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This public document is published in accordance with R.S. 49:953. The publication date for this issue of the *Louisiana Register* is November 20, 2023. The Office of the State Register is the official state entity for all certified copies of the *Louisiana Register* and the content contained herein.

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# Executive Orders

## EXECUTIVE ORDER JBE 23-18

Rules and Policies on Leave for Unclassified Service—Amended November 1, 2023

WHEREAS, no permanent rules or policies on annual, compensatory, sick, special, military, and other leave exist for employees and appointees who are in the unclassified service of the State of Louisiana;

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

### SECTION 1: Applicability

A. The rules and policies established by this Order shall be applicable to all employees and appointees in the unclassified service of the executive branch of the State of Louisiana, with the exception of elected officials and their employees, and the officers and employees of a system authorized by the Louisiana Constitution or legislative act to manage and supervise its own system. Elected officials of the executive branch may adopt the rules and policies set forth in this Order to govern the unclassified officers and employees within their department.

B. Nothing in this Order shall be applied in a manner which violates, or is contrary to, the Fair Labor Standards Act (hereafter "FLSA"), the Family and Medical Leave Act, or any other applicable federal or state law, rule, or regulation.

### SECTION 2: Definitions

Unless the context of this Order clearly indicates otherwise, the words and terms used in this Order shall be defined as follows:

A. "Annual leave" means leave with pay granted to an unclassified employee or appointee for the purpose of rehabilitation, restoration, or maintenance of work efficiency, or the transaction of personal affairs.

B. "Appointing authority" means the agency, department, board, or commission, or the employees thereof, authorized by statute or lawfully delegated authority to make appointments to positions in state service. For purposes of this Order, use of the term "appointing authority" applies also to the appointing authority's designee.

C. "Compensatory leave" means leave earned in lieu of wages at the straight-time or time and one-half rate as compensation for overtime hours worked. Crediting of such leave is based upon a determination of the employee's status as exempt or non-exempt as defined by the FLSA, and also upon the number of hours actually worked throughout the scheduled work period.

D. "Duty for military purposes" means the performance of continuous and uninterrupted military duty on a voluntary or involuntary basis and includes active duty, active duty for training, initial active duty for training, full-

time National Guard duty, annual training, and inactive duty for training (weekend drills).

E. "Educational leave" means paid or unpaid leave that may be granted by an appointing authority to an unclassified employee or appointee for the purpose of attending an accredited educational institution to receive formalized training which will materially assist the unclassified employee or appointee in performing the type of work performed by his department or agency.

F. "Governor's Executive Office" means the budget unit 01-100 as listed in Schedule 01 of the General Appropriations Act.

G. "Intermittent employee" means a person employed in state service that is not hired to work on a regularly scheduled basis.

H. "Leave without pay" and "leave of absence without pay" mean a period of leave or time off from work granted or imposed by the appointing authority for which the unclassified employee or appointee receives no pay.

I. "Overtime hour" means an hour worked at the discretion and direction of the appointing authority by an unclassified employee who is serving in a position which earns compensatory leave:

1. On a day observed as a holiday (statutory, proclaimed or designated);
2. In excess of the regularly scheduled workday;
3. In excess of the regularly scheduled work period; or
4. On a day in which a department or certain locations thereof are declared closed due to a natural disaster or emergency.

J. "Regular work schedule" means the designated work hours and days an unclassified employee is required to work.

K. "Seasonal employee" means a person employed on a non-continuous basis for a recognized peak work load project.

L. "Sick leave" means leave with pay granted to an unclassified employee or appointee who is unable to perform his or her usual duties and responsibilities due to illness, injury, or disability, or when he or she requires medical, dental, or optical consultation or treatment.

M. "State service" means employment in the executive branch of state government, including state supported schools, agencies and universities; public parish school systems; public student employment; membership on a public board or commission; and employment in the legislative and judicial branches. To constitute state service, the employment must have been performed for a Louisiana public entity. Contract service does not constitute state service.

N. "Temporary employee" means an employee who is continuously employed in the unclassified service of the executive branch for a period which does not exceed and is

not reasonably expected to exceed twelve (12) consecutive calendar months.

O. "Unclassified appointee" means a person serving in the unclassified service of the executive branch appointed by:

1. The governor to serve:
  - a) On the governor's executive staff;
  - b) On the governor's cabinet;
  - c) On the executive staff of the governor's cabinet; or
  - d) As head of a particular agency;
2. A cabinet member to serve on the cabinet member's executive staff;
3. The superintendent of the Department of Education to serve on the superintendent's executive staff;
4. An elected official in the executive branch (who has adopted the rules and policies set forth in this Order) to serve on the elected official's executive staff; or
5. The secretary of the Department of Economic Development to serve in the unclassified service in the Office of Business Development.

The governor, cabinet members and agency heads are required to identify, in accordance with the definition set forth above, their executive staff who are designated as unclassified appointees and, as described in Section 13, are ineligible to receive compensation of any nature for overtime hours worked. By February 1 of each year, a listing of such persons shall be provided and will be subject to review by the commissioner of administration. Appointing authorities are required to ensure that unclassified appointees do not receive overtime compensation.

An unclassified appointee shall be on duty and available to serve and in contact with his appointing authority throughout the term of his appointment except when on leave.

P. "Unclassified employee" means an officer or employee who serves at the pleasure of his appointing authority and whose position is designated as such by Civil Service Rule 4.1, Sections (c)-(e), and Louisiana Constitution Article X, Section 2.

Q. "Unclassified service" means those positions of state service, as defined in Article X, Sections 2 and 42 of the Louisiana Constitution of 1974, which are not positions in the classified service.

#### SECTION 3: Full-time Employees

For each full-time employee, the appointing authority shall establish a work week of not less than forty (40) hours or work period of not less than eighty (80) hours.

#### SECTION 4: Granting Leave

Leave must be requested and approved prior to use, and such approval is at the discretion of the unclassified employee's appointing authority or designee.

#### SECTION 5: Earning of Annual and Sick Leave

A. Annual and sick leave shall not be earned by the following persons:

1. Members of boards, commissions, or authorities;
2. Student employees, as defined by Civil Service Rules;
3. Temporary, intermittent, or seasonal employees; and

4. Part-time employees of the Governor's Executive Office.

B. The earning of annual and sick leave by unclassified employees and appointees shall be based on the equivalent of years of full-time state service and shall be credited at the end of each calendar month, or at the end of each regular pay period, in accordance with the following general schedule:

1. Less than three (3) years of service, at the rate of .0461 hour of annual leave and .0461 hour of sick leave for each hour of regular duty;

2. Three (3) or more years but less than five (5) years of service, at the rate of .0576 hour of annual leave and .0576 hour of sick leave for each hour of regular duty;

3. Five (5) or more years but less than ten (10) years of service, at the rate of .0692 hour of annual leave and .0692 hour of sick leave for each hour of regular duty;

4. Ten (10) or more years but less than fifteen (15) years of service, at the rate of .0807 hour of annual leave and .0807 hour of sick leave for each hour of regular duty; and

5. Fifteen (15) or more years of service, at the rate of .0923 hour of annual leave and .0923 hour of sick leave for each hour of regular duty.

For purposes of this Section, contract service does not constitute full time or part-time state service and cannot be used to determine, and has no effect upon, the rate at which annual leave and sick leave is earned by, accrued by, or credited to a full-time or part-time employee or appointee in the unclassified state service.

C. No unclassified employee or appointee shall be credited with annual or sick leave:

1. For any overtime hour;

2. For any hour of leave without pay except as set forth in Section 17 of this Order;

3. For any hour of on-call status outside the employee's regular duty hours;

4. For any hour of travel or other activity outside the employee's regular duty hours; or

5. For any hour of a holiday or other non-work day which occurs while in leave without pay status except as set forth in Section 17 of this Order.

#### SECTION 6: Carrying Annual and Sick Leave Forward

Accrued unused annual and sick leave earned by an unclassified employee or appointee shall be carried forward to succeeding calendar years without limitation.

#### SECTION 7: Use of Annual Leave

A. Annual leave must be requested prior to use, and such approval is at the discretion of the unclassified employee's appointing authority.

B. Annual leave shall not be charged for non-work days nor for hours beyond the unclassified employee's regular work schedule.

C. When engaged in political activities during regular work hours, unclassified employees shall apply for and use accrued annual leave, compensatory leave or leave without pay.

D. The minimum charge to annual leave records shall be in increments of not less than one-tenth (.1) of an hour or six (6) minutes.

E. Annual leave shall only be approved for use after it has been accrued by an unclassified employee or appointee. Annual leave shall not be advanced.

F. An appointing authority may require an unclassified employee to use accrued annual leave whenever doing so is determined to be in the best interest of the department. When such occurs, no unclassified employee shall be required to reduce his accrued annual leave balance to less than two hundred forty (240) hours except:

1. Prior to being granted leave without pay, but subject to the military leave provisions of Section 17 of this Order; or

2. When the absence from work is due to a condition covered by the Family and Medical Leave Act.

#### SECTION 8: Use of Sick Leave

A. Sick leave must be requested prior to use when possible, and approval is at the discretion of the unclassified employee's appointing authority.

B. Accrued sick leave shall be used by an unclassified employee when an illness, injury or disability prevents him from reporting for duty or for medical, dental or optical consultation or treatment.

C. Accrued sick leave shall be used by an unclassified appointee when he is mentally or physically unable to serve his appointing authority due to illness, injury or disability.

D. An appointing authority has the right, at any time, to require that an unclassified employee produce a statement from a qualified healthcare provider certifying that the employee was ill and unable to report to work for the duration of an absence.

E. Sick leave shall not be charged for non-work days nor for hours beyond the unclassified employee's regular work schedule.

F. The minimum charge to sick leave records shall be in increments of not less than one-tenth (.1) of an hour or six (6) minutes.

G. Sick leave shall only be approved for use after it has been accrued by an unclassified employee or appointee. Sick leave shall not be advanced.

H. An appointing authority has discretion to place an unclassified employee on sick leave after the employee asserts the need to be absent from work or when it is apparent that the employee is unfit for duty due to an illness, injury or disability.

#### SECTION 9: Transfer of Annual and Sick Leave

A. A classified or unclassified employee shall have all accrued annual and sick leave credited to him when the employee transfers without a break in state service into a position covered by this Order.

B. When an unclassified employee or appointee transfers without a break in state service to a position covered by other leave rules of the state, his accrued annual and sick leave shall be transferred to the new employing state department or agency. The new employing department or agency shall either hold the annual and sick leave in abeyance or integrate the leave into its own system. The unclassified employee's or appointee's accumulated leave shall not be reduced during such integration.

#### SECTION 10: Terminal Annual Leave

Terminal annual leave is the authorized use of annual leave prior to an unclassified employee's or appointee's retirement from state service.

A. A retiring unclassified employee or appointee who has sufficient hours of annual leave may be authorized to continuously use such leave, immediately prior to retirement, for a period not to exceed 160 work hours.

B. Terminal annual leave will be granted only after the appointing authority's acceptance of the unclassified employee's or appointee's fixed and irrevocable retirement date. The prospective retirement date is viewed in the nature of a contract which can be rescinded or changed only with approval of the appointing authority.

C. Terminal annual leave may be granted provided the unclassified employee's or appointee's absence on leave will not impair the efficient operation of the work unit.

D. The appointing authority, for business reasons, has discretion to cancel previously approved terminal annual leave and require that the unclassified employee or appointee return to duty.

E. While on terminal annual leave, an unclassified employee or appointee is prohibited from engaging in outside employment which would be prohibited during regular employment by either the Code of Governmental Ethics, the Civil Service Rules, the Dual Office-Holding Act, or agency policy.

#### SECTION 11: Special Provision—Unclassified Appointees

Unclassified appointees who are separating from state service, but ineligible for terminal annual leave under Section 10, may be authorized to use annual leave for a period of time not to exceed 160 work hours. Such leave requires prior approval of the unclassified appointee's appointing authority and must be used on a continuous basis immediately prior to separation. The limitations of Paragraphs C, D, and E in Section 10 above apply to such leave usage.

#### SECTION 12: Disbursement of Accrued Annual Leave Upon Separation

A. Upon the resignation, death, removal, layoff, retirement, or other final separation from state service of an unclassified employee or appointee, his accrued annual leave, up to a maximum of three hundred (300) hours, shall be paid in a lump sum, disregarding any final fraction of an hour. The payment shall be computed as follows:

1. When the unclassified employee or appointee is paid on an hourly basis, the regular hourly rate that he received at the time of separation from state service shall be multiplied by the number of hours of accrued annual leave, which number is not to exceed three hundred (300) hours; or

2. When the unclassified employee or appointee is paid on other than an hourly basis, his hourly rate shall be determined by converting the salary he received at the time of separation from service into an hourly rate. The converted hourly rate shall be multiplied by the number of hours of accrued annual leave, which number is not to exceed three hundred (300) hours.

B. An unclassified employee or appointee who is paid for accrued annual leave upon separation from service and who is subsequently reemployed in a leave earning classified or unclassified position shall reimburse the state, through the new employing agency, for the number of hours he was paid which exceeded the number of work hours that transpired during his break from state service. In turn, the unclassified employee or appointee shall receive a credit for the number of hours of annual leave for which he made reimbursement to the state.

C. The provisions of this Section shall not extend to any unclassified employee or appointee who is dismissed for theft of state funds or property.

#### SECTION 13: Disbursement of Accrued Sick Leave Upon Separation

An unclassified employee or appointee shall not receive payment, directly or in-kind, for any accrued sick leave remaining at the time of separation from the unclassified service.

#### SECTION 14: Restoration of Annual and Sick Leave

An unclassified employee or appointee shall receive credit for all accrued and unpaid annual leave and all accrued unused sick leave upon reemployment by the state in the classified or unclassified service within a period of five (5) years from the date of separation from state service.

#### SECTION 15: Compensatory Leave

A. Compensatory leave shall not be earned by the following persons:

1. Unclassified appointees;
2. Student employees;
3. Temporary, intermittent or seasonal employees;
4. Members of boards, commissions or authorities;
5. The executive director or equivalent chief administrative officer of all boards, commissions, and authorities operating within the executive branch who are appointed by a board, commission or authority;
6. Other officers of the state who are appointed by the governor, including members of boards, commissions and/or authorities; and
7. Part-time employees of the Governor's Executive Office.

B. Compensatory leave shall be earned and credited in accordance with the FLSA when an appointing authority requires or authorizes a non-exempt unclassified employee serving in a compensatory leave earning position to work overtime. That is, the rate of compensatory leave credited (at the straight-time or time and one-half rate) shall be based upon whether such non-exempt unclassified employee worked less than or greater than forty (40) hours in the scheduled work period.

C. Compensatory leave may be earned and credited when an appointing authority requires or authorizes an exempt unclassified employee serving in a compensatory leave earning position to work overtime. If credited, the compensatory leave earned shall be equal to and not in excess of the number of overtime hours actually worked (i.e., such compensatory leave shall be calculated at the straight-time rate).

D. When earned, compensatory leave shall be claimed by and credited to the unclassified employee during the pay period in which the overtime is worked and, upon

approval of the appointing authority, may be used by the unclassified employee at a future date.

#### SECTION 16: Use and Disbursement of Compensatory Leave While in Service

A. Notwithstanding any provision herein to the contrary, a non-exempt unclassified employee shall be paid in wages at the time and one-half rate for any overtime hour worked in excess of the maximum amount allowed to be accrued by the FLSA.

B. Compensatory leave earned at the straight-time rate may be accrued without limitation. For most employees, not more than a total of three hundred sixty (360) such hours may be carried forward from one fiscal year to the next. For employees engaged in qualifying law enforcement and health care activities, not more than a total of five hundred forty (540) such hours can be carried forward from one fiscal year to the next. These caps apply to both exempt and non-exempt employees.

C. Compensatory leave earned at the straight-time rate in excess of the authorized cap shall be handled as followed:

1. For non-exempt employees, payment for the excess compensatory leave shall be made within ninety (90) days of the beginning of the fiscal year; and

2. For exempt employees, payment for the excess compensatory leave may be made within ninety (90) days of the beginning of the fiscal year. Any such payment shall be at the sole discretion and direction of the appointing authority, and subject to the availability of funding. All straight-time compensatory leave above the applicable cap, if not paid, shall be canceled within ninety (90) days of the beginning of the fiscal year.

D. An appointing authority may require an unclassified employee to work overtime at any time, including during emergency situations and office closures, as necessary to accomplish job assignments and serve the public's needs. Employees can be disciplined, up to and including termination, for failing or refusing to work overtime as directed.

E. An unclassified employee may be required by an appointing authority to use all or part of his accrued compensatory leave at any time. Compensatory leave earned at the time and one-half rate shall be taken before compensatory leave earned at the straight-time rate.

F. Subject to approval of the commissioner of administration, an appointing authority may authorize the payment of wages for accrued compensatory leave previously earned by an unclassified employee.

#### SECTION 17: Payment of Compensatory Leave Upon Separation or Transfer

A. All unused compensatory leave earned at the time and one-half rate shall be paid upon transfer from one state agency to another or upon separation from state service.

B. All unused compensatory leave earned at the straight-time rate by non-exempt employees shall be paid by the employing agency upon the unclassified employee's transfer from one state agency to another or upon separation from state service.

C. All or a portion of unused compensatory leave earned at the straight-time rate by exempt unclassified employees may be paid by the employing agency upon the

unclassified employee's transfer from one state agency to another or upon separation from state service. Any such payment shall be at the sole direction and discretion of the appointing authority, and subject to the availability of funding. If not paid, such unused compensatory leave shall be canceled and not re-credited upon reemployment in state service.

D. Any compensatory leave paid upon separation or transfer shall be calculated using the employee's final regular rate of pay.

#### SECTION 18: Special Provision – Natural Disasters and Emergency Situations

A. Notwithstanding any provision herein to the contrary, an unclassified employee eligible to be credited with compensatory leave may be compensated via the payment of wages in accordance with the FLSA (at the straight-time or time and one-half rate) for authorized hours actually worked at designated locations during official office closures due to and directly related to a natural disaster or emergency situation.

B. Notwithstanding any provision herein to the contrary, an unclassified employee eligible to be credited with compensatory leave may be compensated via the payment of wages in accordance with the FLSA (at the straight-time or time and one-half rate) for authorized hours actually worked at designated locations beyond an employee's regular work schedule due to and directly related to a natural disaster or emergency situation. This authorization extends to overtime hours worked in preparation for, response and/or recovery from such a disaster or emergency.

#### SECTION 19: Special Leave

A. An unclassified employee or appointee serving in a leave earning position shall be given time off, without loss of pay, annual or sick leave when:

1. Performing state or federal grand or petit jury duty;
2. Appearing as a summoned witness before a court, grand jury or other public body or commission, provided that for purposes of this subsection, a plaintiff or defendant shall not be considered a witness, nor shall this subsection apply to an employee summoned as a witness as a result of employment other than state employment;
3. Performing emergency civilian duty in relation to national defense;
4. Voting in a primary, general, or special election which falls on the employee's scheduled work day, provided not more than two (2) hours of leave shall be allowed an employee to vote in the parish of employment, and not more than one (1) day of leave shall be allowed an employee to vote in another parish;
5. Participating in a state civil service examination on a regular work day, or taking a required examination pertinent to the employee's state employment before a state licensing board;
6. The appointing authority determines an act of God prevents the performance of the duties of the employee;
7. The appointing authority determines that, due to local conditions or celebrations, it is impracticable for the employee to work in the locality;

8. The employee/appointee is ordered to report for a pre-induction physical examination incident to possible entry into the armed forces of the United States;

9. The employee/appointee is a member of the National Guard and is ordered to active duty incidental to a local emergency, an act of God, a civil or criminal insurrection, a civil or criminal disobedience, or a similar occurrence of an extraordinary and emergency nature which threatens or affects the peace or property of the people of the State of Louisiana or the United States;

10. The employee/appointee is engaged in the representation of a pro-bono client in a civil or criminal proceeding pursuant to an order of a court of competent jurisdiction; and/or

11. The employee/appointee is a current member of Civil Air Patrol and, incident to such membership, is ordered to perform duty with troops or participate in field exercises or training, except that such leave shall not exceed fifteen (15) working days in any one (1) calendar year and shall not be used for unit meetings or training conducted during such meetings.

12. The Adjutant General performs active duty under Title 32 of the United States Code relating to his duties for the State of Louisiana under La. R.S. 29:11, not including periods of annual training under 32 U.S.C. 502(a)(2).

B. Any unclassified employee serving in a non-leave earning position, but who is regularly employed by the state, who is called to serve on a state or federal grand or petit jury during regular work hours shall be granted a leave of absence without loss of pay for the duration of the jury service.

#### SECTION 20: Military Leave

##### A. Military Leave with Pay

1. An unclassified employee or appointee serving in a leave earning position who is a member of a reserve component of the armed forces of the United States and called to duty for military purposes, or who is a member of a National Guard unit called to active duty as a result of a non-local or non-state emergency, shall be granted a leave of absence from a state position without loss of pay or deduction of leave for a period not to exceed fifteen (15) working days per calendar year (hereafter "military leave with pay"). In addition, an appointing authority may grant annual leave, compensatory leave, leave without pay, or any combination thereof, for a period in excess of fifteen (15) working days per calendar year, in accordance with this Order and/or as required by state and/or federal law.

2. An unclassified employee or appointee who is a member of a reserve component of the armed forces of the United States or a National Guard unit, ordered and/or called to duty for military purposes, shall give prompt notice of the duty to his appointing authority. Advance notice is not required when precluded by military necessity, or otherwise impossible or unreasonable.

B. The provisions of this Subsection apply to unclassified employees and appointees who are called to active duty and are on leave without pay by choice or because all annual and/or compensatory leave have been exhausted. The provisions of this Section shall not apply to



employees and appointees on inactive duty for training (weekend drills).

1. When military leave with pay has been exhausted, an unclassified employee or appointee whose military base pay is less than his state base pay shall be paid the difference between his military base pay and his state base pay in his regular position. Such payment shall be made on the same frequency and manner as the unclassified employee's or appointee's regular state pay. Unclassified employees and appointees receiving pay differential shall provide to agency officials any documentation appropriate and necessary to ensure the payment amount is calculated correctly. Unclassified employees and appointees who choose to use accrued annual and/or compensatory leave during their period of military absence shall not be eligible to receive pay differential.

2. Unclassified employees and appointees shall continue to accrue sick and annual leave for the entire period of absence while in military service. Leave shall be accrued on the same basis as though the unclassified employee or appointee had not been activated. Such leave earned shall be credited to the unclassified employee or appointee upon his return from active duty.

3. Unclassified employees and appointees who are on leave without pay shall receive, each calendar year, the full 15 days of military leave with pay provided for in Subsection A. The pay differential allowed shall be suspended until the 15 day military leave with pay period is exhausted and the unclassified employee or appointee returns to leave without pay status.

4. Leave without pay for military purposes shall not exceed six (6) years, after which the unclassified employee or appointee shall be separated from state service.

#### SECTION 21: Parental Leave

A. Eligible unclassified employees and appointees are entitled to up to 240 hours of paid parental leave without deduction to their annual, sick, or compensatory leave balances. Such leave shall be for a qualifying purpose related to the unclassified employee's or appointee's child born or placed with such individual for adoption or foster care.

##### B. Qualifying Events:

1. Birth of a child;
2. Placement of a child under the age of eighteen (18) with the unclassified employee or appointee for adoption; or
3. Placement of a child under the age of eighteen (18) with the unclassified employee or appointee for foster care.

##### C. Eligibility:

1. Parental leave is only available to unclassified employees and appointees in leave-earning positions on the date of the qualifying event.

2. Parental leave is only available to unclassified employees and appointees who, on the date of the qualifying event, have been employed by the State for at least twelve (12) months and who have actually worked at least 1250 hours in the twelve (12) months preceding the parental leave request.

3. Parental leave is only available to the legal parents, adoptive parents or foster parents of the child for whom parental leave is taken when said parents have an active and ongoing role in parenting the child and are taking leave for one of the qualifying purposes set forth below. For purposes of this Order, a legal parent is a person having a genetic relationship to the child or filiated to the child through legal presumption or assisted reproductive technology.

##### D. Qualifying Purposes:

1. For a legal, adoptive or foster parent to bond with the child for whom leave is taken. A need to bond with the child exists when there is a new relationship between the parent and child and the unclassified employee or appointee will spend time with the child to create an ongoing mutual attachment. This rule is not intended to apply where a relationship resembling parent-child already exists and the primary change is the legal nature of the relationship. (Examples: foster parent to adoptive parent and intra-family adoptions such as adoptions by step-parents); or

2. For adoptive or foster parents to attend post-placement court proceedings or mandatory meetings related to adoption or foster placement.

##### E. Duration:

1. Parental leave is available for use only during the twelve (12) weeks (84 calendar days) immediately following the occurrence of the qualifying event.

2. Parental leave is available for use commencing on the first date of a qualifying event and for only as much of the parental leave period as the unclassified employee or appointee is engaged in a qualifying purpose.

3. Parental leave may be used continuously or intermittently, in accordance with the need therefor.

4. Unless the appointing authority determines that an unclassified employee or appointee is utilizing parental leave in violation of this Order, the appointing authority shall not reduce the authorized parental leave period nor interfere with the unclassified employee's or appointee's use of parental leave.

##### F. Compensation:

1. Full-time unclassified employees and appointees shall be compensated at the rate of 100% of their base pay for a period not to exceed 240 hours during the applicable twelve (12) week period.

2. Part-time unclassified employees and appointees shall be compensated at the rate of 100% of their base pay for a period not to exceed six (6) weeks based upon the average number of hours worked per week in the six (6) months immediately preceding the commencement of parental leave. (Example: if an individual works an average of twenty-five (25) hours per week during the six (6) month look-back period, the employee shall be paid their base pay for twenty-five (25) hours per week for six (6) weeks).

##### G. Limitations:

1. Parental leave shall not be donated to another employee or leave pool.

2. Unused parental leave shall not be reserved for use during a subsequent qualifying event nor paid to the unclassified employee or appointee.

3. This Order is not intended to provide any form of unpaid leave after exhaustion of 240 hours (or the appropriate part-time allotment) of paid parental leave. Additional leave, if any, shall be taken in accordance with this Order or other applicable law.

4. At least twelve (12) months shall elapse from the beginning of one parental leave period until an unclassified employee or appointee is eligible for another parental leave period. For a new parental leave period, there shall be a new qualifying event on or after the 12-month waiting period and the eligibility requirements of Section C shall be satisfied as of the date of the new qualifying event.

5. Eligible unclassified employees and appointees utilizing parental leave for occurrences also qualifying under the Family and Medical Leave Act ("FMLA") shall use FMLA leave concurrently with parental leave.

6. When both parents of the child for whom parental leave is used are employed in state service, each is entitled to utilize a full 240-hour (or appropriate part-time allotment) parental leave period.

7. In using parental leave, unclassified employees and appointees shall comply with their agency's customary leave practices. That is, as practicable, advance notice of leave needs shall be provided and leave requests approved prior to use.

8. An unclassified employee's and appointee's use of parental leave in accordance with this Order and agency policy shall not have a negative impact upon their employment relationship. Unclassified employees and appointees not utilizing parental leave in accordance with this Order and/or in violation of agency policy may be disciplined, including the possibility of termination.

#### H. Establishing Eligibility for Parental Leave:

1. Prior to granting parental leave, an appointing authority shall have the requesting unclassified employee or appointee complete the request form developed by State Civil Service.

2. In addition to this request form, an appointing authority may require an unclassified employee or appointee requesting parental leave to produce acceptable proof in support of their request, such as a birth certificate or insurance certificate confirming their relationship to the child for whom parental leave is requested, or proof of attendance at court proceedings or other mandated meetings related to adoption or foster placement. An appointing authority shall not require that an unclassified employee or appointee produce medical records or scientific evidence to prove paternity.

#### I. Policy:

Agencies may implement a policy to give effect to the purpose and intent of this Order. For consistency purposes, any such policy shall be substantially similar to the agency's Parental Leave Policy applicable to employees in the classified service.

#### SECTION 22: Other Leave

An unclassified employee or appointee serving in a position that earns annual and sick leave may be eligible to use the following additional types of leave:

A. Worker's Compensation Option: An unclassified employee or appointee who is absent from work due to a disability for which he is entitled to receive worker's compensation benefits may use accrued sick or annual leave

to receive combined leave and worker's compensation payments equal to and in an amount not to exceed the unclassified employee's or appointee's regular salary.

B. Law Enforcement Disability Leave: When an unclassified employee or appointee serving in a law enforcement capacity becomes disabled while in the performance of duty of a hazardous nature which results in his being unable to perform his usual or normal duties, the appointing authority may, with the approval of the Commissioner of Administration, grant the disabled employee or appointee a leave of absence with full pay during the period of such disability without charge against accrued sick or annual leave, provided the employee or appointee pays to the employing department all amounts of weekly worker's compensation benefits received during that period of leave with full pay. Such disability leave shall continue for a period of up to six (6) months unless extended with the approval of the Commissioner of Administration.

C. Funeral Leave: An unclassified employee or appointee may, at the discretion of the appointing authority, be granted leave without loss of pay or use of accrued leave to attend the funeral, burial, or last rites of a spouse, parent, step-parent, child, step-child, brother, step-brother, sister, step-sister, mother-in-law, father-in-law, grandparent or grandchild, provided such leave shall not exceed two (2) days for any single occurrence.

D. Educational Leave: An unclassified employee or appointee, at the discretion of the appointing authority, may be granted leave without loss of pay or use of accrued leave to attend an accredited institution to complete coursework that will materially assist the employee/appointee in performing customary job duties. Personal benefit to the employee is not the standard; rather, the coursework must be job-related and further the business operations and mission of the department or agency.

Educational leave with pay may be granted for a maximum period of thirty (30) days (240 hours) during one (1) calendar year. However, if the appointing authority requires an unclassified employee/appointee to complete coursework which will materially assist him in performing the type of work performed by his department or agency, educational leave with pay may extend for a maximum period of ninety (90) days (272 hours) during one (1) calendar year.

#### SECTION 23: Leave of Absence Without Pay

A. An appointing authority may approve a leave of absence without pay for an unclassified employee for a reasonable period of time not to exceed ninety (90) calendar days. Such leave may be rescinded provided proper notice is furnished to the unclassified employee and such rescission is in the best interest of the state service. If an unclassified employee is unable to or fails to report for duty on the first working day following the expiration of an authorized leave of absence, the employee shall be considered as having abandoned his position of employment.

B. An appointing authority may impose leave without pay of reasonable duration as disciplinary action to address an unclassified employee's performance or behavioral deficiencies.

C. In addition to disciplinary action, an appointing authority may place an unclassified employee in leave

without pay status for the duration of an unapproved absence.

SECTION 24: Holidays

A. Holidays shall be observed as provided in La. R.S. 1:55 and by proclamation issued by the governor.

B. A non-exempt unclassified employee serving in a compensatory leave earning position shall be credited with compensatory leave at the appropriate rate under the FLSA when required to work on an observed holiday. An exempt unclassified employee serving in a compensatory leave earning position may, at the discretion of his appointing authority, be credited with compensatory leave at the straight-time rate when required to work on an observed holiday.

C. When an unclassified employee is on leave without pay during the period immediately preceding and following an observed holiday, he shall not receive compensation for that holiday unless the holiday is actually worked by the unclassified employee.

SECTION 25: Record Keeping

A. Leave records shall be maintained for all unclassified appointees. Daily attendance and leave records shall be maintained for all unclassified employees.

B. An accrued balance of unused annual, compensatory, and/or sick leave shall be held in abeyance for an unclassified employee who becomes ineligible to earn and/or use the particular type of leave pursuant to the terms of this Order. The accrued balance(s) shall be available to the employee, in accordance with the provisions of this Order, when he again becomes eligible to earn and/or use said leave, or when he separates from state service.

SECTION 26: Compliance

A. All departments, commissions, boards, agencies, and unclassified employees and appointees of the state or any political subdivision thereof within the executive branch

of state government affected by this Order shall comply with, be guided by and cooperate in the implementation of the provisions of this Order.

B. The head of each department shall be responsible for deciding the extent to which the discretionary provisions of this Order are implemented within his department.

SECTION 27: Effective Dates

A. Upon signature by the governor, the provisions of Sections 1 through 20, and Sections 22 through 27 of this Executive Order shall be applicable to all current and future unclassified employees and appointees. Leave benefits accrued prior to the effective date hereof in compliance with a prior Executive Order shall not be adversely affected.

B. After signature by the governor and commencing January 1, 2024, the provisions Section 21 of this Executive Order shall be applicable to all current and future unclassified employees and appointees. Leave benefits accrued prior to the effective date hereof in compliance with a prior Executive Order shall not be adversely affected.

SECTION 28: The provisions of this Order shall remain in effect until amended, modified, terminated, or rescinded by the governor or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana in the City of Baton Rouge, on this 1st day of November, 2023.

John Bel Edwards  
Governor

ATTEST BY  
THE GOVERNOR  
R. Kyle Ardoin  
Secretary of State  
2311#060

# Emergency Rules

## DECLARATION OF EMERGENCY

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

Personal Care Services—Long Term and Home and  
Community-Based Services Waivers  
(LAC 50:XV.Subpart 9 and XXI.Subparts 3 and 7)

The Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services amend LAC 50:XV.Subpart 9 and XXI.Subparts 3 and 7 as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act.

The Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services promulgated Emergency Rules which relaxed the provisions governing long term-personal care services (LT-PCS) and certain home and community-based services (HCBS) waivers throughout the duration of the Coronavirus Disease 2019 (COVID-19) public health emergency (PHE) (*Louisiana Register*, Volume 46, Numbers 4 and 9). The U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) permits states to temporarily extend these services beyond the May 11, 2023 COVID-19 PHE end date. As such, the department promulgated an Emergency Rule which amended the provisions of LAC 50:XV.Subpart 9 and LAC 50:XXI.Subparts 3 and 7 governing these services in order to align with the CMS extension dates (*Louisiana Register*, Volume 49, Number 5).

This Emergency Rule amends the May 12, 2023 Emergency Rule in order to continue provisions and/or options under the Adult Day Health Care Waiver beyond the original extension date.

This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:962, and shall be in effect for the maximum period allowed under the Act or until the end of the temporary service extension granted by CMS or adoption of the final Rule, whichever occurs first.

This action is being taken to promote the health and welfare of Medicaid beneficiaries by ensuring that these LT-PCS and HCBS waiver flexibilities continue beyond the May 11, 2023 COVID-19 PHE end date.

Effective November 9, 2023, the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services amend the May 12, 2023 Emergency Rule which extended LT-PCS and certain HCBS waiver flexibilities beyond the COVID-19 PHE end date in order to continue provisions and/or options under the Adult Day Health Care Waiver.

## Title 50

### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part XV. Services for Special Populations

##### Subpart 9. Personal Care Services

The following option may be available through LT-PCS through November 11, 2023:

The state may modify the minimum age requirement for direct care workers.

##### Part XXI. Home and Community-Based Services Waivers

###### Subpart 3. Adult Day Health Care Waiver

With approval from the Centers for Medicare and Medicaid Services (CMS) as applicable, the following provisions and/or options under the Adult Day Health Care (ADHC) Waiver are available through April 30, 2024:

The state may allow ADHC providers to provide services telephonically to waiver participants that cannot attend the ADHC center to ensure continuity of services.

**Home Delivered Meals.** The purpose of home delivered meals is to assist in meeting the nutritional needs of an individual in support of the maintenance of self-sufficiency and enhancing the quality of life. Up to two nutritionally balanced meals per day may be delivered to the home of the participant. This service may be provided by the ADHC provider.

**Assistive Devices and Medical Supplies.** Assistive devices and medical supplies are specialized medical equipment and supplies that include:

Devices, controls, appliances or nutritional supplements specified in the Plan of Care that enable participants to increase their ability to perform activities of daily living (ADLs);

Devices, controls, appliances or nutritional supplements that enable participants to perceive, control or communicate with the environment in which they live or provide emergency response;

Items, supplies and services necessary for life support, ancillary supplies, and equipment necessary to the proper functioning of such items;

Supplies and services to assure participants' health and welfare;

Other durable and non-durable medical equipment and necessary medical supplies that are necessary but not available under the Medicaid State Plan;

Personal Emergency Response Systems (PERS);

Other in-home monitoring and medication management devices and technology;

Routine maintenance or repair of specialized equipment; and

Batteries, extended warranties and service contracts that are cost effective and assure health and welfare.

This includes medical equipment not available under the Medicaid State Plan that is necessary to address participant

functional limitations and necessary medical supplies not available under the Medicaid State Plan.

**Part XXI. Home and Community-Based Services Waivers**

**Subpart 7. Community Choices Waiver**

The following options may be available through CCW through November 11, 2023:

The following individuals may provide services to the participant: the participant’s spouse; the participant’s curator; the participant’s tutor; the participant’s legal guardian; the participant’s responsible representative; or the person to whom the participant has given representative and mandate authority (also known as power of attorney).

The state may modify the minimum age requirement for direct care workers.

The state may allow ADHC providers to provide services telephonically to waiver participants that cannot attend the ADHC center to ensure continuity of services.

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

Kimberly Sullivan, JD, Bureau of Health Services Financing, 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.

Stephen R. Russo, JD  
Secretary

2311#033

**DECLARATION OF EMERGENCY**

**Department of Health  
Office of Public Health**

**Added Controlled Dangerous Substances  
(LAC 46:LIII.2704)**

The Department of Health, Office of Public Health (LDH/OPH), pursuant to the rulemaking authority granted to the Secretary of LDH by R.S. 40:962(C) and (H), hereby adopts the following Emergency Rule for the protection of public health. This Emergency Rule, effective November 6, 2023, is being promulgated in accordance with the Administrative Procedure Act (R.S. 49:950, et seq.), particularly R.S. 49:962, and shall remain in effect for the maximum period allowed under the Act or until adoption of a final Rule, whichever occurs first.

Based on the criteria, factors, and guidance set forth in R.S. 40:962(C) and 40:963, the secretary, under this rulemaking, has determined that the below-listed substance has a high potential for abuse and should be scheduled as a controlled dangerous substance under Schedule I to avoid an imminent peril to the public health, safety, or welfare. In reaching the decision to designate the below-listed substance as a controlled dangerous substance under Schedule I, the secretary has considered the criteria set forth in R.S. 40:963 and the specific factors listed therein. The secretary has determined that Schedule I is the most appropriate due to his findings that the substance added herein has a high potential

for abuse, the substance has no currently accepted medical use for treatment in the United States, and there is a lack of accepted safety for use of the substance under medical supervision. In determining that the substance poses an imminent peril to the public health, safety, or welfare, such that it should be added to Schedule I by Emergency Rule, the secretary has considered the factors set forth in R.S. 40:962(C)(4), (5), and (6).

**Title 46  
PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part LIII. Pharmacists**

**Chapter 27. Controlled Dangerous Substances**

**Subchapter A. General Provisions**

**§2704. Added Controlled Dangerous Substances**

A. The following drugs or substances are added to Schedule I of the Louisiana Uniform Controlled Dangerous Substances Law, R.S. 40:961 et seq.:

1. bromazolam.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:962, R.S. 40:963, and R.S. 49:962.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 50:

Stephen R. Russo, JD  
Secretary

2311#029

**DECLARATION OF EMERGENCY**

**Department of Public Safety and Corrections  
Office of Management and Finance**

**Firemen Supplemental Pay  
(LAC 55:XV.Chapters 1, 5, 7, 9 and 20)**

In accordance with the emergency provisions of R.S. 49:962(A)(1), the Department of Public Safety, Office of Management and Finance (department) hereby recognizes exigent circumstances requiring utilization of the emergency process for implementation of the attached Rule relative to warrant and payroll procedures for Firemen Supplemental Pay, authorized and administered pursuant to Act 637, 2022 regular session of the legislature. Prior to enactment of Act 637, the law required the fire chief of the respective municipality, parish, or fire protection district to forward all approved and certified supplemental pay warrants to the secretary of the Department of Public Safety and Corrections and, on the basis of such warrants, the secretary of the department had to prepare and sign and issue individual checks representing the amount to be paid out of state funds to each recipient. Each such check showed the legislative appropriation from which payment was made and noted that it represents additional compensation paid by the state. Checks were required to be delivered by mail to the individual recipients in whose favor it was drawn. Many instances were recorded where recipients of supplemental pay were either underpaid or overpaid. These cases primarily arose from miscommunication in the trilateral relationship between the department, employer, and recipient. Where underpayments occurred, the remediation process was protracted, unduly burdensome and, in some cases, significantly adversely affected the financial health, safety or

wellbeing of the recipient. Where overpayments occurred, the claw-back period of collecting funds was likewise protracted thereby affecting the department's budget and funding of services and, ultimately, affected the state fisc. The utility of the former process was far outweighed by the gravity of harm often suffered by recipients of supplemental pay and the state.

The legislature recognized the detrimental effects of the former process and enacted laws to streamline the procedures and bring about immediacy when financial errors are being corrected. The new law eliminated the trilateral process where the department paid supplemental pay directly to the recipient based on information provided by the municipality, parish, or fire protection district (governing authority). The new law streamlined the process by requiring the governing authority to furnish warrant information to the department and then the department pays the total sum of the warrants solely to the governing authority. The governing authority then distributes the supplemental pay directly to its individual recipients. When there is an error, the governing authority and recipient can remediate the problem without the need for intervention by the department. The expedited process is important, particularly where a financial error affects the home mortgage, utility bills, or prescriptive medication of a recipient. It improves departmental budgeting procedures by making line item allowances predictable, and with greater accuracy in reporting to departmental auditors and legislative oversight bodies.

This Rule provides clarity for the procedural operations by recognizing modern technological methods for delivery of supplemental pay, e.g., direct deposit to the recipient's financial institution. Moreover, this Rule clarifies how warrants are to be processed, how changes are to be made, notification of changes to employment status, and eligibility requirements for the receipt thereof, all limited by the provisions of Act 637.

This Rule shall have the force and effect of law on November 6, 2023, and will remain in effect for 180 days, unless renewed by the department, or until permanent rules are promulgated in accordance with law.

## **Title 55**

### **PUBLIC SAFETY**

#### **Part XV. Firemen Supplemental Pay**

##### **Chapter 1. Warrants**

###### **§101. Purpose**

A. The warrant consists of a listing of each recipient in each municipality, parish, or fire protection district who is currently receiving supplemental pay and a signature sheet. The warrant is the governing authority's authorization for the Department of Public Safety and Corrections, Public Safety Services (herein this Part referred to as "department") to pay the listed individuals for the following month.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1666.5 et seq.

HISTORICAL NOTE: Promulgated by the department of Public Safety and Corrections, Public Safety Services, LR 13:246 (April 1987), amended LR 49:

###### **§103. Who Can Sign the Warrants**

A. Two officials shall sign every warrant authorizing payment of supplemental pay in addition to the preparer. The fire chief is required to sign the warrant as the approving officer. The certifying official shall be the mayor on behalf of a municipal department, or the parish president, or the

presiding officer of the governing authority of a fire protection district.

B. The department shall send certifying signature letters annually in January. The municipality, parish, or fire protection district shall identify the designated preparer on the annual certifying signature letter. The letter shall be notarized and returned to the department prior to the issuance of any payments. The governing authority shall notify the department by notarized statement whenever there is a change in either of the two authorized signatories.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1666.5 et seq.

