, on the north

by Red River to the Brouillette Community, on the west by La. 452 from Brouillette to La. 1 eastward to Simmesport, EXCEPT that portion surrounding Pomme de Terre WMA, bounded on the north, east and south by La. 451, on the west by the Big Bend Levee from its junction at the Bayou des Glaise structure east of Bordelonville southward to its junction with La. 451.

Beauregard: North of La. 26 east of DeRidder, west of Hwy. 171 from the junction of Hwy. 26 south to Calcasieu Parish.

Calcasieu: West of U.S. 171 north of I-10 and north of I-10 from the jct. of U.S. 171 to Texas state line.

Caldwell: West of Ouachita River southward to Catahoula Parish line, east and north of La. 126 and south and west of La. 127.

Catahoula: West of Ouachita River southward to La. 559 at Duty Ferry, north of La. 559 to La. 124, south and west of La. 124 from Duty Ferry to La. 8 at Harrisonburg and north of La. 8 to La. 126, north and east of La. 126. Also, that portion of Catahoula listed below.

Catahoula, Concordia, Franklin, Madison, Richland and Tensas: East of U.S. 65 from the East Carroll Parish line to U.S. 80, south of U.S. 80 westward to La. 17, east of La. 17 and La. 15 from Delhi to Winnsboro to Clayton; west of U.S. 65 from Clayton to junction of La. 128, north of La. 128 to St. Joseph; west and north of La. 605, 604 and 3078 northward to Port Gibson Ferry. Also, all lands in Tensas and Madison parishes lying east of the main channel of the Mississippi River.

Evangeline: North and west of La. 115, north of La. 106 from St. Landry to La. 13, west of La. 13 from Pine Prairie to Mamou and north of La. 104 west of Mamou.

Iberville: West of La. Hwy. 1. EXCEPTION: see Sherburne WMA for special season dates on all state, federal and private lands within Sherburne boundaries.

LaSalle: All lands lying west of La. 127 from the Caldwell Parish line to the junction of La. 124; south of La. 124 to the junction of La. 124 and 126; west of La. 126 to the junction with La. 503; north of La. 503 to Summerville; west of La. 127 from Summerville to Little River. Also, that portion of land east of La. 126 from the Caldwell Parish line to the Catahoula Parish line.

Pointe Coupee: All except that portion bounded on the west by La. 77 and La. 10, northward from U.S. 190 to La. 1 at Morganza, on the north and east by La. 1 to its jct. with La. 78 and by La. 78 from Parlange to U.S. 190. FURTHER EXCEPTION: see Sherburne WMA for special season dates on all state, federal and private lands within Sherburne boundaries.

St. Landry: That portion bounded on the north by U.S. 190, west by the West Atchafalaya Basin Protection Levee. Also, that portion of the parish bounded on the north by La. 10 from the West Atchafalaya Basin Protection Levee to Burton's Lake, on the east by Burton's Lake, on the south by Petite Prairie Bayou to its junction with the old O.G. Railroad right-of-way then by the O.G.R.R. right-of-way westward to U.S. 71 and on the west by the West Atchafalaya Guide Levee to its junction with La. 10, except: the Indian Bayou tract owned by the U.S. Corps of Engineers.

Upper St. Martin: All within the Atchafalaya Basin. EXCEPTION: see Sherburne WMA for special season dates on all state, federal and private lands within Sherburne boundaries.

Winn: Only that portion within the boundaries of the National Catahoula Wildlife Management Preserve.

**Area B**

April 11-April 26

All of the following parishes are open:

Bienville, Bossier, Claiborne, Lincoln, Red River, Webster

Portions of the following parishes are open:

Caddo: That portion north of La. 2 from the Texas state line to U.S. 71, east of U.S. 71 from La. 2 to I-20, south of I-20 from U.S. 71 to U.S. 171, and east of U.S. 171 to the DeSoto Parish line.

DeSoto: That portion east of U.S. 171 from the Caddo Parish line to U.S. 84 and south of U.S. 84.

Jackson: West of Parish Road 243 from Lincoln Parish line to Parish Road 238, west and south of Parish Road 238 to La. 144, west of La. 144 to La. 34, west of La. 34 to Chatham, north of La. 146 from Chatham to La. 155, north of La. 155 to La. 542, north of La. 542 to Quitman, north of La. 155 to Bienville Parish line.

Ouachita: East of La. 143 from Union Parish line to Bayou Darbonne to the Ouachita River.