HISTORICAL NOTE: Promulgated by the department of Public Safety and Corrections, Public Safety Services, LR 13:246 (April 1987), amended LR 49:

###### **§105. Municipality, Parish, or Fire Protection District's Obligation**

A. The department shall direct deposit the supplemental pay for employees listed on the warrant to the applicable municipality, parish, or fire protection district. It is the municipality, parish, or fire protection district's obligation to ensure that its financial institution's information is current to date. Prior to distributing payment to employees who are eligible for supplemental pay, the municipality, parish, or fire protection district is obligated to confirm eligibility for that specific month. If the department overpays the municipality, parish, or fire protection district as a result of a change in any employee's employment status, the applicable governing authority shall promptly reimburse the department. If an overpayment is not a result of error by the municipality, parish, or fire protection district, the department shall collect the overpayment from the recipient. If the recipient's mailing address is undeliverable, the department shall collect such overpayment from the municipality, parish, or fire protection district. The municipality, parish, or fire protection district shall use extreme care in ascertaining each recipient's eligibility for the next month prior to certifying and submitting the warrant. Each person who prepares, signs, or submits any supplemental pay form or document on behalf of a municipality, parish, or fire protection district is hereby deemed to acknowledge understanding of the following legal ramifications:

1. The submission of a supplemental pay form or document and the contents therein constitutes the filing or depositing of a public record pursuant to R.S. 14:132 and R.S. 14:133. Intentionally submitting false information, forging the document or wrongfully altering the document and the contents therein may constitute a violation of applicable provisions of criminal law, including but not limited to R.S. 14:132 or R.S. 14:133, or both, and may subject the submitting party or parties to felony criminal prosecution, criminal fines and criminal restitution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1666.5 et seq.

HISTORICAL NOTE: Promulgated by the department of Public Safety and Corrections, Public Safety Services, LR 13:246 (April 1987), amended LR 49:

###### **§107. How to Indicate Changes**

A. It is the municipality, parish, or fire protection district's responsibility to review each month's warrant and verify the correctness of the names and job titles of all recipients. Any changes in name, job title, employment

status dates, the municipality, parish, or fire protection district's mailing address, the signors' email addresses, and any other changes, shall be boldly noted in red on the warrant. All changes to an employee's employment status, including but not limited to resignation, retirement, suspension without pay, military leave with or without pay, workers' compensation leave, or any other type of unpaid leave shall be noted on the warrant.

B. Any change to an employee's employment status that occurs after the warrant is submitted the supplemental pay office shall be included and reflected on the immediately following payroll month.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1666.5 et seq.

HISTORICAL NOTE: Promulgated by the department of Public Safety and Corrections, Public Safety Services, LR 13:246 (April 1987), amended LR 49:

#### **§109. Due Date**

A. The approved and certified warrant is due in the supplemental pay office by the close of business on the fifteenth day of the month. If the fifteenth day of the month is a Saturday or Sunday or a legal holiday, the warrant shall be received by the Friday immediately prior thereto. If the warrant is not received by the fifteenth day of the month, the municipality, parish, or fire protection district shall not receive its supplemental pay until the warrant is received. In that event, the next payment shall include both the past payment and the current payment.

B. Warrants shall be emailed to [munpay@la.gov](mailto:munpay@la.gov). The subject line of the email shall indicate the sender's system type (fire), municipality, parish, or fire protection district name, and the purpose of the email. For example, Fire – Baton Rouge FD - Warrant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:2218.2.

HISTORICAL NOTE: Promulgated by the department of Public Safety and Corrections, Public Safety Services, LR 13:246 (April 1987), amended LR 49:

### **Chapter 5. Changes in Status**

#### **§501. When to Notify the Department**

A. All changes to an employee's record shall be noted boldly in red on the warrant. Any changes made after the fifteenth day of the month (the warrant deadline) shall be processed in the following payroll month. Changes of employment status include, but are not limited to the following:

1. resignations, retirements, or death;
2. suspensions;
3. leave without pay;
4. changes in duties;
5. classification or job title changes;
6. workers' compensation;
7. military leave
8. reinstatement or return from any of the above.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1667 et seq.

HISTORICAL NOTE: Promulgated by the department of Public Safety, Act 637 (April 2022), amended LR 49:

#### **§503. Resignations**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1666.5 et seq.

HISTORICAL NOTE: Promulgated by the department of Public Safety and Corrections, Public Safety Services, LR 13:246 (April 1987), repealed LR 49:

#### **§505. Suspensions**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1666.5 et seq.

HISTORICAL NOTE: Promulgated by the department of Public Safety and Corrections, LR 13:246 (April 1987), repealed LR 49:

#### **§507. Leave without Pay**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1666.5 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, LR 13:246 (April 1987), repealed LR 49:

#### **§509. Change in Duties**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1666.5 et seq.

HISTORICAL NOTE: Promulgated by the department of Public Safety and Corrections, Public Safety Services, LR 13:246 (April 1987), repealed LR 49:

#### **§511. Change in Classification/Title**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1666.5 et seq.

HISTORICAL NOTE: Promulgated by the department of Public Safety and Corrections, Public Safety Services LR 13:246 (April 1987), repealed LR 49:

#### **§513. Workmen's Compensation**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1666.5 et seq.

HISTORICAL NOTE: Promulgated by the department of Public Safety and Corrections, Public Safety Services, LR 13:246 (April 1987), repealed LR 49:

#### **§515. Death**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1666.5 et seq.

HISTORICAL NOTE: Promulgated by the department of Public Safety and Corrections, Public Safety Services, LR 13:246 (April 1987), repealed LR 49:

### **Chapter 7. Reinstatements**

#### **§701. Reinstatement from Suspension**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1666.5 et seq.

HISTORICAL NOTE: Promulgated by the department of Public Safety and Corrections, Public Safety Services, LR 13:246 (April 1987), repealed LR 49:

#### **§703. Reinstatement from Resignation**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1666.5 et seq.

HISTORICAL NOTE: Promulgated by the department of Public Safety and Corrections, Public Safety Services, LR 13:246 (April 1987), repealed LR 49:

#### **§705. Reinstatement from Workmen's Comp**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1666.5 et seq.

HISTORICAL NOTE: Promulgated by the department of Public Safety and Corrections, Public Safety Services, LR 13:246 (April 1987), repealed LR 49:

**§707. Reinstatement from L.W.O.P.**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1666.5 et seq.

HISTORICAL NOTE: Promulgated by the department of Public Safety and Corrections, Public Safety Services, LR 13:246 (April 1987), repealed LR 49:

**Chapter 9. Payroll Information**

**§901. Eligibility Requirements for supplemental pay**

A. The following criteria must be attained for an employee to be eligible for supplemental pay:

1. the employee shall work full-time while performing fire protection duties;
2. the employee shall be firefighter 1 certified;
3. the employee shall have one-year of prior service; and
4. the employee's salary shall be paid entirely from funds of the municipality, parish, fire protection district, or tribe.

B. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1666.5 et seq.

HISTORICAL NOTE: Promulgated by the department of Public Safety and Corrections, Public Safety Services, LR 13:246 (April 1987), amended LR 49:

**§903. Board Approval of Applications**

A. All eligibility requirements as defined by current Louisiana Revised Statutes shall be attained by applicants. Applicants whose duties or classifications, or both, are not among those routinely approved, and also applications containing questionable information, are referred to the board for eligibility determinations.

B. Repealed.

C. Decisions of the board are final, as per R.S. 40:1667.6. However, the employee has the right to appeal a board decision. The department will mail a letter of denial to the applicant within 10 business days after the board's decision. Written notice of intent to appeal the board's decision shall be submitted to the department no later than 30 days after receipt of the denial letter from the department. The appeal shall be included on the next regular meeting agenda. The board also decides back pay cases on an individual basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1666.5 et seq.

HISTORICAL NOTE: Promulgated by the department of Public Safety and Corrections Public Safety Services, LR 13:246 (April 1987), amended LR 49:

**§904. Daily Rate Calculation**

A. Supplemental pay shall be prorated for the number of days worked using the current daily scale when a supplemental pay recipient works less than a full month. State supplemental pay shall be distributed monthly based on a 30-day cycle. When the daily rate (currently monthly pay amount divided by 30 days) is calculated, the recipient will be paid for the number of days in the month. The most recent daily rate chart shall be posted to the MUNPAY website.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1667 et seq.

HISTORICAL NOTE: Promulgated by the department of Public Safety, Act 637 (April 2022) LR 49:

**§905. Waiting Period for New Employees**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1666.5 et seq.

HISTORICAL NOTE: Promulgated by the department of Public Safety and Corrections, Public Safety Services, LR 13:246 (April 1987), repealed LR 49:

**§907. Step Increases**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1666.5 et seq.

HISTORICAL NOTE: Promulgated by the department of Public Safety and Corrections, Public Safety Services, LR 13:246 (April 1987), repealed LR 49:

**§909. Cut Off Date for Raises**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1666.5 et seq.

HISTORICAL NOTE: Promulgated by the department of Public Safety and Corrections, Public Safety Services, LR 13:246 (April 1987), repealed LR 49:

**§911. Cut Off Date for Eligibility for that Month's Check**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1666.5 et seq.

HISTORICAL NOTE: Promulgated by the department of Public Safety and Corrections, Public Safety Services, LR 13:246 (April 1987), repealed LR 49:

**§913. Back Pay Policy**

A. Because the Department of Public Safety's fiscal year ends on June 30, back supplemental pay cannot be paid beyond July without Legislative approval. The Board of Review must approve all back supplemental pay, whether or not it extends beyond the current fiscal year.

1. The board will approve only up to two years of back pay from the effective date for the eligible supplemental pay applicant.

a. Back Pay in Current Fiscal Year

i. The board routinely approves back pay in full from current year funds for which the employee is found eligible. This amount will be added to the employee's regular supplemental pay amount on the next regular payroll after board approval.

2. ...

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1666.5 et seq.

HISTORICAL NOTE: Promulgated by the department of Public Safety and Corrections, Public Safety Services, LR 13:246 (April 1987), amended LR 49:

**§915. Stop Payments**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1666.5 et seq.

HISTORICAL NOTE: Promulgated by the department of Public Safety and Corrections, Public Safety Services, LR 13:246 (April 1987), repealed LR 49:

**§917. Duplicate W-2's**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1666.5 et seq.



HISTORICAL NOTE: Promulgated by the department of Public Safety and Corrections, Public Safety Services, LR 13:246 (April 1987), repealed LR 49:

**§919. Correspondence**

A. All correspondence to the department shall come from the applicable municipality, parish, or fire protection district, not the individual recipient. In all correspondence, the applicable municipality, parish, or fire protection district shall include the recipient's full name and Social Security number, and the name, address, telephone number, and official e-mail address of the municipality, parish, or fire protection district. The subject matter line of the e-mail shall include the system type, the name of the municipality, parish, or fire protection district, and the reason for the e-mail, for example: Fire—Baton Rouge FD—Warrant/Application/Change.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1666.5 et seq.

HISTORICAL NOTE: Promulgated by the department of Public Safety and Corrections, Public Safety Services, LR 13:246 (April 1987), amended LR 49:

**Chapter 20. Sample Forms**

**§2001. Sample Application with Prior Service—Civil Service**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1666.5 et seq.

HISTORICAL NOTE: Promulgated by the department of Public Safety and Corrections, Public Safety Services, LR 13:246 (April 1987), repealed LR 49:

**§2003. Sample Civil Service Personnel Action Form**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1666.5 et seq.

HISTORICAL NOTE: Promulgated by the department of Public Safety and Corrections, Public Safety Services, LR 13:246 (April 1987), repealed LR 49:

**§2005. Sample Certificate of Prior Service**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1666.5 et seq.

HISTORICAL NOTE: Promulgated by the department of Public Safety and Corrections, Public Safety Services, LR 13:246 (April 1987), repealed LR 49:

**§2007. Sample Application—Non Civil Service**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1666.5 et seq.

HISTORICAL NOTE: Promulgated by the department of Public Safety and Corrections, Public Safety Services, LR 13:246 (April 1987), repealed LR 49:

**§2009. Sample Warrant**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1666.5 et seq.

HISTORICAL NOTE: Promulgated by the department of Public Safety and Corrections, Public Safety Services, LR 13:246 (April 1987), repealed LR 49:

**Public Comments**

Natalya Besse, Accountant Manager, Public Safety Services, Office of Management and Finance, Financial Services Division, is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at

Department of Public Safety and Corrections, Public Safety Services, Office of Management and Budget.

Lt. Colonel Greg Graphia, LSP  
Chief Administrative Officer

2311#012

**DECLARATION OF EMERGENCY**

**Department of Public Safety and Corrections  
Office of Management and Finance**

**Firemen Supplemental Pay  
(LAC 55:XV.101)**

In accordance with the emergency provisions of R.S. 49:962(A)(1), the Department of Public Safety, Office of Management and Finance (department) hereby recognizes exigent circumstances requiring utilization of the emergency process for implementation of the attached Rule relative to warrant and payroll procedures for Firemen Supplemental Pay, authorized and administered pursuant to Act 637, 2022 regular session of the legislature. Prior to enactment of Act 637, the law required the fire chief of the respective municipality, parish, or fire protection district to forward all approved and certified supplemental pay warrants to the secretary of the Department of Public Safety and Corrections and, on the basis of such warrants, the secretary of the department had to prepare and sign and issue individual checks representing the amount to be paid out of state funds to each recipient. Each such check showed the legislative appropriation from which payment was made and noted that it represents additional compensation paid by the state. Checks were required to be delivered by mail to the individual recipients in whose favor it was drawn. Many instances were recorded where recipients of supplemental pay were either underpaid or overpaid. These cases primarily arose from miscommunication in the trilateral relationship between the department, employer, and recipient. Where underpayments occurred, the remediation process was protracted, unduly burdensome and, in some cases, significantly adversely affected the financial health, safety or wellbeing of the recipient. Where overpayments occurred, the claw-back period of collecting funds was likewise protracted thereby affecting the department's budget and funding of services and, ultimately, affected the state fisc. The utility of the former process was far outweighed by the gravity of harm often suffered by recipients of supplemental pay and the state.

The legislature recognized the detrimental effects of the former process and enacted laws to streamline the procedures and bring about immediacy when financial errors are being corrected.

The municipality, parish, or fire protection district (governing authority) distributes the supplemental pay directly to its individual recipients. If it is found that the department overpaid a recipient, then it is the responsibility of the governing authority to promptly reimburse the department. The recipient can then remediate the problem directly with the governing authority, without the need for intervention by the department. The expedited process is important, particularly where a financial error affects the

home mortgage, utility bills, or prescriptive medication of a recipient. It improves departmental budgeting procedures by making line item allowances predictable, and with greater accuracy in reporting to departmental auditors and legislative oversight bodies.

This rule provides clarity for the procedural operations by recognizing modern technological methods for delivery of supplemental pay, e.g., direct deposit to the recipient's financial institution. Moreover, this rule clarifies how warrants are to be processed, how changes are to be made, notification of changes to employment status, and eligibility requirements for the receipt thereof, all limited by the provisions of Act 637.

This Rule shall have the force and effect of law on November 6, 2023, and will remain in effect for 180 days, unless renewed by the department, or until permanent rules are promulgated in accordance with law.

#### **Title 55**

### **PUBLIC SAFETY**

#### **Part XV. Firemen Supplemental Pay**

##### **Chapter 1. Warrants**

##### **§105. Municipality, Parish, or Fire Protection**

###### **District's Obligation**

A. The department shall direct deposit the supplemental pay to employees listed on the warrant. It is the municipality, parish, or fire protection district's obligation to ensure that their employees financial institution's information is current to date. If the department overpays an employee as a result of a change in the employee's employment status, the applicable municipality, parish, or fire protection district shall promptly reimburse the department. If an overpayment is not a result of error by the municipality, parish, or fire protection district, the department shall collect the overpayment from the recipient. If the recipient's mailing address is undeliverable, the department shall collect such overpayment from the municipality, parish, or fire protection district. The municipality, parish, or fire protection district shall use extreme care in ascertaining each recipient's eligibility for the next month prior to certifying and submitting the warrant. Each person who prepares, signs, or submits any supplemental pay form or document on behalf of a municipality, parish, or fire protection district is hereby deemed to acknowledge understanding of the following legal ramifications:

1. The submission of a supplemental pay form or document and the contents therein constitutes the filing or depositing of a public record pursuant to R.S. 14:132 and R.S. 14:133. Intentionally submitting false information, forging the document or wrongfully altering the document and the contents therein may constitute a violation of applicable provisions of criminal law, including but not limited to R.S. 14:132 or R.S. 14:133, or both, and may subject the submitting party or parties to felony criminal prosecution, criminal fines and criminal restitution.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 40:1666 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Public Safety Services, LR 13:246 (April 1987), amended LR 49:

#### **Public Comments**

Natalya Besse, Accountant Manager, Public Safety Services, Office of Management and Finance, Financial Services Division, is responsible for responding to inquiries

regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at Department of Public Safety and Corrections, Public Safety Services, Office of Management and Budget.

Lt. Colonel Greg Graphia, LSP  
Chief Administrative Officer

2311#018

### **DECLARATION OF EMERGENCY**

#### **Department of Public Safety and Corrections Office of Management and Finance**

##### **Municipal Police Officers Supplemental Pay (LAC 55:XVII.Chapter 1, 5, 7, 9, and 20)**

In accordance with the emergency provisions of R.S. 49:962(A)(1), the Department of Public Safety, Office of Management and Finance (department) hereby recognizes exigent circumstances requiring utilization of the emergency process for implementation of the attached Rule relative to warrant and payroll procedures for Municipal Police Officers Supplemental Pay, authorized and administered pursuant to Act 637, 2022 regular session of the legislature. Prior to enactment of Act 637, the law required the mayor of the respective municipality to forward all approved and certified supplemental pay warrants to the secretary of the Department of Public Safety and Corrections and, on the basis of such warrants, the secretary of the department had to prepare and sign and issue individual checks representing the amount to be paid out of state funds to each recipient. Each such check showed the legislative appropriation from which payment was made and noted that it represents additional compensation paid by the state. Checks were required to be delivered by mail to the individual recipients in whose favor it was drawn. Many instances were recorded where recipients of supplemental pay were either underpaid or overpaid. These cases primarily arose from miscommunication in the trilateral relationship between the department, employer, and recipient. Where underpayments occurred, the remediation process was protracted, unduly burdensome and, in some cases, significantly adversely affected the financial health, safety or wellbeing of the recipient. Where overpayments occurred, the claw-back period of collecting funds was likewise protracted thereby affecting the department's budget and funding of services and, ultimately, affected the state fisc. The utility of the former process was far outweighed by the gravity of harm often suffered by recipients of supplemental pay and the state.

The legislature recognized the detrimental effects of the former process and enacted laws to streamline the procedures and bring about immediacy when financial errors are being corrected. The new law eliminated the trilateral process where the department paid supplemental pay directly to the recipient based on information provided by the municipality. The new law streamlined the process by requiring the municipality to furnish warrant information to the department and then the department pays the total sum of the warrants solely to the municipality. The municipality then distributes the supplemental pay directly to its individual recipients. When there is an error, the

municipality and recipient can remediate the problem without the need for intervention by the department. The expedited process is important, particularly where a financial error affects the home mortgage, utility bills, or prescriptive medication of a recipient. It improves departmental budgeting procedures by making line item allowances predictable, and with greater accuracy in reporting to departmental auditors and legislative oversight bodies.

This Rule provides clarity for the procedural operations by recognizing modern technological methods for delivery of supplemental pay, e.g., direct deposit to the recipient's financial institution. Moreover, this Rule clarifies how warrants are to be processed, how changes are to be made, notification of changes to employment status, and eligibility requirements for the receipt thereof, all limited by the provisions of Act 637.

This Rule shall have the force and effect of law on November 6, 2023, and will remain in effect for 180 days, unless renewed by the department, or until permanent rules are promulgated in accordance with law.

## **Title 55 PUBLIC SAFETY**

### **Part XVII. Municipal Police Officers supplemental pay Chapter 1. Warrants**

#### **§101. Purpose**

A. The warrant consists of a listing of each recipient in each municipality who is currently receiving supplemental pay and a signature sheet. The warrant is the governing authority's authorization for the department of Public Safety and Corrections, Public Safety Services (herein this Part referred to as "department") to pay the listed individuals for the following month.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1666.7 et seq.

HISTORICAL NOTE: Promulgated by the department of Public Safety and Corrections, LR 13:247 (April 1987), amended by the Department of Public Safety and Corrections, Office of Management and Finance, LR 49:

#### **§103. Who Can Sign the Warrants**

A. Two officials must sign every warrant authorizing payment of supplemental pay in addition to the preparer.

1. Police

a. The police chief is required to sign the warrants as the approving officer.

b. The certifying officer is the mayor.

2. Marshal

a. The marshal is required to sign the warrants as the approving officer.

b. The certifying official is the mayor.

B. The department will send certifying signature letters annually in January. The municipality, through this letter, establishes the designated preparer. The certifying signature letters must be notarized and returned to the department prior to the issuance of any payments. The governing authority must notify the department by notarized statement whenever there is a change in either of the two authorized signatures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1666.7 et seq.

HISTORICAL NOTE: Promulgated by the department of Public Safety and Corrections, LR 13:247 (April 1987), amended by the Department of Public Safety and Corrections, Office of Management and Finance, LR 49:

#### **§105. Municipality's Obligation**

A. The department shall direct deposit the supplemental pay for employees listed on the warrant to the municipality. It is the municipality's obligation to ensure that its financial institution's information is current to date. Prior to distributing payment to employees who are eligible for supplemental pay, the municipality is obligated to confirm eligibility for that specific month. If the department overpays the municipality as a result of a change in any employee's employment status, the municipality shall promptly reimburse the department. The municipality shall use extreme care in ascertaining each recipient's eligibility for the next month prior to certifying and submitting the warrant. Each person who prepares, signs, or submits any supplemental pay form or document on behalf of a municipality is hereby deemed to acknowledge understanding of the following legal ramifications:

1. The submission of a supplemental pay form or document and the contents therein constitutes the filing or depositing of a public record pursuant to R.S. 14:132 and R.S. 14:133. Intentionally submitting false information, forging the document or wrongfully altering the document and the contents therein may constitute a violation of applicable provisions of criminal law, including but not limited to R.S. 14:132 or R.S. 14:133, or both, and may subject the submitting party or parties to felony criminal prosecution, criminal fines and criminal restitution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1666.7 et seq.

HISTORICAL NOTE: Promulgated by the department of Public Safety and Corrections, LR 13:247 (April 1987), amended by the Department of Public Safety and Corrections, Office of Management and Finance, LR 49:

#### **§107. How to Indicate Changes**

A. It is the municipality's responsibility to review each month's warrant and verify the correctness of the names and job titles of all recipients. Any changes in name, job title, employment status dates, the municipality's mailing address, the signors' email addresses, and any other changes, shall be boldly noted in red on the warrant. All changes to an employee's employment status, including but not limited to resignation, retirement, suspension without pay, military leave with or without pay, workers' compensation leave, or any other type of unpaid leave shall be noted on the warrant. Additionally, the municipality shall promptly notify the department if any of the municipality's employees failed to complete the employee's mandatory annual training.

B. Any change to an employee's employment status that occurs after the warrant is submitted for supplemental pay shall be included and reflected on the immediately following payroll month.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1666.7 et seq.

HISTORICAL NOTE: Promulgated by the department of Public Safety and Corrections, LR 13:247 (April 1987), amended by the Department of Public Safety and Corrections, Office of Management and Finance, LR 49:

#### **§109. Due Date**

A. The approved and certified warrant is due in the supplemental pay office by the close of business on the fifteenth day of the month. If the fifteenth day of the month is a Saturday or Sunday or a legal holiday, the warrant shall be received by the Friday immediately prior thereto. If the

warrant is not received by the fifteenth day of the month, the municipality shall not receive its supplemental pay until the warrant is received. In that event, the next payment shall include both the past payment and the current payment.

B. Warrants shall be emailed to [munpay@la.gov](mailto:munpay@la.gov). The subject line of the email shall indicate the sender's system type (police or marshal), municipality name, and the purpose of the email. For example, Police—Baton Rouge PD—Warrant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1666.7 et seq.

HISTORICAL NOTE: Promulgated by the department of Public Safety and Corrections, LR 13:247 (April 1987), amended by the Department of Public Safety and Corrections, Office of Management and Finance, LR 49:

## **Chapter 5. Change in Status**

### **§501. When to Notify the Department of Changes in Status**

A. All changes to an employee's record shall be noted boldly in red on the warrant. Any changes made after the fifteenth day of the month shall be processed in the following payroll month. Changes of employment status include, but are not limited to the following:

1. resignations, retirements, or death
2. suspensions
3. leave without pay
4. changes in duties
5. classification or job title changes
6. workers' compensation
7. military leave
8. reinstatement or return from any of the above.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1667 et seq.

HISTORICAL NOTE: Promulgated by the department of Public Safety, Act 637 (April 2022), amended by the Department of Public Safety and Corrections, Office of Management and Finance, LR 49:

### **§503. Resignations**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1666.7 et seq.

HISTORICAL NOTE: Promulgated by the department of Public Safety and Corrections, LR 13:247 (April 1987), repealed by the Department of Public Safety and Corrections, Office of Management and Finance, LR 49:

### **§505. Suspensions**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1666.7 et seq.

HISTORICAL NOTE: Promulgated by the department of Public Safety and Corrections, LR 13:247 (April 1987), repealed by the Department of Public Safety and Corrections, Office of Management and Finance, LR 49:

### **§507. Leave without Pay (L.W.O.P.)**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1666.7 et seq.

HISTORICAL NOTE: Promulgated by the department of Public Safety and Corrections, LR 13:247 (April 1987), repealed by the Department of Public Safety and Corrections, Office of Management and Finance, LR 49:

### **§509. Change in Duties**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1666.7 et seq.

HISTORICAL NOTE: Promulgated by the department of Public Safety and Corrections, LR 13:247 (April 1987), repealed by the Department of Public Safety and Corrections, Office of Management and Finance, LR 49:

### **§511. Change in Classification/Title**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1666.7 et seq.

HISTORICAL NOTE: Promulgated by the department of Public Safety and Corrections, LR 13:247 (April 1987), repealed by the Department of Public Safety and Corrections, Office of Management and Finance, LR 49:

### **§513. Workmen's Compensation**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1666.7 et seq.

HISTORICAL NOTE: Promulgated by the department of Public Safety and Corrections, LR 13:247 (April 1987), repealed by the Department of Public Safety and Corrections, Office of Management and Finance, LR 49:

### **§515. Death**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1666.7 et seq.

HISTORICAL NOTE: Promulgated by the department of Public Safety and Corrections, LR 13:247 (April 1987), repealed by the Department of Public Safety and Corrections, Office of Management and Finance, LR 49:

## **Chapter 7. Reinstatements**

### **§701. Reinstatements from Suspension**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1666.7 et seq.

HISTORICAL NOTE: Promulgated by the department of Public Safety and Corrections, LR 13:247 (April 1987), repealed by the Department of Public Safety and Corrections, Office of Management and Finance, LR 49:

### **§703. Reinstatements from Resignation**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1666.7 et seq.

HISTORICAL NOTE: Promulgated by the department of Public Safety and Corrections, LR 13:247 (April 1987), repealed by the Department of Public Safety and Corrections, Office of Management and Finance, LR 49:

### **§705. Reinstatement from Workmen's Comp**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1666.7 et seq.

HISTORICAL NOTE: Promulgated by the department of Public Safety and Corrections, LR 13:247 (April 1987), repealed by the Department of Public Safety and Corrections, Office of Management and Finance, LR 49:

### **§707. Reinstatement from L.W.O.P.**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1666.7 et seq.

HISTORICAL NOTE: Promulgated by the department of Public Safety and Corrections, LR 13:247 (April 1987), repealed by

the Department of Public Safety and Corrections, Office of Management and Finance, LR 49:

## **Chapter 9. Payroll Information**

### **§901. Eligibility Requirements for Supplemental Pay**

A. The following criteria must be attained for an employee to be eligible for supplemental pay:

1. the employee shall work full-time while performing police protection duties;
2. the employee shall have a current POST certification; the employee shall be a commissioned officer who is authorized by law to effectuate arrests;
3. the employee's salary shall be paid entirely from municipal or tribe funds; and
4. the employee shall have one-year of prior service.

B. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1666.7 et seq.

HISTORICAL NOTE: Promulgated by the department of Public Safety and Corrections, LR 13:247 (April 1987), amended by the Department of Public Safety and Corrections, Office of Management and Finance, LR 49:

### **§903. Board Approval of Applications**

A. All eligible requirements as defined by current Louisiana statutes must be attained by applicants. Applicants whose duties or classifications, or both, are not among those routinely approved, and also applications containing questionable information, are referred to the board for eligibility determinations.

B. Decisions of the board are final as per R.S. 40:1667.6. The employee does have the right to appeal a board decision. Written notice of intent to appeal the board's decision shall be submitted to the department no later than 30 days after receipt of the denial letter from the department. The appeal shall be included on the next regular meeting agenda. The board also decides back pay cases on an individual basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1666.7 et seq.

HISTORICAL NOTE: Promulgated by the department of Public Safety and Corrections, LR 13:247 (April 1987), repealed by the Department of Public Safety and Corrections, Office of Management and Finance, LR 49:

### **§904. Daily Rate Calculation**

A. Supplemental pay shall be prorated for the number of days worked using the current daily scale when a municipal officer works less than a full month. State supplemental pay shall be distributed monthly based on a 30-day cycle. When the daily rate (currently monthly pay amount divided by 30 days) is calculated, the recipient will be paid for the number of days in the month. The most recent daily rate chart shall be posted to the MUNPAY website.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1667 et seq.

HISTORICAL NOTE: Promulgated by the department of Public Safety, Act 637 (April 2022) by the Department of Public Safety and Corrections, Office of Management and Finance, LR 49:

### **§905. Waiting Period for New Employees**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1666.7 et seq.

HISTORICAL NOTE: Promulgated by the department of Public Safety and Corrections, LR 13:247 (April 1987), repealed by the Department of Public Safety and Corrections, Office of Management and Finance, LR 49:

### **§907. Step Increases**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1666.7 et seq.

HISTORICAL NOTE: Promulgated by the department of Public Safety and Corrections, LR 13:247 (April 1987), repealed by the Department of Public Safety and Corrections, Office of Management and Finance, LR 49:

### **§909. Cut-Off Date for Raises**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1666.7 et seq.

HISTORICAL NOTE: Promulgated by the department of Public Safety and Corrections, LR 13:247 (April 1987), repealed by the Department of Public Safety and Corrections, Office of Management and Finance, LR 49:

### **§911. Cut-Off Date for Eligibility for that Month's Check**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1666.7 et seq.

HISTORICAL NOTE: Promulgated by the department of Public Safety and Corrections, LR 13:247 (April 1987), repealed by the Department of Public Safety and Corrections, Office of Management and Finance, LR 49:

### **§915. Stop Payments**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1666.7 et seq.

HISTORICAL NOTE: Promulgated by the department of Public Safety and Corrections, LR 13:247 (April 1987), repealed by the Department of Public Safety and Corrections, Office of Management and Finance, LR 49:

### **§917. Duplicate W-2's**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1666.7 et seq.

HISTORICAL NOTE: Promulgated by the department of Public Safety and Corrections, LR 13:247 (April 1987), repealed by the Department of Public Safety and Corrections, Office of Management and Finance, LR 49:

### **§919. Correspondence**

A. All correspondence to the department shall come from the municipality, not the individual recipient. In all correspondence, the municipality shall include the recipient's full name, Social Security number, and the name, address, telephone number, and official e-mail address of the municipality. The subject matter line of the e-mail shall include the system type, the name of the municipality, and the reason for the e-mail, for example: Police—Bossier City PD—Warrant/Application/Change.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1666.7 et seq.

HISTORICAL NOTE: Promulgated by the department of Public Safety and Corrections, LR 13:247 (April 1987), amended by the Department of Public Safety and Corrections, Office of Management and Finance, LR 49:

## **Chapter 20. Sample Forms**

### **§2001. Sample Application with Prior Service—Civil Service**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1666.7 et seq.

HISTORICAL NOTE: Promulgated by the department of Public Safety and Corrections, Public Safety Services, LR 13:247 (April 1987), repealed by the Department of Public Safety and Corrections, Office of Management and Finance, LR 49:

**§2003. Sample Civil Service Personnel Action Form**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1666.7 et seq.

HISTORICAL NOTE: Promulgated by the department of Public Safety and Corrections, Public Safety Services, LR 13:247 (April 1987), repealed by the Department of Public Safety and Corrections, Office of Management and Finance, LR 49:

**§2005. Sample Certificate of Prior Police Service**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1666.7 et seq.

HISTORICAL NOTE: Promulgated by the department of Public Safety and Corrections, Public Safety Services, LR 13:247 (April 1987), repealed by the Department of Public Safety and Corrections, Office of Management and Finance, LR 49:

**§2007. Sample Certificate of Prior Sheriff Service**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1666.7 et seq.

HISTORICAL NOTE: Promulgated by the department of Public Safety and Corrections, Public Safety Services, LR 13:247 (April 1987), repealed by the Department of Public Safety and Corrections, Office of Management and Finance, LR 49:

**§2009. Sample Application—Non Civil Service**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1666.7 et seq.

HISTORICAL NOTE: Promulgated by the department of Public Safety and Corrections, Public Safety Services, LR 13:247 (April 1987), repealed by the Department of Public Safety and Corrections, Office of Management and Finance, LR 49:

**§2011. Sample POST Certificate**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1666.7 et seq.

HISTORICAL NOTE: Promulgated by the department of Public Safety and Corrections, Public Safety Services, LR 13:247 (April 1987), repealed by the Department of Public Safety and Corrections, Office of Management and Finance, LR 49:

**§2013. Sample Warrant**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1666.7 et seq.

HISTORICAL NOTE: Promulgated by the department of Public Safety and Corrections, Public Safety Services, LR 13:247 (April 1987), repealed by the Department of Public Safety and Corrections, Office of Management and Finance, LR 49:

**Public Comments**

Natalya Besse, Accountant Manager, Public Safety Services, Office of Management and Finance, Financial Services Division, is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at Department of Public Safety and Corrections, Public Safety Services, Office of Management and Budget.

Lt. Colonel Greg Graphia, LSP  
Chief Administrative Officer

2311#013

**DECLARATION OF EMERGENCY**

**Department of Public Safety and Corrections  
Office of the State Fire Marshal  
Uniform Construction Code Council**

Uniform Construction Code (LAC 17:I.Chapter 1)

The Department of Public Safety and Corrections, Office of State Fire Marshal, Louisiana State Uniform Construction Code Council, hereafter referred to as the “LSUCCC” or the “Council”, has exercised the emergency provision in accordance with R.S. 49:953(B) of the Administrative Procedure Act, to amend LAC 17:I.Chapter 1 in the state Uniform Construction Code as authorized by R.S.40:1730.28. Furthermore, the LSUCCC has found an immediate need to adopt amendments of the current Louisiana State Uniform Construction Code, 2021 International Building Code Appendix G, 2021 International Residential Code Section R315.3, Table R602.3(1), P3005.2.2.1, 2021 International Plumbing Code Section 703.6, 2020 National Electrical Code Article 210.52, 230.67 and 230.85. These changes are a direct result for the need to provide specialized systems, protect homeowners from carbon monoxide poisoning and protect first responders. This amendment will serve to better protect the public and to follow national guidelines for occupants to live and work in safe, healthy, resilient environments while protecting our first responders during emergency events.

The LSUCCC is promulgating this Rule amendment to provide greater health and safety for the public and for those living and working in conditioned spaces. These rules were first adopted and published in the October 20, 2022 edition of the *Louisiana Register* (Vol. 48, No. 10). The rule became effective on July 1, 2023. This Emergency Rule is being promulgated to continue those provisions. By the signature of the agency head, Chief Daniel H. Wallis, it was adopted and became effective on October 19, 2023. It shall be in effect for the maximum period allowed under the Act (120 days) or until adoption of the final Rule, whichever occurs first. The public welfare dictates that these changes be implemented immediately through the adoption of the Emergency Rule to promote greater access to safer environments and to insure safety to existing facilities undergoing renovations and for new proposed facilities.

**Title 17**

**CONSTRUCTION**

**Part I. Uniform Construction Code**

**Chapter 1. Uniform Construction Code**

**§101. Louisiana State Uniform Construction Code  
(Formerly LAC 55:VI.301.A)**

A. In accordance with the requirements set forth in R.S. 40:1730.28, effective February 1, 2018, the following is hereby adopted as an amendment to the *Louisiana State Uniform Construction Code*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D) and 40:1730.26(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:291 (February 2007), amended LR 34:93 (January 2008), LR 34:883 (May 2008), LR 34:2205 (October 2008), LR

35:1904 (September 2009), LR 36:2574 (November 2010), effective January 1, 2011, LR 37:601 (February 2011), LR 37:913 (March 2011), repromulgated LR 37:2187 (July 2011), repromulgated LR 37:2726 (September 2011), LR 37:3065 (October 2011), LR 38:1994 (August 2012), amended by the Department of Public Safety and Corrections, Uniform Construction Code Council, LR 39:1825 (July 2013), LR 39:2512 (September 2013), LR 40:2609 (December 2014), amended by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 41:2380 (November 2015), amended by the Department of Public Safety and Corrections, Office of State Fire Marshal, Uniform Construction Code Council, LR 42:1672 (October 2016), LR 44:75 (January 2018), repromulgated LR

45:912 (July 2019), amended LR 47:80 (January 2021), LR 48:2577 (October 2022), LR 50:

**§103. International Building Code  
(Formerly LAC 55:VI.301.A.1)**

A. *International Building Code* (IBC), 2021 Edition, not including Chapter 1, Administration, Chapter 11, Accessibility, Chapter 27, Electrical. The applicable standards referenced in that code are included for regulation of construction within this state. Furthermore, IBC shall be amended as follows and shall only apply to the *International Building Code*.

* * *		
Repeal	Section 3314, Fire Watch During Construction	
Adopt	Appendix G	
Amend	User Notes	
Repeal		
Amend	Section G102 Definitions	
Repeal	Manufactured Home	
Repeal	Manufactured Home Park or Subdivision	
Repeal	Recreational Vehicle	
Amend	Section G103.1 General	
Repeal	Item 1	
Repeal	Item 2	
Repeal	Item 3	
Repeal	Item 4	
Repeal	Item 7	
Amend	Section G104 Power and Duties	
Repeal	Section G104.5.1 Floodway revisions	
Repeal	Section G104.6 Watercourse alteration	
Repeal	Section G104.6.1 Engineering analysis	
Repeal	Section G104.7 Alterations in coastal area	
Amend	Section G105 Permits	
Repeal	Section G105.2 Application for permit	
Repeal	Item 1	
Repeal	Item 2	
Repeal	Item 3	
Repeal	Item 4	
Repeal	Item 5	
Repeal	Item 6	
Repeal	Item 7	
Repeal	Item 8	
Amend	Section G106 Variances	
Amend	Section G106.7 Conditions for issuance	
Repeal	Item 5	
Repeal	Section G107 Subdivisions	
Repeal	Section G107.1 General	
Repeal	Item 1	
Repeal	Item 2	
Repeal	Item 3	
Repeal	Section G 107.2 Subdivision requirements	
Repeal	Item 1	
Repeal	Item 2	
Repeal	Item 3	
Repeal	Item 4	
Amend	Section G108 Site Improvement	
Repeal	Section G108.3 Sewer Facilities	
Repeal	Section G108.4 Water	

	Facilities	
Repeal	Section G108.5 Storm drainage	
Repeal	Section G108.6 Streets and sidewalks	
Repeal	Section G109 Manufactured Homes	
Repeal	Section G109.1 Elevation	
Repeal	Section G109.2 Foundations	
Repeal	Section G109.3 Anchoring	
Repeal	Section G109.4 Protection of mechanical equipment and outside appliances	
Repeal	Exception	
Repeal	Section G109.5 Enclosures	
Repeal	Section G 110 Recreational Vehicles	
Repeal	Section G110.1 Placement prohibited	
Repeal	Section G110.2 Temporary placement	
Repeal	Section G110.3 Permanent Placement	
Repeal	Section G111 Tanks	
Repeal	Section G111.1 Tanks	
Amend	Section 112 Other Building Work	
Repeal	Section G112.2 Fences	
Repeal	Section G112.3 Oil derricks	
Repeal	Section G112.4 Retaining walls, sidewalks and driveways	
Repeal	Section G112.5 Swimming pools	
Repeal	Section G112.6 Decks, porches, and patios	
Repeal	Section G112.7 Nonstructural concrete slabs in coastal high-hazard areas and coastal A zones	
Repeal	Section G112.8 Roads and watercourse crossings in regulated floodways	
Amend	Section G114 Utility and Miscellaneous Group U	
Amend	Section G114.1 Utility and Miscellaneous Group U	Utility and miscellaneous Group U includes buildings that are accessory in character and miscellaneous structures not classified in any specific occupancy in this code, including, but not limited to, agricultural buildings, aircraft hangars (accessory to a one- or two-family residence), barns, carports, grain silos (accessory to a residential occupancy), greenhouses, livestock shelters, private garages, sheds, and stables.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D) and 40:1730.26(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:291 (February 2007), amended LR 34:93 (January 2008), LR 34:883 (May 2008), LR 34:2205 (October 2008), LR 35:1904 (September 2009), LR 36:2574 (November 2010), effective January 1, 2011, LR 37:601 (February 2011), LR 37:913 (March 2011), repromulgated LR 37:2187 (July 2011), repromulgated LR 37:2726 (September 2011), LR 37:3065 (October 2011), LR 38:1994 (August 2012), amended by the Department of Public Safety and Corrections, Uniform Construction Code Council, LR 39:1825 (July 2013), LR 39:2512

(September 2013), LR 40:2609 (December 2014), amended by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 41:2380 (November 2015), amended by the Department of Public Safety and Corrections, Office of the State Fire Marshal, Uniform Construction Code Council, LR 44:75 (January 2018), repromulgated LR 45:912 (July 2019), amended LR 45:1786 (December 2019), LR 48:2578 (October 2022, LR 49:1141 (June 2023).

**§107. International Residential Code (Formerly LAC 55:VI.301.A.3.a)**

A.1. ...

***		
Amend	2021 IRC Section 313.2, One- and Two-Family Dwellings Automatic Fire Systems. Per Act No. 685 of the 2010 Regular Session of the Louisiana Legislature.	The council shall not adopt or enforce any part of the <i>International Residential Code</i> or any other code or regulation that requires a fire protection sprinkler system in one- or two-family dwellings. Further, no municipality or parish shall adopt or enforce an ordinance or other regulation requiring a fire protection sprinkler system in one- or two-family dwellings.



Amend	Exception																																		
	Item (1.)	(1.) If an owner voluntarily chooses to install an automatic residential fire sprinkler system, it shall be installed per Section R313.2.1, Design and Installation.																																	
Amend	Section R315.3 Location																																		
Adopt	Exception																																		
Adopt		When a Fuel Fired Standby generator(s) or Transfer Switch (Automatic or Manual) is installed, it shall be located outside the dwelling, it shall be installed per the manufacturer's installation instructions and the additional following requirements shall be as follows:																																	
Adopt	Item 1	A Carbon Monoxide Alarm shall be permanently installed in each sleeping area inside the dwelling and an additional Carbon Monoxide Alarm shall be permanently installed outside of each separate sleeping area in the immediate vicinity of the bedroom, as approved by the building official. The single detector shall be located in a hallway or room adjacent of the bedrooms.																																	
Adopt	Item 2	The Carbon Monoxide Alarm(s) shall be permanently installed, as determined by the owner, as either stand alone or interconnected																																	
Adopt	Item 3	The Carbon Monoxide Alarm(s) shall receive their power from either a battery and or a building wire circuit.																																	
Amend	Section R317.1																																		
* * *																																			
Amend	Section R506.2.3	A minimum 6 mil (0.006 inch) vapor retarder conforming to ASTM E1745 Class A requirements with joints lapped not less than 6 inches (152 mm) shall be placed between the concrete floor slab and the base course or the prepared subgrade where a base course does not exist.																																	
Amend	Table R602.3(1)																																		
<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th rowspan="2">Item</th> <th rowspan="2">Description of Building Elements</th> <th rowspan="2">Number and Type of Fastener<sup>a, b, c</sup></th> <th colspan="2">Spacing of Fasteners</th> </tr> <tr> <th>Edges<sup>b</sup> (inches)</th> <th>Intermediate supports<sup>c, c</sup> (inches)</th> </tr> </thead> <tbody> <tr> <td colspan="5">Wood structural panels, subfloor, roof and interior wall sheathing to framing and particleboard wall sheathing to framing [see Table R 602.3(3) for wood structural panel exterior wall sheathing to wall framing]</td> </tr> <tr> <td rowspan="2">31</td> <td rowspan="2">3/8" – 1/2"</td> <td>6d common or deformed (2" x 0.113" x 0.266" head); or 2 3/8" x 0.113" x 0.266" head nail (subfloor, wall)<sup>i</sup></td> <td>6</td> <td>6f</td> </tr> <tr> <td>8d common (2 1/2" x 0.131") nail (roof); (Only allowed in areas where wind design is not required); or RSRS-01 (2 3/8" x 0.113") nail (roof)<sup>b</sup> (Option for all geographical locations, required in areas where wind design is required)</td> <td>6</td> <td>6f</td> </tr> <tr> <td rowspan="3">32</td> <td rowspan="3">19/32" – 3/4"</td> <td>8d common (2-2 1/2" x 0.131") nail (subfloor, wall)</td> <td>6</td> <td>6f</td> </tr> <tr> <td>8d common (2 1/2" x 0.131") nail (roof); (Only allowed in areas where wind design is not required); or RSRS-01; (2 3/8" x 0.113") nail (roof)<sup>b</sup> (Option for all geographical locations, required in areas where wind design is required)</td> <td>6</td> <td>12</td> </tr> <tr> <td>Deformed 2 3/8" x 0.113" x 0.266" head (wall or subfloor)</td> <td></td> <td></td> </tr> </tbody> </table>					Item	Description of Building Elements	Number and Type of Fastener <sup>a, b, c</sup>	Spacing of Fasteners		Edges <sup>b</sup> (inches)	Intermediate supports <sup>c, c</sup> (inches)	Wood structural panels, subfloor, roof and interior wall sheathing to framing and particleboard wall sheathing to framing [see Table R 602.3(3) for wood structural panel exterior wall sheathing to wall framing]					31	3/8" – 1/2"	6d common or deformed (2" x 0.113" x 0.266" head); or 2 3/8" x 0.113" x 0.266" head nail (subfloor, wall) <sup>i</sup>	6	6f	8d common (2 1/2" x 0.131") nail (roof); (Only allowed in areas where wind design is not required); or RSRS-01 (2 3/8" x 0.113") nail (roof) <sup>b</sup> (Option for all geographical locations, required in areas where wind design is required)	6	6f	32	19/32" – 3/4"	8d common (2-2 1/2" x 0.131") nail (subfloor, wall)	6	6f	8d common (2 1/2" x 0.131") nail (roof); (Only allowed in areas where wind design is not required); or RSRS-01; (2 3/8" x 0.113") nail (roof) <sup>b</sup> (Option for all geographical locations, required in areas where wind design is required)	6	12	Deformed 2 3/8" x 0.113" x 0.266" head (wall or subfloor)		
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Amend	Section 602.10 , Wall Bracing	Where a building, or portion thereof, does not comply with the bracing requirements of this section, those portions shall be designed and constructed in accordance with Section 302.1. In Climate Zone 2A, one and two family dwellings shall be continuously sheathed with a minimum 7/16" wood structural panels (Table R602.10.4 CS-WSP), or it's structural equivalent as per an ICC-ESR and approved by the local building official.																																	
* * *																																			
Amend	Section P3005.2.2, Building sewers.	Building sewers smaller than 8 inches (203 mm) shall have cleanouts located at intervals of not more than 100 feet (30 480 mm). Building sewers 8 inches (203 mm) and larger shall have a manhole located not more than 80 feet from the junction of the building drain and building sewer and at intervals of not more than 400 feet (122 m). The interval length shall be measured from the cleanout or manhole opening, along the developed length of the piping to the next drainage fitting providing access for cleaning, a manhole or the end of the building sewer.																																	
Adopt	Section P3005.2.2.1, Minimum Size Building Sewer.	No building sewer shall be less than 4 inches in size with the exception of force lines.																																	
Adopt	Exception																																		
Adopt		A 2 inch sink or washing machine drain shall be allowed to continue, greater than 30 inches of developed length, from the edge of the foundation continuous to the 4 inch building sewer if it meets ALL of the following conditions:																																	
Adopt	Item 1.	The allowable fall per inch over the entire length of pipe shall be maintained.																																	
Adopt	Item 2.	No solid waste shall be allowed within the drain system.																																	
Adopt	Item 3.	A disposal shall not be allowed within the drain system.																																	

Adopt	Section P3005.6, Underground Drainage Piping.	Any portion of the drainage system installed underground or below a basement or cellar shall not be less than 2-inch diameter. In addition, any portion of the drainage system installed underground which is located upstream from a grease trap or grease interceptor as well as the underground horizontal branch receiving the discharge there from shall not be less than 3-inch diameter.
* * *		

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D) and 40:1730.26(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:291 (February 2007), amended LR 34:93 (January 2008), LR 34:883 (May 2008), LR 34:2205 (October 2008), LR 35:1904 (September 2009), LR 36:2574 (November 2010), effective January 1, 2011, LR 37:601 (February 2011), LR 37:913 (March 2011), repromulgated LR 37:2187 (July 2011), repromulgated LR 37:2726 (September 2011), LR 37:3065 (October 2011), LR 38:1994 (August 2012), amended by the Department of Public Safety and Corrections, Uniform Construction Code Council, LR 39:1825 (July 2013), LR 39:2512 (September 2013), LR 40:2609 (December 2014), amended by the Department of Public Safety and Corrections, Office of State Fire

Marshall, LR 41:2383 (November 2015), amended LR 42:1672 (October 2016), amended by the Department of Public Safety and Corrections, Office of the State Fire Marshal, Uniform Construction Code Council, LR 44:79 (January 2018), amended LR 44:2218 (December 2018), repromulgated LR 45:916 (July 2019), amended LR 45:1789 (December 2019), amended LR 48:2582 (October 2022), LR 49:1142 (June 2023).

**§111. The International Plumbing Code (Formerly LAC 55:VI.301.A.5)**

A. The *International Plumbing Code*, 2021 Edition. The appendices of that code may be adopted as needed, but the specific appendix or appendices shall be referenced by name or letter designation at the time of adoption (per R.S. 40:1730.28, eff. 1/1/16).

* * *		
Adopt	Section 703.6, Minimum Size Building Sewer.	No building sewer shall be less than 4 inches in size with the exception of force lines.
Adopt	Exception	
Adopt		A 2 inch sink or washing machine drain shall be allowed to continue, greater than 30 inches of developed length, from the edge of the foundation continuous to the 4 inch building sewer if it meets ALL of the following conditions:
Adopt	Item 1.	The allowable fall per inch over the entire length of pipe shall be maintained.
Adopt	Item 2.	No solid waste shall be allowed within the drain system.
Adopt	Item 3.	A disposal shall not be allowed within the drain system.
Amend	Section 710.1, Maximum Fixture Unit Load.	The maximum number of drainage fixture units connected to a given size of building sewer, building drain or horizontal branch of the building drain shall be determined using Table 710.1(1). The maximum number of drainage fixture units connected to a given size vertical soil or waste stack, or horizontal branch connecting to a vertical soil or waste stack, shall be determined using Table 710.1(2).
* * *		

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D) and 40:1730.26(1) and Act836 of the 2014 of the Regular Louisiana Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:291 (February 2007), amended LR 34:93 (January 2008), LR 34:883 (May 2008), LR 34:2205 (October 2008), LR 35:1904 (September 2009), LR 36:2574 (November 2010), effective January 1, 2011, LR 37:601 (February 2011), LR 37:913 (March 2011), repromulgated LR 37:2187 (July 2011), repromulgated LR 37:2726 (September 2011), LR 37:3065 (October 2011), LR 38:1994 (August 2012), amended by the Department of Public Safety and Corrections, Uniform Construction Code Council, LR 39:1825 (July 2013), LR 39:2512

(September 2013), LR 40:2609 (December 2014), amended by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 41:2386 (November 2015), amended by the Department of Public Safety and Corrections, Office of State Fire Marshal, Uniform Construction Code Council, LR 42:1672 (October 2016), LR 44:81 (January 2018), repromulgated LR 45:919 (July 2019), amended LR 45:1794 (December 2019), LR 46:1611 (November 2020), amended LR 48:2589 (October 2022).

**§115. National Electric Code (Formerly LAC 55:VI.301.A.7)**

A. *National Electric Code* (NEC), 2020 Edition, and the standards referenced in that code for regulation of construction in this state.

* * *		
Adopt	Item (G) Areas where welders are operated	All 125-volt, 15- and 20-ampere receptacles, supplied by single-phase branch circuits rated 150 volts or less to ground, where welders are operated, for electrical hand tools or portable lighting equipment shall have ground-fault circuit interrupter protection for personnel.
Amend	210.52(C)(2) Island and Peninsular Countertops and Work Surfaces	
Amend		Receptacle outlets, if installed to serve an island or peninsular countertop or work surface, shall be installed in accordance with 210.52(C)(3). If a receptacle outlet is not provided to serve an island or peninsular countertop or work surface, provisions shall be provided at the island or peninsula for future addition of a receptacle outlet to serve the island or peninsular countertop or work surface. These provisions shall be a dedicated circuit.
Repeal	Item (a)	
Repeal	Item (b)	
Repeal		
Amend	210.52(C)(3) Receptacle Outlet Location	Receptacle outlets shall be located in one or more of the following:

Amend	Item 1	On or above, but not more than 500 mm (20 in.) above, a countertop or work surface.
Amend	Item 2	In a countertop using receptacle outlet assemblies listed for use in countertops.
Amend	Item 3	In a work surface using receptacle outlet assemblies listed for use in work surfaces or listed for use in countertops.
Adopt		Receptacles installed below a countertop or work surface shall not be located where the countertop or work surface extends more than 150 mm (6 in.) beyond its support base.
Adopt		Receptacle outlets rendered not readily accessible by appliances fastened in place, appliance garages, sinks, or rangetops as covered in 210.52(C)(1), Exception or appliances occupying assigned spaces shall not be considered as these required outlets.
Amend	230.67 Surge Protection	
Amend	230.67(A) Surge-Protective Device	
Adopt	Exception	Services for Manufactured Housing units shall not be required to be provided with a surge-protective device (SPD)
Amend	Article 230.71, Maximum Number of Disconnects.	
Adopt	Exception	
Adopt	Item (1)	All pre-existing, renovations, alterations, repairs, or substantial improvement services shall not be required to have only one disconnecting means. The service disconnecting means for these listed construction types shall consist of not more than six switches or sets of circuit breakers, or a combination of not more than six switches and sets of circuit breakers, mounted in a single enclosure, in a group of enclosures, or in or on a switchboard or in a switchgear. There shall not be more than six sets of disconnects per service grouped in any one location.
* * *		
Amend	Article 230.85 Emergency Disconnects	A. For one- and two-family dwelling units, all service conductors shall terminate in disconnecting means having a short-circuit current rating equal to or greater than the available fault current, installed in a readily accessible outdoor location. If more than one disconnect is provided, they shall be grouped. Each disconnect shall be one of the following:
	Item 1	Service disconnects marked as follows: EMERGENCY DISCONNECT, SERVICE DISCONNECT
	Item 2	Meter disconnects installed per 230.82(3) and marked as follows: EMERGENCY DISCONNECT, METER DISCONNECT, NOT SERVICE EQUIPMENT
	Item 3	Other listed disconnect switches or circuit breakers on the supply side of each service disconnect that are suitable for use as service equipment and marked as follows: EMERGENCY DISCONNECT, NOT SERVICE EQUIPMENT
		Markings shall comply with 110.21(B)
Adopt	Article 230.85(B) Identification of Other Isolation Disconnects	Where equipment for isolation of other energy source systems is not located adjacent to the emergency disconnect required by this section, an approved plaque or directory identifying the location of all equipment for isolation of other energy sources shall be located adjacent to the disconnecting means required by this section.
Adopt	Informational Note:	See 445.18, 480.7, 705.20, and 706.15 for examples of other energy source system isolation means.
Adopt	Article 230.85(C) Marking	
Adopt	Article 230.85(C)(1) Marking Text.	The disconnecting means shall marked as follows:
Adopt	Item 1	Service disconnect: EMERGENCY DISCONNECT, SERVICE DISCONNECT
Adopt	Item 2	Meter disconnects installed in accordance with 230.82(3) and marked as follows: EMERGENCY DISCONNECT, METER DISCONNECT, NOT SERVICE EQUIPMENT
Adopt	Item 3	Other listed disconnect switches or circuit breakers on the supply side of each service disconnect that are marked suitable for use as service equipment and marked as follows: EMERGENCY DISCONNECT, NOT SERVICE EQUIPMENT
Adopt	Article 230.85(C)(2) Marking Location and Size	Markings shall comply with 110.21(B) and both of the following:
Adopt	Item 1	The marking or labels shall be located on the outside front of the disconnect enclosure with red background and white text.
Adopt	Item 2	The letters shall be at least 13 mm (1/2 in.) high
Amend	Article 551.71 Type Receptacles Provided	
* * *		

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D) and 40:1730.26(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:291 (February 2007), amended LR 34:93 (January 2008), LR 34:883 (May 2008), LR 34:2205 (October 2008), LR 35:1904 (September 2009), LR 36:2574 (November 2010), effective January 1, 2011, LR 37:601 (February 2011), LR 37:913

(March 2011), repromulgated LR 37:2187 (July 2011), repromulgated LR 37:2726 (September 2011), LR 37:3065 (October 2011), LR 38:1994 (August 2012), amended by the Department of Public Safety and Corrections, Uniform Construction Code Council, LR 39:1825 (July 2013), LR 39:2512 (September 2013), LR 40:2609 (December 2014), amended by the Department of Public Safety and Corrections, Office of State Fire Marshall, LR 41:2387 (November 2015), amended by the

## DECLARATION OF EMERGENCY

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

Chief Daniel H. Wallis  
State Fire Marshal

#### Prohibition of Fire on LDWF Owned or Managed Lands

2311#002

## DECLARATION OF EMERGENCY

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

#### 2023 Recreational Gag Grouper Season Modification

Louisiana's recreational gag grouper season was previously modified to open on September 1, 2023 and close on November 9, 2023. The regional administrator of NOAA Fisheries has informed the secretary that the 2023 recreational season for the harvest of gag grouper in the federal waters of the Gulf of Mexico will close on October 19, 2023 and will remain closed until the gag grouper recreational season opens in 2024. Action by the Gulf of Mexico Fisheries Management Council requested these emergency measures in order to prevent overfishing of gag grouper while a rebuilding plan for the stock is established. Compatible season regulations in state waters are preferable to provide effective rules and efficient enforcement for the fishery, and to prevent overfishing of the species in the long term.

In accordance with the emergency provisions of R.S. 49:962, which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency rules to set finfish seasons, R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, and the authority given to the secretary by the commission in LAC 76:VII.335.G.5 to modify opening and closing dates of any commercial or recreational reef fish seasons in Louisiana state waters when he is informed by the regional administrator of NOAA Fisheries that the seasons have been modified in adjacent federal waters, the secretary hereby declares:

The season for the recreational harvest of gag grouper in Louisiana state waters shall close at 12:01 a.m. on October 19, 2023 and remain closed until the start of the 2024 recreational season. Effective with this closure, no person shall recreationally harvest or possess gag grouper whether within or without Louisiana waters.

Robert E. Shadoin  
Secretary

2311#001

In accordance with R.S. 49:962 of the Administrative Procedure Act, and under authority of R.S. 56:6, R.S. 56:32, R.S. 56:115 and R.S. 56:702, and LAC 76:XIX.111.A.1 and LAC 76:XIX.111.G.1.c, the Secretary of the Department of Wildlife and Fisheries (LDWF) adopts the following Emergency Rule:

Louisiana is experiencing a period of severe drought and extreme heat. As a result, the Office of State Fire Marshal issued a Cease and Desist Order dated August 7, 2023 for all private burning. On August 11, 2023, Governor John Bel Edwards issued Proclamation 141 JBE 2023, declaring a statewide emergency, while authorizing and ordering all departments, commissions, boards, agencies and officers of the state to cooperate in actions the State may take in this event. On August 25, 2023, the Office of State Fire Marshal issued a statewide burn ban prohibiting all private burning with no limitations. Conditions conducive for wildfires are expected to continue, putting at risk the life, safety and welfare of the citizens of Louisiana as well as fish and wildlife resources. As a result, the secretary of the Department of Wildlife and Fisheries executed a Declaration of Emergency dated September 1, 2023, prohibiting the ignition of fires of any kind upon LDWF owned or managed lands. On September 6, 2023, the Office of State Fire Marshal issued a news release stating that outdoor cooking can resume with safety measures in place, despite the continuation of the statewide burn ban. On September 7, 2023, the Wildlife and Fisheries Commission issued a declaration of emergency rescinding and replacing the one previously issued by the secretary prohibiting all burning upon LDWF owned or managed lands, except for outdoor cooking, which was extended on October 5, 2023 and remains valid until November 2, 2023.

Now, the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission hereby declare a continuation of the statewide emergency regarding all LDWF Wildlife Management Areas, refuges, and conservation areas ("LDWF owned or managed lands"). As a matter of public safety and protection, and in order to protect the fish and wildlife resources of the State of Louisiana, all burning upon LDWF owned or managed lands is strictly prohibited. However, outdoor cooking is allowed using contained cooking equipment, designed for cooking purposes only, on a flame-resistant surface with a water source or fire extinguisher nearby. Failure to abide by this Declaration of Emergency shall constitute a Class 2 violation.

This Declaration of Emergency is effective November 2, 2023, and remains in effect through Thursday, December 7, 2023, unless otherwise rescinded or modified by the Department of Wildlife and Fisheries or the Wildlife and Fisheries Commission.

Robert E. Shadoin  
Secretary  
and  
Andrew J. Blanchard  
Chairman

2311#014

# Rules

## RULE

### Department of Civil Service Board of Ethics

#### Electronic Communication (LAC 52:I.1807)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Civil Service, Board of Ethics, has adopted a Rule regarding electronic communication and notices pursuant to R.S. 42:1160. The Rule facilitates procedures for the board to send communications electronically and codifies the Board of Ethics rules in statute. This Rule is hereby adopted on the day of promulgation.

#### Title 52 ETHICS

#### Part I. Board of Ethics

#### Chapter 18. Electronic Filing

#### §1807. Notices sent Pursuant to R.S. 42:1160

A. For purposes of R.S. 42:1160, the board shall send the communication electronically.

1. When the filing party is a candidate filing campaign finance disclosure reports or candidate personal financial disclosure reports, the communication will be sent to the email address provided by the candidate on the notice of candidacy filed in connection with the most recent election, unless the candidate has submitted, on an electronic filing affidavit or through the agency's computerized data management system, a new email address to which notices should be sent.

2. When the filing party is a political committee or other person filing campaign finance disclosure reports, the communication will be sent to the email provided on the electronic filing affidavit or through the agency's computerized data management system, whichever was submitted more recently.

3. When the filing party is a lobbyist filing lobbying registrations, supplemental registrations, or expenditure reports, the communication will be sent to the email provided through the agency's computerized data management system.

4. When the filing party is a public servant who is filing reports pursuant to the Code of Governmental Ethics, the communication will be sent to the email address provided by the public servant, on the notice of candidacy filed in connection with the most recent election, if one exists, unless they have submitted, on an electronic filing affidavit or through the agency's computerized data management system, a new email address to which notices should be sent.

B. If the board has been provided with a valid email address as provided in Paragraph A.1 of this Section, the following communications shall be sent electronically:

1. reminder notices and notices of delinquency for reports required by the Campaign Finance Disclosure Act.

2. reminder notices for reports and notices of delinquency for reports required to be filed pursuant to R.S. 42:1113D, 42:1114, 42:1114.2, 42:1114.3, 42:1119B and 1123(22) and R.S. 27:63A.

3. reminder notices for reports required to be filed pursuant to R.S. 42:1124, 42:1124.2, 42:1124.2.1 and 42:1124.3.

4. reminder notices and notices of delinquency for reports required pursuant to the Lobbyist Disclosure Acts.

C. If a filing party does not provide a valid email address the communication will not be delivered electronically. A valid email address is an email address provided by the filing party, unless the board receives a response that the communication sent to the email address was not delivered.

D. It is the filing party's responsibility to ensure the board has an updated email address.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 49:1915 (November 2023).

Kathleen M. Allen  
Ethics Administrator

2311#017

## RULE

### Office of the Governor Capital Area Groundwater Conservation Commission

#### Measuring Well Yield (LAC 56:V.707)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted to the Capital Area Groundwater Conservation Commission (R.S. 38:3072-3084) under the authority granted by R.S. 38:3076.A.(7), (8), (9), (10), (13), (14)(a), (14)(b),(17), (18), and 38:3076.E. that the Capital Area Groundwater Conservation Commission amends §707 of Chapter 7 of Part V of Title 56 to clarify that the commission is authorized to enter a well owners property for the purpose of installing, monitoring, recalibrating and/or maintaining systems and technologies of remote monitoring of flow volumes, and to provide with respect to monitoring systems which may be used until the remote monitoring systems and technologies are installed and to provide for the use of a manual meter in lieu of remote monitoring system at the commission's sole discretion; and to provide that permits to wells will not be issued until the appropriate metering system is installed. This Rule change amends and adopts LAC 56:V.707 by amending Subsections A and B, and by adopting Subsections C, D and E. This Rule is hereby adopted on the day of promulgation.

**Title 56  
PUBLIC WORKS**

**Part V. Capital Area Ground Water Conservation  
Commission**

**Chapter 7. Rules and Regulations for Metering and/or  
Recording the Yield of Water Wells**

**§707. Measuring Well Yield**

A. The Commission is authorized to monitor, by installing or causing to be installed on each well in the District, systems and technologies to allow for remote monitoring of flow volumes:

1. the Capital Area Groundwater Conservation Commission is authorized to enter the well owner's property for the purpose of installing, monitoring, recalibrating, and/or maintaining the specific systems and technologies;

2. the system shall record the yield of each well, and report flow volumes remotely to a data management system maintained by the Commission;

3. the Capital Area Groundwater Conservation Commission shall control the powering and maintenance of the system; and is authorized to recalibrate the meters periodically as required by affiliates or subcontractors of the Commission; and

4. the costs associated with the specific systems and technologies which allow for remote monitoring of flows will be included in the pumping fee assessed to users.

B.1. Owners of existing wells shall continue to report flow volumes utilizing methods indicated below until the systems and technologies referenced in subsection A or D are installed and the flow volumes are provided through the new system:

a. install a metering device that records and "totals" the yield of the well; or

b. measure well yield or rate under normal pressure to permit the calculation of the "total" yield of the well for a given period of time; or

c. design and construct into the discharge line of water well a bypass line that can be used to periodically measure the flow of the well discharges to the atmosphere, using a measuring device such as a portable or permanently installed orifice plate and manometer.

2. If a method in Subparagraphs b or c is used, an hour meter or exact records shall be used and/or maintained to record the number of hours the well is pumped for a stated period of time.

C. If there is a discrepancy or inconsistency between the owner's meter and the commission's meter, the owner may require the commission to hire an independent contractor to verify the accuracy of the commission's meter at the owner's expense.

D. At the commission's sole discretion, the commission may install a manual meter in lieu of remote monitoring system.

E. New wells completed after the remote monitoring system is fully implemented will not be issued a permit to operate the well until the metering system is installed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3076(14) and 38:3079. Amended in accordance with R.S. 38:3076.A.(7), (8), (9), (10), (13), (14)(a), (14)(b),(17), (18), and 38:3076.E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Capital Area Ground Water Conservation Commission, LA 3:307 (July 1977), promulgated LR 33:2647 (December 2007),

amended LR 48:1502 (June 2022), amended LR 49:1916 (November 2023).

Gary Beard  
Executive Director

2311#004

**RULE**

**Office of the Governor  
Capital Area Groundwater Conservation Commission**

Water Well Permits and Plans  
(LAC 56:V.901, 905, and 907)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted to the Capital Area Groundwater Conservation Commission (R.S. 38:3072-3084) under the authority granted by R.S. 38:3076.A(2) 38:3076.A(5), 38:3076.A(14)(d) and 38:3076.E, that the Capital Area Groundwater Conservation Commission amends §§901, 905, and 907 of Chapter 9 of Part V of Title 56 to clarify that the Parish of Ascension is part of the Capital Area Groundwater Conservation Commission, [R.S. 38:3072(A)] to provide for additional documentation required for well permitting, to provide for an application fee for a well permit, to provide a two part process for well permitting both of which must be satisfied before water production is allowed, and to provide procedures with respect thereto of LAC 56:V.901, 905, and 907. This Rule is hereby adopted on the day of promulgation.

**Title 56  
PUBLIC WORKS**

**Part V. Capital Area Groundwater Conservation  
Commission**

**Chapter 9. Water Well Permits and Plans**

**§901. Authority and Purpose**

A. The Capital Area Ground Water Conservation Commission (hereafter referred to as the commission) has the authority to require permits and plans for the drilling/construction and operation of water wells having a capacity in excess of 50,000 gallons per day, in accordance with R.S. 38:3076(A)(2) and 3076(E). The purpose of this rule is to define the procedures to be used in applying for a permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3076(14) and 38:3079, amended in accordance with R.S. 38:3076.A(2) 38:3076.A(5), and 38:3076.E

HISTORICAL NOTE: Promulgated by the Office of the Governor, Capital Area Ground Water Conservation Commission, LR 2:76 (March 1976), amended LR 23:34 (January 1997), amended LR 49:1916 (November 2023).

**§905. Applicability of Requirement for Permits and  
Plans**

A. Permits are required for all nonexempt wells drilled in the parishes of Ascension, East Baton Rouge, East Feliciana, Pointe Coupee, West Baton Rouge, West Feliciana, and any other parishes that may be admitted to the Capital Area Groundwater Conservation District. The permit application

for the proposed well shall be accompanied by a set of plans to include at a minimum:

1. location of proposed well to the nearest second of latitude and longitude;
2. location of existing water wells within 1000 feet;
3. proposed depth;
4. casing and screen sizes and approximate depths;
5. proposed well yield and average daily pumpage-;
6. piping layout geometry for the site;
7. a horizontal section of pipe for installation of the metering device and remote monitoring system shall be located downstream from the backflow preventer. The length and location of pipe shall be requested in the application and presented to the commission for approval; and
8. site layout which includes a location of a six-foot-by-six-foot slab for installation of monitoring equipment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3076(14) and 38:3079, amended in accordance with R.S. 38:3076.A(2) 38:3076.A(5), and 38:3076.E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Capital Area Ground Water Conservation Commission, LR 23:35 (January 1997), LR 49:1916 (November 2023).

#### **§907. When a Permit is Required**

A. The well owner (or his agent) who plans to drill a nonexempt well shall submit a permit application and the required application fee of \$2,000 to the Capital Area Groundwater Conservation Commission for review and approval.

B. An application will undergo a two-part permitting process. Initially the application information will be reviewed to determine if all required information has been submitted. If the applicant has not submitted all of the required information, the commission shall notify the applicant of the additional information required. Upon receipt and review of all required information, a permit to construct may be issued. Drilling shall not commence until the permit to construct is issued.

C. If, after receipt of all documents, the commission determines that the well will adversely affect the aquifer and provides reasons therefore, the permit may be denied.

D. After completion of the permitted well construction, the well owner shall submit as-built drawings, including above and below ground well schematics, in order to verify the construction of the well. The commission must certify that the well was constructed as permitted, and the commission must have installed the metering device and associated remote monitoring system, prior to the commission verifying the well for water production. No water production may begin until the commission has first verified the construction of the well.

E. If an operating well undergoes any physical modifications, such as changing the screened depth or the pump capacity, a permit application to perform the work must be submitted to the commission for review and approval prior to the workover.

F. For further detail on this rule, see the permitting manual as approved and adopted by the Board of Commissioners.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3076(14) and 38:3079, amended in accordance with R.S. 38:3076.A(2) 38:3076.A(5), 38:3076.A(14)(d) and 38:3076.E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Capital Area Ground Water Conservation Commission,

LR 2:76 (March 1976), amended LR 23:35 (January 1997), amended LR 49:1917 (November 2023).

Gary Beard  
Executive Director

2311#005

## **RULE**

### **Office of the Governor Licensing Board for Contractors**

Contractors  
(LAC 46:XXIX. Chapters 1-7)

In accordance with the provisions of R.S. 49:950 et seq., which is the Administrative Procedure Act, and through the authority granted in R.S. 37:2150-2165, which is the Contractor Licensing Law, the Licensing Board for Contractors (LSLBC) has amended its rules and regulations regarding contracting matters under the jurisdiction of the LSLBC.

Act 195 of the 2022 Regular Legislative Session represented comprehensive legislation overhauling the statutes of the LSLBC. The changes presented in these rules will align with those statutory changes and codify current practices including the enumeration, defining, and consolidating of licensing classifications, subclassifications, and specialties. This Rule is hereby adopted on the day of promulgation.

#### **Title 46**

### **PROFESSIONAL AND OCCUPATIONAL STANDARDS**

#### **Part XXIX. Contractors**

#### **Chapter 1. Applications and Licensing**

##### **§101. Authority**

A. These rules and regulations are enacted under the authority of and in accordance with R.S. 37:2153.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2165.

HISTORICAL NOTE: Promulgated by the Office of the Governor, State Licensing Board for Contractors, LR 44:2143 (December 2018), amended LR 49:1917 (November 2023).

##### **§103. Definitions**

A. As used in these rules and regulations, words and phrases shall be defined as provided in R.S. 37:2150.1, in R.S. 37:2150-2165, and as otherwise defined in these rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2165.

HISTORICAL NOTE: Promulgated by the Office of the Governor, State Licensing Board for Contractors, LR 44:2143 (December 2018), amended LR 49:1917 (November 2023).

##### **§105. Requirements**

A. Before a license or registration is issued, the following conditions must be met.

1. The application is complete and all required information has been provided to the board.

2. All applicable fees, fines, or other sums due to the board are paid in full.

3. All examination or other eligibility requirements have been successfully completed.

B. Any person holding a license or registration as a residential construction contractor, home improvement



contractor, and mold remediation contractor shall obtain and maintain workers' compensation and general liability insurance, covering the construction activities for which he is licensed, obtained from an insurer authorized to sell those forms of insurance coverage. Insurance certificates evidencing current workers' compensation and general liability insurance shall be submitted to the Licensing Board for Contractors with each new application and every renewal application. In the event of a lapse of insurance coverage, a cease- and-desist order may be issued and such lapse shall be grounds for suspension or revocation of the license by the board.

C. Any business entity holding a license or registration shall obtain and maintain an active status with the Louisiana Secretary of State.

D. The issuance of any licenses or registrations will be approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150 - 2165.

HISTORICAL NOTE: Adopted by the Department of Commerce, Licensing Board for Contractors, November 1974, amended and promulgated LR 1:401 (September 1975), amended LR 3:11 (January 1977), LR 8:137 (March 1982), amended by the Department of Economic Development, Licensing Board for Contractors, LR 16:602 (July 1990), amended Department of Economic Development, Licensing Board for Contractors, LR 22:94 (February 1996), amended by the Office of the Governor, Licensing Board for Contractors, LR 38:150, 156 (January 2012), LR 44:2143 (December 2018), LR 49:1917 (November 2023).

#### **§107. Report of Changes**

A. It shall be the responsibility of a person licensed or registered by the board to provide to the board all of the following information upon application for a license or registration and to notify the board in writing within 30 days of any change to the following information:

1. the licensee's type of business structure (sole proprietorship, partnership, limited liability company, corporation, etc.);
2. the licensee's business address (physical and U.S. postal service mailing address);
3. a telephone, cell phone, and facsimile number;
4. the licensee's email address;
5. the licensee's name;
6. the identity and address of the licensee's registered agent;
7. the identity of each officer and the office held;
8. the identity or address of each partner;
9. the identity or address of each member;
10. the licensee's federal tax identification number;
11. the licensee's state of incorporation;
12. for residential, home improvement, or mold remediation contractors, any change in insurance including, but not limited to, suspension or cancellation;
13. a bankruptcy judgment whether voluntary or involuntary; and
14. any order by a court of competent jurisdiction for a license or registrant to cease operations or whose operations are closed due to operation of any law.

B. The failure of a person licensed or registered by the board to notify the board of changes to any of the enumerated items in Paragraph A of this Section within 30

days of the change may result in a suspension of license or disciplinary action by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2165.

HISTORICAL NOTE: Adopted by the Department of Commerce, Licensing Board for Contractors, November 1974, amended and promulgated LR 8:137 (March 1982), amended by the Office of the Governor, Licensing Board for Contractors, LR 38:149 (January 2012), LR 44:2144 (December 2018), LR 49:1918 (November 2023).

#### **§109. Qualifying Party**

##### **[Formerly §109, 111, 113]**

A. A qualifying party shall be required to successfully complete any trade examinations and meet or complete any other eligibility requirements.

B.1. The qualifying party or parties authorized to take the examination are those defined in R.S. 37:2156.1D.

2. An employee selected as qualifying party by the licensee shall be required to complete a qualifying party verification before examination attesting to his/her eligibility that he/she is a full-time employee of the person for whom he/she is seeking to qualify working at least 32 hours per week and that he/she meet the criteria to be classified as an *employee* as defined by the Internal Revenue Service. The qualifying party section of the online application will be certified by the employer.

C. An employee who has not been in full-time employment immediately preceding the application due to an absence resulting from deployment in active military service may be considered as a full-time employee if the employee has been re-employed in accordance with R.S. 29:410 and, considering the employee's period of employment immediately preceding the absence resulting from deployment in active military service, the employee otherwise satisfies the requirement of full-time employment.

D. If a qualifying party for a particular trade terminates employment or ownership/membership with a licensee, the licensee's license remains valid with the following restrictions. The licensee may continue existing work or bid on new work in the licensed trade classification but may not begin such work until the qualifying party is replaced.

E. When a qualifying party's employment or association with the licensee is terminated for any reason, the licensee shall comply with R.S. 37:2156.1(D)(1) by notifying the board in writing within 30 days of the termination. The licensee shall submit and qualify a new person as its qualifying party within 60 days of the termination of the prior qualifying party. If the licensee fails to qualify a new qualifying party within 60 days as required herein, the licensee's license may be suspended or revoked, or have a classification(s) removed by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2165.

HISTORICAL NOTE: Adopted by the Department of Commerce, Licensing Board for Contractors, November 1974, amended and promulgated LR 8:136 and 8:137 (March 1982), amended by the Department of Economic Development, Licensing Board for Contractors, LR 19:1126 and 19:1127 (September 1993), amended by the Office of the Governor, Licensing Board for Contractors, LR 23:1495 (November 1997), amended by the Office of the Governor, Licensing Board for Contractors, LR 38:149 and

38:151 (January 2012), LR 44:2144 and 44:2145 (December 2018), LR 49:1918 (November 2023).

**§111. Examination Scheduling**  
**[Formerly §117]**

A. A qualifying party candidate who has been approved to take an examination shall be given a means to schedule the examination.

B. A candidate who fails to appear for the scheduled examination date and time shall forfeit the examination fee and be required to submit a new fee before the candidate will be allowed to schedule a new examination date.

C. A candidate who fails an examination cannot retake the examination for 30 days and shall be allowed to take the examination only if all other eligibility requirements have been completed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2165.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, State Licensing Board for Contractors, LR 21:1214 (November 1995), amended by the Office of the Governor, Licensing Board for Contractors, LR 38:153 (January 2012), LR 40:2576 (December 2014), LR 44:2145 (December 2018), LR 49:1919 (November 2023).

**§113. Examination Administration Procedures**  
**[Formerly §119]**

A. Administrative check-in procedures begin one-half hour before the examinations begin. Candidates must report to the testing center for check-in at least 15 minutes prior to the examination's start time. Any candidate reporting after the 15-minute start time may not be allowed admittance to the examination room. Every candidate must present valid government-issued photographic identification to be admitted to the examination room.

B. The board considers and treats the specific content and format of its exams as proprietary and confidential, being intellectual property solely owned by the board. Individuals taking any LSLBC exam, at any testing location owned or approved by the board, acknowledge that no personal items of any sort may be brought into the testing room. This specifically includes, but is not limited to, watches, bulky outerwear, paper or reference material, or any electronic device capable of storing, sending, or receiving data. Any item required to take the exam will be provided by the exam proctor and must be returned at the completion of the exam. A locker or other method of storage will be provided for personal items. The testing center is not responsible for lost, stolen, or misplaced items. Failure of a candidate to comply with examination requirements will result in a forfeiture of the scheduled exam. Any violation of the above requirements, or any effort to otherwise defraud the examination process, shall result in the candidate's exam being immediately discontinued and invalidated. The candidate will be notified that they are required to appear before the board at its next regularly scheduled meeting for consideration of the violation where the board will take appropriate action. This may include a finding that the candidate is ineligible to take or retake any exam, ineligible to obtain any additional classifications to an existing license, and/or revocation of any existing license or qualifying party status for a period of up to one year from the date of the

board's order. If the candidate fails to appear at the scheduled board meeting, the board may issue the foregoing penalties plus a monetary penalty.

C. All examination activities are subject to being filmed, recorded, or monitored.

D. A candidate taking an examination shall not be allowed access to telephones or other communication devices during the course of the examination. Candidates shall not leave the testing area during the time of the examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2165.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Licensing Board for Contractors, LR 21:1214 (November 1995), amended by the Office of the Governor, Licensing Board for Contractors, LR 38:153 (January 2012), LR 40:2576 (December 2014), LR 44:2145 (December 2018), LR 49:1919 (November 2023).

**§115. Test Item Challenges**  
**[Formerly §121]**

A. A candidate who believes that an individual test item may not have a correct answer or may have more than one correct answer shall be afforded an opportunity to challenge the test item. The candidate shall record his or her comments digitally through the exam interface or in writing on a form supplied by the test monitor at the candidate's request during the examination. Comments will not be accepted at any other time. Comments should provide a detailed explanation as to why the candidate feels the item is incorrect. General comments (e.g., "This item is wrong.") will not be investigated.

B. Examination comments will be reviewed by board staff.

C. If a test item comment is deemed to be valid, the grade may be changed based upon test item comment(s).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2165.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Licensing Board for Contractors, LR 21:1214 (November 1995), amended by the Office of the Governor, Licensing Board for Contractors, LR 38:153 (January 2012), LR 40:2576 (December 2014), LR 44:2145 (December 2018), LR 49:1919 (November 2023).

**§117. Examination Reviews**  
**[Formerly §123]**

A. Candidate may request a review of their examination after two unsuccessful attempts to pass the same examination, provided the last test score is within ten points of a passing grade. The request must be made through the LSLBC Licensing Web Portal within 60 days of the failed examination date. Only questions missed by the qualifying party may be reviewed. Standard security procedures will be observed at review sessions. Candidates who have reviewed an examination are not eligible to retake the same examination for 14 days after the review session. Candidates who fail to appear for a scheduled review session are disqualified from reviewing that examination at a future date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2165.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Licensing Board for Contractors, LR 21:1215 (November 1995), amended by the Office of the Governor, Licensing Board for Contractors, LR 38:154 (January 2012), LR 44:2146 (December 2018), LR 49:1919 (November 2023).

**§119. Application of Subsidiary**  
**[Formerly §125]**

A. Any application for a license for a subsidiary shall be considered as a new application and subject to all laws and rules and regulations governing a new application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2165.

HISTORICAL NOTE: Adopted by the Department of Commerce, Licensing Board for Contractors, November 1974, amended and promulgated LR 8:137 (March 1982), amended by the Office of the Governor, Licensing Board for Contractors, LR 38:151 (January 2012), LR 44:2146 (December 2018), LR 49:1920 (November 2023).

**§121. Approval Withheld**  
**[Formerly §127]**

A. If the board withholds approval of an application for a license or registration, or an application for a qualifying party, the applicant or qualifying party shall have the right to apply to the board for a hearing to consider the application. After due consideration of the applicant's presentation to the board, the board shall be entitled to withhold approval or grant approval of the application after consideration of the licensing requirements of the Contractors Licensing Law and these rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2165.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Licensing Board for Contractors, LR 8:138 (March 1982), amended LR 11:341 (April 1985), amended by the Office of the Governor, Licensing Board for Contractors, LR 38:151 (January 2012), LR 44:2146 (December 2018), LR 49:1920 (November 2023).

**§123. Licensure and Exemption of Exam for Individuals with Military Training and Experience, Military Spouses and Dependents**  
**[Formerly §129]**

A. The board shall issue a license or registration to an applicant who is a member of the military, including United States Department of Defense civilian employees who have been assigned to duty in Louisiana, or an applicant who is married to or is a dependent of a member of the military or a United States Department of Defense civilian employee, if the member or United States Department of Defense civilian receives military orders for a change of station to a military installation or assignment located in this state or if the member or United States Department of Defense civilian has established this state as his state of legal residence as reflected in the member's or United States Department of Defense civilian's military record if, upon application to the board, all of the following conditions are satisfied by the applicant:

1. holds a current and valid occupational license in another state in an occupation with a similar scope of practice, as determined by the board.

2. has held the occupational license in the other state for at least one year.

3. has passed any examinations, or met any education, training, or experience standards as required by the board in the other state.

4. is held in good standing by the board in the other state.

5. does not have a disqualifying criminal record as determined by the board under the laws of this state.

6. has not had an occupational license revoked by a board in another state because of negligence or intentional misconduct related to the applicant's work in the occupation.

7. did not surrender an occupational license because of negligence or intentional misconduct related to the person's work in the occupation in another state.

8. does not have a complaint, allegation, or investigation pending before a board in another state which relates to unprofessional conduct or an alleged crime. If there is an existing complaint, allegation or investigation pending, the board shall not issue or deny a license or registration until the complaint, allegation, or investigation is resolved, or the applicant otherwise satisfies the criteria for licensure in this state to the satisfaction of the board.

9. pays all applicable fees and meets all other requirements for licensure.

B. The board shall issue a license or registration to an applicant who is a member of the military, or an applicant who is married to or is a dependent of a member of the military or United States Department of Defense civilian employee who has been assigned duty in Louisiana, upon application based on work experience in another state if, upon application to the board, all of the following conditions are satisfied by the applicant:

1. worked in a state that does not use an occupational license or governmental certification to regulate a lawful occupation, but the board regulates this lawful occupation with a similar scope of practice.

2. worked for at least three years in the lawful occupation.

3. has not had an occupational license revoked by a board in another state because of negligence or intentional misconduct related to the applicant's work in the occupation.

4. did not surrender an occupational license because of negligence or intentional misconduct related to the person's work in the occupation in another state.

5. does not have a complaint, allegation, or investigation pending before a board in another state which relates to unprofessional conduct or an alleged crime. If there is an existing complaint, allegation, or investigation pending, the board shall not issue or deny a license or registration until the complaint, allegation, or investigation is resolved, or the applicant otherwise satisfies the criteria for licensure in this state to the satisfaction of the board.

6. pays all applicable fees and meets all other requirements for licensure.

C. The board shall issue a license or registration to an applicant who is a member of the military or United States Department of Defense civilian employee who has been assigned duty in Louisiana, or an applicant who is married to or is a dependent of a member of the military or a United States Department of Defense civilian employee based on holding a private certification and work experience in another state if, upon application to the board, all of the following conditions are satisfied by the applicant:

1. worked in a state that does not use an occupational license or government certification to regulate a lawful

occupation, but that occupation is lawfully regulated by this board through a license or registration.

2. has worked for at least two years in the lawful occupation.

3. holds a current and valid private certification in the lawful occupation.

4. the private certification organization holds the applicant in good standing.

5. has not had an occupational license revoked by a board in another state because of negligence or intentional misconduct related to the applicant's work in the occupation.

6. did not surrender an occupational license because of negligence or intentional misconduct related to the person's work in the occupation in another state.

7. does not have a complaint, allegation, or investigation pending before a board in another state which relates to unprofessional conduct or an alleged crime. If there is an existing complaint, allegation or investigation pending, the board shall not issue or deny a license or registration until the complaint, allegation, or investigation is resolved or the applicant otherwise satisfies the criteria for licensure in this state to the satisfaction of the board.