Morehouse: West of U.S. 165 from the Arkansas line to Bonita, north and west of La. 140 to junction of La. 830-4 (Cooper Lake Road), west of La. 830-4 to Bastrop, north of U.S. 165 from Bastrop to Ouachita Parish line.

Union: West of La. 15 from Ouachita Parish line to La. 33 west of Farmerville, north of La. 33 to La. 2 at Farmerville, north and east of La. 2 to La. 143 at Crossroads, east of La. 143 to the Ouachita Parish line.

**Area C**

March 21-March 29

Portions of the following parishes are open:

Ascension: All east of the Mississippi River.

Avoyelles: That portion surrounding Pomme de Terre WMA, bounded on the north, east and south by La. 451, on the west by the Big Bend levee from its junction at the Bayou des Glaise structure east of Bordelonville southward to its junction with La. 451.

Concordia: North and east of Sugar Mill Chute (Concordia Parish) from the state line westward to Red River, east of Red River northward to Cocodrie Bayou, east of Cocodrie Bayou northward to U.S. Hwy. 84, south of U.S. Hwy. 84 eastward to La. Hwy. 15 (Ferriday), east of La. Hwy. 15 northward to U.S. Hwy. 65 (Clayton), east of U.S. Hwy. 65 northward to Tensas Parish line.

Iberville: All east of the Mississippi River.

Tensas: East and south of U.S. Hwy. 65 from Concordia Parish line to Hwy. 128, south of Hwy. 128 to St. Joseph, east and south of La. Hwy. 605, 604 and 3078 northward to Port Gibson Ferry.

**1998 Wildlife Management Area Turkey Hunting Regulations**

**General**

The following rules and regulations concerning management, protection and harvest of wildlife have been officially approved and adopted by the Wildlife and Fisheries Commission in accordance with the authority provided in

Louisiana Revised Statutes of 1950, Section 109 of Title 56. Failure to comply with these regulations will subject the individual to citation and/or expulsion from the management area.

Only those wildlife management areas listed are open to turkey hunting.

All trails and roads designated as ATV Only shall be closed to ATVs from March 1 through June 1. ATV off-road or trail travel is prohibited. Walk-in hunting only (bicycles permitted), unless opened by sign on trail.

Bag limits on WMAs are part of the season bag limit. The bag limit for turkeys on wildlife management areas is one per area, not to exceed two per season for all WMAs. The bag limit for turkeys is one gobbler per day and three gobblers per season including those taken on WMAs.

**Permits**

Self-Clearing Permits. All turkey hunts, including lottery hunts, are self-clearing and all hunters must check in daily by picking up a permit from a self-clearing station. Upon completion of each daily hunt, the hunter must check out by completing the hunter report portion of the permit and depositing it in the check-out box at a self-clearing station before exiting the WMA.

Lottery Hunts. Dewey Wills, Georgia-Pacific, Loggy Bayou, Sabine, Sherburne, Sicily Island and Tunica Hills WMAs are restricted to those persons selected as a result of the pre-application Lottery. Deadline for receiving applications is January 31, 1998. Application fee of \$5 must be sent with each application. Applicants may submit only one application and will be selected for one WMA Turkey Lottery Hunt annually. Submitting more than one application will result in disqualification. Contact any district office for applications. Hunters must abide by self-clearing permit requirements.

Requests for information on WMA regulations, permits, lottery hunt applications and maps may be directed to any district office: [District 1—P.O. Box 915, Minden, 71055; 318/371-3050]; [District 2—368 Century Park Drive, Monroe, 71203; 318/343-4044]; [District 3—1995 Shreveport Hwy., Pineville, 71360; 318/487-5885]; [District 4—P.O. Box 426, Ferriday, 71334; 318/757-4571]; [District 5—1213 North Lakeshore Dr., Lake Charles, 70601; 318/491-2575]; [District 6—105 Ave. of the Acadians, Opelousas, 70571; 318/948-0255]; [District 7—P.O. Box 98000, Baton Rouge, 70898; 504/765-2360].