8. pays all applicable fees and meets all other requirements for licensure.

D. The education, training, or experience requirements for an occupational license issued by the board will be determined by the presentation from the applicant of satisfactory evidence that the applicant received comparable education, training or experience as a member of the United States armed forces or any national guard or other reserve component.

E. The applicant will be required to meet all other requirements for licensure.

F. Upon receipt of all required and complete documents, the board will provide the applicant with a written decision regarding the application for an occupational license within 30 calendar days after receiving an application.

G.1. The applicant may appeal any of the following decisions made by the board, in a court of general jurisdiction:

- a. denial of a license.
- b. determination of the classification.
- c. determination of the similarity of the scope or practice of the occupational license issued.

H. A person who obtains a license or registration pursuant to this rule is subject to all laws regulating the occupation in this state and the jurisdiction of this board.

I. The term *military* means the armed forces of the United States, including the Army, Navy, Marine Corps, Coast Guard, Air Force, and the reserve components thereof, the National Guard of any state, the Military Reserves of any state, or the naval militia of any state.

J. The term *dependent* means:

1. a resident spouse or resident unmarried child under the age of 21 years;

2. a child who is a student under the age of 24 years and who is financially dependent upon the parent; or

3. a child of any age who is disabled and dependent upon the parent.

K. The provisions of this Section shall not apply to any applicant receiving a dishonorable discharge or a military spouse whose spouse received a dishonorable discharge.

L. This Section preempts laws by township, municipal, county and other governments in the state which regulate occupational licenses and government certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3651

HISTORICAL NOTE: Promulgated by the Office of the Governor, Licensing Board for Contractors, LR 40:2575 (December 2014), LR 44:2146 (December 2018), LR 47:364 (March 2021), LR 49:1920 (November 2023).

## **§125. Ownership of License**

### **[Formerly §131]**

A. The license for which a person becomes the qualifying party belongs to the licensee, a corporate license belongs to the corporation; a partnership license belongs to the partnership; a limited liability company license belongs to the limited liability company, and an individual license belongs to the individual, regardless of the status of the qualifying party of the entity.

B. A domestic business entity licensed or registered by the board as a limited liability company, business corporation, partnership in commendam, or partnership, that converts under the provisions of R.S. 12:1601 et seq., or is a surviving entity following a merger pursuant to 26 U.S.C. 368(a)(1)(f) where ownership of the entity does not change, shall be recognized by the board without having to file a new application for a license or registration provided that these changes have been reported to the Louisiana Secretary of State. Prior to updating a license or registration of the converted entity or surviving entity, the converted entity or surviving entity must furnish a copy of the revised certificate(s) of insurance in the new name of the converted entity or surviving entity for any coverage required for the issuance of the updated license or registration.

C. An updated license or registration issued pursuant to Subsection B of this Section shall have an effective date retroactive to the effective date of the conversion as stated on the certificate of conversion, or the merger as stated on the certificate of merger.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2165 and R.S. 12:1308.

HISTORICAL NOTE: Adopted by the Department of Commerce, Licensing Board for Contractors, November 1974, amended and promulgated LR 8:136 (March 1982), amended by the Office of the Governor, Licensing Board for Contractors, LR 38:150 (January 2012), LR 40:2575 (December 2014), LR 44:2147 (December 2018), LR 49:1921 (November 2023).

## **§127. Name**

### **[Formerly §133]**

A. A person licensed or registered by the board shall bid, contract, and perform work in the name as it appears on the current license or registration and the official records of the Licensing Board for Contractors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2165.

HISTORICAL NOTE: Adopted by the Department of Commerce, Licensing Board for Contractors, November 1974, amended and promulgated LR 8:137 (March 1982), amended by the Department of Economic Development, Licensing Board for

Contractors, LR 19:1126 (September 1993), amended by the Office of the Governor, Licensing Board for Contractors, LR 38:149 (January 2012), LR 44:2147 (December 2018), LR 49:1921 (November 2023).

### **§129 Contractor's Recordkeeping [Formerly §135]**

A. It shall be the responsibility of each person licensed or registered by the board to maintain current records for five years showing compliance with contractor licensing laws and rules and regulations for all contracts, subcontracts and subcontractors performing work or providing services on a construction project. Upon request by the board or any employee of the board, such records shall be made available for review and/or copies provided to the board employee in person or by electronic means. The failure to maintain current records or the failure to furnish copies of any requested records or documents within 72 hours after receipt of notice requesting production of the records shall constitute a violation of this rule and may result in disciplinary action by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2165.

HISTORICAL NOTE: Adopted by the Department of Commerce, Licensing Board for Contractors, November 1974, amended and promulgated LR 8:135 (March 1982), amended LR 12:761 (November 1986), amended by the Department of Economic Development, Licensing Board for Contractors, LR 16:601 (July 1990), LR 19:1125 (September 1993), amended by the Office of the Governor, Licensing Board for Contractors, LR 38:149 (January 2012), LR 44:2147 (December 2018), LR 49:1922 (November 2023).

### **§131. Fee for Licenses [Formerly §137]**

A. The annual fee for licenses for the following year may be set by the board at its July meeting each year. If a new fee is not set, the fee(s) for the prior year shall continue to be in full force and effect until changed by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2165.

HISTORICAL NOTE: Adopted by the Department of Commerce, Licensing Board for Contractors, November 1974, amended and promulgated LR 2:271 (September 1976), amended LR 8:136 (March 1982), LR 10:199 (March 1984), LR 11:341 (April 1985), LR 12:761 (November 1986), amended by the Department of Economic Development, Licensing Board for Contractors, LR 19:1128 (September 1993), amended by the Office of the Governor, Licensing Board for Contractors, LR 38:155 (January 2012), LR 44:2147 (December 2018), LR 49:1922 (November 2023).

### **§133. Name**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2192.

HISTORICAL NOTE: Adopted by the Department of Commerce, Licensing Board for Contractors, November 1974, amended and promulgated LR 8:137 (March 1982), amended by the Department of Economic Development, Licensing Board for Contractors, LR 19:1126 (September 1993), amended by the Office of the Governor, Licensing Board for Contractors, LR 38:149 (January 2012), LR 44:2147 (December 2018), repealed LR 49:1922 (November 2023).

### **§135 Contractor's Recordkeeping**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2192.

HISTORICAL NOTE: Adopted by the Department of Commerce, Licensing Board for Contractors, November 1974, amended and promulgated LR 8:135 (March 1982), amended LR 12:761 (November 1986), amended by the Department of Economic Development, Licensing Board for Contractors, LR 16:601 (July 1990), LR 19:1125 (September 1993), amended by the Office of the Governor, Licensing Board for Contractors, LR 38:149 (January 2012), LR 44:2147 (December 2018), repealed LR 49:1922 (November 2023).

### **§137. Fee for Licenses**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2192.

HISTORICAL NOTE: Adopted by the Department of Commerce, Licensing Board for Contractors, November 1974, amended and promulgated LR 2:271 (September 1976), amended LR 8:136 (March 1982), LR 10:199 (March 1984), LR 11:341 (April 1985), LR 12:761 (November 1986), amended by the Department of Economic Development, Licensing Board for Contractors, LR 19:1128 (September 1993), amended by the Office of the Governor, Licensing Board for Contractors, LR 38:155 (January 2012), LR 44:2147 (December 2018), repealed LR 49:1922 (November 2023).

## **Chapter 3. Classifications**

### **§301. Classifications, Subclassifications, and Specialties**

A. In accordance with R.S. 37:2156.1(L), the board provides a designation of classifications, subclassifications, and specialties in the following rules.

B. Major Classifications: Building Construction; Highway, Street, and Bridge Construction; Heavy Construction; Municipal and Public Works Construction; Electrical; Mechanical; Plumbing; Hazardous Materials; Mold Remediation; and Residential Construction. Major classifications may include various subclassifications. A licensee holding a major classification is permitted to estimate, bid, quote, and perform any scope of work included in any of its subclassifications with the exception of residential construction.

C. Subclassification: a specific scope of work within a major classification that allows a contractor to estimate, bid, quote, and perform work in accordance with its definition.

D. Specialty Classification: a scope of work that allows a contractor to estimate, bid, quote, and perform work only as described in that specific classification.

E. All classifications require a written examination, a credential or license from another regulatory body, or both, unless otherwise noted.

F. A license is required when the project cost exceeds \$50,000 except where otherwise noted.

I. Asbestos Removal and Abatement: requires Louisiana Department of Environmental Quality asbestos certification and refers to the abatement or removal of friable asbestos in buildings, houses, structures, pipes, etc. A license is required when the value exceeds \$1. Asbestos removal and abatement is a subclassification of hazardous materials.

2. Auger and Dry Conventional Boring: the construction and installation of pipelines using pipe jacking, auger boring, slurry boring, pipe ramming, jet cutting, utility tunneling, slurry shield, micro tunneling, and/or soil compaction. Does not refer to the construction of pipelines using horizontal directional drilling, pipe bursting, slip lining, cured-in-place pipe, pigging, pipe cleaning and similar technologies.

3. Building Construction: the building, maintenance, repair, raising, leveling, development, or demolition of any and all structures as well as the landscaping, earthwork, parking areas, driveways, sidewalks, etc.

4. Carpentry: the construction, maintenance, or repair of rough and finish carpentry and/or millwork.

5. Coastal Restoration and Habitat Enhancement: the restoration and enhancement of wetland habitats and coasts, including the construction of terraces and sand fences, oyster reefs, revetments, break waters, jetties, and other features intended for this purpose and the related planting and seeding of grass and plants. Also includes relevant dredging and placement or disposal of dredged materials, the intent of which is to protect shores, restore and protect land, and to improve and restore ecosystems of coastal and inland waterways.

6. Concrete Construction Excluding Highways, Streets, and Bridges: the construction, maintenance, or repair of concrete parking lots, sidewalks, driveways, concrete foundations, concrete columns, beams, walls, floors, roofs, curtain walls, precast and prestressed concrete foundations, structures, slabs, tennis courts, etc. Includes forms, slipforms, reinforcing rods and wire mesh, and the use of technologies for grouting, guniting, shotcreting and pumping. Does not include concrete for highways, streets, or bridges.

7. Concrete Reinforcement and Post Tensioning: the construction, maintenance, or repair of rebar, wire mesh, reinforcing rods, dowels, pre- and post-tensioning systems, etc. for the reinforcement of concrete.

8. Culverts and Drainage Structures: the construction, installation, maintenance, or repair of culverts, wingwalls, catch basins, and other drainage structures. Culverts and drainage structures is a subclassification of highway, street, and bridge construction.

9. Curb, Gutter, Driveways, Sidewalks, Retaining Walls, Patios, Foundations: the construction, installation, maintenance, or repair of concrete curbs and gutters adjacent to pavements as well as driveways, sidewalks, patios, foundations. Also includes retaining walls of various types.

10. Dredging: the dredging of waterways for navigation, erosion control, coastal restoration and associated sediment removal, disposal, and relocation. Also includes sludge removal from treatment ponds using dredging technologies. Dredging is a subclassification of heavy construction.

11. Driveways, Parking Areas, Asphalt, and Concrete: the construction, maintenance, or repair of asphalt or concrete pavements. Includes sidewalks, parking areas, and driveways. Driveways, parking areas, asphalt, and concrete is a subclassification of building construction and highway, street, and bridge construction.

12. Drywall: the installation, maintenance, or repair of gypsum board products and their associated finishes. It does not include installation of wood or metal studs and framing. Drywall is a subclassification of building construction.

13. Earthwork, Drainage, and Levees: land clearing, grubbing, snagging, and draining. Also includes earthmoving, grading, digging, cutting, filling, backfilling, compaction, trenching, excavation, and spreading of soil materials. Also includes the construction of ditches, canals, ponds, and levees. May involve the installation of ditch linings, erosion control, wing walls, culverts, drains, and catch basins. Also involves ground freezing and the use of piezometers, sumps, and any other apparatus used in the removal or isolation of ground water. In addition, may involve the installation of various geotextile products for separation of water or soils. Earthwork, drainage and levees is a subclassification of highway, street, and bridge construction.

14. Electrical: the installation, construction, alteration, improvement, movement, maintenance, repair, or demolition of wiring, cabling, fixtures, appliances, equipment, and/or hardware for the supply of electricity to any structure, building, or project provided the value exceeds \$10,000. The installation of low voltage, including Cat 5, Cat 6, coaxial cables, etc., or fiber optic equipment and infrastructure requires Electrical if any portion of the work involves the installation of equipment, mounting hardware, wiring, etc. which penetrate walls, ceilings, floors, closed spaces, or the building envelope. Penetration of walls, floors, ceilings, closed spaces, or the building envelope includes creating new pathways through walls, floors, ceilings, etc., and running cables through existing pathways through walls, floors, ceilings, etc. Electrical is not required for the purchase or installation of non-attached equipment, which merely involves plugging equipment into an existing wall outlet.

15. Electrical Controls, Instrumentation and Calibration: the installation or fabrication of controls for electrical work including instrumentation, HVAC controls, "Smart house" controls, security alarm panels, fire alarm panels, etc. A license is required when the value exceeds \$10,000. Electrical controls, instrumentation and calibration is a subclassification of electrical.

16. Electrical Transmission Lines: the construction, installation, maintenance, or repair of electrical transmission and distribution lines, poles, and towers for outside the plant. Also includes electrical power substations and all internal components, including transformers, circuit breakers, reclosers, switches, fuses, rigid, strain, and overhead bus structures, insulators, wave jumpers, wave traps, and related electrical transmission towers within or leading directly to the substation. A license is required when the value exceeds \$10,000. Electrical transmission lines is a subclassification of electrical and heavy construction.

17. Flooring and Decking: the installation, maintenance, or repair of all types of stone, marble, granite, slate and resilient flooring and flooring systems (vinyl, bamboo, parquet, rubber, polyethylene, cork, linoleum, etc.), ceramic tile, terrazzo systems and slabs carpeting, and decking, poured and sealed concrete or epoxy flooring, as

well as floor underlayments, etc. Does not include flooring materials used on walls and ceilings, etc. Flooring and decking is a subclassification of building construction.

18. Foundations and Pile Driving: the driving, casting, jetting, vibrating, or drilling of structural and sheet piles for buildings, bridges, wharves, docks, cofferdams, caissons, seawalls, etc., and to the construction, installation, or repair of the same. Includes augured pressure grouted piling, pressure grouting, preplaced aggregate concrete underlayment, slurry walls, slabs, foundation walls, tremies, and all other types of deep and shallow foundations. Allows a contractor to raise and level buildings and houses. Foundations and pile driving is a subclassification of heavy construction.

19. Foundations for Buildings, Equipment, or Machinery: the construction, installation, maintenance, or repair of foundations for buildings, equipment or machinery including deep or shallow foundations and slabs. Allows a contractor to raise and level buildings and residential structures. Foundations for buildings, equipment or machinery is a subclassification of building construction.

20. Glass, Glazing, Store Fronts, Metal Partitions, Panels and Siding: the construction, installation, maintenance, or repair of commercial store front systems, interior and exterior panels and partitions, glass and glazing, and doors. Also refers to prefabricated windows and wood, vinyl, aluminum, and other siding.

21. Hazardous Materials: requires the proper credentialing from the Louisiana Department of Environmental Quality for Asbestos, Lead, and Underground Storage Tanks and refers to the handling, treatment, abatement, cleanup and/or removal of hazardous and toxic materials and waste and other materials regulated by the Louisiana Department of Environmental Quality such as asbestos, lead, and underground storage tanks. A license is required when the value exceeds \$1.

22. Hazardous Waste Treatment or Removal: the cleanup, removal, and/or storage of materials defined by the Louisiana Department of Environmental Quality as hazardous or toxic. A license is required when the value exceeds \$1. Hazardous waste treatment and removal is a subclassification of hazardous materials.

23. Heat, Air Conditioning, Ventilation, Duct Work, and Refrigeration: the installation, maintenance or repair of air conditioning, ventilation, refrigeration, coolers, freezers, and ice rinks. A license is required when the value exceeds \$10,000. Heat, air conditioning, ventilation, duct work and refrigeration is a subclassification of mechanical.

24. Heavy Construction: construction activities related to industrial facilities, waterway and flood diversion projects, railroads, and oilfields.

25. Highway, Street, and Bridge Construction: construction, maintenance, or repair of highways, streets, bridges, and all related work, including general earthwork and general paving such as sidewalks, driveways, and parking lots.

26. Home Improvement: the reconstruction, alteration, renovation, repair, modernization, conversion, improvement, removal, demolition, or the construction of an addition to any pre-existing building which is used or designed to be used as a residence or dwelling unit or to any structure which is adjacent to such residence or building. No

examination or credential is required. A license is required when the value exceeds \$7,500. Home improvement is limited to a value of \$75,000.

27. Horizontal Directional Drilling: the construction, installation, maintenance, or repair of pipelines using trenchless technologies including horizontal directional drilling, hydro vacuum excavation, air vacuum excavation, or road boring technologies. Includes technologies which pull the pipe through. Does not include the construction, installation, maintenance, or repair of pipelines using jack and bore technologies (dry, wet, or slurry), micro tunneling, pipe bursting, slip lining, cured-in-place pipe, pigging, pipe cleaning and similar technologies.

28. Industrial Cleaning and Material/Waste Handling: the cleaning and maintenance of tanks, pipelines, buildings, equipment, catalysts, etc. using hydro blasting, vacuum and material pumping services, chemical cleaning, pigging, etc. Includes nonhazardous waste treatment or removal as well as the removal of construction and storm debris and waste. Also includes construction of non-hazardous landfills.

29. Industrial Pipe Work and Insulation: the fabrication, installation, or repair of process piping systems, components and insulation related to industrial facilities, chemical industries, food and dairy industries, refineries, etc. Industrial pipe work and insulation is a subclassification of Mechanical and Heavy Construction.

30. Insulation: the installation, maintenance, or repair of insulation used for industrial, commercial, and residential structures, piping, and equipment.

31. Insulation for Cold Storage and Buildings: the installation, maintenance, or repair of all types of insulation for cold storage and buildings, including all types of insulation for this purpose, to include firestopping, fireproofing, metalizing, and foam systems. Insulation for cold storage and buildings is a subclassification of building construction.

32. Labor Only: the furnishing of the supply of labor only for the use of a contractor or subcontractor. Does not include contracts for supply of materials nor responsibility for the supervision of a project. This classification is for companies that provide labor only for contractors, when the scope of work, including labor and materials, exceeds \$50,000 (or \$10,000 for Electrical/Mechanical/Plumbing work, or \$1 for Hazardous Materials work). No examination or credential is required. Labor Only is a subclassification of building construction; highway, street, and bridge construction; heavy construction; municipal and public works construction; electrical, plumbing; mechanical; and hazardous materials.

33. Landscaping, Grading, and Beautification: requires Louisiana Department of Agriculture licensure and refers to landscaping, irrigation, and finish grading, both installation and maintenance, and the removal of tree and plant materials from curbside for all types of properties including highways, buildings, and industrial facilities. Does not include hardscaping. Landscaping, grading, and beautification is a subclassification of building construction; Highway, Street, and Bridge Construction; Heavy Construction; and Municipal and Public Works Construction.

34. Lathing, Plastering, and Stuccoing: the installation, maintenance, or repair of all plastering or stucco including interior and exterior walls, swimming pools, etc. Lathing,

plastering, and stuccoing is a subclassification of building construction.

35. Lead based paint abatement and removal: requires an approval letter from the Louisiana Department of Environmental Quality to perform either commercial and industrial lead removal or target housing and child-occupied facility lead removal and refers to the removal or abatement of lead-based paint. A license is required when the value exceeds \$1. Lead based paint abatement and removal is a subclassification of hazardous materials.

36. Limited specialty services: any scope of work that exceeds \$50,000 not specifically defined under any other classification. No examination or credential is required.

37. Masonry, brick, stone: the construction, installation, maintenance, or repair of masonry structures, veneers, refractories, or manholes, including brick, firebrick, stone, concrete block, structural tile, glass block and all related accessories. Masonry, brick, stone is a subclassification of building construction.

38. Mechanical: hydraulic and pneumatic systems, including such components as heating, ventilation, air conditioning, refrigeration, hydronic and steam systems, pressure vessels, plumbing, gas piping, process piping, mechanical equipment, air and process heaters and seals, and air vacuums and filters. A license is required when the value exceeds \$10,000. A mechanical contractor who performs plumbing work with a value over \$10,000 must possess a master plumber license with the State Plumbing Board of Louisiana.

39. Mold Remediation: requires 24 hours of board approved training in mold remediation and assessment and refers to removal, cleaning, sanitizing, demolition, or other treatment, including preventative measures, of mold contaminated materials not purposely grown at that location. A license is required when the value exceeds \$7,500.

40. Municipal and Public Works Construction: the installation, maintenance, or repair of the infrastructure of water, sewer, gas, and storm water treatment and/or distribution systems for municipalities. It also includes power plants, electrical transmission lines, and underground electrical conduit. This classification is limited to only these scopes of work as specified.

41. Oil field construction: the construction, installation, maintenance, or repair of oil and gas drilling rigs, decks and associated equipment, earthwork, access roads, foundations, mat roads, monitoring wells, retention tanks and ponds, pipework, pits, and pumps. Also includes the drilling of oil and gas wells and fabrication of oil field equipment, as well as valves, fittings, "Christmas Trees" etc. to regulate the flow of gas or oil on a drilling rig, oil well servicing, workover, and plugging and abandoning wells. Does not include transmission pipelines beyond the drilling field. Oil field construction is a subclassification of heavy construction.

42. Painting, Coating, and Blasting: the painting of immovable property as well as coatings and linings of various types.

43. Permanent or Paved Highways and Streets (Asphalt): the construction, installation, maintenance, or repair of asphalt roads, streets, and highways. Permanent or paved highways and streets (Asphalt) is a subclassification of highway, street, and bridge construction.

44. Permanent or Paved Highways and Streets (Concrete): the construction, installation, maintenance, or repair of concrete pavements. Permanent or paved highways and streets (Concrete) is a subclassification of highway, street, and bridge construction.

45. Pile driving: the driving of structural and sheet piles for buildings, bridges, wharves, docks, cofferdams, caissons, seawalls, etc. Pile driving is a subclassification of building construction.

46. Pipe work (water lines): the construction, installation, maintenance, or repair of distribution mains and pump stations and related components for water utility systems. Pipe work (water lines) is a subclassification of municipal and public works construction.

47. Plumbing: the construction, installation, maintenance, or repair of potable and non-potable tap water and/or sewer water systems within a building structure or house. A license is required when the value exceeds \$10,000. Plumbing is also a subclassification of mechanical.

48. Pneumatic Tubes and Conveyors: the installation, maintenance, or repair of pneumatic tube systems and other types of conveyor systems and related components. Pneumatic tubes and conveyors is a subclassification of building construction.

49. Railroads: the construction, installation, maintenance, or repair of railroad tracks, switches, accessories, and depots. Railroads is a subclassification of heavy construction.

50. Residential Construction: the construction of a residential structure as defined in 37:2150.1(16), when the cost of the undertaking exceeds \$75,000. Residential construction also refers to home improvement contracting as provided for in 37:2150.1(8) when the cost of the undertaking exceeds \$75,000 dollars. It shall not include the manufactured housing industry or those persons engaged in building residential structures that are mounted on metal chassis and wheels.

51. Residential Swimming Pools: the construction, installation, maintenance, or repair of swimming pools, whirlpools, hot tubs, and all related accessories for residential structures. A license is required when the value exceeds \$7,500. Residential swimming pools is a subclassification of Residential Construction.

52. Rigging, House Moving, Wrecking, and Dismantling: the rigging, hoisting, and general demolishing work of buildings, houses, bridges, and other structures. Allows a contractor to raise, level, and move buildings and residential structures. Rigging, house moving, wrecking, and dismantling is a subclassification of building construction.

53. Roofing and Sheet Metal, Siding: the construction, installation, maintenance, or repair of roof systems for buildings and structures. Includes roof decks, as well as waterproofing for associated parapet walls including flashings and other accessories. Also includes general sheet metal and all types of siding. Roofing and sheet metal, siding is a subclassification of building construction.

54. Solar Energy Equipment: the construction, installation, or repair of solar photovoltaic and/or thermal systems to produce electricity or heating for houses, buildings, swimming pools, plumbing systems, etc. Must hold one or more of the following classification(s): Building Construction, Electrical, Mechanical, or Residential



Construction. A license is required when the value exceeds \$10,000.

55. Steel Erection and Installation: the fabrication, erection, welding, bolting, construction, or repair of structural steel, reinforcing steel, ornamental iron, reinforcing rods and wire mesh, metal buildings, metal framing, metal siding, metal roofing, and sheet metal structures. Includes such structures as metal building frames and steel structures for highway bridges, oil drilling rigs, towers, complete storage facilities, grain elevators, silos, warehouses, tanks, floating roofs and metal covers, canopies, etc. Does not include steel piping except the terminal piping connection to tanks. Includes all painting, coating, and blasting of such structures. Steel erection and installation is a subclassification of building construction.

56. Swimming Pools: the construction, installation, maintenance, or repair of all types of in ground swimming pools, whirlpools, water features and fountains and all associated components. Swimming pools is a subclassification of building construction.

57. Telecommunications, Low Voltage: all low voltage electrical applications. No examination or credential is required. A license is required when the value exceeds \$10,000. Telecommunications is a subclassification of electrical.

58. Tower Construction: the construction, erection, or repair of towers of various types including fire towers, water towers, and telecommunications towers. Includes access road, instrumentation shed, fencing, foundation, antennas, structural steel, etc. and all activities related to tower construction.

59. Underground Storage Tanks: requires Louisiana Department of Environmental Quality certification and refers to the construction, maintenance, and repair of underground storage tanks as well as the backfill, connected piping, and other components. A license is required when the value exceeds \$1. Underground storage tanks is a subclassification of hazardous materials.

60. Water Cooling Towers and Accessories: the construction, installation, maintenance, or repair of water-cooling towers and all related accessories. Water cooling towers and accessories is a subclassification of building construction.

61. Water Well Drilling: requires Louisiana Department of Natural Resources licensure and refers to the drilling of water wells for potable water systems and other water needs.

62. Wharves, Docks, Harbor Improvements and Terminals: the construction, maintenance or repair of shipyards, wharves, docks and related terminals, piers, waterfront pile driving and related equipment, dolphins, breakwaters, revetments, bulkheads, seawalls, retaining walls, cofferdams, caissons, underwater welding, marine diving and salvaging, underwater construction, and related dredging and draglines for harbors and other construction in navigable waterways. Wharves, docks, harbor improvements and terminals is a subclassification of heavy construction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2156.1L.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Licensing Board for Contractors, LR 49:1922 (November 2023).

### **§303. Raising a Residential Structure**

A. *House Raising* is defined as the process of either separating a structure or building from its foundation, lifting the structure or building from under the foundation, or any other method of lifting the structure or building for the purpose of relocation or changing the structure or building's elevation. It does not include lifting or moving a portion of the structure or building for the purpose of leveling due to settlement.

B. Only those persons holding one of the below licensed contractor classifications may bid or perform raising of residential structures when the dollar value exceeds seven thousand five hundred dollars:

1. building construction;
2. rigging, house moving, wrecking, and dismantling;
3. foundations for buildings, equipment, or machinery;
4. foundations and pile driving.

C. Those persons holding a license for residential construction may bid or contract for raising, leveling, or shoring of residential structures, but must contract with a licensed contractor in accordance with 303.A of this Part to perform the work.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2165.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Licensing Board for Contractors, LR 49:1926 (November 2023).

### **§305. Demolition**

A. Demolition of residential structures when the value exceeds seven thousand five hundred dollars may only be performed by persons holding a classification of:

1. residential construction;
2. building construction;
3. rigging, house moving, wrecking, and dismantling;
4. home improvement, up to the statutory limits of the registration (\$75,000).

B. Demolition of commercial structures when the value exceeds \$50,000 may only be performed by persons holding a classification of:

1. building construction;
2. rigging, house moving, wrecking, and dismantling.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2165.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Licensing Board for Contractors, LR 49:1926 (November 2023).

### **§307. Dewatering**

A. Dewatering is the removal of water or water damaged building materials and does not require a license. The removal of structural items is not considered to be dewatering. The replacement or installation of new materials may require a license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2165.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Licensing Board for Contractors, LR 49:1926 (November 2023).

### **§309. Project Classification**

A. Any person bidding or performing the work of a general contractor for which a license is required must be

licensed under the classification for which the majority of the work is classified.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2165.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Licensing Board for Contractors, LR 49:1926 (November 2023).

### **§311. Solar Energy Equipment**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2156.3.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Licensing Board for Contractors, LR 40:2575 (December 2014), amended LR 44:2148 (December 2018), repealed LR 49:1927 (November 2023).

### **§313. Division of Contract—Value of Project**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2153.

HISTORICAL NOTE: Adopted by the Department of Commerce, Licensing Board for Contractors, November 1974, amended and promulgated LR 8:137 (March 1982), amended by the Office of the Governor, Licensing Board for Contractors, LR 38:155 (January 2012), LR 44:2149 (December 2018), repealed LR 49:1927 (November 2023).

## **Chapter 5. Residential**

### **§501. Definitions**

A. Any person bidding or performing the work of a general contractor on a residential project in the amount for which a license is required must be licensed under the classification residential construction. This requirement shall not include individuals who build no more than one residence per year for their own personal use as their principal residence.

B. With respect to modular housing, “cost of the project” shall not include the cost of the component parts of the modular home in the condition each part leaves the factory, in accordance with R.S. 40:1730.71.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2165.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Licensing Board for Contractors, LR 22:94 (February 1996), amended by the Office of the Governor, Licensing Board for Contractors, LR 38:155 (January 2012), LR 44:2149 (December 2018), LR 49:1927 (November 2023).

### **§503. Residential Swimming Pools Licensing** **[Formerly §507]**

A. Only contractors holding one or more of the license classifications of building construction, swimming pools, or residential swimming pools are permitted to build or repair residential swimming pools when the value of the project exceeds \$7500.

B. Licensed residential construction contractors may bid or sign contracts to build, renovate, or repair residential swimming pools but must contract with a contractor holding a license to build, renovate, or repair the swimming pool if the licensed residential contractor does not hold a license for the classifications authorized to build, renovate, or repair residential swimming pools.

C. Any person who violates the provisions of this Section may be subject to disciplinary action by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2165.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Licensing Board for Contractors, LR 42:52 (January 2016), amended LR 44:2150 (December 2018), LR 49:1927 (November 2023).

### **§505. Maintenance of Skills** **[Formerly §513]**

A. A residential construction contractor shall be required to complete a minimum of six hours of continuing education annually by a board approved provider. The residential construction contractor shall maintain evidence of all required continuing education for five years and make this documentation available to the board upon request. A contractor who holds a residential construction contractor license and a valid, current commercial license in the major classifications of building construction; highway, street, and bridge construction; heavy construction; or municipal and public works construction, shall be exempt from this continuing education requirement.

B. A residential construction contractor who fails to complete the minimum required continuing education classes each year may subject the residential construction contractor’s license to disciplinary action including suspension or revocation by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2165.

HISTORICAL NOTE: Adopted by the Department of Commerce, Licensing Board for Contractors, November 1974, amended and promulgated LR 8:137 (March 1982), amended by the Office of the Governor, Licensing Board for Contractors, LR 38:150 (January 2012), LR 40:2574 (December 2014), LR 44:2150 (December 2018), LR 49:1927 (November 2023).

### **§507. Residential Swimming Pools Licensing**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2192.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Licensing Board for Contractors, LR 42:52 (January 2016), amended LR 44:2150 (December 2018), LR 49:1927 (November 2023).

### **§509. Home Improvement Registration**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2192.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Licensing Board for Contractors, LR 38:813 (March 2012), amended LR 40:2577 (December 2014), LR 44:2150 (December 2018), LR 49:1927 (November 2023).

### **§511. New Home Warranty Act**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2192.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Licensing Board for Contractors, LR 38:813 (March 2012), amended LR 44:2150 (December 2018), repealed LR 49:1927 (November 2023).

### **§513. Maintenance of Skills**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2192.

HISTORICAL NOTE: Adopted by the Department of Commerce, Licensing Board for Contractors, November 1974, amended and promulgated LR 8:137 (March 1982), amended by the Office of the Governor, Licensing Board for Contractors, LR

38:150 (January 2012), LR 40:2574 (December 2014), LR 44:2150 (December 2018), LR 49:1927 (November 2023).

## **Chapter 7. Enforcement and Hearings**

### **§701. Enforcement of Act and Rules**

A. The board may bring suit to enjoin violations of the Contractors Licensing Law and these rules and regulations. The executive director and/or his designated agent and/or the legal counsel for the board is hereby authorized to institute such suit on behalf of the board, to sign the verification of any petition, and to take any actions necessary in connection with the institution of such legal proceedings as directed by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2165.

HISTORICAL NOTE: Adopted by the Department of Commerce, Licensing Board for Contractors, November 1974, amended and promulgated LR 8:137 (March 1982), amended by the Department of Economic Development, Licensing Board for Contractors, LR 19:1126 (September 1993), amended by the Office of the Governor, Licensing Board for Contractors, LR 38:149 (January 2012), LR 44:2151 (December 2018), LR 49:1928 (November 2023).

### **§703. Correction without Complaint**

A. If a possible violation is known to the board, the board may correct it or take appropriate action without formal complaint.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2165.

HISTORICAL NOTE: Adopted by the Department of Commerce, Licensing Board for Contractors, November 1974, amended and promulgated LR 8:137 (March 1982), amended by the Office of the Governor, Licensing Board for Contractors, LR 38:149 (January 2012), LR 44:2151 (December 2018), LR 49:1928 (November 2023).

### **§705. Failure to Insure or Bond**

A. Any person required to be licensed by the board that bids a project requiring a bid bond, the posting of a bond for the project, or certificates of insurance evidencing mandated coverage and fails to provide such valid bonds or coverage when due shall be in violation of this Act and these rules and regulations.

B. Upon being awarded a bid, the person licensed shall not cancel, or otherwise fail to maintain the required insurance coverage or bonding as required in the bid proposal.

C. Any person who violates the provisions of this Section may be subject to disciplinary action by the board including suspension and revocation of the contractor's licenses, and fines and administrative costs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2165.

HISTORICAL NOTE: Adopted by the Department of Commerce, Licensing Board for Contractors, November 1974, amended and promulgated LR 8:137 (March 1982), amended by the Department of Economic Development, Licensing Board for Contractors, LR 19:1128 (September 1993), amended by the Office of the Governor, Licensing Board for Contractors, LR 38:155 (January 2012), LR 44:2151 (December 2018), LR 49:1928 (November 2023).

### **§707. License Revocation and Suspension**

#### **[Formerly §709]**

A. Any person duly licensed or registered under the provisions of the Contractors Licensing Law who violates any provisions of the Contractors Licensing Law or any rule

or regulation of the board may, after due hearing, be required to pay fines and costs and have its license or registration suspended or revoked by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2165.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Licensing Board for Contractors, LR 8:138 (March 1982), amended by the Department of Economic Development, Licensing Board for Contractors, LR 19:1126 (September 1993), amended by the Office of the Governor, Licensing Board for Contractors, LR 38:151 (January 2012), LR 44:2152 (December 2018), LR 49:1928 (November 2023).

### **§709. Residential Subcommittee Review**

#### **[Formerly §713]**

A. The residential subcommittee has the authority to issue, suspend, or revoke residential licenses or home improvement registrations issued to residential construction contractors, mold remediation contractors, and home improvement registrants subject to the final approval of the Licensing Board for Contractors.

B. The residential subcommittee has the authority to conduct hearings on alleged violations by residential building contractors, mold remediation contractors and home improvement contractors in accordance with the provisions of R.S. 37:2158.

C. In addition to or in lieu of any of the penalties provided in this Chapter, the subcommittee is empowered to issue a cease-and-desist order. Further, the subcommittee may seek the other civil remedies provided in R.S. 37:2164 for violations of this Chapter, subject to the final approval of the Licensing Board for Contractors.

D. The residential subcommittee shall make recommendations to the Contractors Board regarding their findings and determinations as a result of the hearings on said alleged violations.

E. Any person licensed as a residential building contractor, home improvement contractor, or mold remediation contractor whose alleged violations were heard by the subcommittee and a recommendation rendered, may request to appear at the next regularly scheduled board meeting or at any other board meeting where their alleged violations are brought before the board for final action, and may be given an opportunity to address the board regarding the subcommittee's recommendation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2165.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Licensing Board for Contractors, LR 22:95 (February 1996), amended by the Office of the Governor, Licensing Board for Contractors, LR 38:156 (January 2012), LR 44:2152 (December 2018), LR 49:1928 (November 2023).

### **§711. Penalties**

#### **[Formerly §715]**

A. In accordance with the provisions of R.S. 37:2164, the board and subcommittee, subject to final approval by the Licensing Board for Contractors, shall have the authority to issue a fine not to exceed 10 percent of the total contract being performed for each violation for the causes listed in R.S. 37:2158.

B. When a fine, administrative fee, or other monetary penalty is assessed by either the board or the residential subcommittee, that amount is payable within 60 days or as

provided by law. The failure to pay fines is a basis upon which the board may deny issuance or renewal of a license or registration. If fines are not paid within 60 days or as provided by law, the board may pursue collection of the fines.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2165.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Licensing Board for Contractors, LR22:95 (February 1996), amended by the Office of the Governor, Licensing Board for Contractors, LR 38:156 (January 2012), LR 40:2577 (December 2014), LR 44:2152 (December 2018), LR 49:1928 (November 2023).

**§713 Hearings**

**[Formerly §717]**

A. Hearings regarding any disciplinary proceedings or any other matters to be considered by the board may be conducted by the board’s legal counsel at regular or special meetings whenever deemed necessary and special hearing officers may be hired at the board’s discretion. Hearings shall be conducted in accordance with the Administrative Procedure Act.

B. Written notice of the hearing date shall be given to a party who is the subject of a disciplinary proceeding or other matter before the board at least five days prior to such hearings or special meetings. The board members shall be notified at least three days prior to such hearings or special meetings. The notice shall include the time, place and purpose of the hearing or special meeting and may be held at any place within the state.

C. Confirmation of the written notice to a party who is subject to a disciplinary proceeding or other matter before the board required by this Section may be proved by any one of the following:

1. a signed return receipt of certified or registered mail, confirming delivery and receipt of the notice;
2. a signed confirmation by a board employee that actual physical delivery was made to the party, contractor, or agent of the contractor delivered to the address provided to the board by the party or contractor or the last known address discovered during the investigatory process;
3. a confirmation of facsimile transmission to the number provided to the board by the party or contractor;
4. a copy of the delivery notice by electronic mail transmission to the electronic address provided to the board by the party or contractor;
5. a printed electronic confirmation of delivery to the party or contractor and/or confirmation of signature from the U.S. Postal Service;
6. a written, electronic, or facsimile response to the notice or subpoena provided therewith, from the party, contractor or its representative; or
7. appearance by the party, contractor or its authorized representative at the hearing.

D. As authorized by R.S. 49:977.4, the board may hear and decide petitions for declaratory orders and rulings as to the applicability of any statutory authority or of any rule or order of the board. Such orders and rulings shall have the same status as board decisions or orders in adjudicated cases.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2165.

HISTORICAL NOTE: Adopted by the Department of Commerce, Licensing Board for Contractors, November 1974, amended and promulgated LR 4:69 (March 1978), LR 8:137 (March 1982), amended by the Department of Economic Development, Licensing Board for Contractors, LR 19:1127 (September 1993), amended by the Office of the Governor, Licensing Board for Contractors, LR 38:154 (January 2012), LR 44:2152 (December 2018), LR 49:1929 (November 2023).

**§715. Penalties**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2192.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Licensing Board for Contractors, LR22:95 (February 1996), amended by the Office of the Governor, Licensing Board for Contractors, LR 38:156 (January 2012), LR 40:2577 (December 2014), LR 44:2152 (December 2018), repealed LR 49:1929 (November 2023).

**§717. Hearings**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2192.

HISTORICAL NOTE: Adopted by the Department of Commerce, Licensing Board for Contractors, November 1974, amended and promulgated LR 4:69 (March 1978), LR 8:137 (March 1982), amended by the Department of Economic Development, Licensing Board for Contractors, LR 19:1127 (September 1993), amended by the Office of the Governor, Licensing Board for Contractors, LR 38:154 (January 2012), LR 44:2152 (December 2018), repealed LR 49:1929 (November 2023).

Michael McDuff  
Executive Director

2311#006

**RULE**

**Department of Health  
Bureau of Health Services Financing**

Ambulatory Surgical Center  
Licensing Standards  
(LAC 48:I.Chapter 45)

The Department of Health, Bureau of Health Services Financing has amend LAC 48:I.Chapter 45 as authorized by R.S. 36:254 and R.S. 40:2131-2141. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

**Title 48**

**PUBLIC HEALTH—GENERAL**

**Part I. General Administration**

**Subpart 3. Licensing and Certification**

**Chapter 45. Ambulatory Surgical Center  
Subchapter A. General Provisions**

**§4503. Definitions**

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*Surgical Smoke Plume*-the byproduct of using heat-producing equipment on tissue during surgery.

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AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:1732 (September 2017), amended LR 49:1929 (November 2023).

**§4507. Initial Licensure Application Process**

- A. ...
- B. The initial licensing application packet shall include:
  - 1. - 4. ...
  - 5. proof of each insurance coverage as follows:
    - a. - b. ...
    - c. professional liability insurance of at least \$100,000 per occurrence/\$300,000 per annual aggregate, or proof of self-insurance of at least \$100,000, along with proof of enrollment as a qualified health care provider with the Louisiana Patient’s Compensation Fund (PCF):
      - i. if the ASC is not enrolled in the PCF, professional liability limits shall be \$1 million per occurrence/\$3 million per annual aggregate; and

B.5.d. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:1734 (September 2017), amended LR 49:1930 (November 2023).

**§4515. Renewal of License**

A. The ASC shall submit a completed license renewal application packet to the department at least 30 days prior to the expiration of the current license. The license renewal application packet shall include:

- 1. - 5. ...
- 6. proof of each insurance coverage as follows:
  - a. - b. ...
  - c. professional liability insurance of at least \$100,000 per occurrence/\$300,000 per annual aggregate, or proof of self-insurance of at least \$100,000, along with proof of enrollment as a qualified health care provider with the Louisiana Patient’s Compensation Fund (PCF):

A.6.c.i. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:1736 (September 2017), amended LR 49:1930 (November 2023).

**Subchapter F. Safety, Sanitization and Emergency Preparedness**

**§4575. General Provisions**

A. The ASC shall have policies and procedures, approved and implemented by the medical staff and governing body, that address provisions for:

- 1. sanitizing, disinfecting and sterilizing supplies, equipment and utensils;
- 2. the safe use of cleaning supplies and solutions that are to be used and the directions for use, including:
  - a. ...
  - b. cleaning of the OR/procedure rooms between surgical and nonsurgical procedures; and
- 3. surgical smoke plume evacuation to mitigate and remove surgical smoke plume during a surgical procedure that uses heat-producing equipment, including but not limited to electrosurgery and lasers.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:1752 (September 2017), amended LR 49:1930 (November 2023).

Stephen R. Russo, JD  
Secretary

2311#038

**RULE**

**Department of Health  
Bureau of Health Services Financing**

Crisis Receiving Centers  
Licensing Standards  
(LAC 48:I.5303)

The Department of Health, Bureau of Health Services Financing has amended LAC 48:I.5303 as authorized by R.S. 36:254 and R.S. 40:2180.11 et seq. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

**Title 48**

**PUBLIC HEALTH—GENERAL**

**Part I. General Administration**

**Subpart 3. Licensing and Certification**

**Chapter 53. Level III Crisis Receiving Centers**

**Subchapter A. General Provisions**

**§5303. Definitions**

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*Coroner's Emergency Certificate (CEC)*—a certificate issued by the coroner or his/her deputy pursuant to R.S. 28:53, or current law.

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*PEC*—Repealed.

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*Physician's Emergency Certificate (PEC)*—an emergency certificate executed by a physician, physician assistant, psychiatric mental health nurse practitioner, or other nurse practitioner, or psychologist pursuant to R.S. 28:53, or current law.

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AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2180.11 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:102 (January 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 47:472 (April 2021), LR 48:301 (February 2022), LR 49:1930 (November 2023).

Stephen R. Russo, JD  
Secretary

2311#039

**RULE**

**Department of Health  
Bureau of Health Services Financing**

**Disproportionate Share Hospital Payments  
Reimbursement Methodology  
(LAC 50:V.2901 and 2903)**

The Department of Health, Bureau of Health Services Financing has amended LAC 50:V.2901 and §2903 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part V. Hospital Services**

**Subpart 3. Disproportionate Share Hospital Payments  
Chapter 29. Public-Private Partnerships**

**§2901. Qualifying Criteria**

A. Free-Standing Psychiatric Hospitals. Effective for dates of service on or after January 1, 2013, a free-standing psychiatric hospital may qualify for this category by being:

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

a. - b. ...

2. a Medicaid enrolled non-state publicly owned and operated hospital that enters into a cooperative endeavor agreement with the Department of Health to increase its provision of inpatient Medicaid and uninsured hospital services by:

a. - b. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:2259 (November 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 49:1931 (November 2023).

**§2903. Reimbursement Methodology**

A. - A.2. ...

B. Effective for dates of service on or after December 1, 2023, payment for DSH eligible services provided through a cooperative endeavor agreement with the Department of Health shall be equal to the Medicaid per diem rate on file for free-standing psychiatric hospitals.

1. Cost and lengths of stay will be reviewed for reasonableness before payments are made. Reasonableness will be determined at the sole discretion of the department. Payments shall be made on a monthly basis.

2. Payment for DSH eligible services at the Medicaid rate shall be contingent on qualifying hospitals maintaining and timely submitting all department required documentation for DSH eligible services throughout the review and audit process.

3. Payments shall be limited to \$552.05 per day if the department determines that the qualifying hospital is not maintaining or timely submitting the required documentation for DSH eligible services throughout the review and audit process.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:2259 (November 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 43:323 (February 2017), LR 49:1931 (November 2023).

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

Stephen R. Russo, JD  
Secretary

2311#040

**RULE**

**Department of Health  
Bureau of Health Services Financing**

**Hospice Licensing Standards  
(LAC 48:I.8201, 8259, and 8561)**

The Department of Health, Bureau of Health Services Financing has amended LAC 48:I.8201 and adopted §8259 and §8261 as authorized by R.S. 36:254 and R.S. 40:2181-2192. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

**Title 48**

**PUBLIC HEALTH—GENERAL**

**Part I. General Administration**

**Subpart 3. Licensing and Certification**

**Chapter 82. Minimum Standards for Licensure of  
Hospice Agencies**

**Subchapter A. General Provisions**

**§8201. Definitions**

A. The following words and terms, when used in this Chapter, shall have the following meanings, unless the context clearly indicates otherwise:

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*Geographic Area*—area around location of licensed agency that includes any parish within 50 mile radius of the hospice premises. Each hospice shall designate the geographic area in which the agency will provide services.

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AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2181-2192.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 15:482 (June 1989), amended LR 24:2257 (December 1998), amended by the Department of Health, Bureau of Health Services Financing, LR 44:588 (March 2018), LR 46:344

(March 2020), LR 47:1307 (September 2021), LR 49:1931 (November 2023).

### **Subchapter E. Hospice Inpatient Facility**

#### **§8259. Visitation by Members of the Clergy during a Declared Public Health Emergency**

A. For purposes of §8259 and §8261, a public health emergency (PHE) is a declaration made pursuant to the Louisiana Health Emergency Powers, R.S. 29:790 et seq., or current law.

B. For purposes of this Section, clergy shall be defined as follows:

1. a minister, priest, preacher, rabbi, imam, Christian Science practitioner; or
2. other similar functionary of a religious organization; or
3. an individual reasonably believed to be such a clergy member by the person consulting him.

C. For purposes of §8259 and §8261, patient shall mean a patient of a licensed inpatient hospice in Louisiana, or the legal or designated representative of the patient.

D. A licensed inpatient hospice shall comply with any federal law, regulation, requirement, order or guideline regarding visitation in an inpatient hospice issued by any federal government agency during a declared PHE. The provisions of the licensing rules in §8259.E-H shall be preempted by any federal statute, regulation, requirement, order, or guideline from a federal government agency that requires an inpatient hospice to restrict patient visitation in a manner that is more restrictive than the rules.

E. An inpatient hospice shall comply with any Louisiana state health officer (SHO) order or emergency notice regarding visitation in an inpatient hospice during a declared PHE.

F. An inpatient hospice shall comply with an executive order or proclamation issued by the governor of the state of Louisiana regarding visitation in an inpatient hospice during a declared PHE.

G. The provisions of this Section regarding visitation by members of the clergy shall apply to all inpatient hospice facilities licensed by the Department of Health (LDH).

H. Subject to the requirements of §8259.D-F, each inpatient hospice shall allow a member of the clergy to visit patients of an inpatient hospice during a declared PHE when a patient, or his legal or designated representative, requests a visit with a member of the clergy, subject to the following conditions and requirements:

1. Each inpatient hospice shall have a written policy and procedure addressing visitation by members of the clergy. A copy of the written policy and procedure shall be available, without cost, to the patient and his legal or designated representative, upon request. The inpatient hospice shall provide a link to an electronic copy of the policy and procedure to a member of the clergy, upon request.

2. An inpatient hospice's policy and procedure regarding clergy visitation may adopt reasonable time, place, and manner restrictions, provided that such restrictions are implemented by the inpatient hospice, in consultation with appropriate medical personnel, for the purpose of mitigating

the possibility of transmission of any infectious agent or infectious disease or for the purpose of addressing the medical condition or clinical consideration of an individual patient.

3. An inpatient hospice's policy and procedure on clergy visitation, at a minimum, requires the following:

- a. that a clergy member may be screened for infectious agents or infectious diseases, utilizing at least the current screening or testing methods and protocols recommended by the Centers for Disease Control and Prevention (CDC), as applicable;

- i. if there is a current Louisiana SHO order or emergency notice that requires more rigorous screening or testing methods and protocols, then the inpatient hospice shall utilize those methods and protocols;

- b. that a clergy member may not be allowed to visit an inpatient hospice patient if such clergy member has obvious signs or symptoms of an infectious agent or infectious disease, or if such clergy member tests positive for an infectious agent or infectious disease;

- c. that a clergy member may not be allowed to visit an inpatient hospice if the clergy member refuses to comply with the provisions of the inpatient hospice's policy and procedure or refuses to comply with the inpatient hospice's reasonable time, place, and manner restrictions;

- d. that a clergy member may be required to wear personal protective equipment (PPE) as determined appropriate by the inpatient hospice, considering the patient's medical condition or clinical considerations;

- i. the inpatient hospice's discretion PPE may be made available by the inpatient hospice to clergy members;

- e. that an inpatient hospice's policy and procedure include provisions for compliance with a Louisiana SHO order or emergency notice and with any governor's executive order or proclamation limiting visitation during a declared PHE;

- f. that the patient shall have the right to consensual, nonsexual physical contact such as hand holding or hugging with a member of the clergy; and

- g. that an inpatient hospice's policy and procedure include provisions for compliance with any federal law, regulations, requirements, orders, or guidelines regarding visitation in an inpatient hospice issued by any federal government agency during a declared PHE.

4. An inpatient hospice shall submit a written copy of its visitation policies and procedures on clergy member visitation, to the Health Standards Section of LDH at the initial licensure survey.

5. After licensure, the inpatient hospice shall make its visitation policies and procedures available for review by LDH at any time, upon request.

6. An inpatient hospice shall within 24 hours after establishing its written policies and procedures on clergy member visitation, make its written policies and procedures easily accessible from the homepage of its website.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2181-2192.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 49:1932 (November 2023).

**§8561. Visitation by Immediate Family Members and Other Designated Persons during a Declared Public Health Emergency**

A. For the purposes of this Section, immediate family member shall mean the following in order of priority:

1. spouse;
2. natural or adoptive parent, child, or sibling;
3. stepparent, stepchild, stepbrother, or stepsister;
4. father-in-law, mother-in-law, daughter-in-law, son-in-law, brother-in-law, or sister-in-law;
5. grandparent or grandchild;
6. spouse of a grandparent or grandchild; or
7. legal or designated representative of the patient.

B. A licensed inpatient hospice shall comply with any federal law, regulation requirement, order, or guideline regarding visitation in an inpatient hospice issued by any federal government agency during a declared PHE. The provisions of the licensing rules in §8561.C-F shall be preempted by any federal statute, regulation, requirement, order or guideline from a federal government agency that requires an inpatient hospice to restrict patient visitation in a manner that is more restrictive than the rules.

C. Inpatient hospices shall comply with any Louisiana SHO order or emergency notice regarding visitation in inpatient hospices during a declared PHE.

D. Inpatient hospices shall comply with any executive order or proclamation issued by the governor of the state of Louisiana regarding visitation in an inpatient hospice during a declared PHE.

E. The provisions of this Section regarding visitation by immediate family members of the patient and other designated persons, shall apply to all inpatient hospices licensed by LDH.

F. Subject to the requirements of §8561.B-D, each inpatient hospice shall allow immediate family members and other designated persons to visit a patient of the inpatient hospice during a declared PHE when a patient, or his legal or designated representative, requests a visit with immediate family members and other designated persons, subject to the following conditions and requirements:

1. Each inpatient hospice shall have a written policy and procedure addressing visitation by immediate family members and other designated persons. A copy of the written policy and procedure shall be available, without cost, to the patient and his legal or designated representative, upon request. The inpatient hospice shall provide a link to an electronic copy of the policy and procedure to immediate family members and other designated persons, upon request.

2. An inpatient hospice's policy and procedure regarding visitation by immediate family members and other designated persons may adopt reasonable time, place, and manner restrictions, provided that such restrictions are implemented by the inpatient hospice, in consultation with appropriate medical personnel, for the purpose of mitigating the possibility of transmission of any infectious agent or infectious disease or for the purpose of addressing the medical condition or clinical considerations of an individual patient.

3. An inpatient hospice's policy and procedure on visitation by immediate family members and other designated persons, at a minimum, requires the following:

a. that immediate family members of the patient and other designated persons, may be screened for infectious agents or infectious diseases, utilizing at least the current screening or testing methods and protocols recommended by the CDC, as applicable;

i. if there is a current Louisiana SHO order or emergency notice that requires more rigorous screening or testing methods and protocols, then the inpatient hospice shall utilize those methods and protocols;

b. that an immediate family member or other designated person may not be allowed to visit an inpatient hospice inpatient if such immediate family member or other designated person has obvious signs or symptoms of an infectious agent or infectious disease, or if such immediate family member or other designated person tests positive for an infectious agent or infectious disease;

c. that an immediate family member or other designated person may not be allowed to visit an inpatient hospice patient if the immediate family member or other designated person refuses to comply with the provisions of the inpatient hospice's policy and procedure, or refuses to comply with the inpatient hospice's reasonable time, place, and manner restrictions;

d. that the patient and immediate family members and other designated persons may be required to wear PPE as determined appropriate by the inpatient hospice, considering the patient's medical condition or clinical consideration;

i. at the inpatient hospice's discretion, PPE may be made available by the inpatient hospice to immediate family members and other designated persons;

e. that an inpatient hospice's policy and procedure include provisions for compliance with a Louisiana SHO order or emergency notice and with any governor's executive order or proclamation limiting visitation during a declared PHE;

f. that the patient and an immediate family member or other designated person, shall have the right to consensual, nonsexual physical contact such as hand holding or hugging; and

g. that an inpatient hospice's policy and procedure include provisions for compliance with any federal law, regulations, requirements, orders, or guidelines regarding visitation in an inpatient hospice issued by any federal government agency during a declared PHE.

4. An inpatient hospice shall submit a written copy of its policies and procedures on immediate family member or other designated person visitation, to the Health Standards Section of LDH at the initial licensure survey.

5. After licensure, the inpatient hospice shall make its visitation policies and procedures available for review by LDH at any time, upon request.

6. An inpatient hospice shall within 24 hours after establishing its written policies and procedures on immediate family member or other designated person visitation, make



its written policies and procedures easily accessible from the homepage of its website.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2181-2192.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 49:1933 (November 2023).

Stephen R. Russo, JD  
Secretary

2311#041

## RULE

### Department of Health Bureau of Health Services Financing

Hospital Licensing Standards  
(LAC 48:I.9303, 9336, 9387, and 9443)

The Department of Health, Bureau of Health Services Financing has amended LAC 48:I.Chapter 93 and §9443 as authorized by R.S. 36:254, 40:2100-2115, and 29:760. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

#### Title 48

#### PUBLIC HEALTH—GENERAL

#### Part I. General Administration

#### Subpart 3. Licensing and Certification

#### Chapter 93. Hospitals

#### Subchapter A. General Provisions

#### §9303. Definitions

A. The following definitions of selected terminology are used in connection with Chapter 93.

\* \* \*

*Surgical Smoke Plume*—the byproduct of using heat-producing equipment on tissue during surgery.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:177 (February 1995), LR 29:2400 (November 2003), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:513 (March 2010), LR 37:3028 (October 2011), LR 38:1413 (June 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 45:1475 (October 2019), LR 49:1934 (November 2023).

#### Subchapter B. Hospital Organizations and Services

#### §9336. Visitation by Members of the Clergy during a Declared Public Health Emergency

A. For purposes of this Section, a public health emergency (PHE) is a declaration made pursuant to the Louisiana Health Emergency Powers Act, R.S. 29:760 et seq., or current law.

B. - D. ...

E. Subject to compliance with the requirements of this Section, each hospital shall allow members of the clergy to visit patients of the hospital during a declared PHE when a patient, or his legal or designated representative, requests a visit with a member of the clergy, subject to the following conditions and requirements:

1. - 2. ...

3. a hospital's policy and procedure on clergy visitation, at a minimum, requires the following:

a. that the hospital shall give special consideration and priority for clergy visitation to patients receiving end-of-life care;

b. that a clergy member may be screened for infectious agents or infectious diseases, utilizing at least the current screening or testing methods and protocols recommended by the Centers for Disease Control and Prevention, as applicable;

c. that a clergy member may not be allowed to visit a hospital patient if such clergy member has obvious signs or symptoms of an infectious agent or infectious disease, or if such clergy member tests positive for an infectious agent or infectious disease;

d. that a clergy member may not be allowed to visit a hospital patient if the clergy member refuses to comply with the provisions of the hospital's policy and procedure or refuses to comply with the hospital's reasonable time, place, and manner restrictions;

e. that a clergy member may be required to wear personal protective equipment as determined appropriate by the hospital, considering the patient's medical condition or clinical considerations. At the hospital's discretion, personal protective equipment may be made available by the hospital to clergy members;

f. that a hospital's policy and procedure include provisions for compliance with a state health officer (SHO) order limiting visitation during a declared PHE;

g. that a patient shall have the right to consensual, nonsexual physical contact such as hand holding or hugging with members of the clergy; and

h. that a hospital's policy and procedure include provisions for compliance with any federal law, regulations, requirements, orders, or guidelines regarding visitation in hospitals during a declared PHE issued by any federal government agency that are more restrictive than this Section.

4. A hospital shall submit a written copy of its visitation policies and procedures to the Health Standards Section of LDH at the initial licensure survey.

5. After licensure, the hospital shall make its visitation policies and procedures available for review by LDH at any time, upon request.

6. A hospital shall within 24 hours after establishing its visitation policies and procedures, make its policies and procedures easily accessible from the homepage of its website.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 29:760.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 48:1580 (June 2022), amended LR 49:1934 (November 2023).

#### Subchapter H. Medical Record Services §9387. Organization and Staffing

A. - K. ...

L. Upon request of a competent adult victim of a sexually oriented criminal offense as defined in R.S. 15:622, or current law, the hospital that performed the forensic medical exam shall provide a reproduction of any written documentation which is in the possession of the hospital resulting from the forensic medical exam of the victim.

1. The documentation shall be provided to the victim no later than 14 days after the hospital receives the request or the hospital completes the documentation, whichever is later.

2. The reproduction of written documentation provided for in this Subsection shall be made available at no cost to the victim and may only be released at the direction of the victim who is a competent adult. This release does not invalidate the victim's reasonable expectation of privacy nor does the record become a public record after the release to the victim.

M. A hospital 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. No magnetic, electronic, optical or similar method shall be approved unless it provides reasonable safeguards against erasure or alteration.

N. A hospital may at its discretion, cause any hospital record or part to be microfilmed, or similarly reproduced, in order to accomplish efficient storage and preservation of hospital records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 21:177 (February 1995), amended LR 29:2415 (November 2003), amended by the Department of Health, Bureau of Health Services Financing, LR 49:1934 (November 2023).

#### **Subchapter L. Surgical Services (Optional)**

##### **§9443. Surgery Suite and Equipment**

A. - E. ...

F. There shall be policies and procedures for a surgical smoke plume evacuation plan to mitigate and remove surgical smoke plume during a surgical procedure that uses heat-producing equipment, including but not limited to electrosurgery and lasers.

1. - 6. Repealed.

G. The emergency equipment in the surgical suite shall include:

1. a communication system that connects each operating room with a control center;
2. cardiac monitor;
3. resuscitator;
4. defibrillator;
5. aspirator (suction equipment); and
6. tracheotomy set.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 21:177 (February 1995), amended LR 29:2420 (November 2003), amended by the Department of Health, Bureau of Health Services Financing, LR 49:1935 (November 2023).

Stephen R. Russo, JD  
Secretary

2311#042

## **RULE**

### **Department of Health Bureau of Health Services Financing**

Medicaid Reimbursement for Licensed Midwife or Certified Nurse Midwife Services  
(LAC 50:IX.15161, 15163 and XV.27101)

The Department of Health, Bureau of Health Services Financing has adopted LAC 50:IX.15161 and §15163, and amended LAC 50:XV.27101 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

#### **Title 50**

#### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

##### **Part IX. Professional Services Program**

##### **Subpart 15. Reimbursement**

##### **Chapter 151. Reimbursement Methodology**

##### **Subchapter G. Midwifery Services**

##### **§15161. General Provisions**

A. Certified nurse midwives and licensed midwives shall be reimbursed as a percentage of physician reimbursement according to the established fee schedule.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 49:1935 (November 2023).

##### **§15163. Reimbursement Methodology**

A. Effective for dates of service on or after August 1, 2023, services related to pregnancy and childbirth provided by certified nurse midwives (including licensed midwives), shall be reimbursed at 95 percent of the physician fee on file.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 49:1935 (November 2023).

##### **Part XV. Services for Special Populations**

##### **Subpart 18. Free-Standing Birthing Centers**

##### **Chapter 271. Reimbursement**

##### **§27101. Reimbursement Methodology**

A. - A.3. ...

B. Effective for dates of service on or after August 1, 2023, the reimbursement amounts for certified nurse midwives and licensed nurse midwives will be as follows:

1. certified nurse midwives providing birthing services within a FSBC shall be reimbursed at 95 percent of the published fee schedule rate for physician services rendered in the Professional Services Program; and

2. licensed midwives providing birthing services within a FSBC shall be reimbursed at 95 percent of the published fee schedule rate for physician services in the Professional Services Program.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:2360 (November 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 49:1935 (November 2023).

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

Stephen R. Russo, JD  
Secretary

2311#043

## RULE

### Department of Health Bureau of Health Services Financing

#### Nurse Aide Training and Competency Evaluation Program (LAC 48:I.10001 and 10033)

The Department of Health, Bureau of Health Services Financing has amended LAC 48:I.10001 and §10033 as authorized by R.S. 36:254. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

#### Title 48

#### PUBLIC HEALTH—GENERAL

#### Part I. General Administration

#### Subpart 3. Licensing and Certification

#### Chapter 100. Nurse Aide Training and Competency Evaluation Program

#### Subchapter A. General Provisions

#### §10001. Definitions

\* \* \*

*Certified Nurse Aide*—an individual who meets one of the following requirements and is listed as certified and in good standing on the Louisiana Certified Nurse Aide Registry (LCNAR):

1. has completed a nurse aide training and competency evaluation program (NATCEP) approved by the state as meeting the requirements of 42 Code of Federal Regulations (CFR) 483.151-483.154; or

2. has been determined competent as provided in 42 CFR 483.150(a) and (b); or

3. has successfully completed one semester of a registered or practical nursing program, which includes a course on foundational nursing skills, and has successfully passed an approved nurse aide competency evaluation examination.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and P.L. 100-203.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2074 (November 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:1242 (May 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 49:1936 (November 2023).

### Subchapter C. Louisiana Certified Nurse Aide Registry §10033. General Provisions

A. The Department of Health (LDH) shall develop and maintain the Louisiana Certified Nurse Aide Registry (LCNAR) for individuals who have successfully completed a nurse aide training and/or competency evaluation program. Each individual listed on the LCNAR will have the following information maintained and retrievable:

A.1. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and P.L. 100-203.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2078 (November 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:1246 (May 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 49:1936 (November 2023).

Stephen R. Russo, JD  
Secretary

2311#044

## RULE

### Department of Health Bureau of Health Services Financing

#### Nursing Facilities Licensing Standards (LAC 48:I.9767, 9769, and 9771)

The Department of Health, Bureau of Health Services Financing has amended LAC 48:I.Chapter 97 as authorized by R.S. 36:254 and R.S. 40:2009.2-2116. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

#### Title 48

#### PUBLIC HEALTH—GENERAL

#### Part I. General Administration

#### Subpart 3. Licensing and Certification

#### Chapter 97. Nursing Facilities

#### Subchapter B. Organization and General Services

#### §9767. Emergency Preparedness

A. - A.5. ...

B. Emergency Preparedness Plan Approval Process

1. - 4.b....

5. Revision and Resubmission of Emergency Preparedness Plan

a. - b. ...

c. The department shall review the nursing home's updated and revised emergency preparedness plan to confirm that all required changes, amendments, or revisions have been incorporated into the plan, and it shall approve the emergency preparedness plan and issue an approval letter to the nursing home. If the required changes, amendments, or revisions have not been incorporated, the department shall reject the emergency preparedness plan and issue a letter of rejection to the nursing home. The department may revoke or deny renewal of a license to a nursing home that has received a letter of rejection of its emergency preparedness plan.

6. - 8.f. ...

9. Annual Review of Emergency Preparedness Plan

a. - f.iv. ...

(a). The department may revoke or deny renewal of a license to a nursing home that has received a letter of rejection of its emergency preparedness plan.

B.9.v. - K.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2009.2-2009.44.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1905 (November 2016), amended LR 48:1290 (May 2022), LR 49:1076 (June 2023), LR 49:1936 (November 2023).

**§9769. Visitation by Members of the Clergy During a Declared Public Health Emergency**

A. For purposes of §9769 and §9771, a public health emergency (PHE) is a declaration made pursuant to the Louisiana Health Emergency Powers Act, R.S. 29:760 et seq., or current law

B. - H. ...

I. Subject to the requirements of §9769.E-G, each nursing facility shall allow members of the clergy to visit residents of the nursing facility during a declared public health emergency (PHE) when a resident, or his legal or designated representative, requests a visit with a member of the clergy, subject to the following conditions and requirements:

1. - 2. ...

3. A nursing facility's policy and procedure on clergy visitation, at a minimum, requires the following:

a. that the nursing facility shall give special consideration and priority for clergy visitation to residents receiving end-of-life care;

b. that a clergy member may be screened for infectious agents or infectious diseases, utilizing at least the current screening or testing methods and protocols recommended by the Centers for Disease Control and Prevention, as applicable; if there is a current Louisiana SHO order or emergency notice that requires more rigorous screening or testing methods and protocols, then the nursing facility shall utilize those methods and protocols;

c. that a clergy member may not be allowed to visit a nursing facility resident if such clergy member has obvious signs or symptoms of an infectious agent or infectious disease, or if such clergy member tests positive for an infectious agent or infectious disease;

d. that a clergy member may not be allowed to visit a nursing facility resident if the clergy member refuses to comply with the provisions of the nursing facility's policy and procedure or refuses to comply with the nursing facility's reasonable time, place, and manner restrictions; and

e. that a clergy member may be required to wear personal protective equipment as determined appropriate by the nursing facility, considering the resident's medical condition or clinical considerations; at the nursing facility's discretion, personal protective equipment may be made available by the nursing facility to clergy members.

f. ...

g. that a resident shall have the right to consensual, nonsexual physical contact such as hand holding or hugging with a member of the clergy; and

h. that a nursing facility's policy and procedure include provisions for compliance with any federal law, regulations, requirements, orders, or guidelines regarding visitation in nursing facilities issued by any federal government agency during a declared public health emergency.

4. A nursing facility shall submit a written copy of its visitation policies and procedures to the Health Standards Section of LDH at the initial licensure survey.

5. After licensure, the nursing facility shall make its visitation policies and procedures available for review by LDH at any time, upon request.

6. A nursing facility shall within 24 hours after establishing its visitation policies and procedures, make its policies and procedures easily accessible from the homepage of its website.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.2-2116.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 47:1309 (September 2021), amended LR 49:1937 (November 2023).

**§9771. Visitation by Immediate Family Members and Other Designated Persons during a Declared Public Health Emergency**

A. - D. ...

E. Subject to the requirements of §9771.A-C, each nursing facility shall allow immediate family members and other designated persons to visit a resident of the nursing facility during a declared public health emergency (PHE) when a resident, or his legal or designated representative, requests a visit with immediate family members and other designated persons, subject to the following conditions and requirements:

1. - 2. ...

3. A nursing facility's policy and procedure on visitation by immediate family members and other designated persons, at a minimum, requires the following:

a. that the nursing facility shall give special consideration and priority for visitation by immediate family members and other designated persons to residents receiving end-of-life care;

b. that visitation by immediate family members of the residents and other designated persons may be screened for infectious agents or infectious diseases and will pass such screening prior to each visitation, utilizing at least the current screening or testing methods and protocols recommended by the Centers for Disease Control and Prevention, as applicable; if there is a current Louisiana SHO order or emergency notice that requires more rigorous screening or testing methods and protocols, then the nursing facility shall utilize those methods and protocols;

c. that an immediate family member or other designated person may not be allowed to visit a nursing facility resident if such immediate family member or other designated person has obvious signs or symptoms of an infectious agent or infectious disease, or if such immediate family member or other designated person tests positive for an infectious agent or infectious disease;

d. that an immediate family member or other designated person may not be allowed to visit a nursing facility resident if the immediate family member or other designated person refuses to comply with the provisions of

the nursing facility's policy and procedure or refuses to comply with the nursing facility's reasonable time, place, and manner restrictions;

e. that immediate family members and other designated persons may be required to wear personal protective equipment as determined appropriate by the nursing facility, considering the resident's medical condition or clinical considerations; at the nursing facility's discretion, personal protective equipment may be made available by the nursing facility to immediate family members and other designated persons;

f. ...

g. that a nursing facility's policy and procedure include provisions for compliance with any federal law, regulations, requirements, orders, or guidelines regarding visitation in nursing facilities issued by any federal government agency during a declared public health emergency;

h. that includes provisions for off-site visitation, allowing an immediate family member or other designated person to visit a nursing facility resident away from the facility campus; and

i. that a resident and an immediate family member or other designated person shall have the right to consensual, nonsexual physical contact such as hand holding or hugging.

4. A nursing facility shall submit a written copy of its visitation policies and procedures to the Health Standards Section of LDH at the initial licensure survey.

5. After licensure, the nursing facility shall make its visitation policies and procedures available for review by LDH at any time, upon request.

6. A nursing facility shall within 24 hours after establishing its visitation policies and procedures, make its policies and procedures easily accessible from the homepage of its website.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.2-2116.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 47:1310 (September 2021), amended LR 49:1937 (November 2023).

Stephen R. Russo, JD  
Secretary

2311#045

## RULE

### Department of Public Safety and Corrections Office of Motor Vehicles

Driving Schools  
(LAC 55:III.145 and 151)

Under the authority of R.S. R.S. 32:402.1(A)(1) and R.S. 40:1461, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:961 et seq., the Office of Motor Vehicles has amended Sections in Chapter 1, regarding driving schools. The amended Sections, §145 and §151 removes a medical certification requirement, corrects and an e-mail address, and authorizes alternative methods of training for the 6-hour classroom instruction for students 18 years of age and older. This Rule shall become effective upon the promulgation of the Rule in the *Louisiana Register*.

## Title 55

### PUBLIC SAFETY

#### Part III. Motor Vehicles

#### Chapter 1. Drivers License

##### Subchapter A. General Requirements

#### §145. Qualifications for Private Driving School Owners and Instructors

A. - B.4. ...

5. Repealed.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:402.1(A)(1) and R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 38:1975 (August 2012), amended LR 43:1761 (September 2017), LR 45:1602 (November 2019), LR 49:1938 (November 2023).

#### §151. Regulations for All Driver Education Providers

A. - F.3. ...

4. DPS shall be advised via e-mail at [ladrivingschools@dps.la.gov](mailto:ladrivingschools@dps.la.gov) within 10 business days of a vehicle that is removed from service and shall be provided the required information on replacement vehicles. OMV shall provide the school e-mail notification within three business days that the information has been received. The school shall send the odometer reading of vehicles for the first and last day of service and proof of registration for the vehicle(s) removed or added to service.

F.5. - J.6. ...

K. Alternative Method of Instructions of the 6-Hour Pre-Licensing Course

1. Driving schools shall only use platforms and equipment that have been approved by DPS.

2. Class schedules using the alternative methods shall be submitted to OMV at least 48 hours prior to beginning the class.

a. Driving schools shall notify DPS of any changes in platform or meeting ID/passcodes.

b. The audio and video shall be clear and not distorted when viewing or listening.

c. Driving schools shall give DPS access to view the class live via the approved platform.

3. Instructors shall conduct classes from a location free of any distractions.

4. Driving schools shall use their current DPS approved 6-hour lesson plans for the courses.

5. The school shall verify the identity of the individual taking the online course.

6. Driving schools shall limit the class size to 25 students per class per school.

7. All enrolled students for a class taught using an alternative method must be online and present for the full class. If a student fails to do so, the instructor must document the time missed and the student must make up the time at a later date in a format approved by DPS.

a. A student shall not be issued a certificate unless they have completed their full hours of classroom instruction.

b. All instructors shall take student attendance before class, after all breaks, and lunch.

8. During instruction, the instructor shall ensure that all students are alert and focus on the classroom lesson. No additional electronic devices should be allowed other than those devices that are used for classroom lessons.

a. During the online instruction, students shall be in a sitting position and dressed in proper attire for a classroom environment. It is highly recommended that students be located in an area free of distractions when possible.

b. Students equipment must have video capabilities and shall be visible at all times during class. If a student does not have video capabilities, they will not be eligible to attend class using the alternative method of delivery and must attend an in-classroom course.

9. Driving schools shall keep a class roster, which shall be available for DPS to review. This will be necessary since students not being physically able to sign.

10. Driving schools shall follow all other rules as outlined in conducting in-classroom classes. This includes all required forms properly completed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:402.1(A)(1) and R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 38:1980 (August 2012), amended LR 41:151 (January 2015), LR 43:1767 (September 2017), LR 45:1603 (November 2019), LR 49:1938 (November 2023).

Karen St. Germain  
Commissioner

2311#030

## RULE

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

#### Spotted Seatrout Management Measures (LAC 76:VII.341)

The Wildlife and Fisheries Commission establishes the spotted seatrout minimum size limit of 13 inches and a maximum size limit of 20 inches with an allowance for two fish over the maximum length limit, maintains the 15 fish bag limit, and eliminates the ability for charter guides and/or their deckhands to keep a bag limit while conducting a for-hire trip. The amendments also include a requirement for a stock assessment to be provided to the commission no later than the April 2027 meeting and a sunset of the adopted changes at 12 a.m. on January 1, 2028 unless regulations are modified prior to that date. This Rule is hereby adopted on the day of promulgation.

#### Title 76

### WILDLIFE AND FISHERIES

#### Part VII. Fish and Other Aquatic Life

#### Chapter 3. Saltwater Sport and Commercial Fishery

#### §341. Spotted Seatrout Management Measures

A.-B. ...

##### C. Recreational Regulations

1. The daily take and possession limit for spotted seatrout (*Cynoscion nebulosus*) caught recreationally within or without Louisiana waters shall be 15 fish per day and in possession.

2. The minimum legal size for the recreational taking of spotted seatrout (*Cynoscion nebulosus*) shall be 13 inches

total length. The maximum legal size for the recreational taking of spotted seatrout shall be 20 inches total length, however, no person shall have in possession while fishing, or while on the water, more than two spotted seatrout which, when whole, is or was over the prescribed maximum size of 20 inches total length overall when measured with the mouth closed.

3. Captain and crew members shall not retain a bag limit of spotted seatrout while operating or representing themselves as a charter vessel or headboat. Captain and crew may engage in fishing activity to assist passengers to catch, retrieve, or land spotted seatrout, or to demonstrate to passengers how to catch spotted seatrout.

4. Not later than the regular monthly commission meeting of April 2027, the department shall present a stock assessment of spotted seatrout to the commission, provide data on whether the size and bag limits above are still needed in order to recover the stock, provide alternative management measures for potential size and bag limit increases if the stock has recovered to target, or provide further needed restrictions if the stock has not recovered to target.

5. On January 1, 2028, unless further action is taken by the commission prior to that date, the size and bag limit for spotted seatrout will revert to a minimum size limit of 12 inches total length and a bag limit of 25 fish per person, except as provided in Subparagraph 5.a.

a. Within those areas of the state, including coastal territorial waters, south of Interstate 10 from its junction at the Texas-Louisiana boundary eastward to its junction with Louisiana Highway 171, south to Highway 14, and then south to Holmwood, and then south on Highway 27 through Gibbstown south to Louisiana Highway 82 at Creole and south on Highway 82 to Oak Grove, and then due south to the western shore of the Mermentau River, following this shoreline south to the junction with the Gulf of Mexico, and then due south to the limit of the state territorial sea, under the authority of the provisions of R.S. 56:325.1(A), the daily take and possession limit shall be 15 fish, regardless of where taken, with no more than 2 spotted seatrout exceeding 25 inches total length. Those spotted seatrout exceeding 25 inches in length shall be considered as part of the daily recreational take and possession limit.

AUTHORITY NOTE: Promulgated in accordance with Act 157 of the 1991 Regular Session of the Louisiana Legislature, R.S. 56:6(25)(a), R.S. 56:305.5, R.S. 56:305.7, R.S. 56:325.1 (A) and (B), R.S. 56:325.3, R.S. 56:326.3, Act 1316 of the 1995 Regular Session of the Louisiana Legislature, and Act 1164 of the 2003 Regular Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 18:199 (February 1992), amended LR 22:238 (March 1996), LR 24:360 (February 1998), LR 26:2333 (October 2000), LR 30:1509 (July 2004), LR 30:2498 (November 2004), repromulgated LR 32:125 (January 2006), amended LR 32:1071 (June 2006), LR 37:355 (January 2011), LR 49:1939 (November 2023).

Robert E. Shadoin  
Secretary

2311#011

**RULE**

**Department of Health  
Office of Public Health**

Registration of Foods, Drugs, Cosmetics and  
Prophylactic Devices (LAC 49:I.Chapter 5)

The Department of Health, Office of Public Health (LDH/OPH), pursuant to rulemaking authority granted by R.S. 3:1483(L), has amended the following for the protection of public health. This Rule is promulgated specifically in accordance with R.S. 49:962 of the Administrative Procedure Act (R.S. 49:950, et seq.).

This Rule is necessary to prevent imminent peril to the public health, safety, or welfare and is also done pursuant to the express statutory authority granted by La. R.S. 3:1483(L). Current LDH/OPH rules in LAC 49 Chapter 5 concerning the registration of consumable hemp products do not explicitly prohibit the registration of products utilizing dosage vehicles designed or intended for other than oral consumption or topical use, or require that applicants submit any documentation concerning same. This proposed Rule will provide LDH/OPH with explicit authority concerning dosage vehicles to: i) require proof that consumable hemp products for which registration is sought are not designed or intended for other than oral consumption or topical use, or to facilitate same, ii) deny requested registration of consumable hemp products that are designed or intended for other than oral consumption or topical use, or to facilitate same, and iii) authorize LDH/OPH to revoke the registration of consumable hemp products that are designed or intended for other than oral consumption or topical use, or to facilitate same.

This Rule also provides that a consumable hemp product packaged, labeled, or marketed in a manner that physically or functionally combines individual servings, resulting in a functional or suggested product serving size that exceeds eight milligrams of total THC per serving, shall not be registered and shall be subject to revocation of registration. The Rule also speaks specifically to the topic of “serving”, and includes streamlined requirements for registration and registration renewal.

**Title 49**

**PUBLIC HEALTH—FOOD, DRUGS,  
AND COSMETICS**

**Part I. Regulations**

**Chapter 5. Registration of Foods, Drugs, Cosmetics  
and Prophylactic Devices**

**§501. Definitions  
[Formerly 49:2.2100]**

A. ...

\*\*\*

*E-Cigarette*—a battery-operated device that is typically designed to resemble a traditional cigarette and is used to inhale a (usually nicotine-containing) vapor atomized by the device’s heating element.

\*\*\*

*Vape Cartridge*—the part of a vape pen containing the liquid to be inhaled by the user.

*Vape Pen*—a type of e-cigarette.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1483(L), R.S. 40:4(A)(13), R.S. 40:5(A)(8)(17) and R.S. 40:604.

HISTORICAL NOTE: Adopted by the Louisiana State Board of Health, September 1968, amended by the Department of Health, Office of Public Health, LR 46:358 (March 2020), amended LR 47:479 (April 2021), amended LR 48:1290 (May 2022), amended by the Department of Health, Office of Public Health, LR 49:1940 (November 2023).

**§517. Registration of Consumable Hemp Products**

A. - B. ...

C. In lieu of the annual examination and administration charge normally collected under R.S. 40:628(B), the applicant for a consumable hemp product registration must provide (both initially and on or before July 1 of each year) the department with a packet that includes:

1. a completed application form;
2. a cashier’s check, money order, or electronic payment made payable to the department in the amount of \$50 per each separate and distinct product;
3. specimen copies of labeling for each separate and distinct product in electronic format;
4. laboratory accreditation verification documentation;
5. laboratory certificate of analysis (COA) for each separate and distinct product;
6. attestation that the product was produced from hemp. However, the department reserves the right to request a copy of the current grower or processor’s license issued by the authority of competent jurisdiction for the firm responsible for the hemp crop from which the products are derived;
7. for each separate and distinct product, photographs or renderings of the product that accurately depict the entirety of the product, including all accessories or physical items included or sold with the product, whether attached or not. The department may require the submission of a specimen of the actual product and all included accessories if it determines in its sole discretion that submitted renderings or photographs do not allow a sufficient determination that the product meets all applicable requirements of this Chapter; and
8. for each separate and distinct product, a detailed written description of how individual servings will be packaged and marketed for sale. A product whose label fails to comply with the requirements of §533 of this Chapter will not be registered. A product packaged, labeled, or marketed in a manner that physically or functionally combines individual servings, resulting in a functional or suggested product serving size that exceeds eight milligrams of total THC per serving, shall not be registered and shall be subject to revocation of registration pursuant to §518 of this Chapter.

D. If all required packet contents, as set forth in Subsection C of this Section, are submitted and a product meets the applicable requirements of this Chapter and R.S. 3:1483, the department shall register the product by entering the application information into the consumable hemp products database. In instances of an annual renewal of a product, the department may allow for the applicant to attest/certify that the required information has not changed since the last application in lieu of repeat submission.

E. No person is authorized to distribute any consumable hemp product in the state of Louisiana unless such product is currently registered and entered into the consumable hemp products database by the department, except that if a firm submits product labeling and supporting documentation for

review to the department and does not receive a written response within 15 business days of that initial submission, the product may be sold after the fifteenth business day by any permitted wholesaler or retailer until the submitting party receives notice in writing from the department that the product in question is accepted or rejected for registration. Upon the expiration of the 15 business days, the department will send written notice, via electronic mail only, confirming the “pending” status of any application and, if known, a date by which a final determination will be made.

F. Any firm may apply to the department for the designation of its products as “Louisiana Hemp Products,” provided that those products are produced from hemp grown in Louisiana and are processed at a Louisiana-based manufacturer. These items shall be designated with a special mark on the department’s list of registered products once they have been registered with the department.

G. No consumable hemp product shall be registered if one or more of the following conditions concerning dosage vehicles apply:

1. it is explicitly or clearly intended or characterized as being for inhalation, or to facilitate same; this prohibition shall not apply to hemp rolling papers;
2. it is explicitly or clearly intended or characterized as being for subcutaneous or transdermal use, or to facilitate same; this prohibition shall not apply to transdermal patches that are not designed for or capable of piercing the skin;
3. it is explicitly or clearly intended or characterized as being for intravenous or intramuscular infusion or injection, or to facilitate same;
4. it is explicitly or clearly intended or characterized as being for rectal or vaginal insertion, including, but not limited to, vaginal or anal suppositories; this prohibition shall not apply to products that are topical personal lubricants; or
5. it includes, is contained within, or constitutes a vape cartridge, vape pen, e-cigarette or a substantially similar item designed to facilitate inhalation.

H. Notice of final denial of a requested product registration shall state the specific reason(s) for the denial and shall include notice of right to an administrative hearing concerning same, which right shall expire unless the applicant files, in the manner specified therein, a written request for an administrative hearing with the department within 20 calendar days of receipt of the notice. Any such request timely received shall be forwarded by the department to the Louisiana Division of Administrative Law. In addition to any method of service authorized by this Title, service of the notice on the applicant may be effected through any means authorized by LAC 51:I.109. Additionally, service may be made by electronic mail sent to any email address provided by the registrant to the department as part of or subsequent to the permitting or registration process, and shall be deemed effective even if returned as undeliverable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(13), R.S. 3:1483(L) and R.S. 40:604.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 46:359 (March 2020), amended LR 47:479 (April 2021), LR 48:1290 (May 2022), LR 49:1940 (November 2023).

## **§518. Revocation of a Consumable Hemp Product Registration**

A. The department may revoke the registration of a consumable hemp product if:

1. any of the enumerated criteria set forth in §517.G of this Chapter apply to the product;
2. any materials, including product information, specifications, photographs, or renderings, provided to the department in connection with the registration approval were erroneous or misleading, if non-erroneous or non-misleading materials would have resulted in denial of registration;
3. the product, including any accessories or physical items included therewith, is materially modified in a way that makes the photographs, renderings, or specimen submitted in connection with the registration no longer an accurate depiction thereof; or
4. the product, product label, product packaging, or product marketing violates any provision or requirement of this Chapter or R.S. 3:1483.

B. Revocation shall occur through issuance and service of an order revoking registration. The order shall state with specificity the nature of the violation(s), including citations to the provision(s) of this Chapter that have been violated. In addition to any method of service authorized by this Title, service on the registration holder may be effected through any means authorized by LAC 51:I.109. Additionally, service may be made by electronic mail sent to any email address provided by the registrant to the department as part of or subsequent to the registration process, and shall be deemed effective even if returned as undeliverable.

C. An Order Revoking Registration shall include notice of right to an administrative hearing concerning same, which right shall expire unless the registrant files, in the manner specified therein, a written request for an administrative hearing with the department within 20 calendar days of receipt of the order. If such a written request is timely filed, then it shall be forwarded by the department to the Louisiana Division of Administrative Law. The order shall be stayed pending the decision of the Division of Administrative Law, subject to the provisions in Subsection D of this Section.

D. If the state health officer determines, in his sole discretion, that the product in question constitutes a nuisance dangerous to the public health or a danger to the public life, health, or safety, and includes that finding in the order revoking registration, the order shall be deemed an emergency order and shall not be stayed pending the decision of the Division of Administrative Law. Further, as of the effective date of this emergency rule, any registration of any product that, based on a determination by the department, in its sole discretion:

1. exceeds the THC limits set forth in R.S. Title 3, Chap. 10-a, Part VI, including, but not limited to, the milligrams per serving limit;
2. meets the criteria of §517.G.1 or §517.G.5 of this Chapter;
3. contains any type of cannabinoid that does not naturally occur in hemp; or
4. violates the criteria of §533 of this Chapter shall be deemed to meet the criteria for revocation under an Emergency Order.