**WILDLIFE MANAGEMENT TURKEY HUNTING SCHEDULE\***

WMA	Season Dates	Permit Requirements (Mandatory)	Lottery Dates**
Bens Creek†	Mar 21-Apr 12	Self-Clearing	None
Boeuf	Mar 21-Mar 29	Self-Clearing	None
Big Lake	Mar 21-Mar 29	Self-Clearing	None
Bodcau	Apr 11-Apr 26	Self-Clearing	None
Boise Vernon	Mar 21-Apr 12	Self-Clearing	None

Camp Beauregard	Mar 21-Apr 5	Self-Clearing	None
Dewey Wills	Mar 21-Mar 29	Self-Clearing	Mar 21-22 Mar 23-25
Fort Polk	Mar 21-Apr 26	Self-Clearing	None
Georgia-Pacific	Apr 11-Apr 19	Self-Clearing	Apr 11-12 Apr 13-15
Grassy Lake	Mar 21-Mar 29	Self-Clearing	None
Jackson-Bienville	Apr 11-Apr 26	Self-Clearing	None
Little River	Mar 21-Apr 5	Self-Clearing	None
Loggy Bayou	Apr 18-Apr 19 Apr 25-Apr 26	Self-Clearing	Apr 18-19 Apr 25-26
Pearl River	Mar 21-Apr 5	Self-Clearing	None
Peason Ridge	Mar 21-Apr 26	Self-Clearing	None
Pomme de Terre	Mar 21-Mar 29	Self-Clearing	None
Red River	Mar 21-Mar 29	Self-Clearing	None
Sabine	Mar 21-Mar 22 Mar 28-Mar 29	Self-Clearing	Mar 21-22 Mar 28-29
Sandy Hollow†	Mar 21-Apr 12	Self-Clearing	None
Sherburne	Mar 21-Mar 29	Self-Clearing	Mar 21-22 Mar 23-25
Sicily Island	Mar 21-Mar 22 Mar 28-Mar 29 Apr 4-Apr 5	Self-Clearing	Mar 21-22 Mar 28-29 Apr 4-5
Three Rivers	Mar 21-Mar 29	Self-Clearing	None
Tunica Hills	Mar 21-Mar 22 Mar 28-Mar 29 Apr 4-Apr 5	Self-Clearing	Mar 21-22 Mar 28-29 Apr 4-5

Interested persons may submit written comments relative to the proposed rule until September 26, 1997 to Hugh A. Bateman, Administrator, Wildlife Division, Box 98000, Baton Rouge, LA 70898.

Daniel J. Babin  
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Turkey Hunting Season—1998**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

Establishment of hunting regulations is an annual process. The cost of implementing the proposed rules to the state, aside from staff time, is the production of the turkey regulation pamphlets and the turkey stamps estimated to cost \$4,500. The state agency currently has sufficient funds to implement the proposed action and no implementation costs or savings will be incurred by local governmental units resulting from the proposed rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

License revenue from the sale of turkey stamps are estimated to be about \$51,915.50. Failure to adopt this rule would result in no turkey hunting seasons being established and loss of state revenues from sale of turkey stamps. In addition, loss of tax revenues of an undeterminable amount may occur to both state and local governmental units from the sale of supplies and equipment used in the pursuit of turkeys.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

Approximately 10,000 resident and nonresident sportsmen and an undeterminable amount of sporting good distributors, retail outlets and landowners are directly affected by this proposal. Turkey hunters in Louisiana generate income to retail outlets, landowners and commercial operations that cater to the hunting public through hunting leases and the sale of outdoor related equipment and associated items (food, fuel, clothing, shotgun shells, etc.). These land and business owners will be negatively impacted if hunting seasons, rules and regulations are not established and promulgated. The actual amount of this impact is not estimable at this time. Both resident and nonresident turkey hunters will incur an additional cost of \$5.50 and \$10.50, respectively from the required purchase of a wild turkey stamp.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

Hunting supports approximately 9,800 full- and part-time jobs in Louisiana of which a proportion is directly related to turkey hunting. Failure to establish turkey hunting seasons may have a negative impact on some of these jobs. It is also estimated that there will be little or no effect on competition in both the public and private sectors resulting from the proposed action.

Ronald G. Couvillion  
Undersecretary  
9707#038

Richard W. England  
Assistant to the  
Legislative Fiscal Officer

\*Only those Wildlife Management Areas listed have a turkey hunting season. All other areas are CLOSED. For seasons on smaller lands managed by the Department of Wildlife and Fisheries, contact the local district office.

\*\*The deadline for receiving applications for all turkey Lottery Hunts on WMAs is January 31, 1998.

†No turkey hunting within 100 yards of food plots identified by two yellow paint rings around the nearest tree.