E. This Section shall apply to any consumable hemp product registered with the department, regardless of registration date. This Section is expressly intended to apply to consumable hemp products registered both prior to and after June 26, 2023, the effective date of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(13), R.S. 3:1483(L) and R.S. 40:604.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 49:1941 (November 2023).

**§533. Consumable Hemp Products Labeling Requirements: Serving Sizes and THC Content**

A. ...

B. Serving sizes shall be delineated as follows:

1. for tinctures, extracts, concentrates, and other liquid-type products, there shall be an included measuring device capable of administering a single serving;

2. for beverages, the packaging must clearly enable a consumer to determine when a single serving has been consumed;

3. for all other products (e.g. tablets, capsules, cookies, gummies, etc.), an individual unit shall constitute a single serving and shall be separate and unattached to other units within a package. Thus, multiple servings shall not be combined and subject to scoring or separating in order to produce a single serving.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(13), R.S. 3:1483(L) and R.S. 40:604.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 46:359 (March 2020), amended, LR 47:479 (April 2021), LR 48:1290 (May 2022), LR 49:1942 (November 2023).

Stephen R. Russo, JD  
Secretary

2311#061

**RULE**

**Department of Health  
Office of Public Health**

Sanitary Code—Food Service Establishment Violations  
(LAC 51:I.113 and XXIII.101 and 4311)

The Department of Health, Office of Public Health (LDH/OPH), pursuant to R.S. 40:4, R.S. 40:5, and in cognizance of SR159 (2022 Regular Session), has amended the proposed Sections of Title 51 for the protection of public health.

The proposed Rule will ensure that a violation by a food service establishment of R.S. 40:5.5.4, which deprives Louisiana consumers of their right to know whether the establishment serves crawfish or shrimp imported from a foreign country, which may pose a health risk, is classified in the Sanitary Code as both a “Critical Item” and a “Class A” violation.

**Title 51**

**PUBLIC HEALTH—SANITARY CODE**

**Part I. General Provisions**

**Chapter 1. General**

**§113. Suspension/Revocation/Civil Fines or Penalties  
[formerly paragraph 1:007-21]**

A. - A.2. ...

3. impose a civil fine:

a. these civil fines shall not exceed \$10,000 per violator per calendar year applicable to each specific establishment, facility, or property that the violator owns, manages, operates or leases. The schedule of civil fines by class of violations shall be as follows.

i. Class A. Violations that create a condition or occurrence, which may result in death or serious harm to the public. These violations include, but are not limited to the following: cooking, holding or storing potentially hazardous food at improper temperatures; failure to follow schedule process in low acid canned foods or acidified food production; poor personal hygienic practices; failure to sanitize or sterilize equipment, utensils or returnable, multi-use containers; no water; unapproved water source; cross contamination of water; inadequate disinfection of water before bottling; sewage back up; sewage discharge on to the ground; sewage contamination of drinking water; failure to comply with human drug current good manufacturing practices (CGMP); inadequate labeling of foods or drugs regarding life threatening ingredients or information; failure to provide consumer advisories; failure to comply with any applicable requirement of R.S. 40:5.5.4; non-compliant UV lamps or termination control switch on tanning equipment; the inadequate handling and disposal of potentially infectious biomedical wastes; or failure to obtain food safety certification in accordance with §305 of Part XXIII. Class A civil fines shall be \$100 per day per violation.

3.a.ii. - 5.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(13), R.S. 40:4, and R.S. 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 27:1694 (October 2001), repromulgated LR 28:1210 (June 2002), amended LR 28:2529 (December 2002), LR 41:148 (January 2015), LR 49:1942 (November 2023).

**Part XXIII. Retail Food Establishments**

**Chapter 1. Definitions**

**§101. Definitions**

**[formerly paragraph 23:001]**

A. Terms not defined or referenced herein shall have the meanings as defined in LAC 51:I. In any instance where a term defined herein is also defined in one or more Parts of LAC 51:I, the definition contained in this Part shall govern this Part.

\* \* \*

*Critical Item*—a provision of this code that, if in noncompliance, is more likely than other violations to contribute to food contamination, illness, or environmental degradation, such as, but not limited to a potentially hazardous food stored at improper temperature, poor personal hygienic practices, not sanitizing equipment and utensils, no water, contaminated water sources, sewage backup or improper sewage disposal, severe insect or rodent infestation, failure to comply with any applicable requirement of R.S. 40:5.5.4, and chemical contamination.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(13), R.S. R.S. 40:4, and R.S. 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:311 (February 2002), repromulgated LR 28:1405 (June 2002), amended LR 28:2531 (December 2002), LR 49:1942 (November 2023).

**Chapter 43. Inspections and Enforcement**

**§4311. Enforcement, Critical Violations**

**[formerly paragraph 22:43-2]**

A. Critical items, (as defined in this Part) noted at the time of inspection shall be corrected immediately or by a time set by the state health officer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(13), R.S. R.S. 40:4, and R.S. 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:336 (February 2002), amended LR 28:1430 (June 2002), LR 49:1943 (November 2023).

Stephen Russo, JD  
Secretary  
and  
Joseph Kanter, MD, MPH  
State Health Officer

2311#062

**RULE**

**Department of Health  
Office of Public Health**

School Based Health Centers  
(LAC 50:XV.9101 and 9103)

Under the authority of R.S. 40:31.3, and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the secretary, acting through the Department of Health, Office of Public Health (LDH/OPH), has amended and adopted parts of Chapter 91 of Title 50.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part XV. Services for Special Populations**

**Subpart 5. Early and Periodic Screenings, Diagnosis, and Treatments**

**Chapter 91. School Based Health Centers**

**Subchapter A. General Provisions**

**§9101. Purpose**

A. The Adolescent School Health Initiative Act of 1991 authorized the development of an adolescent school based health initiative to facilitate and encourage the provision of comprehensive health centers in public middle and secondary schools. Such health centers are referred to in this Chapter as “School Based Health Centers” (SBHCs).

B. A SBHC is a health center that:

1. is located on a school campus (including mobile units);
2. is organized through school, community, and health provider relationships;
3. is administered by a sponsoring facility;
4. provides health services (including, but not limited to, both behavioral and physical health) to children and adolescents through health professionals in accordance with state and local law, including laws related to licensure and certification;
5. provides, at a minimum, health services during school hours to children and adolescents by health professionals in accordance with established standards of care, evidence-based practice, laws, regulations and requirements, including parental consent.

C. For purposes of Subparagraph B.3 the term *sponsoring facility* includes any of the following:

1. a hospital;
2. a federally qualified health center (FQHC);
3. a for-profit or non-profit health care agency; or
4. a school or a school system, in partnership with a health facility.

D. SBHCs provide convenient access to preventive and acute care services for students who might otherwise have limited or no access to health care. This care may be provided onsite or through telehealth.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 40:31.3 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1419 (July 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:365 (February 2012), amended by the Department of Health, Office of Public Health, LR 49:1943 (November 2023).

**§9103. Registry of School Based Health Centers**

A. The Louisiana Department of Health, Office of Public Health will establish and maintain a registry of all SBHCs. This registry shall be publicly available on the website of the Louisiana Department of Health.

B. SBHCs are required to submit the following information to the registry:

1. name of sponsoring agency;
2. name of school(s) where the SBHC is located;
3. additional schools served by the SBHC (\*feeder schools);
4. location of the SBHC (address, including parish);
5. services provided at facility; and
6. point of contact, including name, phone number, and email.

C. The instructions or method of submitting the information required by this Section to the registry shall be made available on the Louisiana Department of Health website.

D. All SBHCs shall submit their initial information, as described in Subsection B. of this Section, to the registry by June 30, 2024.

E. All SBHCs shall review, confirm or update their information by June 30 of each year. Additionally, any change in information shall be provided to the registry within 30 days from the date of the change.

\*The Office of Public Health-Adolescent School Health Program defines feeder school as: any school that meets all three of the following criteria:

- (1) the school is near the SBHC and/or in the same school district as the host school,
- (2) the SBHC can be accessed by a student from the school without assistance from a parent/legal guardian, and
- (3) the school had at least 50 students visit the SBHC during the previous year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:31.3

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 49:1943 (November 2023).

Stephen R. Russo, JD  
Secretary

2311#063

# Notices of Intent

## NOTICE OF INTENT

### Department of Agriculture and Forestry Office of Agro Consumer Services Division of Weights and Measures

#### Registration Requirements and Fees for Electric Vehicle Supply Equipment (LAC 7:XXXV.103, 125 and 127)

The Department of Agriculture and Forestry, Office of Agro-Consumer Services, Weights and Measures Division propose to adopt additions to LAC 7:XXXV.103, 125 and 127 in Chapter 7 as authorized by R.S.3:4608 to establish the fee schedule and registration requirements for commercial electric vehicle (EV) charging devices. The proposed rule changes are being made pursuant to ACT 293 in the 2023 Regular Session, which provides for the regulation of fueling stations for electric vehicles. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

R.S. 3:4622(A) establishes that Electric Vehicle Supply Equipment (EVSE) shall be registered with the department and R.S. 3:4622(B)(4) establishes that the commissioner may establish a fee schedule for registering commercial weighing and measuring devices. The proposed changes to LAC 7:XXXV Sections 103, 125, and 127 establish the fee schedule and registration requirements for commercial electric vehicle (EV) charging devices.

#### Title 7

#### Agriculture and Animals

#### Part XXXV. Agro-Consumer Services

#### Chapter 1. Weights and Measures

#### §103. Definitions

A. ...

\* \* \*

*Weights, Measures, or Weighing and Measuring Devices*—all weights, scales, scanners, taxi meters, electric vehicle supply equipment, beams, measures of every kind, instruments and mechanical devices for weighing or measuring, and any appliances and accessories connected with any such instruments. However, it does not include or refer to devices used to meter or measure, other than by weight, water, natural or manufactured gas, or electricity, except for electricity used in connection with electric vehicle supply equipment.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4603 (formerly R.S. 55:3).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Commission of Weights and Measures, LR 13:157 (March 1987), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 19:1530 (December 1993), LR 23:857 (July 1997), LR 48:995 (April 2022), LR 50:

#### §125. Weights and Measures Fee Structure

A. - I. ...

J. The annual fee for registration of electric vehicle charging devices will be \$100 per charging point.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4608 and 3:4622.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 19:1534 (December 1993), amended LR 23:857 (July 1997), LR 30:1142 (June 2004), LR 42:218 (February 2016), LR 42:1649 (October 2016), LR 47:852 (July 2021), LR 47:1840 (December 2021), LR 50:

#### §127. Registration

A. - E. ...

F. Electric vehicle charging points shall be registered according to the following criteria:

1. make;
2. model;
3. serial number; and
4. level.

G. A late fee of \$25 will be assessed for each commercial weighing and measuring device, weighmaster, service agency, and service technician, when the application is submitted after December 31, with a maximum penalty of \$100 per location.

H. A late fee of \$25 will be assessed for each new device not registered within 30 days from the date it is put into service.

I. 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.

J. 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.

K. Each application for annual registration shall be accompanied by payment of the required fee and said registration shall be valid until December 31. To remain valid, each annual registration must be renewed before January 1. This Subsection shall not apply to the registration of taxicab meters.

L. Taxicab meters shall be registered annually with the division. Each registration shall be valid for one year from the date of issuance. Taxi meters may only be registered with the division upon completion of an inspection of the taxi meter by the department and payment of the required

registration fee. The inspection period for taxicab meters for registration purposes shall occur from January 1 through June 30 each year. After June 30, inspections for registration purposes will be done by appointment only.

1. If a taxicab operates in a municipality or parish which requires a local inspection, the inspection required under this Part shall be completed no later than the month in which the taxicab's parish, municipal, or airport inspection is due.

2. Taxicab meters inspected after June 30 will be charged a late fee of \$25 unless the late inspection is due to a meter being new, repaired, replaced, or being placed in a different vehicle.

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

N. 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.

O. 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.

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

Q. 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.

R. 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.

S. 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.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4603 (formerly R.S. 55:3), 3:4607, 4608, and 3:4622.

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), LR 41:2098 (October 2015), LR 42:1649 (October 2016), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services LR 47:562 (May 2021), LR 47:1840 (December 2021), LR 50:

#### **Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed rule on the family has been considered. This proposed rule has a positive impact on family functioning, stability, or autonomy as described in R.S. 49:972 by ensuring equity in the marketplace in relation to ensuring that EVSE meets nationally establish specifications and are proven to be

accurate. The proposed rule has no known or foreseeable impact on:

1. the authority and rights of persons regarding the education and supervision of their children;
2. family earnings and family budget;
3. the behavior and personal responsibility of children;
4. the ability of the family or a local government to perform the function as contained in the proposed Rule.

#### **Poverty Impact Statement**

The proposed Rule should not have any known or foreseeable impact on any child, individual, or family as defined by R.S. 49:973.B. In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

#### **Small Business Analysis**

The proposed Rule should have no adverse impact on small business as defined in the Regulatory Flexibility Act.

#### **Provider Impact Statement**

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

#### **Public Comments**

Interested persons may submit written comments, data, opinions and arguments regarding the proposed rule via U.S. Mail or hand delivery. Written submissions must be directed to Paul Floyd, Director of Weights and Measures, Louisiana Department of Agriculture and Forestry, 5825 Florida Blvd, Baton Rouge, LA 70806, and must be received no later than 4 p.m. on December 10, 2023. All written comments must be signed and dated.

Mike Strain, DVM  
Commissioner

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

#### **RULE TITLE: Registration Requirements and Fees for Electric Vehicle Supply Equipment**

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

The proposed rule change will result in an increase in costs of approximately \$115,610 in FY 24. It is estimated that \$55,610 of that total will be for associated operating costs, and \$60,000 for the electric vehicle service equipment testing system. For FY 25, the costs will increase to approximately \$185,330, of which \$65,330 is for associated operating costs,

and \$120,000 (\$60,000 each) is for the electric vehicle service equipment testing systems, two in total. In FY 26 and thereafter, the costs are estimated at \$65,330 to cover associated operating expenses. The Louisiana Department of Agriculture and Forestry (LDAF) will use existing staff and existing software to document the inspections and registration.

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

LDAF estimates approximately 554 devices would need to be registered in FY 24. The proposed rule change establishes a \$100 annual registration fee. The anticipated revenue increase for FY 24 is \$55,400. The number of charging points is expected to continue to increase in the future with increased Electric Vehicle (EV) adoption. The department estimates the number of charging stations will double in FY 25, increasing revenue collections to approximately \$110,800. In FY 26, the department anticipates the number of charging stations to grow by 25%, increasing revenue collections to approximately \$138,500. The proposed rule change establishes LDAF Weights and Measures Division requirements and fees for registration of electric vehicle charging devices to be deposited into the statutorily dedicated Weights and Measures Fund. The registration requirements are consistent with the requirements for other commercial weighing and measuring devices established in LAC 7.XXXV.127. The fee proposed in LAC 7.XXXV.125 is based on information gathered from other jurisdictions that have established an electric vehicle supply equipment (EVSE) inspection program and is proposed to offset the cost of testing and inspecting these devices. The proposed rule change establishes that EVSE shall be registered with the LDAF. Further, it establishes that the Commissioner of Agriculture and Forestry may establish a fee schedule for registering EVSE and establishes the fee schedule and registration requirements for EVSE.

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

The proposed rule establishes the requirements for registering EVSE devices and establishes a fee schedule. Owners or operators of commercial charging points will be required to register the devices with the Weights and Measures Division at a proposed fee of \$100 per charging point per year. This fee will be used to defer the cost of testing and inspecting commercial EV devices. This fee is in line with other states for their registration of the devices.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no anticipated impacts on competition and employment as a result of the proposed rule change.

Dane K. Morgan  
Assistant Commissioner  
2311#027

Patrice Thomas  
Deputy Fiscal Officer  
Legislative Fiscal Office

## NOTICE OF INTENT

### Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Graduation Appeals Process  
(LAC 28: CXV.717, 2321, and 2322)

Editor's Note: This Notice of Intent is being repromulgated to correct submission errors. The title of this proposed Rule has been adjusted to reflect the contents. The fiscal and economic impact statement was revised by the Legislative Fiscal Office and printed in the October 20, 2023 *Louisiana Register* on pages 1870-1871. This edited statement has been incorporated

into this repromulgation. The original Notice of Intent can be viewed in its entirety on pages 1299-1303 of the July 20, 2023 *Louisiana Register*.

In accordance with the provisions of R.S. 17:6(A)(10) and the Administrative Procedure Act (APA), R.S. 49:953(B)(1) et seq., the Board of Elementary and Secondary Education proposes to amend LAC 28: CXV in *Bulletin 741—The Louisiana Handbook for School Administrators*. The proposed revisions create an appeals process for graduation. This appeals process creates a rigorous evaluation method in which in a student's senior year, a student, who fails to achieve a "passing" score on the end-of-course exam in a testing pair may demonstrate proficiency using a portfolio. All students will still be required to take all state assessments. The change will be to allow for an appeals process for purposes of graduation only.

### Title 28

### EDUCATION

### Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

### Chapter 7. Records and Reports

### §717. Reports of High School Credit

A. - A.3. ...

#### B. Reporting and Review for State Diplomas Issued on Appeal

1. No later than October 1 annually, LEAs shall submit the following graduation data by school site via the student transcript system (STS). The LDOE will compile and submit a report to BESE annually in December, which will include the following:

- a. the total number of students issued a diploma;
- b. the number of students issued a diploma via an appeal of the assessment requirement granted via SBLC;
- c. the number of students considered by an SBLC for appeal of the assessment requirement;
- d. the number of students in the graduation cohort who did not earn a diploma by August 31 of that year; and
- e. an example of three exemplary portfolios that may be used by the department as examples for LEAs and school sites.

2. At the January 2026 BESE meeting the LDOE shall submit a report to BESE, detailing data for the initial two school years of implementation regarding appeals to the assessment requirements for the purposes of graduation eligibility. The report shall serve as a reference for BESE to use in determining if policy revisions are necessary. The LDE will report to BESE annually thereafter and will include the following:

- a. the percentage of college enrollment after high school exit of all graduating students, students issued a diploma via the graduation appeals process, and non-graduates in each respective graduation cohort;
- b. to the extent that data is available, the percentage of employment after high school exit of all graduating students, students issued a diploma via the graduation appeals process, and non-graduates in each respective graduation cohort; and
- c. the number of IBCs earned by type of all graduating students, students issued a diploma via the graduation appeals process, and non-graduates in each respective graduation cohort.

### C. Auditing of Diplomas Issued on Appeal

1. In the event the number of students, issued a diploma via an appeal, exceeds three percent of the respective graduation cohort of a school site, the governing LEA shall submit additional data to LDOE to be included in the BESE annual report. At a minimum, the additional data shall include Subgroup population information as follows for each school site which exceeds the three-percent threshold:

- a. African American;
- b. American Indian/Alaskan Native;
- c. Asian;
- d. Hispanic;
- e. white;
- f. two or more races;
- g. economically disadvantaged;
- h. immigrants;
- i. English learners;
- j. students with disabilities;
- k. students with 504 plans;
- l. homeless students;
- m. military-affiliated students; and
- n. Foster care students.

2. After an initial audit regarding the three percent threshold, a school, serving a unique population and in compliance with appeals eligibility requirements, shall be exempt from consecutive audits

3. If the initial audit yields discrepancies in the implementation of the appeals process, the State Superintendent of Education, may be the final authorizer for the respective school site the following year.

#### D. Random Sampling for Appeals Audits

1. For the students described in Subsection C of this Section, the LDOE may audit a random sampling of the full appeals packets brought to SBLC team to include the following:

- a. an appeals cover page which attests completion of appeal requirements and signatures of the SBLC team in which the appeal was granted;
- b. evidence of intervention required by §2321.E of this Part;
- c. evidence of content proficiency through the state assessment requirement or portfolio submission;
- d. evidence of employability; and/or
- e. any additional documentation requested by the LDOE for the respective students.

E. Prior to the date of graduation or options program completion, the LDOE shall have the authority to determine the issuance of a diploma or an options program skill certificate.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6(A)(11).

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 31:1270 (June 2005), amended LR 39:2204 (August 2013), LR 50:

## Chapter 23. Curriculum and Instruction

### Subchapter A. Standards and Curricula

#### §2321. Appeals Eligibility and Requirements

A. Beginning with the 2023-2024 school year, if a student has not met state-established benchmarks in both assessments within any of the prescribed categories in §2318.A of this Part, the SBLC team may determine if the student is able to appeal the assessment requirements for the purposes of graduation eligibility.

B. Students who appeal the assessment requirement for graduation eligibility, shall be afforded the same opportunities to pursue a standard diploma to exit high school with all course credits, honors, and financial awards as other students. A student is not guaranteed a diploma and shall meet either the standard requirements for graduation or, using the process outlined in Subsection D of this Section, appeal to the respective school building level committee (SBLC) team to be awarded a diploma.

#### 1. - 3.d. Repealed

C. Pursuant to the Elementary and Secondary Education Act (ESEA), the state academic content standards shall apply to all public schools and public school students in the state and include the same knowledge and skills expected of all students and the same level of achievement expected of all students, with the exception of students with the most significant cognitive disabilities who may access alternate academic achievement standards and achievement levels. Only diplomas earned by students who have pursued the regular academic state standards and who have earned all state-required Carnegie credits shall be considered regular diplomas in the state and district accountability system, pursuant to federal laws and regulations.

#### D. Appeals Eligibility.

1. Students are eligible for an appeal to the assessment requirement no earlier than senior year and shall fulfill the following criteria:

- a. earn all Carnegie Units required for either the TOPS university diploma or career diploma, as prescribed in §2318 and §2319 of this Part; and

- b. fulfill at least one of the following conditions to demonstrate evidence of employability:

- i. demonstrate workforce readiness by a score of Silver or higher on ACT WorkKeys;

- ii. eligibility for the TOPS Tech Award; or

- iii. demonstrate mastery of specific employability skills by earning a graduation-qualifying, industry-based credential (IBC), outlined in §2319 of this Part, regardless of the diploma pathway that the student is pursuing.

- c. fulfill at least one of the following conditions to demonstrate evidence of content proficiency:

- i. fulfill the standard assessment requirement for the assessment pairs prescribed in §2318. A of this Part, or

- ii. For the freshman cohort entering 2022-2023 and beyond, complete a portfolio of work that meets the content proficiency requirement, as measured by the LDOE standardized rubric, for both LEAP 2025 courses in the assessment pairs in which the standard assessment requirement was not fulfilled.

- iii. For students entering the freshmen cohort prior to 2022-2023, the portfolio requirement may be satisfied by completing a portfolio aligned to one course in each corresponding LEAP 2025 assessment pair that was not fulfilled by the standard assessment requirement.

2. Pursuant to §707 of this Part, for a transfer student transferring into a Louisiana public school district from an out-of-state school, nonpublic school, or approved home study program, proficiency shall be demonstrated via successful completion of coursework and the issuance of Carnegie credit. A transfer student is not required to take the LEAP 2025 assessment in the courses that were transferred and accepted as Carnegie credit. For the purposes of appeals

eligibility, a portfolio of work need not be completed for coursework fulfilled for transferred Carnegie credit.

E. Monitoring Progress and Responsibilities for Appeals Eligibility.

1. The SBLC shall monitor the progress of each student, who has not met a least one assessment requirement for graduation. The SBLC shall ensure that the student:

a. receives appropriate academic supports in any and all subjects for which the standard assessment requirement was not achieved. Additionally, each individual student graduation plan shall outline all academic supports provided. Progress, pursuant to such specified academic supports, shall be reviewed at least once throughout the school year in order to determine needed adjustments as well as effectiveness;

b. completes 30 hours of required remedial or co-requisite instruction for the LEAP 2025 exam in which the standard assessment requirement was not achieved, per *Bulletin 741*, §2318 and §2319;

c. is provided dropout prevention and mentoring services, based on proven strategies to retain and graduate at-risk students. The LDOE shall make available to LEAs, a list of strategies, as well as technical assistance needed to offer students such services; and

d. is scheduled for a meeting in order to determine eligibility for local career support with a representative from a Workforce Innovation Opportunities Act provider, Vocational Rehabilitation Services provider, or other local career support agency and its affiliated providers.

F. Appeals Consideration

1. The SBLC shall review and consider individual student appeals for any student, who meets the appeal requirements, as outlined in Subsection D of this Section. Additionally, the SBLC may consider the following in determining an appeal decision:

a. the course grade awarded for the course which the student did not attain the standard assessment requirement for graduation on the LEAP 2025;

b. the score achieved on each LEAP 2025 assessment for which the student did not attain the standard assessment requirement for graduation;

c. the score achieved on the ACT, ACT WorkKeys, and, if applicable, TOPS or TOPS Tech scholarship eligibility;

d. the rigor of secondary coursework, including, successful completion of honors courses, Advanced Placement courses, IAB, and/or dual enrollment courses;

e. completion of a sequence of courses for an IBC within the Career Diploma;

f. the strength of an attained IBC in alignment with definitions outlined in LAC 28:XI.709;

g. overall preparedness for postsecondary success, including letters or certificates of acceptance to post-secondary institutions; and

h. any other academic information designated for consideration by the LEA for appeal consideration by the SBLC.

G. For students meeting the requirements outlined in Subsection D of this Section, the SBLC may determine that the student is eligible to graduate, subject to final approval of the Local Education Agency (LEA) head. A student who appeals the assessment requirement for graduation may

graduate and receive a high school diploma on the basis of the committee decision by majority and the LEA head. This subsection does not create a property interest in graduation. The decision of the SBLC and LEA head is final and may not be appealed. Should an SBLC and LEA head not recommend a student for graduation eligibility by appeal, a student may only graduate through standard assessment requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7, R.S. 17:24.4, R.S. 17:183.2, and R.S. 17:395.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:240 (February 2006), repromulgated LR 41:1483 (August 2015), LR 50:

**§2322. Senior Projects**

**[Formerly §2321]**

A. A senior project is a focused rigorous independent learning experience completed during the student's year of projected graduation from high school.

B. Each LEA allowing students to complete a senior project in partial fulfillment of the requirements for an academic endorsement shall develop local policy for senior projects that includes these requirements.

1. Each student must choose a challenging topic of interest approved by their parents or guardians and the school-level senior project committee.

2. Each student must have a senior project mentor.

3. Students must successfully complete the four components listed below with a score of satisfactory or higher on each component. The components will be evaluated locally using rubrics provided by the LDOE:

a. research paper of 8 to 10 pages on an approved topic of the student's choice;

b. product or service related to the research requiring at least 20 hours of work;

c. portfolio that documents and reflects the senior project process; and

d. presentation to a panel of three to five adults from the community and school.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7, R.S. 17:24.4, R.S. 17:183.2, and R.S. 17:395.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 50:

**Family Impact Statement**

In accordance with section 953 and 974 of title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on rules proposed for adoption, repeal, or amendment. All Family Impact Statements will be kept on file in the state board office which has adopted, amended, or repealed rules in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

### Poverty Impact Statement

In accordance with section 973 of title 49 of the Louisiana Revised Statutes, there is hereby submitted a Poverty Impact Statement on rules proposed for adoption, amendment, or repeal. All Poverty Impact Statements will be in writing and kept on file in the state agency which has adopted, amended, or repealed rules in accordance with the applicable provisions of the law relating to public records. For the purposes of this section, the word “poverty” means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial authority? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? No.

3. Will the proposed Rule affect employment and workforce development? Yes.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

### Small Business Analysis

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed rule on small businesses.

### Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the staffing level requirements or qualifications required to provide the same level of service;

2. the cost to the providers to provide the same level of service; or

3. the ability of the provider to provide the same level of service.

### Public Comments

Interested persons may submit written comments via the U.S. Mail until noon, August 9, 2023, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis  
Executive Director

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: **Bulletin 741—The Louisiana Handbook for School Administrators—Graduation Appeals Process**

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

The proposed rule change is anticipated to increase costs within the Louisiana Department of Education (LDE) related to the creation of a rubric for each subject area of the portfolio of work as well as to the review of audits.

The proposed change creates an appeals process for certain students who do not meet current graduation requirements. Louisiana is the one of eight states in the country which has high stakes testing for graduation, but it is the only state in the country which does not have an alternative method for appeals in order for students to demonstrate proficiency in the content being assessed. The proposed appeal process creates a rigorous evaluation method in which, during a student’s senior year, a student who fails to achieve a “passing” score on the end-of-course exam in a testing pair may demonstrate proficiency using a portfolio. All students will still be required to take all state assessments. The change will allow for an appeals process for purposes of graduation only.

Per LA R.S. 17:24.4, standards-based assessments in English language arts, mathematics, science, and social studies based on state content standards and rigorous student achievement standards set with reference to test scores of students of the same grade level nationally shall be implemented by the State Board of Elementary and Secondary Education. Such tests shall be administered, at a minimum, in grades three through eleven. Further, the statute states, F(1)(j)(3)(a), that, “in lieu of the standards-based assessments prescribed in Subparagraphs (1)(c) and (d) of this Subsection, an alternate assessment shall be provided for and administered only to those students with disabilities who meet specific eligibility criteria developed by the state Department of Education (LDE) and approved by the State Board of Elementary and Secondary Education (BESE). A determination of whether any student meets the eligibility criteria established by the state Department of Education shall be made by the student’s Individualized Education Program committee and shall be so noted on that student’s Individualized Education Program.” This rule change does not allow for an alternate assessment, waiver of policy, or an alternate pathway for graduation. It simply institutes an appeals process for students in order to satisfy the graduation requirement via the portfolio by demonstrating proficiency in that regard, as opposed to achieving a certain score on standardized tests. Achieving a specific score on course assessments is not currently outlined in policy, but rather, the test must be administered to all students, excluding special education students, and scores are averaged into a student’s course grade. This process will not allow for a course grade to be altered in any way.

Additionally, the student must provide evidence of employability by earning a silver or better on the WorkKeys assessment, earning a TOPS Tech award, or earning an approved Louisiana Jump Start Industry Based Credential. Students who have not met the approved Carnegie unit requirements for the TOPS University or TOPS Tech Career Diplomas are not eligible for an appeal. Approval of the appeal is made by the School Building Level Committee (SBLC) and the local education agency (LEA) leader. School sites who exceed an appeal rate of 3% of a graduating cohort are subject to an audit by LDE.



LDE reports the development of rubrics to assess mastery of standards in each subject through a portfolio of entries would require the work of Teacher Leader Advisors (TLAs), who complete tasks in areas of expertise through contracts for different types of deliverables. Based on LDE estimates, it could cost approximately \$76,600 for the project management and the TLA contracts to develop items for each standard. Internal review of the items would be absorbed by existing staff. LDE further reports the auditing of schools outside of the 3% limit would require an additional Education Program Consultant 3 position. Beginning in FY 24, the cost for this position would be \$119,503.19 (\$104,414.50 salary and \$15,088.69 related benefits). Finally, LDE reports scoring of portfolios during the year subsequent to audit findings of a school with more than the allowable number of diplomas issued would require the work of contracted reviewers and is estimated at \$150 per review (in this case, per subject) based on similar work. This total cost would depend on the number of portfolios submitted during the year following the finding of discrepancies in appeals process implementation.

The already established School Building Level Committee (SBLC) and the Local Education Agency (LEA) head, will score portfolios with a standardized rubric, which will be subject to an annual audit. The SBLC is currently doing much of this work; therefore, the proposed rule change should not increase costs for the local school districts.

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

The proposed rule change will not have an effect on revenue collections of state or local governmental units.

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

The proposed rule change will benefit certain high school seniors by allowing students to graduate via an alternate portfolio approach. Some students may graduate on time despite not meeting the LEAP 2025 assessment requirements for graduation. In years prior to COVID, approximately 5% to 7% of public-school students did not meet graduation requirements. This policy change will allow these students to demonstrate the fulfillment of the same course proficiency standards as currently proven via standardized assessments, through an appeal in which the portfolio will serve as a substitute in verifying course competency.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Data from the US Bureau of Labor Statistics reveals that 41.9% of high school dropouts are engaged in work or looking for work compared to 69.2% of high school graduates. Data on high school graduates in Texas who utilized the state's appeal process show they have employment rates that are statistically

indistinguishable from national data on high school graduates. The assumption is that Louisiana can expect similar results for students who graduate using this new appeals process. The median weekly wage of a high school dropout is \$626 compared to \$809 for an individual with a high school diploma. Additionally, because the appeal has an employability component, we can expect a greater number of students graduating with an industry-based credential that is aligned with regional and statewide workforce needs.

Shan N. Davis  
Executive Director  
2311#052

Patrice Thomas  
Deputy Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

Bulletin 118—Statewide Assessment Standards and Practices—English Language Proficiency Test Connect Cut Scores (LAC 28:XI.7311)

In accordance with the provisions of R.S. 17:6(A)(10) and the Administrative Procedure Act (APA), R.S. 49:953(B)(1) et seq., the Board of Elementary and Secondary Education (BESE) proposes to amend LAC 28:XI.7311 in Bulletin 118—*Statewide Assessment Standards and Practices*. The proposed revisions set forth the alternative assessment English Language Proficiency Test (ELPT) Connect cut scores for English learners with significant cognitive disabilities.

**Title 28  
EDUCATION**

**Part XI. Accountability/Testing**

**Subpart 3. Bulletin 118—Statewide Assessment Standards and Practices**

**Chapter 73. English Language Proficiency Test (ELPT)**

**Subchapter D. Performance Levels and Proficiency Standards**

**[Formerly LAC 28:CXI.2311]**

**§7311. Proficiency Standards**

A. Performance standards for English proficiency in listening, speaking, reading, and writing tests are finalized in scaled-score form. The scaled-score ranges vary per grade and grade band.

1. ELPT Performance Standards Cut Scores

ELPT Performance Standards Cut Scores					
Domain	Performance Standard Level 1	Performance Standard Level 2	Performance Standard Level 3	Performance Standard Level 4	Performance Standard Level 5
* * *					

2. ELPT Connect Performance Standards Cut Scores

ELPT Connect Performance Standards Cut Scores				
Domain	Performance Standard Level 1	Performance Standards Level 2	Performance Standards Level 3	Performance Standards Level 4
<b>Kindergarten</b>				
Listening	61 or below	62-70	71-82	83-99
Speaking	73 or below	74-83	84-91	92-99
Reading	61 or below	62-70	71-82	83-99

ELPT Connect Performance Standards Cut Scores				
Domain	Performance Standard Level 1	Performance Standards Level 2	Performance Standards Level 3	Performance Standards Level 4
Writing	73 or below	74-83	84-91	92-99
<b>Grade One</b>				
Listening	56 or below	57-64	65-83	84-99
Speaking	67 or below	68-82	83-94	95-99
Reading	56 or below	57-64	65-83	84-99
Writing	67 or below	68-82	83-94	95-99
<b>Grade Two</b>				
Listening	50 or below	51-60	61-79	80-99
Speaking	61 or below	62-80	81-87	88-99
Reading	50 or below	51-60	61-79	80-99
Writing	61 or below	62-80	81-87	88-99
<b>Grade Three</b>				
Listening	55 or below	56-65	66-82	83-99
Speaking	66 or below	67-83	84-89	90-99
Reading	55 or below	56-65	66-82	83-99
Writing	66 or below	67-83	84-89	90-99
<b>Grade Four</b>				
Listening	38 or below	39-51	52-83	84-99
Speaking	41 or below	42-72	73-80	81-99
Reading	38 or below	39-51	52-83	84-99
Writing	41 or below	42-72	73-80	81-99
<b>Grade Five</b>				
Listening	44 or below	45-57	58-86	87-99
Speaking	48 or below	49-77	78-84	85-99
Reading	44 or below	45-57	58-86	87-99
Writing	48 or below	49-77	78-84	85-99
<b>Grade Six</b>				
Listening	33 or below	34-42	43-79	80-99
Speaking	41 or below	42-64	65-83	84-99
Reading	33 or below	34-42	43-79	80-99
Writing	41 or below	42-64	65-83	84-99
<b>Grade Seven</b>				
Listening	34 or below	35-44	45-80	81-99
Speaking	42 or below	43-66	67-84	85-99
Reading	34 or below	35-44	45-80	81-99
Writing	42 or below	43-66	67-84	85-99
<b>Grade Eight</b>				
Listening	35 or below	36-45	46-80	81-99
Speaking	44 or below	45-67	68-85	86-99
Reading	35 or below	36-45	46-80	81-99
Writing	44 or below	45-67	68-85	86-99
<b>Grade Nine-Twelve</b>				
Listening	35 or below	36-46	47-82	83-99
Speaking	49 or below	50-67	68-76	77-99
Reading	35 or below	36-46	47-82	83-99
Writing	49 or below	50-67	68-76	77-99

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 20 USCS, Section 6311.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:260 (February 2007), amended LR 34:2556 (December 2008), repromulgated LR 35:61 (January 2009), LR 44:474 (March 2018), LR 46:16 (January 2020), LR 50:

#### Family Impact Statement

In accordance with section 953 and 974 of title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on rules proposed for adoption, repeal, or amendment. All Family Impact Statements will be kept on file in the state board office which has adopted, amended, or repealed rules in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

### Poverty Impact Statement

In accordance with section 973 of title 49 of the Louisiana Revised Statutes, there is hereby submitted a Poverty Impact Statement on rules proposed for adoption, amendment, or repeal. All Poverty Impact Statements will be in writing and kept on file in the state agency which has adopted, amended, or repealed rules in accordance with the applicable provisions of the law relating to public records. For the purposes of this section, the word “poverty” means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial authority? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? No.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

### Small Business Analysis

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed rule on small businesses.

### Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the staffing level requirements or qualifications required to provide the same level of service;

2. the cost to the providers to provide the same level of service; or

3. the ability of the provider to provide the same level of service.

### Public Comments

Interested persons may submit written comments via the U.S. Mail until noon, December 10, 2023, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis  
Executive Director

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: English Language Proficiency Test Connect Cut Scores

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

There are no anticipated implementation costs or savings to state or local governmental units due to the proposed rule changes to LAC 28:XI. Bulletin 118—Statewide Assessment Standards and Practices. The proposed change sets forth the alternative assessment English Language Proficiency Test (ELPT) Connect cut scores for English learners with significant cognitive disabilities.

In the 2022-2023 school year, Louisiana administered the first alternate assessment for the English Language Proficiency Test designed for English learners with significant cognitive disabilities. Louisiana is one of nine states that are members of the Collaborative for the Alternate Assessment of English Language Proficiency (CAAELP), a federally funded, four-year project (2019–2023) in collaboration with the Iowa Department of Education and the National Center for Research on Evaluation, Standards, and Student Testing (CRESST) at the University of California, Los Angeles (UCLA).

Performance standards and cut scores, based on first-year operational administration student data, were developed from reviews and recommendations of the CAAELP Consortium Collaborative Council, including representatives from the Louisiana Department of Education (LDE) Office of Assessments, Accountability, and Analytics.

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

The proposed rule change will not have an effect on revenue collections of state or local governmental units.

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

The proposed rule change will not result in costs and/or economic benefits to directly affected persons, small businesses, or non-governmental groups.

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

The proposed rule change will not have an effect on competition and employment.

Beth Scioneaux  
Deputy Superintendent  
2311#053

Patrice Thomas  
Deputy Fiscal Officer  
Legislative Fiscal Office

## NOTICE OF INTENT

### Board of Regents

Meeting Accessibility and Accommodations  
(LAC 28:IX.Chapter 7)

The Louisiana Board of Regents proposes to adopt LAC 28:IX.701 through 709 as authorized by Act 393 of the 2023 Regular Session of the Louisiana Legislature. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. The Louisiana Board of Regents proposes to adopt Chapter 7 of Part IX of Title 28 of the Louisiana Administrative Code, to implement the provisions of Act 393 of the 2023 Regular

Session of the Louisiana Legislature, which amended the Open Meetings Laws to require accommodation to individuals with a disability recognized by the Americans with Disabilities Act and to allow certain advisory bodies to meet electronically.

**Title 28  
EDUCATION**

**IX. Regents**

**Chapter 7. Meeting Accessibility and Accommodations**

**§701. Public Meeting Accommodations**

A. Despite the ineligibility to conduct open meetings via electronic means, the Board of Regents shall provide for participation via electronic means to individuals with a disability.

B. People with disabilities are defined as any of the following:

1. member of the public with a disability recognized by the Americans with Disabilities Act (ADA);
2. designated caregiver of such a person; or
3. participant member of the agency with an ADA-qualifying disability.

C. The Board of Regents shall ensure that the written public notice for an open meeting, as required by R.S. 42:19, includes the name, telephone number and email address of the agency representative to whom a disability accommodation may be submitted.

D. The designated agency representative shall provide the requestor with an accommodation, including the teleconference and/or video conference link, for participation via electronic means as soon as possible following receipt of the request, but no later than the start of the scheduled meeting.

E. Participation via electronic means shall count for purposes of establishing quorum and voting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:2, R.S. 42:2.1, R.S. 42:14 and R.S. 42:17.2.

HISTORICAL NOTE: Promulgated by the Board of Regents, LR 50:

**§703. Electronic Open Meetings for Advisory Bodies**

A. Any public body created by statute or resolution with purely advisory powers and no final authority to make any decisions and placed within the Board of Regents (Regents Advisory Body) that meets the criteria established in R.S. 42:2(H) to be eligible to conduct open public meetings via electronic means is eligible to meet electronically in accordance with R.S. 42:2.

B. Regents Advisory Body shall refer to any commission, task force, council, review panel or other such bodies created by the Legislature by law or resolution to study matters within the Regents' jurisdiction and make recommendations to the Regents and/or the Legislature. A Regents Advisory Body is purely advisory and has no authority to make any decisions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:2.1, R.S. 42:14, and R.S. 17.2.

HISTORICAL NOTE: Promulgated by the Board of Regents, LR 50:

**§705. Postings Prior to Meeting via Electronic Means**

A. At least 24 hours prior to the meeting, the Regents Advisory Body shall post the following on the Regents Advisory Body's webpage, found under [www.laregents.edu](http://www.laregents.edu):

1. meeting notice and agenda

2. detailed information regarding how members of the public may:

- a. participate in the meeting via electronic means, including the applicable videoconference link and/or teleconference phone number; and
- b. submit written comments regarding matters on the agenda prior to the meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:2.1, R.S. 42:14, and R.S. 17.2.

HISTORICAL NOTE: Promulgated by the Board of Regents, LR 50:

**§707. Electronic Meeting Requirements and Limitations**

A. For any meeting conducted via electronic means, the Regents Advisory Body shall ensure compliance with all requirements outlined in R.S. 42:17.2(C).

B. Given that the Regents Advisory Body is strictly advisory, there is no limitation as to the number of successive meetings via electronic means that may be conducted.

C. A schedule of meetings identifying which will be conducted via electronic means and which will be conducted as in-person meetings shall be posted on the Regents Advisory Body's webpage on an annual basis.

D. All members of the Regents Advisory Body, whether participating from the anchor location or via electronic means, shall be counted for the purpose of establishing a quorum and may vote.

E. An online archive of any open meetings conducted via electronic means shall be maintained and available for a minimum of two years on the Regents Advisory Body's webpage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:2.1, R.S. 42:14, and R.S. 17.2.

HISTORICAL NOTE: Promulgated by the Board of Regents, LR 50:

**§709. Disability Accommodations**

A. The Advisory Body shall provide for participation via electronic means as required under R.S. 42:14 and R.S. 42:17.2.

B. People with disabilities are defined as any of the following:

1. member of the public with a disability recognized by the Americans with Disabilities Act (ADA);
2. designated caregiver of such a person; or
3. participant member of the agency with an ADA-qualifying disability.

C. The Regents Advisory Body shall ensure that the written public notice for an open meeting, as required by R.S. 42:19, includes the name, telephone number and email address of the designated agency representative to whom a disability accommodation may be submitted.

D. The requestor shall be provided with an accommodation, including the teleconference and/or video conference link, for participation via electronic means as soon as possible following receipt of the request, but no later than the start of the scheduled meeting.

E. Participation via electronic means shall count for purposes of establishing quorum and voting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:2.1, R.S. 42:14, and R.S. 17.2.

HISTORICAL NOTE: Promulgated by the Board of Regents, LR 50:

**Family Impact Statement**

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

**Poverty Impact Statement**

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

**Small Business Analysis**

The proposed Rule will have no adverse impact on small businesses as described in R.S. 49:965.2 et seq.

**Provider Impact Statement**

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014.

**Public Comments**

Interested persons may submit written comments to Uma M. Subramanian, Louisiana Board of Regents, 1201 North Third Street, Baton Rouge, LA 70802 by close of business on December 11, 2023.

Uma Subramanian  
Executive Counsel

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES  
RULE TITLE: Meeting Accessibility and Accommodations**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)  
The proposed rule change may result in marginal savings to the Board of Regents in future fiscal years from decreased travel expenses associated with meetings that are hosted electronically. The proposed changes apply to task forces operating in an advisory capacity within the Board of Regents and would allow for hosting meetings electronically. There are no anticipated impacts to local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
The proposed rule change will have no estimated effect on revenue collections for state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)  
The proposed rule change will have no estimated effect on costs to directly affected persons, small businesses, or non-

governmental groups. Directly affected person may realize a savings associated with not traveling to a meeting location as a result of meetings taking place electronically.  
IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
The proposed rule change will have no effect on competition and employment.

Matthew LaBruyere  
Deputy Commissioner  
2311#055

Patrice Thomas  
Deputy Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT  
Office of the Governor  
Board of Architectural Examiners**

General Disciplinary Guidelines  
(LAC 46:I.1907)

Notice is hereby given that the Board of Architectural Examiners, in accordance with the provisions of R.S. 49:950 et seq., and through the authority granted in R.S. 37:144.C, proposes to amend LAC 46:I.1907.E pertaining to its General Disciplinary Guidelines.

The proposed amendment to §1907.E concerns the fine which shall be imposed, absent aggravating or mitigating circumstances, upon firms found to have practiced architecture with an expired certificate of authority. For a firm found to have practiced architecture with an expired certificate of authority, the fine imposed will be reduced to \$250 for practicing architecture three months to six months; \$500 for practicing architecture six months to twelve months or fraction thereof, and \$500 per year for practicing architecture for more than one year or fraction thereof.

**Title 46  
PROFESSIONAL AND OCCUPATIONAL  
STANDARDS  
Part I. Architects**

**Chapter 19. Rules of Conduct: Violations  
§1907. General Disciplinary Guidelines**

- A. - D. ...
- E. Absent aggravating or mitigating circumstances, the following discipline shall be imposed for the following violations. The maximum penalty for any violation is a \$5,000 fine per violation, revocation, and public reprimand.

Violation	Provision	Discipline
	* * *	
Individual or firm practice with an expired license	R.S. 37:152.B provides that no architect shall use his seal or stamp or do any other act as an architect unless he is at the time duly registered. R.S. 37:153.A.3 prohibits practicing architecture at a time when current renewal has not been obtained in accordance with the law.	Fine is based on length of time of such practice: three (3) months to six (6) months - \$500 fine; six (6) months to twelve (12) months or fraction thereof- \$1,000 fine; after one (1) year or fraction thereof, \$1,000 fine per year. Public reprimand.
Firm practice with an expired certificate of authority	R.S. 37:154.A provides that no person, corporation, company, firm, business entity, or individual shall practice, or offer to practice, architecture in this state without being certified in accordance with the provisions of this Chapter or attempt to use an expired certificate of registration.	Fine is based on length of time of such practice: three (3) months to six (6) months - \$250 fine; six (6) months to twelve (12) months or fraction thereof, \$500 fine; after One (1) year of fraction thereof, \$500 fine pers year. Public reprimand.
	* * *	

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners, LR 39:484 (March 2013), amended LR 50:

#### **Family Impact Statement**

In accordance with R.S. 49:961(A)(2)(h)(i) and 972, the following Family Impact Statement is submitted with the Notice of Intent for publication in the *Louisiana Register*: The proposed Rule has no known impact on family formation, stability, or autonomy.

#### **Poverty Impact Statement**

In accordance with R.S. 49:961(A)(2)(h)(ii) and 973, the following Poverty Impact Statement is submitted with the Notice of Intent for publication in the *Louisiana Register*: The proposed Rule has no known impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

#### **Small Business Analysis**

In accordance with R.S. 49:961(A)(2)(h)(iv) and 974.5, the following Small Business Regulatory Flexibility Analysis is submitted with the Notice of Intent for publication in the *Louisiana Register*: The impact of the proposed Rule on small businesses has been considered. LSBAE has, consistent with health, safety, environmental, and economic welfare, considered utilizing regulatory methods that will accomplish the objective of applicable statutes while minimizing adverse impact on small businesses. The proposed Rule is not anticipated to have an adverse impact on small businesses.

#### **Provider Impact Statement**

In accordance with HCR 170 of the 2014 Regular Legislative Session, the following Provider Impact Statement is submitted with the Notice of Intent for publication in the *Louisiana Register*: The proposed Rule has no known effect on the staffing level requirements or qualifications required to provide the same level of service, the cost to the provider to provide such services, or the ability of the provider to provide the same level of service.

#### **Public Comments**

Interested persons may submit written comments on the proposed Rule to Tyson Ducote, Executive Director, Louisiana State Board of Architectural Examiners, 9625 Fenway Avenue, Suite B, Baton Rouge, LA 70809. All comments must be submitted by 4:30 p.m. on December 15, 2023.

Tyson Ducote  
Executive Director

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

#### **RULE TITLE: General Disciplinary Guidelines**

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

The proposed rule change will not result in any costs or savings to state and local governmental units.

The proposed rule change does the following:

1) Updates language for fines imposed on individuals found by the Board of Architectural Examiners to have practiced architecture with an expired certificate of authority to match current practices.

2) Reduces the fine imposed on a firm found by the board to have practiced architecture with an expired certificate of authority. Specifically, the proposed rule change reduces the fine imposed on firms practicing without a license to 50% of the fine imposed on individuals practicing without a license. Therefore, the fine for such practice will be:

- \$250 for three to six months
- \$500 for six months to 12 months or fraction thereof
- \$500 per year after one year or fraction thereof

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

The proposed rule is anticipated to decrease revenue collections of the state. Over a five-year period, the board has collected an average of \$6,710 annually in fines imposed on firms. The proposed rule change reduces the fine on firms by 50%. Assuming the collection trend remains the same, this would lead to a reduction of approximately \$3,355 annually (\$6,710 average annual collection x 50%). To the extent the board collects more or less than the average in any given year, the impact of reducing the fine will vary accordingly.

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

The proposed rule change will positively impact firms who are found by the board to have practiced architecture with an expired certificate of authority. Existing guidelines provide that firms will be fined for practicing with an expired certification of authority, and the amount of the fine varies depending upon the length of time of the expired practice. Under the proposed rule, firms will pay half the fine currently imposed.

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

The proposed rule change is not anticipated to have any impact on competition and employment. Only a handful of firms are found by the board each year to have practiced architecture with an expired certificate of authority. Under the proposed rule, those firms will pay half the fine currently imposed.

Tyson J. Ducote  
Executive Director  
2311#058

Patrice Thomas  
Deputy Fiscal Officer  
Legislative Fiscal Office

### **NOTICE OF INTENT**

#### **Office of the Governor Board of River Port Pilot Commissioners for the Port of New Orleans**

Education Requirements  
(LAC 46:LXX Chapter 32)

Notice is hereby given that in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority vested in the Board of River Port Pilot Commissioners for the Port of New Orleans R.S. 34:991, the board proposes to amend its rules governing river port pilots by establishing education requirements for applicants consistent with the pilot commissions regulating pilots in Louisiana requiring applicants to obtain a maritime bachelor's degree by an educational institution approved by the Federal Maritime Administration.

The effective date of the amendments to Section 3205 is December 31, 2025. Any applicant who has been certified as an apprentice candidate for the year 2026 have satisfied the

education and service requirements prescribed in Section 3205 in future apprentice application processes.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL STANDARDS**

**Part LXX. River Pilots**

**Subpart 2. Board of River Port Pilot Commissioners**

**§3205. Education Qualifications**

A. The pilot apprentice applicant shall be a graduate from either The U.S. Merchant Marine Academy (deck curriculum), The U. S. Coast Guard Academy and qualified as officer-in-charge of a navigational watch, The U.S. Naval Academy and qualified as officer-in-charge of a navigational watch, The Great Lakes Maritime Academy (deck curriculum) or any other maritime academy approved by and conducted under rules prescribed by the federal maritime administrator and listed at Title 46, Code of Federal Regulations, Part 310. Additionally, each applicant must have held one of the licenses described in §3203. A.1., A.2.a., or A.2.b. for a period of one year prior to December 31 of the year the application is submitted to become an apprentice candidate.

B. Applicants shall document the aforementioned requirements by providing the board with an official transcript of the mandatory educational requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:991(B)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of River Port Pilot Commissioners, LR 29:2069 (October 2003), amended LR 35:1833 (September 2009), LR 38:2369 (September 2012), LR 47:879 (July 2021), LR 50:

**Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of the proposed amendments on the family has been considered. It is not anticipated that the proposed amendments will have any impact on family, formation, stability or autonomy, as described in R.S. 49:972.

**Poverty Statement**

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the impact of the proposed amendments on those that may be living at or below one hundred percent of the federal poverty line has been considered. It is not anticipated that the proposed amendments will not have any impact on child, individual or family poverty in relation to individual or community asset development, as described in R.S. 49:973.

**Small Business Analysis**

It is not anticipated that the proposed amendments will have any adverse impact on small businesses as defined in the Regulatory Flexibility Act, R.S. 49:965.2 et seq.

**Provider Statement**

In compliance with HCR 170 of the 2014 Regular Session of the Louisiana Legislature, the impact of the proposed amendments on organizations that provide services for individuals with developmental disabilities has been considered. It is not anticipated that the proposed amendments will have any impact on the staffing, costs or overall ability of such organizations to provide the same level of services, as described in HCR 170.

**Public Comments**

Interested persons may submit written data, views, arguments, information or comments on the proposed amendments to Michael R. Delesdernier, 2728 Athania Pky., Metairie, LA, 70002 (504) 218-7477. He is responsible for responding to inquiries. Written comments will be accepted until December 11, 2023 at 4 p.m.

**Public Hearing**

A request pursuant to R.S. 49:953(A)(2) for a public hearing must be made in writing and received by the Board within 20 days of the date of this notice. If a public hearing is requested to provide data, views, arguments, information or comments orally in accordance with the Louisiana Administrative Procedure Act, the hearing will be held on December 18, 2023, starting at 10 a.m., at the office of the Board of River Port Pilot Commissioners for the Port of New Orleans Louisiana State Board of Medical Examiners, 2728 Athania Pky., Metairie, LA, 70002.

Capt. Mark Delesdernier III  
President

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

**RULE TITLE: Education Requirements**

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

The proposed rule change will not result in any costs or savings to state and local governmental units. The proposed rule change amends the requirement for the pilot apprentice applicant from a bachelor's degree from any institution to a bachelor's degree from an institution approved by the Federal Maritime Administration. This change will bring the education requirements for the River Port Pilot Commissions in line with other pilot commissions in the state.

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

The proposed rule change will not affect revenue collections of the state or local governmental units.

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

The proposed rule change may have a minimal impact on those seeking to become a pilot apprentice. The proposed rule change requires pilot apprentice applicants have a degree from an educational institution approved by the Federal Maritime Administration. Of the 26 applicants in both 2022 and 2023 only two applicants did not meet this requirement. Though these applicants will remain eligible under the proposed rule, any future applicants that have not obtained their bachelor's degree from an institution approved by the Federal Maritime Administration will become ineligible.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change may have a minimal impact on competition and employment. The requirement for pilot apprentice applicants to receive a bachelor's degree from an institution approved by the Federal Maritime Administration may reduce the number of applicants in future years.

Capt. Mark Delesdernier III  
President  
2311#024

Patrice Thomas  
Deputy Fiscal Officer  
Legislative Fiscal Office

## NOTICE OF INTENT

### Office of the Governor Department of Veterans Affairs

Veterans' Affairs (LAC 4:VII.Chapter 9)

Under the authority of R.S. 29:252-261, 288-290, 295, 381-391, R.S. 36:781-787, R.S. 42:17.2, and R.S. 46:121-123, 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 Department of Veterans Affairs regulations, LAC 4:VII.Chapter 9.

The revisions are necessary to comply with statutes updated since 2019, the last time that the Department of Veterans Affairs promulgated new rules. The proposed updates repeal rules that are outdated or restate statutes; amend other rules for clarity and to conform with current legislation; add rules for the Veterans Affairs Commission and the Military Family Assistance Fund to conduct open meetings via electronic means; add rules regarding residency eligibility documentation for Title 29 educational benefits and for certain National Guardsmen and reserve components of the Armed Forces to be buried in state-run veterans cemeteries; and codify the appeal procedures for denials of Title 29 educational benefits and Louisiana National Guard disability benefits.

#### Title 4 ADMINISTRATION

#### Part VII. Governor's Office

#### Chapter 9. Veterans' Affairs

#### Subchapter A. Veterans' Affairs Commission

#### §901. Office of the Secretary

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:781 and 783-786.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, Veterans Affairs Commission, LR 38:1015 (April 2012), repealed LR 50:

#### §903. Officers

A. The chairman and vice chairman of the commission shall be elected at the first meeting following the governor's appointment of the total commission or at the first meeting held following July 1 in even-numbered years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:253 and R.S. 36:781.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, LR 7:486 (October 1981), amended by the Office of the Governor, Department of Veterans Affairs, Veterans Affairs Commission, LR 38:1016 (April 2012), LR 50:

#### §907. Meetings

A. The commission does not meet the criteria pursuant to R.S. 42:17.2 to be eligible to conduct open public meetings via electronic means because it does not conduct at least six regularly scheduled meetings in a calendar year. Nonetheless the commission is obligated to provide for participation via electronic means on an individualized basis by people with disabilities.

1. People with disabilities are defined as any of the following:

- i. a member of the public with a disability recognized by the Americans with Disabilities Act (ADA);
- ii. a designated caregiver of such a person; or
- iii. a participant member of the commission with an ADA-qualifying disability.

2. The written public notice for an open meeting, as required by R.S. 42:19, shall include the name, telephone number and email address of the agency representative to whom a disability accommodation may be submitted.

4. The requestor shall be provided with an accommodation, including the teleconference and/or video conference link, for participation via electronic means as soon as possible following receipt of the request, but no later than the start of the scheduled meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:253, R.S. 36:781, and R.S. 42:17.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans' Affairs, LR 7:486 (October 1981), amended by the Office of the Governor, Department of Veterans Affairs, Veterans Affairs Commission, LR 38:1016 (April 2012), amended by the Office of the Governor, Department of Veterans Affairs, LR 45:1588 (November 2019), LR 50:

#### Subchapter B. State Educational Aid Program §917. Eligibility

A. Application must be made through the Parish Veterans Service Office. In order to be eligible to receive educational benefits under R.S. 29:288 et seq., the following criteria must be met.

1. Any child applicant applying for these educational benefits must be not less than 16 nor more than 25 years of age, and marriage is not a bar to the program. Child applicants must meet the dependence requirements of the United States Department of Veterans Affairs pursuant to 38 CFR §3.57 and §3.204 through §3.211.

2. The spouse has no age limit but must use the benefit within 10 years of the date eligibility is established. Remarriage is a bar to this benefit. Dissolution of the remarriage does not re-establish eligibility. Program termination for a remarried surviving spouse will be the end of the semester in which the marriage takes place.

3. The eligible student must attend school on a full-time basis and maintain all academic and other enrollment standards established by the school.

4. The eligible student may attend any state college or university, including institutions under the jurisdiction of the Board of Supervisors of Community and Technical Colleges; all entrance requirements for such institution must be met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:288, R.S. 29:254.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans' Affairs, LR 7:485 (October 1981), amended LR 13:743 (December 1987), LR 19:1565 (December 1993), LR 23:1685 (December 1997), LR 26:2211 (November 1999), amended by the Office of the Governor, Department of Veterans Affairs, Veterans Affairs Commission, LR 38:1017 (April 2012), amended by the Office of the Governor, Department of Veterans Affairs, LR 45:1588 (November 2019), amended LR 50:



## §918. Proof of Residency

A. To establish that a deceased service member or veteran resided in Louisiana for one year prior to entry into service, the applicant must present one of the following:

1. the death certificate of the deceased service member or veteran;
2. the deceased service member or veteran's DD-214 showing a Louisiana residence address as the home of record;
3. the deceased service member or veteran's Louisiana high school diploma or equivalent; or
4. the deceased service member or veteran's Louisiana high school, college, or university transcripts.

B. To establish that a deceased service member or veteran resided in Louisiana for two years prior to death, or that a living veteran has resided in Louisiana for two years prior to the applicant's admission into a program of education, the applicant must present the following:

1. At least three of the following documents that include the veteran's name and a Louisiana residence address:

- a. unexpired Louisiana driver's license or Louisiana special identification card issued two or more years ago;
- b. Louisiana voter registration card issued two or more years ago;
- c. Louisiana vehicle registration issued two or more years ago;
- d. homestead tax exemption forms for the past two years;
- e. Louisiana full time resident income tax returns for the past two years, signed and marked as received by the Louisiana Department of Revenue.

2. If the applicant cannot present at least three of the documents listed above, they must present two of the documents listed above and must provide copies of at least two documents in addition to those provided from the list above. The additional documents must include the veteran's name and a Louisiana residence address and must have been issued within the two years immediately preceding the applicant's admission into a program of education.

a. Examples of acceptable additional documents include:

- i. utility bills for two separate utilities (i.e., water, sewer, gas, electric, cable/satellite TV, internet, telephone/cell phone, or garbage collection) or other utility statements showing service in veteran's name at a Louisiana residence address;
- ii. federal income tax returns for the past two years, signed and marked as received by the IRS;
- iii. financial statements (i.e., bank/credit union account, investment account, credit card account, or loan/credit financing);
- iv. employment documentation (i.e., paycheck or paycheck stub, letter from your employer on company letterhead, W-2 for earnings issued, or military orders issued);
- v. health insurance statement or explanation of benefits (EOB) for a claim or a health care bill/invoice;
- vi. Social Security documentation (i.e., Social Security Annual Statement, Numerical Identification System record, or Social Security check);

vii. homeowners or renters insurance policy or premium bill;

viii. mortgage, payment coupon, deed, escrow statement, or property tax bill;

ix. auto insurance policy;

x. unexpired firearms license (gun permit);

xi. current, valid lease agreement and rent payment receipts for a home or apartment.

C. Residency is defined as the veteran's full-time physical presence in a Louisiana household.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:288, R.S. 29:254.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, LR 50:

## §925. Appeals

A. Any applicant for educational benefits who was not issued a tuition exemption certificate may request an appeal of the department's decision by filing a written request for review of the decision by the secretary of the Department of Veterans Affairs or his designee.

B. Written requests for appeal must be filed with a veterans assistance counselor within 30 days from the notice of denial and must contain the name and mailing address of the applicant, the name and Louisiana residence address of the deceased service member or veteran, a clear statement of the reasons for the appeal, and any documents supporting the reasons for appeal.

C. A written decision will be issued by the secretary or his designee. This decision shall be the final administrative review.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:288.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, LR 50:

## Subchapter C. Veterans' Homes

### §937. Admission Requirements

A. For admission to a state-run veterans home, a veteran deemed eligible under Title 38 of the U.S. Code, spouse of a veteran, or gold-star parent must be a resident of Louisiana. State residence is not mandatory if applicant is referred from an in-state United States Department of Veterans Affairs Medical Center, or by a Louisiana Department of Veterans Affairs veterans assistance counselor. The veteran must be recommended by the home administrator and approved for admission.

B. ...

C. The applicant must undergo a medical examination prior to admission and, as a result, it must be confirmed that he/she does not have a communicable disease, does not require medical or hospital care for which the home is not equipped to provide, and does not have violent traits which may prove dangerous to the physical well-being of the other residents or employees.

D. The applicant must consent to abide by all rules and regulations governing the home and to follow the course of treatment as prescribed by the home's medical staff.

E. The applicant, or party responsible for his/her financial matters, must agree to pay the full resident care and maintenance fee. The administrator, with authorization from the secretary, may waive or defer any charge that exceeds the applicant's income.

F. An applicant for admission to the veteran home must disclose all pending criminal charges and all past felony convictions. The facility may consider the applicant's criminal background as part of its determination of whether to admit the applicant. An applicant who is required to register as a sex offender shall not be eligible for admission into the home.

G. A spouse is no longer eligible for admission if divorced from the veteran. A widow or widower is eligible for admission unless or until they remarry someone who is not a veteran.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:254.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans' Affairs, LR 9:411 (June 1983), repromulgated LR 9:549 (August 1983), amended LR 11:34 (January 1985), LR 13:86 (February 1987), LR 13:161 (March 1987), LR 13:570 (October 1987), LR 18:269 (March 1992), LR 21:801 (August 1995), amended by the Office of the Governor, Department of Veterans Affairs, Veterans Affairs Commission, LR 38:1017 (April 2012), amended by the Office of the Governor, Department of Veterans Affairs, LR 45:1589 (November 2019), LR 50:

#### **§943. Nursing Care Resident Fee**

A. Patients will be allowed to retain the first \$90 per month for personal spending and appropriate deduction(s) for any legal dependent(s). All remaining income must be applied to the care and maintenance fee until maximum care cost is reached.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:261, R.S. 29:384.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Veterans' Affairs, LR 9:411 (June 1983), repromulgated LR 9:549 (August 1983), amended LR 11:34 (January 1985), LR 13:86 (February 1987), LR 13:161 (March 1987), LR 21:802 (August 1995), LR 28:2509 (December 2002), LR 50:

### **Subchapter D. Military Family Assistance Program Fund**

#### **§961. Authority**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:121 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, LR 37:1606 (June 2011), amended LR 45:1590 (November 2019), repealed LR 50:

#### **§963. Construction of Regulations; Severability**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:121 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, LR 37:1606 (June 2011), repealed LR 50:

#### **§965. Definitions**

*Application*—a written request for financial assistance from the Military Family Assistance Fund made on the form captioned Military Family Assistance Fund Application, together with documents related thereto.

*Approval Authority*—the third party administrator for all need-based claims of \$1500 or less; the fund committee for all need-based claims of greater than \$1500 up to \$2500; and the board for all need-based claims of greater than \$2500. The fund committee and the board are the approval authority for all claims for one-time lump sum payments and all claims appealed by an eligible applicant.

*Board*—the Louisiana Military Family Assistance Board.

*Claimant*—an eligible applicant.

*Eligible Applicant*—activated military person, honorably discharged military person, or a family member of activated military person as defined in R.S. 46:121.

*Family Member of Activated Military Personnel*—the primary next of kin or an immediate family member.

*Final Appeal*—an appeal to the Louisiana Military Family Assistance Board.

*Fund Committee*—the committee comprised of three board members appointed by the chairman of the board to assist in administering the Louisiana Military Family Assistance Fund which committee shall also serve as an appellate body for all claims of \$1500 or less before a final appeal is made to the full board.

*Immediate Family Member*—with respect to an activated military person:

1. spouse;
2. a natural child, adopted child, step child, or illegitimate child, if acknowledged by the person or parenthood has been established by a court of competent jurisdiction, except that if such child has not attained the age of 18 years, the term means a surviving parent or legal guardian of such child;
3. any other person claimed as a dependent on the federal income tax of the activated military person;
4. a biological or adoptive parent, unless legal custody of the person by the parent has been previously terminated by reason of a court decree or otherwise under law and not restored;
5. a brother or sister of the person, if such brother or sister has attained the age of 18 years; or
6. any other person, if such person was given sole legal custody of the person by a court decree or otherwise under law before the person attained the age of 18 years and such custody was not subsequently terminated before that time.

*Outreach*—activities directed at improving or strengthening veteran initiatives, activities or problems.

*Third Party Administrator*—the Louisiana Department of Veterans Affairs Benefits Division, or a designee of the Secretary of the Louisiana Department of Veterans Affairs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:121 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, LR 37:1607 (June 2011), amended LR 45:1590 (November 2019), LR 50:

#### **§967. Eligibility**

A. The approval authority may, in its sole discretion, waive the requirement to seek assistance from other available sources when unusual or exigent circumstances make such application impractical or unlikely to produce results in a timely manner or when the applicant shows that the circumstances are such that other potential sources of funds are inapplicable to the particular circumstances.

B. Requests for assistance from the Military Family Assistance Fund shall not be bifurcated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:121 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, LR 37:1607 (June 2011), amended LR 45:1591 (November 2019), LR 50:

## **§969. Application Process**

A. - A.6. ...

7. If an individual other than a spouse acts on behalf of an eligible applicant in preparing and submitting the application, a signed, written statement by the applicant or a copy of a fully executed power of attorney authorizing the individual preparing and submitting the application to act on the eligible applicant's behalf must be submitted as an attachment to the application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:121 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, LR 37:1607 (June 2011), amended LR 45:1591 (November 2019), LR 50:

## **§975. Minimum Funding Levels; Reserve Level; Calculation of Funds Available for Payment of One-Time Lump Sum Awards**

A. - B. ...

C. For each fiscal year, the maximum percentage of the Military Family Assistance Fund that may be directed to one-time lump sum awards shall not exceed 20 percent. This percentage shall be based on the amount of funds on deposit in the Military Family Assistance Fund as of the first day of the fiscal year.

D. Award amounts directed to transportation and other related costs of activated military personnel shall not exceed 30 percent of the funds on deposit in the Military Family Assistance Fund on the first day of the fiscal year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:121 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, LR 37:1609 (June 2011), amended LR 50:

## **§977. Third Party Administrator**

A. - D. ...

E. For all need-based applications received, regardless of the dollar amount of the request, the third party administrator shall make a determination on the following issues:

1. that all awards are on behalf of activated military personnel or honorably discharged military personnel as defined in R.S. 46:121;

2. - 3.a. ...

b. the necessary expenses created or will create an undue hardship on the activated military person, family member of the activated military person, or the honorably discharged military person;

c. the activated military person, family member of the activated military person, or the honorably discharged military person does not have reasonable and timely access to any other funding source;

d. payment of the claim does not supplant other available public or private funds; and

e. the activated military person, family member of the activated military person, or the honorably discharged military person has made reasonable attempts to secure alternative funding through another program, recognizing that the approval authority in its discretion accorded under these rules may waive the requirement for that applicant to have sought this alternative funding.

F. - R. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:121 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, LR 37:1609 (June 2011), amended LR 45:1592 (November 2019); LR 50:

## **§979. Fund Committee**

A. ...

B. Repealed.

C. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:121 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, LR 37:1610 (June 2011); amended LR 50:

## **§981. The Board and Chairman of the Board**

A. - C. ...

D. Repealed.

E. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:121 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, LR 37:1610 (June 2011), amended LR 50:

## **§982. Meetings of the Board**

A. The board meets criteria pursuant to R.S. 42:17.2 to be eligible to conduct open public meetings via electronic means.

B. At least 24 hours prior to a meeting conducted via electronic means, the board shall post the following on the Louisiana Department of Veterans Affairs' website at [vetaffairs.la.gov](http://vetaffairs.la.gov):

1. meeting notice and agenda; and

2. detailed information regarding how members of the public may:

a. participate in the meeting via electronic means, including the applicable videoconference link and/or teleconference phone number; and

b. submit written comments regarding matters on the agenda prior to the meeting.

C. Given that the board assists military families, there is no limitation as to the number of successive meetings via electronic means that may be conducted.

D. A schedule of meetings identifying which will be conducted via electronic means and which will be conducted as in-person meetings shall be posted on the agency's website at [vetaffairs.la.gov](http://vetaffairs.la.gov) on an annual basis.

E. An online archive of any open meetings conducted via electronic means shall be maintained and available for two years on the agency's website at [vetaffairs.la.gov](http://vetaffairs.la.gov).

F. The board shall provide for participation via electronic means on an individualized basis by people with disabilities.

G. People with disabilities are defined as any of the following:

1. a member of the public with a disability recognized by the Americans with Disabilities Act (ADA);

2. a designated caregiver of such a person; or

3. a participant member of the board with an ADA-qualifying disability.

H. The written public notice for an open meeting, as required by R.S. 42:19, shall include the name, telephone

number and email address of the designated agency representative to whom a disability accommodation may be submitted.

I. The requestor shall be provided with an accommodation, including the teleconference and/or video conference link, for participation via electronic means as soon as possible following receipt of the request, but no later than the start of the scheduled meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:17.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, LR 50:

### **§983. Appeals**

A. The fund committee shall sit as a board of appeals for the third party administrator's disapproval of all or any part of a need-based application for \$1500 or less. An eligible applicant may appeal the third party administrator's disapproval of a request for assistance within thirty days of the receipt of the written determination disapproving the claim. The request for an appeal must be made in writing to the third party administrator.

B. ...

C. The board shall sit as a board of appeals for the fund committee's disapproval of all or any part of a need-based application for greater than \$1500 up to \$2500. An eligible applicant may appeal the fund committee's disapproval of claim to the board within 30 days of the receipt of the written determination disapproving the claim. The request for an appeal must be made in writing to the third party administrator.

D. ...

E. The decision of the board on a request for assistance shall be final.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:121 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, LR 37:1610 (June 2011), amended LR 50:

### **§987. Waivers**

A. ...

B. Once a claim is approved, the identity of the eligible applicant, related activated military personnel or honorably discharged military personnel, and any person filing the application on behalf of the eligible applicant, and the amount approved shall be public record.

C. Applications, the identity of applicants and their related military personnel or honorably discharged military personnel, and all records of the board, the fund committee and the third party administrator related thereto, shall be available prior to any approval of the application, to necessary parties including but not limited to, the legislative auditor, the legislative oversight committee for rules and annual reports, and such other parties as necessary for prudent administration of the Military Family Assistance Program and verification of elements of the application.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:121 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, LR 37:1611 (June 2011), amended LR 45:1592 (November 2019), LR 50:

## **Subchapter E. Veterans' Cemeteries**

### **§990. Fee Waivers**

A. The secretary of the department may waive all or part of the fee charged under R.S. 29:295 or §992 of this Chapter for burying veterans, spouses or dependent children in Louisiana veterans' cemeteries if unusual financial circumstances or hardships exist. Family members who believe they have unusual financial circumstances or hardships may request relief and consideration of a waiver of the burial fee. Family members may apply for a waiver through the cemetery director. If no family members are available, the cemetery director may request a waiver on behalf of the deceased veteran, spouse or dependent child. The application must include appropriate documentation to support a finding that an unusual financial circumstance or hardship exists. If the cemetery director determines that the application and supporting documentation reflect that an unusual financial circumstance or hardship exists, then the director will forward the request with an appropriate recommendation to the secretary for approval or disapproval to waive the fee in whole or in part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:121 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, LR 45:1592 (November 2019), amended LR 50:

### **§992. Burial Eligibility for Members of the Louisiana National Guard, Reserve Components of the Armed Forces, and Their Dependents**

A. Pursuant to Louisiana R.S. 29:295(E) and 38 U.S.C. 2408, the following deceased members of the Louisiana National Guard or of a drilling reserve component of the Armed Forces, and their dependents are eligible for burial in veterans cemeteries operated by the Department of Veterans Affairs.

1. Any member of the Louisiana National Guard or of a drilling reserve component of the Armed Forces who was a Louisiana resident at the time of death and who was discharged or released from federal and state service under conditions other than dishonorable, as shown by a discharge certificate or NGB 22.

2. Any member of the Louisiana National Guard or of a drilling reserve component of the Armed Forces who was a Louisiana resident at the time of death and whose death occurs under conditions other than dishonorable while a member of the Louisiana National Guard or the reserve component.

3. Any spouse, minor child, or unmarried adult child of any member described above. The spouse, minor child, or unmarried adult child must be a Louisiana resident at the time of death.

a. Spouse includes a surviving spouse who subsequently remarries.

b. Minor child means an unmarried child under 18 years of age.

c. Unmarried adult child means a child who became permanently physically or mentally disabled and incapable of self-support before reaching 21 years of age, or before reaching 23 years of age if pursuing a full-time course of instruction at an approved educational institution.

B. The person applying for burial of an eligible member of the Louisiana National Guard, reserve component of the Armed Forces, or their dependent is responsible for providing documents with the application that verify eligibility.

C. For members of the Louisiana National Guard or of a drilling reserve component of the Armed Forces eligible for burial pursuant to Subsection (A)(1) and (2) of this Section, the cost of burial shall be the cost of a headstone or marker and the amount of a burial plot allowance established by the United States Department of Veterans Affairs, according to 38 U.S.C. 2303(b)(1) and (c), for veterans who are eligible for burial in a national cemetery. If funds have not been appropriated by the legislature or the United States Department of Veterans Affairs for the cost of burial, the applicant shall pay the cost of burial prior to interment.

D. For spouses, minor children, and unmarried adult children eligible for burial pursuant to Subsection (A)(3) of this Section, the cost of burial shall be the amount set by R.S. 29:295(C), and shall be paid by the applicant prior to interment. If funds have not been appropriated by the legislature or the United States Department of Veterans Affairs for the cost of a headstone or marker for spouses, minor children, and unmarried adult children, the applicant shall also pay the cost of a headstone or marker prior to interment.

E. If a headstone or marker must be reordered due to incorrect information provided by the applicant, the applicant shall pay the cost of a replacement headstone or marker.

F. To establish that the residency requirement has been met, the applicant must present at least three of the following documents that include the veteran's name and a Louisiana residence address:

1. unexpired Louisiana driver's license or Louisiana special identification card;
2. Louisiana voter registration card;
3. Louisiana vehicle registration;
4. homestead tax exemption form;
5. Louisiana full time resident income tax return (signed and marked as received by the Louisiana Department of Revenue).

G. If the applicant cannot present at least three of the documents listed above, they must present two of the documents listed above and must provide copies of at least two documents in addition to those provided from the list above. The additional documents must include the decedent's name and a Louisiana residence address and must show the decedent lived at a Louisiana residence address at the time of death (i.e., utility bills, federal income tax returns, lease agreement or mortgage statement, or employment documentation).

H. This Section does not apply to veterans who qualify for burial in national veterans cemeteries as provided in 38 U.S.C. 2402 and 38 C.F.R. 1.620 and therefore qualify for burial in a veterans cemetery pursuant to R.S. 29:295.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:295(E).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, LR 50:

## **Subchapter F. Louisiana National Guard Disability Benefits**

### **§995. Appeals**

A. Any applicant for disability benefits pursuant to R.S. 29:26.1 who was denied may request an appeal of the department's decision by filing a written request for review of the decision by the secretary of the Department of Veterans Affairs or his designee.

B. Written requests for appeal must be filed with the secretary of the Department of Veterans Affairs or his designee within 30 days from the notice of denial and must contain the name and mailing address of the applicant, a clear statement of the reasons for the appeal, and any documents supporting the reasons for appeal.

C. A written decision will be issued by the secretary or his designee. This decision shall be the final administrative review.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:26.1.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, LR 50:

#### **Family Impact Statement**

The proposed Rule should not have any known or foreseeable impact on family formation, stability, and autonomy. In particular, the proposed Rule has no known or foreseeable impact on:

1. the stability of the family;
2. the authority and rights of persons regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

#### **Poverty Impact Statement**

The proposed Rule should not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973(B). In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

#### **Small Business Analysis**

The proposed Rule should have no adverse impact on small businesses as defined in the Regulatory Flexibility Act.

#### **Provider Impact Statement**

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;

2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or

3. the overall effect on the ability of the provider to provide the same level of service.

### Public Comments

Interested persons may submit written comments, data, opinions and arguments regarding the proposed Rule via U.S. Mail or hand delivery. Written submissions must be directed to Lani B. Durio, Executive Counsel, Department of Veterans Affairs, 602 N. Fifth Street, Baton Rouge, Louisiana 70802 and must be received no later than 4 p.m. on Monday, December 11, 2023. All written comments must be signed and dated.

Joey Strickland  
Secretary

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Veterans' Affairs

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

The proposed rule changes include a new rule allowing members of the Louisiana National Guard, members of the reserve components of the Armed Forces, and their spouses and dependent children to be buried in state-run veterans' cemeteries, in line with the recent congressionally-passed Burial Equity Act. The U.S. Department of Veterans Affairs (U.S. VA) pays the cost of interment of currently-eligible veterans (the cost of both burials and grave markers) and the cost of grave markers for currently-eligible spouses and dependents. Interment costs for veterans are currently \$949 for burial and \$355 for the cost of the grave marker, while interment costs for spouses/dependent children are \$745 for burial (as set by R.S. 29:295(C)) and \$355 for the cost of the grave marker.

The proposed rule change aims to ensure that these newly eligible veterans are treated equitably in terms of costs compared to currently-eligible veterans.

Presently, the U.S. VA is not funding the cost of interment of the newly eligible veterans or their spouses/dependent children covered by the proposed rule. Therefore, these new costs may be funded either by the state through an appropriation to the Louisiana Department of Veterans Affairs (LDVA) or by the families of the newly eligible veterans and their spouses/dependent children.

LDVA is requesting State General Fund beginning in its FY 25 budget for the cost of interment (the cost of both burials and grave markers) for the newly eligible veterans, as well as the cost of grave markers for spouses/dependents. LDVA approximates as much as a \$670,000 annual cost increase to the state if funds are appropriated by the legislature for this purpose. This projection is based on an estimated 500 newly eligible veterans at a \$949 cost for burial and \$355 cost for a gravesite marker along with 50 spouses/dependent children at a \$355 cost for the marker. Note that the families of newly eligible spouses/dependent children will pay the \$745 cost of burial, which is the same cost incurred presently by families of currently-eligible spouses and dependents.

Should the state not appropriate funds for this purpose, or should there be a future year in which such funding is not appropriated by the state or federal government, then these rules provide the mechanism by which the newly eligible veterans and spouses/dependents may still be buried in state-run veterans cemeteries, through the payment schedule provided in these rules: that the veterans would pay LDVA

\$949 for their burial cost, and \$355 for the marker, and then spouses would pay LDVA \$355 for their marker (Newly eligible spouses would pay the same \$745 burial fee as currently eligible spouses pay under either scenario).

Other rule changes remove outdated sections of the administrative code and align rules to conform with revised statute and federal regulations since 2019, when LDVA last promulgated rules.

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

The proposed rule change to permit burial eligibility for Louisiana National Guard members and members of reserve components could increase revenue for the LDVA. Unless funding is provided by the U.S. VA or through state appropriations, eligible individuals who elect to be buried in state run veteran's cemeteries would pay LDVA the current plot allowance amount of \$949. Additionally, spouses or dependent children who elect to be buried in the state run cemeteries would pay \$745 in burial costs, as set in R.S. 29:295(C).

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

The proposed rule changes are mostly technical updates to existing LDVA administrative rules in order to reflect updates in statute. One of the proposed updates would set eligibility standards for members of the Louisiana National Guard and reserve components of the Armed Forces to be buried in state-run veterans' cemeteries, in line with the recent congressionally-passed Burial Equity Act, at a reasonable cost to be paid by the service members' families if funds for the burials are not appropriated by the legislature or the U.S. VA. In that case, the newly eligible veterans would pay \$949 in burial costs and \$355 for a grave marker, and spouses and dependent children of these newly eligible veterans who elect to be buried in state run veterans' cemeteries would pay \$745 in burial costs, as set in R.S. 29:295(C), and \$355 for a grave marker.

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

There is no estimated effect on competition and employment as a result of the proposed rule change.

Julie Baxter Payer  
Deputy Secretary  
2311#051

Patrice Thomas  
Deputy Fiscal Officer  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Health Board of Dentistry

#### Continuing Education Requirements (LAC 46:XXXIII.1611)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Dental Practice Act, R.S. 37:751, et seq., and particularly R.S. 37:760 (8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to amend LAC 46:XXXIII.1611.

The Board of Dentistry is amending LAC 46:XXXIII.1611 to change the continuing education requirements for a sedation permit from 12 hours every 4 years to 6 hours every 2 years which will coincide with licensure renewal and no sedation continuing education will

be required during the first renewal period after first receiving the anesthesia permit.

The Board of Dentistry is also amending LAC 46:XXXIII.1611 to change the continuing education requirements for having a pediatric sedation permit from 12 hours every 4 years to 6 hours every 2 years, which will coincide with licensure renewal.

#### **Title 46**

### **PROFESSIONAL AND OCCUPATIONAL STANDARDS**

#### **Part XXXIII. Dental Health Profession**

#### **Chapter 16. Continuing Education Requirements**

#### **§1611. Continuing Education Requirements for Relicensure of Dentists**

A. - G.2. ...

H. In order to renew permits for the administration of general anesthesia or moderate sedation, each full licensee shall complete an in person adult sedation course of a minimum of 6 hours pertinent to the level of their sedation permit no less than once every license period, with this requirement only beginning in the second renewal period after the permit is issued. If the permit has a pediatric certification, then the aforementioned 6 hours must address pediatric sedation. If the permit holder has a pediatric certification, the permit holder must take both the adult and the pediatric sedation courses for a total of 12 in-person hours. If the permit holder has a pediatric certification and sedates only persons below the age of 13, and signs a certification to that effect, then only the 6 hour in-person pediatric sedation course is necessary. These hours will count towards the requirement of §1611.A.1. The CPR, ACLS, and PALS courses required in §§1503 and 1504 do not count toward the requirements set forth in this Section. Recertification for deep sedation or general anesthesia as required by the American Association of Oral and Maxillofacial Surgeons every five years shall satisfy this requirement.

I. Dentists successfully completing the calibration training for the administration of the clinical licensing examination administered by a testing agency approved of by the board may be awarded up to 20 hours of clinical continuing education per each renewal period.

J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and (13).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20:661 (June 1994), amended LR 21:569 (June 1995), LR 22:24 (January 1996), LR 22:1216 (December 1996), LR 23:1526 (November 1997), LR 24:1117 (June 1998), LR 25:510 (March 1999), LR 26:489 (March 2000), LR 30:2307 (October 2004), LR 32:244 (February 2006), LR 35:1237 (July 2009), LR 36:2038 (September 2010), LR 37:2151 (July 2011), LR 37:3515 (December 2011), repromulgated LR 38:356 (February 2012), amended LR 38:817 (March 2012), LR 38:1959 (August 2012), LR 39:1282 (May 2013), amended by the Department of Health, Board of Dentistry, LR 43:956 (May 2017), amended by the Department of Health, Board of Dentistry, LR 44:47 (January 2018), LR 50:

#### **Family Impact Statement**

There will be no family impact in regard to issues set forth in R.S. 49:972.

#### **Poverty Statement**

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973. In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

#### **Provider Impact Statement**

The proposed rulemaking should not have any know or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect of the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

#### **Public Comment**

Interested persons may submit written comments on these proposed rule changes to Arthur Hickham, Jr., Executive Director, Louisiana State Board of Dentistry, P.O. Box 5256, Baton Rouge, LA 70821. Written comments must be submitted to and received by the board within 20 days of the date of the publication of this notice. A request pursuant to R.S. 49:953 (A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the Board within 20 days of the date of the publication of this notice.

#### **Public Hearing**

A request pursuant to R.S. 49:953 (A)(2) for oral presentation, argument, or public hearing must be in writing and received by the board within 20 days of the date of the publication of this notice.

Arthur Hickham, Jr.  
Executive Director

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

#### **RULE TITLE: Continuing Education Requirements**

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

The LA State Board of Dentistry (LSBD) is proposing an amendment to current rules that will change the continuing education requirements for dentists with a sedation permit from 12 hours every 4 years to 6 hours every 2 years, which will coincide with licensure renewal. Additionally, no sedation-related continuing education will be required during the first renewal period after first receiving the anesthesia permit. The LSBD is also amending this rule to change the continuing education requirements for having a pediatric sedation permit from 12 hours every 4 years to 6 hours every 2 years, which will coincide with licensure renewal.