**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 23:

67	I.101	Amended	May 591
	III.101, 103	Amended	Jan 79
	III.902	Adopted	Apr 448
	III.1113, 1133	Amended	Jan 79
	III.1113	Amended	Apr 449
	III.1116,1118	Adopted	Apr 449
	III.1141, 1143	Amended	Apr 448
	III.1301, 1501	Amended	Apr 449
	III.1506	Adopted	Apr 449
	III.Chapter 19	Amended	Jan 79
	III.1909	Repealed	Jan 79
	III.1938,1940	Adopted	Jan 80
	III.1943	Repealed	Jan 82
	III.1988, 1994	Adopted	Jan 83
	III.1988	Amended	May 590
	III.2304	Adopted	Jun 747
	III.2509,2512,2540	Amended	Jun 748
	III.2514	Adopted	Mar 304
	III.2541	Amended	Feb 210
	III.2542,2575,2576	Adopted	Jun 748
	III.2543	Repealed	Jun 748
	III.2754	Adopted	Jun 748
	III.2755	Adopted	Jun 749
	III.2753	Repealed	Feb 210
	III.2902	Adopted	Apr 450
	III.2903-2913	Amended	Apr 450
	III.4702	Repromulgated	May 591
	V.1103	Amended	May 590
70	I.509	Amended	Jan 85
	I.513	Adopted	Jan 84
	III.1103	Adopted	Feb 210
76	VII.329	Amended	Jan 86
	VII.349	Repromulgated	Feb 211
	XIX.107	Adopted	May 593

# Potpourri

## POTPOURRI

**Office of the Governor  
Division of Administration  
Office of Community Development**

### Public Hearings—HUD Programs

As set forth in 24 CFR Part 91, the U.S. Department of Housing and Urban Development (HUD) requires state agencies which administer certain HUD programs to incorporate their planning and application requirements into one master plan called the Consolidated Plan. In Louisiana the four state agencies participating in this consolidated planning process and the HUD-funded program administered by each agency include the Division of Administration/Office of Community Development (Small Cities Community Development Block Grant Program), the Louisiana Housing Finance Agency (HOME Investment Partnerships Program), the Department of Social Services/Office of Community Services (Emergency Shelter Grants Program), and the Department of Health and Hospitals/HIV Program Office (Housing Opportunities for Persons with AIDS Program). A summary of the four programs follows. A Consolidated Plan was prepared which outlines the state's overall housing and community development needs and a strategy for meeting those needs for federal fiscal years 1995 - 1999 and included a one-year action plan for FY 1995 federal funds received for the four aforementioned HUD programs. An annual update or action plan must be prepared and publicized for each of the subsequent four program years.

The Small Cities Community Development Block Grant Program provides financial assistance to parishes of less than 200,000 persons and municipalities with a population of less than 50,000 in their efforts to provide a suitable living environment, decent housing, essential community facilities, and expanded economic opportunities. Eligible activities include community infrastructure systems such as water, sewer, and street improvements, housing rehabilitation, and economic development assistance in the form of grants and loans. Projects funded under this program must principally benefit persons of low and moderate income.

The objectives of the HOME Investment Partnerships Program are: to expand the supply of decent and affordable housing for low and very low income persons, to stabilize the existing deteriorating owner occupied and rental housing stock through rehabilitation, to provide financial and technical assistance to recipients/subrecipients, and to extend and strengthen partnerships among all levels of government and the private sector, including for-profit and nonprofit organizations, in the production and operation of affordable housing.

The purpose of the Emergency Shelter Grants Program is to help local governments and community organizations to improve and expand shelter facilities serving homeless individuals and families, to meet the costs of operating homeless shelters, to provide essential services, and to perform homeless prevention activities.

The Housing Opportunities for Persons with AIDS Program provides localities with the resources and incentives to devise and implement long-term comprehensive strategies for meeting the housing needs of persons with acquired immunodeficiency syndrome (AIDS) or related diseases and their families.

The four agencies implementing these programs are preparing their annual performance and evaluation report for the FY 1996 program year which ended May 31, 1997. The purpose of that document is to report on the progress the state has made in addressing the goals and objectives identified in its Consolidated Plan and FY 1996 Consolidated Annual Action Plan.

The four agencies administering these programs are also beginning to prepare the Annual Action Plan for the FY 1998 federal funding allocation. The Annual Action Plan for the FY 1998 federal funds must indicate how the proposed method of distribution of resources and anticipated program income from the four HUD programs will address the priority needs and specific objectives described in the Consolidated Plan.

The state will hold public hearings for a two-fold purpose regarding these programs.

The first purpose of the hearings will be to receive comments on the state's performance during the FY 1996 program year. Copies of the annual performance and evaluation report will be available for review and each agency will present a summary of its accomplishments as identified in the performance report. For those persons who are unable to attend the public hearings, copies of the performance report will be available for review beginning August 4, 1997, at the Office of Community Development, State Capitol Annex, 1051 North Third Street, Room 168, Baton Rouge; at the Louisiana Housing Finance Agency, 200 Lafayette Street, Suite 300, Baton Rouge; at the Department of Social Services/Office of Community Services, 333 Laurel Street, Room 802, Baton Rouge; and at the Department of Health and Hospitals/HIV Program Office, 1600 Canal Street, Ninth Floor, New Orleans. Written comments on the performance report may be submitted beginning August 4, 1997, and received no later than August 21, 1997, to the Office of Community Development, Box 94095, Baton Rouge, LA 70804-9095.

The second purpose of the hearings will be to obtain views on the housing and community development needs throughout

the state; those comments will assist the agencies in developing the FY 1998 Annual Action Plan. Written comments on the needs of the state may be submitted beginning August 4, 1997, and received no later than September 5, 1997, to the Office of Community Development, Box 94095, Baton Rouge, LA 70804-9095.

The public hearings will be held on August 5, 1997, at 1:30 p.m., in the Committee Room on the third floor of the Capitol Annex, 1051 North Third Street, Baton Rouge, LA, and on August 6, 1997, at 1:30 p.m., in the Council Chambers at the Pineville City Hall, 910 Main Street, Pineville, LA. These facilities are accessible to persons with physical disabilities. Non-English speaking persons and persons with other disabilities requiring special accommodations should contact the Office of Community Development at (504)342-7412 or TDD (504) 342-7422 or at the mailing address in the preceding paragraph at least five working days prior to the hearing.

Mark C. Drennen  
Commissioner of Administration

9707#023

**POTPOURRI**

**Department of Health and Hospitals  
Board of Veterinary Medicine**

**Examinations for Licensure**

The Board of Veterinary Medicine will administer the national and state examinations for licensure to practice veterinary medicine as follows:

Examination	Date	Deadline to Apply
National Board	Second Tuesday of December December 9, 1997	6 weeks prior to exam date October 24, 1997
Clinical Competency Test	Second Wednesday of December December 10, 1997	6 weeks prior to exam date October 24, 1997
State Board	First Tuesday of Every Month	Four weeks prior to desired exam date

Applications for all exams must be received on or before the deadline. Applications and information may be obtained from the board office by calling (504) 342-2176.

Charles B. Mann  
Executive Director

9707#001

**POTPOURRI**

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

**Private Intermediate Care Facilities-MR**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adjusts the following per diem rates in accordance with the reimbursement methodology established for private intermediate care facilities for the mentally retarded (*Louisiana Register*, Volume 15, Number 10).

Effective with dates of service July 1, 1997 and thereafter, reimbursement rates, which include a provider fee of \$9.42, shall be set as follows:

Level of Care	1-8 Beds Per Diem Rate	1-8 Beds Monthly Rate	9-32 Beds Per Diem Rate	9-32 Beds Monthly Rate	33+ Beds Per Diem Rate	33+ Beds Monthly Rate
2	\$103.23	\$3,139.91	\$84.34	\$2,565.34	\$80.64	\$2,452.80
3	\$111.39	\$3,388.11	\$90.86	\$2,763.66	\$86.83	\$2,641.08
4	\$124.02	\$3,772.28	\$97.94	\$2,979.01	\$93.58	\$2,845.78
5	\$127.43	\$3,876.00	\$105.64	\$3,213.22	\$100.88	\$3,068.43
6	\$131.24	\$3,991.88	\$114.01	\$3,467.80	\$113.78	\$3,460.81
7	\$144.76	\$4,403.12	\$142.65	\$4,338.94	\$122.13	\$3,714.79

If additional information is required, please contact John Marchand at (504) 342-6116.

Bobby P. Jindal  
Secretary

9707#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 which follows have met the requirements as set forth by Section 91 of Act 404, R.S. 30:80 et seq., and as such are being declared orphaned oilfield sites.

Operator	Field	Well Name	Well No.	Serial No.
Baker Petroleum Corporation	Monroe	Ollie Albritton	001	176324
Baxter Drilling and Exploration, Inc.	Olla	McCutchan	001	206565
Baxter Drilling and Exploration, Inc.	Olla	Butler	001	206695
Baxter Drilling and Exploration, Inc.	Olla	Doughty	001	206696
Baxter Drilling and Exploration, Inc.	West Catahoula	WX A RA SU56; J C Ray	001	206386
Baxter Drilling and Exploration, Inc.	Nebo-Hemphill	WX A RB SU 4; J E Hailey et al	A-2	072421
Baxter Drilling and Exploration, Inc.	Nebo-Hemphill	WX A RB SU 4; J E Hailey	001	205603
Baxter Drilling and Exploration, Inc.	Wildcat	Carpenter-Daggett	001	207378
Baxter Drilling and Exploration, Inc.	Crescent	11300 RA SUA; J R Templet, Sr. et al	001	206535
Baxter Drilling and Exploration, Inc.	Crescent	C O Dupont	001	103906
Baxter Drilling and Exploration, Inc.	Crescent	Crescent Field SWD System	001	107783
Baxter Drilling and Exploration, Inc.	Crescent	CIB H I RA SUC; J R Templet	001	114231
Brazos Petroleum, Inc.	University	Materiste SWD	002	164263
Brazos Petroleum, Inc.	South Thornwell	11900 RA VUA; Lacassane Co Inc "D"	001	178506
Burle Corporation	Monroe	Swink	001	094010
Mrs. Sarah Byrnside	Truxno	G A Byrnside SWD	001	970714
Mrs. Sarah Byrnside	Truxno	G A Byrnside	001	171442
D. C. Carnes	Caddo-Pine Island	Carter Oil Co	007	072863
Divi Oil and Gas	Lake Marydale	Kemp Fisher J	001	099439
Edgewater Oil Co.	Charenton	Hertel	001	022000
LAS Services, Inc.	North Leroy	Hoffpauir	001	087730
Limited Resources	Caddo-Pine Island	Gamm H	001	051490
Limited Resources	Caddo-Pine Island	Gamm H	002	077182
Limited Resources	Caddo-Pine Island	Gamm H	003	097600
Limited Resources	Caddo-Pine Island	Gamm H	004	098721
Limited Resources	Caddo-Pine Island	Gamm H	005	098722

Limited Resources	Caddo-Pine Island	Gamm H	006	100154
Limited Resources	Caddo-Pine Island	John Bradford	001	055021
Limited Resources	Caddo-Pine Island	John Bradford	002	064266
Limited Resources	Caddo-Pine Island	John Bradford	003	099542
Limited Resources	Caddo-Pine Island	John Bradford	004	100151
Limited Resources	Caddo-Pine Island	John Bradford	005	100152
Limited Resources	Caddo-Pine Island	John Bradford	006	100153
Limited Resources	Caddo-Pine Island	John Bradford	007	182214
Limited Resources	Caddo-Pine Island	H S Lavine	001	990272
Limited Resources	Caddo-Pine Island	H S Lavine	002	990273
Limited Resources	Caddo-Pine Island	H S Lavine	003	990274
Limited Resources	Caddo-Pine Island	H S Lavine	004	033770
Limited Resources	Caddo-Pine Island	H S Lavine	005	199663
Limited Resources	Caddo-Pine Island	Muslow L	001	159830
M and B Oil Company	Caspiana	Egan-Webb-Smith	001	186238
M and B Oil Company	Red River-Bull Bayou	Lafitte RA SUT; Hunter A	001	185454
M and B Oil Company	Red River-Bull Bayou	Carmel Catholic Church	001	187263
Muslow and Parker	Caddo-Pine Island	Brown	003	157627
Nortex Associates, Inc.	Caddo-Pine Island	Gamm "I"	001	051489
Nortex Associates, Inc.	Caddo-Pine Island	Gamm	004	077183
J. Ober	Caddo-Pine Island	Bush-Crum	001	025305
Offshore Financial Corp., Inc.	Anse La Butte	MT RF SUC; Nickerson	001	218336
Pryamid Petroleum Inc.-LA. Div.	Nebo-Hemphill	Coon	001	207225
Tony Westbrooks	Standard	Russell et al	001	158209
W. C. White, Sr.	Monroe	White	001	105545

George L. Carmouche  
Commissioner

9707#037

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