Currently, dentists who complete calibration training for the administration of the clinical licensing examination administered by the Council of Interstate Testing Agencies (CITA) may be awarded up to 20 hours of clinical continuing education per renewal period. The proposed rule changes "Council of Interstate Testing Agencies (CITA)" to "a testing agency approved of by the board," in recognition of a recent merger between CITA and other testing agencies.

The proposed rule change will result in a one-time SGR expenditure of \$500 in FY 24 for the LA State Board of Dentistry (LSBD) to publish the notice of intent and proposed rule revision in the Louisiana Register. The proposed rule change will not affect expenditures of local governmental units.

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

The proposed rule change will not affect revenue collections for state or local governmental units.

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

The proposed rule change will benefit licensed dentists by aligning continuing education deadlines with licensure renewal periods. Any dentist renewing his or her anesthesia permit will benefit from this rule change because the continuing education requirements will be changed from 12 hours every 4 years to 6 hours every 2 years, which will coincide with licensure renewal and will begin in the second renewal period after the first permit is issued.

In addition, any dentist renewing his or her pediatric sedation permit will benefit from this rule change because the continuing education requirements will be changed from 12 hours every 4 years to 6 hours every 2 years, which will coincide with licensure renewal.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will not have an effect on competition and employment.

Arthur Hickham, Jr.  
Executive Director  
2311#059

Patrice Thomas  
Deputy Fiscal Officer  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Department of Health  
Board of Pharmacy**

Pharmacists Application (LAC 46:LIII.501)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Pharmacy Practice Act (R.S. 37:1161 et seq.), the Board of Pharmacy hereby gives notice of its intent to amend §501 of its rules relative to pharmacists application. The proposed rule change removes the requirement to submit an application for initial pharmacist licensure to the board at least 30 days prior to any examination.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part LIII. Pharmacists**

**Chapter 5. Pharmacists**

**§501. Application**

A. An application for initial pharmacist licensure, whether by examination or reciprocity, shall be submitted, with appropriate fee, to the board. An application shall expire one year after the date of receipt in the board office.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2082 (October 2003), effective January 1, 2004, amended LR 50:

**Family Impact Statement**

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a family impact statement on the Rule proposed for adoption, repeal, or amendment. The following statements will be published in the *Louisiana Register* with the proposed agency Rule.

1. The Effect on the Stability of the Family. The proposed rule amendment will have no effect on the stability of the family.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. The proposed rule amendment will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect on the Functioning of the Family. The proposed rule amendment will have no effect on the functioning of the family.

4. The Effect on Family Earnings and Family Budget. The proposed rule amendment will have no effect on family earnings and family budget.

5. The Effect on the Behavior and Personal Responsibility of Children. The proposed rule amendment will have no effect on the behavior and personal responsibility of children.

6. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. The proposed rule amendment will have no effect on the ability of the family or a local government to perform the activity as contained in the proposed rule.

**Poverty Impact Statement**

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a poverty impact statement on the Rule proposed for adoption, repeal, or amendment.

1. The Effect on Household Income, Assets, and Financial Security. The proposed rule amendment will have no effect on household income, assets, or financial security.

2. The Effect on Early Childhood Development and Preschool through Postsecondary Education Development. The proposed rule amendment will have no effect on early childhood development or preschool through postsecondary education development.

3. The Effect on Employment and Workforce Development. The proposed rule amendment will have no effect on employment and workforce development.

4. The Effect on Taxes and Tax Credits. The proposed rule amendment will have no effect on taxes or tax credits.

5. The Effect on Child and Dependent Care, Housing, Health Care, Nutrition, Transportation, and Utilities Assistance. The proposed rule amendment will have no effect on child and dependent care, housing, health care, nutrition, transportation, or utilities assistance.

**Small Business Analysis**

In accordance with Section 965 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a regulatory flexibility analysis on the Rule proposed for



adoption, repeal, or amendment. This will certify the agency has considered, without limitation, each of the following methods of reducing the impact of the proposed Rule on small businesses:

1. The Establishment of Less Stringent Compliance or Reporting Requirements for Small Businesses. The proposed rule amendment will have no effect on reporting requirements for small business.

2. The Establishment of Less Stringent Schedules or Deadlines for Compliance or Reporting Requirements for Small Businesses. The proposed rule amendment will have no effect on schedules or deadlines for compliance or reporting requirements for small business.

3. The Consolidation or Simplification of Compliance or Reporting Requirements for Small Businesses. The proposed rule amendment will have no effect on consolidation or simplification of compliance or reporting requirements for small business.

4. The Establishment of Performance Standards for Small Businesses to Replace Design or Operational Standards Required in the Proposed Rule. The proposed rule amendment will have no effect on establishment of performance standards for small businesses to replace design or operational standards for small business.

5. The Exemption of Small Businesses from All or Any Part of the Requirements Contained in the Proposed Rule. There are no exemptions for small businesses in the proposed rule amendment.

#### **Provider Impact Statement**

In accordance with House Concurrent Resolution No. 170 of the Regular Session of the 2014 Legislature, there is hereby submitted a provider impact statement on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, the following effects on the providers of services to individuals with developmental disabilities:

1. The effect on the staffing level requirements or qualifications required to provide the same level of service. The proposed rule amendment will have no effect on the staffing level requirements or qualifications required to provide the same level of service.

2. The Total Direct and Indirect Effect on the Cost to the Provider to Provide the Same Level of Service. The proposed rule amendment will have no effect on the cost to the provider to provide the same level of service.

3. The Overall Effect on the Ability of the Provider to Provide the Same Level of service. The proposed rule amendment will have no effect on the ability of the provider to provide the same level of service.

#### **Public Comments**

Interested persons may submit written comments, via United States Postal Service or other mail carrier, or in the alternative by personal delivery to M. Joseph Fontenot Jr., Executive Director, at the office of the Louisiana Board of Pharmacy, 3388 Brentwood Drive, Baton Rouge, LA 70809-1700. He is responsible for responding to inquiries regarding the proposed Rule amendment. The deadline for the receipt of all written comments is 12 p.m. on Thursday, December 28, 2023.

#### **Public Hearing**

A public hearing to solicit comments and testimony on the proposed Rule changes is scheduled for 9a.m. on Thursday, December 28, 2023 at the board office. During the hearing, all interested persons will be afforded an opportunity to submit comments and testimony, either verbally or in writing. The deadline for the receipt of all comments and testimony is 12 p.m. that same day. To request reasonable accommodations for persons with disabilities, please call the board office at 225.925.6496.

M. Joseph Fontenot Jr.  
Executive Director

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

##### **RULE TITLE: Pharmacists Application**

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

The proposed rule change will require the Louisiana Board of Pharmacy (LBP) to publish the proposed and final rules in the state register, resulting in estimated printing expenses of \$1,000 in FY 24. Other than publication costs, which are included in the LBP's annual operating budget, the proposed rule change is not anticipated to result in any additional expenditures or cost savings for LBP or other state or local governmental units.

The proposed rule change removes the requirement to submit an application for initial pharmacist licensure to the Board at least 30 days prior to any examination.

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

The proposed rule change may result in a slight reduction in application fees for initial licensure to the extent that it results in fewer prospective pharmacists applying for licensure, failing their exams, and then needing to apply again.

Applications for initial licensure are valid for one year from the date of submission. Currently, if a candidate is not licensed within one year of submitting the application, they must submit a new application, incurring the \$300 application fee twice. By allowing prospective pharmacists to wait until they have passed their exams to submit an application, the proposed rule change may reduce the number of prospective pharmacists who submit multiple applications.

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

The proposed rule change will benefit pharmacist applicants by removing the requirement to submit the initial application for licensure at least 30 days prior to taking any examination. The proposed rule change will allow applicants to submit the initial application for licensure after successful completion of all required examinations.

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

The proposed rule change will have no effect on competition or employment.

M. Joseph Fontenot, Jr.  
Executive Director  
2311#019

Patrice Thomas  
Deputy Fiscal Officer  
Legislative Fiscal Officer

## NOTICE OF INTENT

### Department of Health Board of Pharmacy

Prescription Monitoring Program  
(LAC 46:LIII.2901 and 2914)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Pharmacy Practice Act (R.S. 37:1161 et seq.), the Board of Pharmacy hereby gives notice of its intent to amend §2901 and §2914 of its rules relative to the Prescription Monitoring Program (PMP). The proposed rule change in §2901 clarifies intent in regards to butalbital containing products and removes naloxone as a drug of concern. The proposed rule change in §2914 addresses record retention of PMP information.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part LIII.: Pharmacists

#### Chapter 29. Prescription Monitoring Program §2901. Definitions

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

\* \* \*

*Drugs of Concern*—drugs other than controlled substances as defined by rule whose use requires tracking for public health purposes or which demonstrate a potential for abuse, including any material, compound, mixture, or preparation containing any quantity of the following substances, including its salts, esters, ethers, isomers, and salts of isomers [whenever the existence of such salts, esters, ethers, isomers, and salts of isomers is possible within the specific chemical designation]:

- a. butalbital.
- b. promethazine when present in oral liquid formulation.
- c. gabapentin.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1011.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:1345 (July 2007), amended LR 36:755 (April 2010), effective September 1, 2010, LR 39:314 (February 2013), LR 40:1095, 1096 (June 2014), LR 41:684 (April 2015), amended by the Department of Health, Board of Pharmacy, LR 45:42 (January 2019), LR 47:84 (January 2021), repromulgated LR 47:248 (February 2021), amended LR 50:

#### §2914. Record Retention of Prescription Monitoring Information

A. The board shall retain a minimum of five years of prescription monitoring information for review by persons authorized to access such information.

B. The board shall archive all prescription monitoring information not available for direct or indirect access up to 10 years.

C. The board may remove and destroy prescription monitoring information in excess of 10 years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1006(G).

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 47:85 (January 2021), repromulgated LR 47:248 (February 2021), amended LR 50:

#### Family Impact Statement

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a family impact statement on the Rule proposed for adoption, repeal, or amendment. The following statements will be published in the *Louisiana Register* with the proposed agency Rule.

1. The Effect on the Stability of the Family. The proposed rule amendment will have no effect on the stability of the family.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. The proposed rule amendment will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect on the Functioning of the Family. The proposed rule amendment will have no effect on the functioning of the family.

4. The Effect on Family Earnings and Family Budget. The proposed rule amendment will have no effect on family earnings and family budget.

5. The Effect on the Behavior and Personal Responsibility of Children. The proposed rule amendment will have no effect on the behavior and personal responsibility of children.

6. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. The proposed rule amendment will have no effect on the ability of the family or a local government to perform the activity as contained in the proposed Rule.

#### Poverty Impact Statement

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a poverty impact statement on the Rule proposed for adoption, repeal, or amendment.

1. The Effect on Household Income, Assets, and Financial Security. The proposed rule amendment will have no effect on household income, assets, or financial security.

2. The Effect on Early Childhood Development and Preschool through Postsecondary Education Development. The proposed rule amendment will have no effect on early childhood development or preschool through postsecondary education development.

3. The Effect on Employment and Workforce Development. The proposed rule amendment will have no effect on employment and workforce development.

4. The Effect on Taxes and Tax Credits. The proposed rule amendment will have no effect on taxes or tax credits.

5. The Effect on Child and Dependent Care, Housing, Health Care, Nutrition, Transportation, and Utilities Assistance. The proposed rule amendment will have no effect on child and dependent care, housing, health care, nutrition, transportation, or utilities assistance.

#### Small Business Analysis

In accordance with Section 965 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a regulatory flexibility analysis on the Rule proposed for

adoption, repeal, or amendment. This will certify the agency has considered, without limitation, each of the following methods of reducing the impact of the proposed Rule on small businesses:

1. The Establishment of Less Stringent Compliance or Reporting Requirements for Small Businesses. The proposed rule amendment does not establish a less stringent compliance or reporting requirements for small business.

2. The Establishment of Less Stringent Schedules or Deadlines for Compliance or Reporting Requirements for Small Businesses. The proposed rule amendment will have no effect on schedules or deadlines for compliance or reporting requirements for small business.

3. The Consolidation or Simplification of Compliance or Reporting Requirements for Small Businesses. The proposed rule amendment will have no effect on consolidation or simplification of compliance or reporting requirements for small business.

4. The Establishment of Performance Standards for Small Businesses to Replace Design or Operational Standards Required in the Proposed Rule. The proposed rule amendment will have no effect on establishment of performance standards for small businesses to replace design or operational standards for small business.

5. The Exemption of Small Businesses from All or Any Part of the Requirements Contained in the Proposed Rule. There are no exemptions for small businesses in the proposed rule amendment.

#### **Provider Impact Statement**

In accordance with House Concurrent Resolution No. 170 of the Regular Session of the 2014 Legislature, there is hereby submitted a provider impact statement on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, the following effects on the providers of services to individuals with developmental disabilities:

1. The effect on the staffing level requirements or qualifications required to provide the same level of service. The proposed rule amendment will have no effect on the staffing level requirements or qualifications required to provide the same level of service.

2. The Total Direct and Indirect Effect on the Cost to the Provider to Provide the Same Level of Service. The proposed rule amendment will have no effect on the cost to the provider to provide the same level of service.

3. The Overall Effect on the Ability of the Provider to Provide the Same Level of service. The proposed rule amendment will have no effect on the ability of the provider to provide the same level of service.

#### **Public Comments**

Interested persons may submit written comments, via United States Postal Service or other mail carrier, or in the alternative by personal delivery to M. Joseph Fontenot Jr., Executive Director, at the office of the Louisiana Board of Pharmacy, 3388 Brentwood Drive, Baton Rouge, LA 70809-1700. He is responsible for responding to inquiries regarding the proposed Rule amendment. The deadline for the receipt of all written comments is 12 p.m. on Thursday, December 28, 2023.

#### **Public Hearing**

A public hearing to solicit comments and testimony on the proposed Rule changes is scheduled for 9 a.m. on Thursday, December 28, 2023 at the board office. During the hearing, all interested persons will be afforded an opportunity to submit comments and testimony, either verbally or in writing. The deadline for the receipt of all comments and testimony is 12 p.m. that same day. To request reasonable accommodations for persons with disabilities, please call the board office at 225.925.6496.

M. Joseph Fontenot Jr.  
Executive Director

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

##### **RULE TITLE: Prescription Monitoring Program**

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

The proposed rule change will require the Louisiana Board of Pharmacy (LBP) to publish the proposed and final rules in the state register, resulting in estimated printing expenses of \$1,000 in FY 24. There will be no additional expenditures or immediate cost savings for LBP or other state or local governmental units. Future contracts with the Prescription Monitoring Program (PMP) vendor may result in long-term cost savings to LBP, but the amount is indeterminable at this time since the current contract is in place until 2029.

The proposed rule change in §2901 amends the definition of Drugs of Concern to include all butalbital containing products instead of only butalbital when in combination with at least 325 milligrams of acetaminophen per dosage unit and to remove naloxone.

The proposed rule change in §2914 replaces the term "prescription transaction information" with "prescription monitoring information," limit the time the Board shall archive such information to up to 10 years, and allow the board to remove and destroy such information in excess of 10 years.

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

The proposed rule change will not affect revenue collections of state or local governmental units.

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

The proposed rule change will benefit pharmacies and prescribers by requiring all butalbital products to be reported to the Prescription Monitoring Program, which will result in a more complete review of the patient's medication history.

Pharmacies will be required to report additional butalbital prescription transactions than is currently required, but the process will be less complicated. Since pharmacies report the transactions electronically through automated means, the impact will be minimal.

By removing naloxone as a drug of concern, pharmacies will no longer be required to report those transactions electronically but the impact will be minimal.

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

The proposed rule change will have no effect on competition or employment.

M. Joseph Fontenot, Jr.  
Executive Director  
2311#020

Patrice Thomas  
Deputy Fiscal Officer  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Health Board of Pharmacy

Product Integrity  
(LAC 46:LIII.1103 and 2501)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Pharmacy Practice Act (R.S. 37:1161 et seq.), the Board of Pharmacy hereby gives notice of its intent to amend §1103 and §2501 of its rules relative to prescription department requirements and prescription drugs. The proposed rule change in §1103.A. adds a requirement for a prescription department to be maintained in a clean and orderly condition. The proposed rule changes in §1103.E. and §2501 add environmental condition requirements for all areas where drugs are stored or located prior to the transfer of possession of the drug to the patient or the patient's agent.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part LIII.: Pharmacists

#### Chapter 11. Pharmacies

#### Subchapter A. General Requirements

#### §1103. Prescription Department Requirements

A. A prescription department of a pharmacy shall be maintained in a clean and orderly condition and shall provide sufficient floor space, fixtures, equipment and supplies commensurate with the nature and scope of the pharmacy's practice to ensure that drugs are compounded and dispensed in a dry, well-lighted, climate controlled, and safely enclosed structure.

B. - D. ...

E. Drug Inventory

1. Storage. The pharmacy shall provide an adequate prescription inventory in order to compound and dispense prescription orders. All areas where drugs are stored or located shall be maintained under environmental conditions which will ensure the integrity of the drug, as specified by the United States Pharmacopeia (USP) and/or manufacturer's or distributor's product labeling, prior to the transfer of possession of the drug to the patient or the patient's agent.

E.2 - J. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1310 (October 1997), amended LR 29:2087 (October 2003), effective January 1, 2004, LR 39:315 (February 2013), amended by Department of Health, Board of Pharmacy, LR 46:579 (April 2020), LR 47:1642 (November 2021), LR 48:497 (March 2022), LR 49:1556 (September 2023), amended LR 50:

#### Chapter 25. Prescriptions, Drugs, and Devices

#### §2501. Prescription Drugs and Devices

A. - A.2. ...

3. Storage.

a. Prescription drugs or devices shall be stored in a permitted pharmacy under the immediate control and responsibility of a pharmacist.

b. All areas where drugs are stored or located shall be maintained under environmental conditions which will ensure the integrity of the drug, as specified by the United States Pharmacopeia (USP) and/or manufacturer's or distributor's product labeling, prior to the transfer of possession of the drug to the patient or the patient's agent.

B. - E.3. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2101 (October 2003), effective January 1, 2004, amended LR 50:

#### Family Impact Statement

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a family impact statement on the Rule proposed for adoption, repeal, or amendment. The following statements will be published in the *Louisiana Register* with the proposed agency Rule.

1. The Effect on the Stability of the Family. The proposed rule amendment will have no effect on the stability of the family.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. The proposed rule amendment will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect on the Functioning of the Family. The proposed rule amendment will have no effect on the functioning of the family.

4. The Effect on Family Earnings and Family Budget. The proposed rule amendment will have no effect on family earnings and family budget.

5. The Effect on the Behavior and Personal Responsibility of Children. The proposed rule amendment will have no effect on the behavior and personal responsibility of children.

6. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. The proposed rule amendment will have no effect on the ability of the family or a local government to perform the activity as contained in the proposed rule.

#### Poverty Impact Statement

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a poverty impact statement on the Rule proposed for adoption, repeal, or amendment.

1. The Effect on Household Income, Assets, and Financial Security. The proposed rule amendment will have no effect on household income, assets, or financial security.

2. The Effect on Early Childhood Development and Preschool through Postsecondary Education Development. The proposed rule amendment will have no effect on early childhood development or preschool through postsecondary education development.

3. The Effect on Employment and Workforce Development. The proposed rule amendment will have no effect on employment and workforce development.

4. The Effect on Taxes and Tax Credits. The proposed rule amendment will have no effect on taxes or tax credits.

5. The Effect on Child and Dependent Care, Housing, Health Care, Nutrition, Transportation, and Utilities Assistance. The proposed rule amendment will have no effect on child and dependent care, housing, health care, nutrition, transportation, or utilities assistance.

#### **Small Business Analysis**

In accordance with Section 965 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a regulatory flexibility analysis on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, each of the following methods of reducing the impact of the proposed Rule on small businesses:

1. The Establishment of Less Stringent Compliance or Reporting Requirements for Small Businesses. The proposed rule amendment will have no effect on reporting requirements for small business.

2. The Establishment of Less Stringent Schedules or Deadlines for Compliance or Reporting Requirements for Small Businesses. The proposed rule amendment will have no effect on schedules or deadlines for compliance or reporting requirements for small business.

3. The Consolidation or Simplification of Compliance or Reporting Requirements for Small Businesses. The proposed rule amendment will have no effect on consolidation or simplification of compliance or reporting requirements for small business.

4. The Establishment of Performance Standards for Small Businesses to Replace Design or Operational Standards Required in the Proposed Rule. The proposed rule amendment will have no effect on establishment of performance standards for small businesses to replace design or operational standards for small business.

5. The Exemption of Small Businesses from All or Any Part of the Requirements Contained in the Proposed Rule. There are no exemptions for small businesses in the proposed rule amendment.

#### **Provider Impact Statement**

In accordance with House Concurrent Resolution No. 170 of the Regular Session of the 2014 Legislature, there is hereby submitted a provider impact statement on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, the following effects on the providers of services to individuals with developmental disabilities:

1. The effect on the staffing level requirements or qualifications required to provide the same level of service. The proposed rule amendment will have no effect on the staffing level requirements or qualifications required to provide the same level of service.

2. The Total Direct and Indirect Effect on the Cost to the Provider to Provide the Same Level of Service. The proposed rule amendment will have an indeterminate effect on the cost to the provider to provide the same level of service. There may be increased shipping costs for those pharmacies that mail or deliver prescriptions to patients.

3. The Overall Effect on the Ability of the Provider to Provide the Same Level of service. The proposed rule amendment will have no effect on the ability of the provider to provide the same level of service.

#### **Public Comments**

Interested persons may submit written comments, via United States Postal Service or other mail carrier, or in the alternative by personal delivery to M. Joseph Fontenot Jr., Executive Director, at the office of the Louisiana Board of Pharmacy, 3388 Brentwood Drive, Baton Rouge, LA 70809-1700. He is responsible for responding to inquiries regarding the proposed Rule amendment. The deadline for the receipt of all written comments is 12 p.m. on Thursday, December 28, 2023.

#### **Public Hearing**

A public hearing to solicit comments and testimony on the proposed Rule changes is scheduled for 9 a.m. on Thursday, December 28, 2023 at the board office. During the hearing, all interested persons will be afforded an opportunity to submit comments and testimony, either verbally or in writing. The deadline for the receipt of all comments and testimony is 12 p.m. that same day. To request reasonable accommodations for persons with disabilities, please call the board office at 225.925.6496.

M. Joseph Fontenot Jr.  
Executive Director

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Product Integrity**

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

The proposed rule change will require the Louisiana Board of Pharmacy (LBP) to publish the proposed and final rules in the state register, resulting in estimated printing expenses of \$1,000 in FY 24. Other than publication costs, which are included in the LBP's annual operating budget, the proposed rule change is not anticipated to result in any additional expenditures or cost savings for LBP.

To the extent a government-operated pharmacy is not currently storing and/or delivering medication in appropriate environmental conditions, there could be additional costs to the pharmacy to ensure appropriate storage conditions prior to transferring possession of the medication to the patient. These costs are indeterminable.

The proposed rule change adds a requirement for the prescription department of a pharmacy to be maintained in a clean and orderly condition. The proposed rule change also adds environmental condition requirements for all areas where drugs are stored or located prior to the transfer of possession of the drug to the patient or the patient's agent.

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

The proposed rule change will not affect revenue collections of state or local governmental units.

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

The proposed rule change will benefit consumers by ensuring that drugs are stored under environmental conditions which ensure the integrity of the drug prior to delivery to the patient.

To the extent a pharmacy is not currently storing and/or delivering medication in appropriate environmental conditions, there could be additional costs to the pharmacy to ensure

appropriate storage conditions prior to transferring possession of the medication to the patient. These costs are indeterminable.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no effect on competition or employment.

M. Joseph Fontenot Jr.  
Executive Director  
2311#021

Patrice Thomas  
Deputy Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health  
Bureau of Health Services Financing**

**Disproportionate Share Hospital Payments  
Northern Area Psychiatric Hospitals  
(LAC 50:V.2503 and 2721)**

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:V.2503 and adopt §2721 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Act 447 of the 2023 Regular Session of the Louisiana Legislature allocates funds to the Department of Health for the creation of a new disproportionate share hospital (DSH) pool to pay for the uncompensated care costs of inpatient psychiatric facilities with an academic training mission for services provided to uninsured and low-income individuals.

The Department of Health, Bureau of Health Services Financing proposes to amend the provisions governing DSH payments to establish the qualification criteria and methodology for payments for the uncompensated care costs of inpatient psychiatric hospitals located in the northern area of the state with an academic training mission for services provided to uninsured and low-income individuals from the payment pool created in accordance with Act 447.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part V. Hospital Services**

**Subpart 3. Disproportionate Share Hospital Payments**

**Chapter 25. Disproportionate Share Hospital Payment Methodologies**

**§2503. Disproportionate Share Hospital Qualifications**

A. - A.11. ...

12. be a major medical center located in the southeastern area of the state as defined in §2719.A;

13. be a psychiatric hospital located in the northern area of the state as defined in §2721.A; and

14. effective July 1, 1994, must also have a Medicaid inpatient utilization rate of at least 1 percent.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:655 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:3294 (December 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 43:962 (May 2017), LR 45:1763 (December 2019), LR 50:

**Chapter 27. Qualifying Hospitals**

**§2721. Psychiatric Hospitals Located in the Northern Area of the State**

A. Effective for dates of service on or after February 20, 2024, hospitals qualifying for payments as psychiatric hospitals located in the northern area of the state shall meet the following criteria:

1. be a private, non-rural freestanding psychiatric hospital located in Department of Health administrative regions 7 or 8; and

2. have a current executed academic affiliation agreement for purposes of providing graduate medical education and training to at least five documented intern and resident full time equivalents (FTEs) annually.

a. the affiliation agreement must be with a medical school located in Louisiana;

b. the intern and resident FTE count must be included on the Medicare Medicaid cost report annually on worksheet S-3, column 9; and

c. the hospital must be listed as a graduate medical education program training site on the Accreditation Council for Graduate Medical Education website.

B. Payment Methodology. Effective for dates of service on or after February 20, 2024, each qualifying hospital shall be paid a DSH adjustment payment which is the pro rata amount calculated by dividing their hospital specific allowable uncompensated care costs by the total allowable uncompensated care costs for all hospitals qualifying under this category and multiplying by the funding appropriated by the Louisiana Legislature in the applicable state fiscal year for this category of hospitals.

1. Costs, patient specific data and documentation that qualifying criteria is met shall be submitted in a format specified by the department.

2. Costs and lengths of stay shall be reviewed by the department for reasonableness before payments are made.

3. Aggregate DSH payments for hospitals that receive payment from this category, and any other DSH category, shall not exceed the hospital's specific DSH limit. If payments calculated under this methodology would cause a hospital's aggregate DSH payment to exceed the limit, the payment from this category shall be capped at the hospital's specific DSH limit.

4. A pro rata decrease, necessitated by conditions specified in §2501.B.1 above for hospitals described in this Section, will be calculated based on the ratio determined by dividing the hospital's uncompensated costs by the uncompensated costs for all of the qualifying hospitals described in this Section, then multiplying by the amount of disproportionate share payments calculated in excess of the federal DSH allotment.

a. Additional payments shall only be made after finalization of the Centers for Medicare and Medicaid Services' (CMS) mandated DSH audit for the state fiscal year. Payments shall be limited to the aggregate amount recouped from the qualifying hospitals described in this Section, based on these reported audit results. If the hospitals' aggregate amount of underpayments reported per the audit results exceeds the aggregate amount overpaid, the payment redistribution to underpaid hospitals shall be paid on a pro rata basis calculated using each hospital's amount

underpaid, divided by the sum of underpayments for all of the hospitals described in this Section.

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

**HISTORICAL NOTE:** Promulgated by the Department of Health, Bureau of Health Services Financing, LR 50:

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

#### **Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule may have a positive impact on family functioning, stability or autonomy as described in R.S. 49:972, by providing continued access to vital inpatient psychiatric services.

#### **Poverty Impact Statement**

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual or family poverty in relation to individual or community asset development as described in R.S. 49:973.

#### **Small Business Analysis**

In compliance with the Small Business Protection Act, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule will have no impact on small businesses.

#### **Provider Impact Statement**

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service and will have no impact on the total direct and indirect cost to the provider to provide the same level of service, but may enhance the provider's ability to provide the same level of service as described in HCR 170, since this proposed Rule provides payments to qualifying inpatient psychiatric hospitals for services rendered to uninsured and low-income individuals.

#### **Public Comments**

Interested persons may submit written comments to Kimberly Sullivan, JD, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. Sullivan is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on January 2, 2024.

#### **Public Hearing**

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on December 11, 2023. If the criteria set forth in R.S. 49:961(B)(1) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on December 28, 2023 in Room 118 of the Bienville Building, which is located at 628 North Fourth

Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after December 11, 2023. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing.

Stephen R. Russo, JD  
Secretary

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

#### **RULE TITLE: Disproportionate Share Hospital Payments—Northern Area Psychiatric Hospitals**

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

It is anticipated that implementation of this proposed rule will result in increased state costs of approximately \$647,032 for FY 23-24, \$639,800 for FY 24-25, and \$639,800 for FY 25-26. It is anticipated that \$864 (\$432 SGF and \$432 FED) will be expended in FY 23-24 for the state's administrative expense for promulgation of this proposed rule and the final rule.

This proposed rule amends the provisions governing disproportionate share hospital (DSH) payments to establish the qualification criteria and methodology for payments for the uncompensated care costs of inpatient psychiatric hospitals located in the northern area of the state with an academic training mission for services provided to uninsured and low-income individuals from the payment pool created in accordance with Act 447 of the 2023 Regular Session of the Louisiana Legislature.

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

It is anticipated that implementation of this proposed rule will increase federal revenue collections by approximately \$1,353,832 for FY 23-24, \$1,360,200 for FY 24-25, and \$1,360,200 for FY 25-26. It is anticipated that \$432 will be collected in FY 23-24 for the federal share of the expense for promulgation of this proposed rule and the final rule.

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

This proposed rule amends the provisions governing disproportionate share hospital (DSH) payments to establish the qualification criteria and methodology for payments for the uncompensated care costs of inpatient psychiatric hospitals located in the northern area of the state with an academic training mission for services provided to uninsured and low-income individuals from the payment pool created in accordance with Act 447 of the 2023 Regular Session of the Louisiana Legislature. This proposed rule will ensure that vital inpatient psychiatric services for low-income patients continue to be provided by psychiatric hospitals in northern Louisiana. Implementation of this proposed rule is anticipated to increase Medicaid payments to qualifying inpatient psychiatric hospitals by \$2,000,000 in FY 23-24, \$2,000,000 in FY 24-25, and \$2,000,000 in FY 25-26.

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

This rule has no known effect on competition and employment.

Kimberly Sullivan, JD  
Interim Medicaid Executive Director  
2311#034

Patrice Thomas  
Deputy Fiscal Officer  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Health Bureau of Health Services Financing and Office of Aging and Adult Services

Home and Community-Based Services Waivers  
Adult Day Health Care Waiver  
(LAC 50:XXI.2101, 2103, 2301, 2703, 2901, and 2903)

The Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services propose to amend LAC 50:XXI.2101, §2102, §2301, §2703 and §2901 and adopt §2903 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services promulgated an Emergency Rule which amended the provisions governing the Adult Day Health Care Waiver to add health status monitoring, home delivered meals, activity and sensor monitoring and personal emergency response systems as waiver services throughout the duration of the Coronavirus Disease 2019 (COVID-19) public health emergency (PHE) (*Louisiana Register*, Volume 46, Number 9). The department promulgated an Emergency Rule temporarily extending these services beyond the May 11, 2023 COVID-19 PHE end date as allowed by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) (*Louisiana Register*, Volume 49, Number 5). The department subsequently received CMS approval to make these services available permanently under the ADHC waiver and promulgated an Emergency Rule which amended the May 12, 2023 Emergency Rule to extend these services beyond the original November 11, 2023 CMS extension date in order to allow sufficient time for them to be permanently incorporated into the *Louisiana Administrative Code* (*Louisiana Register*, Volume 49, Number 11). This proposed Rule is being promulgated to continue the provisions of the November 9, 2023 Emergency Rule.

#### Title 50

#### PUBLIC HEALTH—MEDICAL ASSISTANCE Part XXI. Home and Community-Based Services Waivers

#### Subpart 3. Adult Day Health Care Waiver

#### Chapter 21. General Provisions

#### §2101. Introduction

A. - D.2.b. ...

3. No individual, unless granted an exception by OAAS, may concurrently serve as a responsible representative for more than two participants in OAAS-operated Medicaid home and community-based service programs including:

a. the Program of All-Inclusive Care for the Elderly (PACE);

b. - d. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 11:623 (June 1985), repromulgated LR 13:181 (March 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1149 (September 1997), repromulgated LR 30:2034 (September 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2161 (October 2008), repromulgated LR 34:2565 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 39:2494 (September 2013), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 44:2162 (December 2018), LR 50:

#### §2103. Program Description

A. ...

B. The target population for the ADHC Waiver Program includes individuals who:

1. ...

2. are 22 to 64 years old and with a physical disability; and

3. ...

C. The long-range goal for all adult day health care participants is the delay or prevention of long-term care facility placement. The more immediate goals of the Adult Day Health Care Waiver are to:

1. - 2. ...

3. restore and rehabilitate the individual to the highest possible level of functioning as may be practicable under the circumstances;

4. - 6. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 8:145 (March 1982), amended LR 11:623 (June 1985), repromulgated LR 13:181 (March 1987), amended by the Department of Health and Hospitals, Office of the Secretary, LR 14:793 (November 1988), amended by the Bureau of Health Services Financing, LR 23:1149 (September 1997), repromulgated LR 30:2034 (September 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2161 (October 2008), repromulgated LR 34:2566 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:2624 (September 2011), LR 39:2495 (September 2013), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 50:

#### Chapter 23. Services

#### §2301. Covered Services

A. - A.4.b. ...

c. These services do not include monthly rental charges, mortgage expenses, food, recurring monthly utilities charges, household appliances, and/or items intended for purely diversional/recreational purposes.

A.4.d. - A.5.b.iii. ...

6. ADHC Health Status Monitoring (HSM). This service monitors the status of participants that are unable to attend the ADHC on their scheduled day as outlined in the approved plan of care.

a. The ADHC provider may utilize this service and contact the participant via telephone to check in on the participant and provide follow-up on any need identified during the telephone contact.



7. Home Delivered Meals (HDMs). These services assist in meeting the nutritional needs of a participant in support of the maintenance of self-sufficiency and enhancing the quality of life.

a. Up to two nutritionally balanced meals per day may be delivered to the home of an eligible participant who is unable to prepare their own meals, and/or has no responsible caregiver in the home on days that the participant is not scheduled to attend the ADHC center.

b. Each meal shall provide a minimum of one-third of the current recommended dietary allowance (RDA) for the participant as adopted by the United States Department of Agriculture. The provision of HDMs does not provide a full nutritional regimen.

8. Activity and Sensor Monitoring (ASM). This is a computerized system that monitors the participant's in-home movement and activity for health, welfare, and safety purposes.

a. The provider agency is responsible for monitoring electronically-generated information, for responding as needed, and for equipment maintenance.

b. ASM must meet applicable manufacturing, design and installation standards.

c. ASM must be prior authorized and no experimental items shall be authorized.

9. Personal Emergency Response System (PERS). This is an electronic device which enables participants to secure help in an emergency. PERS is appropriate for participants who are cognitively and/or physically able to operate the system and who are alone for significant periods of time.

a. PERS must meet applicable manufacturing, design, and installation standards.

b. PERS must be prior authorized and no experimental items shall be authorized.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 11:623 (June 1985), amended LR 13:181 (March 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1149 (September 1997), amended LR 25:1100 (June 1999), repromulgated LR 30:2036 (September 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2162 (October 2008), repromulgated LR 34:2566 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:2625 (September 2011), LR 39:2495 (September 2013), LR 40:791 (April 2014), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 44:2163 (December 2018), LR 49:486 (March 2023), LR 50:

## **Chapter 27. Provider Responsibilities**

### **§2703. Reporting Requirements**

A. - B. ...

C. Support coordinators shall provide the participant's approved POC to the providers listed on the POC in a timely manner.

D. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Office of Aging and Adult Services, LR 34:2164 (October 2008), repromulgated LR 34:2568 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 39:2497 (September 2013), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 44:2165 (December 2018), LR 50:

## **Chapter 29. Reimbursement**

### **§2901. Reimbursement and Rate Requirements**

A. Adult day health care services shall be reimbursed according to LAC 50:XXI.709.

1. - 5. Repealed.

B. The following services shall be reimbursed at the authorized rate or approved amount of the installation, device/equipment, and when the service has been prior approved by the plan of care:

1. home delivered meals (not to exceed the maximum limit set by OAAS);

2. activity and sensor monitoring;

3. transition services (not to exceed the maximum lifetime limit set by OAAS);

4. personal emergency response system; and

5. assistive technology.

C. ADHC health status monitoring services shall be reimbursed as a per diem rate.

1. - 5.b. Repealed.

D. The following services shall be reimbursed at an established monthly rate:

1. support coordination;

a. - d. Repealed.

2. transition intensive support coordination; and

3. monthly monitoring/maintenance for PERS and/or ASM services.

E. Reimbursement shall not be made for ADHC Waiver services provided prior to the department's approval of the POC and release of prior authorization for the services.

F. The state has the authority to set and change provider rates and/or provide lump sum payments to providers based upon funds allocated by the legislature.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 49:683 (April 2023), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 50:

### **§2903. Adult Day Health Care (ADHC) Direct Support Worker Wages, Other Benefits, and Workforce Retention Bonus Payments** **[Formerly LAC 50:XXI.2901]**

A. Establishment of ADHC Direct Support Worker Wage Floor and Other Benefits

1. ADHC providers that were providing ADHC services on or after October 1, 2021 and employing ADHC direct support workers will receive a rate increase. The ADHC reimbursement rates shall be rebased resulting in an average increase of \$4.31 per hour (rates differ based on facility specific transportation rate).

2. For direct support workers employed at the ADHC centers on or after October 1, 2021, 70 percent of the ADHC

provider rate increases shall be passed directly to the ADHC direct support workers in the form of a minimum wage floor of \$9 per hour and in other wage and non-wage benefits.

3. All ADHC providers affected by this rate increase shall be subject to passing 70 percent of their rate increases directly to the ADHC direct support worker in various forms. These forms include a minimum wage floor of \$9 per hour and wage and non-wage benefits. This wage floor and wage and non-wage benefits are effective for all affected ADHC direct support workers of any working status, whether full-time or part-time.

4. The ADHC provider rate increases, wage floor, and/or wage and non-wage benefits will end March 31, 2025 or when the state's funding authorized under section 9817 of the American Rescue Plan Act of 2021 (Pub. L. No. 117-002) is exhausted.

5. The Department of Health (LDH) reserves the right to adjust the ADHC direct support worker wage floor and/or wage and non-wage benefits as needed through appropriate rulemaking promulgation consistent with the Administrative Procedure Act.

#### B. Establishment of Direct Support Worker Workforce Bonus Payments

1. ADHC providers who provided services from April 1, 2021 to October 31, 2022 shall receive bonus payments of \$300 per month for each ADHC direct support worker that worked with participants for those months.

2. The ADHC direct support worker who provided services from April 1, 2021 to October 31, 2022 to participants must receive at least \$250 of this \$300 monthly bonus payment paid to the provider. This bonus payment is effective for all affected ADHC direct support workers of any working status, whether full-time or part-time.

#### C. Audit Procedures for ADHC Direct Support Worker Wage Floor, Other Benefits, and Workforce Bonus Payments

1. The wage enhancements, wage and non-wage benefits and bonus payments reimbursed to ADHC providers shall be subject to audit by LDH.

2. ADHC providers shall provide to LDH or its representative all requested documentation to verify that they are in compliance with the ADHC direct support worker wage floor, wage and non-wage benefits and/or bonus payments.

3. This documentation may include, but is not limited to, payroll records, wage and salary sheets, check stubs, copies of unemployment insurance files, etc.

4. ADHC providers shall produce the requested documentation upon request and within the timeframe provided by LDH.

5. Non-compliance or failure to demonstrate that the wage enhancement, wage and non-wage benefits and bonus payments were paid directly to ADHC direct support workers may result in the following:

- a. sanctions; or
- b. disenrollment from the Medicaid Program.

#### D. Sanctions for ADHC Direct Support Worker Wage Floor, Other Benefits and Workforce Bonus Payments

1. The ADHC provider will be subject to sanctions or penalties for failure to comply with this Rule or with requests issued by LDH pursuant to this Rule. The severity of such action will depend on the following factors:

a. failure to pass 70 percent of the ADHC provider rate increases directly to the ADHC direct support workers in the form of a floor minimum of \$9 per hour and in other wage and non-wage benefits and/or the \$250 monthly bonus payments;

b. the number of employees identified that the ADHC provider has not passed 70 percent of the ADHC provider rate increases directly to the ADHC direct support workers in the form of a floor minimum of \$9 per hour and in other wage and non-wage benefits and/or the \$250 monthly bonus payments;

c. the persistent failure to not pass 70 percent of the ADHC provider rate increases directly to the ADHC direct support workers in the form of a floor minimum of \$9 per hour and in other wage and non-wage benefits and/or the \$250 monthly bonus payments; or

d. failure to provide LDH with any requested documentation or information related to or for the purpose of verifying compliance with this Rule.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 50:

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

#### **Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule may have a positive impact on family functioning, stability and autonomy as described in R.S. 49:972, as it provides additional services to meet the needs of ADHC Waiver participants.

#### **Poverty Impact Statement**

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule may have a positive impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973, as it provides additional services to meet the needs of ADHC Waiver participants.

#### **Small Business Analysis**

In compliance with the Small Business Protection Act, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule may have a positive impact on small businesses, since it expands the services ADHC providers can provide to waiver participants when they are not at the center and be reimbursed by Medicaid.

#### **Provider Impact Statement**

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same

level of service, but may have a positive impact on the provider's ability to provide the same level of service as described in HCR 170, since it expands the services ADHC providers can provide to waiver participants when they are not at the center and be reimbursed by Medicaid.

#### Public Comments

Interested persons may submit written comments to Kimberly Sullivan, JD, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. Sullivan is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on January 2, 2024.

#### Public Hearing

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on December 11, 2023. If the criteria set forth in R.S. 49:961(B)(1) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on December 28, 2023 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after December 11, 2023. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing.

Stephen R. Russo, JD  
Secretary

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: Home and Community-Based Services Waivers—Adult Day Health Care Waiver

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

It is anticipated that this proposed rule will result in increased state costs of approximately \$79,629 for FY 23-24, \$80,394 for FY 24-25, and \$80,394 for FY 25-26. It is anticipated that \$1,728 (\$864 SGF and \$864 FED) will be expended in FY 23-24 for the state's administrative expense for promulgation of this proposed rule and the final rule.

This proposed rule continues the provisions of the November 09, 2023 Emergency Rule which extended the expiration of date of services that were added to the Adult Day Health Care (ADHC) Waiver during the Coronavirus Disease 2019 (COVID-19) public health emergency (PHE) in order to add them permanently to the Louisiana Administrative Code as a result of the approval received from the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS).

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

It is anticipated that implementation of this proposed rule will increase federal revenue collections by approximately \$172,704 for FY 23-24, \$170,211 for FY 24-25, and \$170,211 for FY 25-26. It is anticipated that \$864 will be collected in FY 23-24 for the federal share of the expense for promulgation of this proposed rule and the final rule.

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

This proposed rule continues the provisions of the November 09, 2023 Emergency Rule which extended the expiration date for health status monitoring, home delivered meals, activity and sensor monitoring, and personal emergency response systems that were initially added to the Adult Day Health Care (ADHC) waiver as temporary services during the Coronavirus Disease 2019 (COVID-19) public health emergency (PHE) and were extended beyond the May 11, 2023 PHE end date as allowed by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS). CMS has now approved adding them as permanent waiver services. This proposed rule will allow ADHC waiver participants to maintain access to services to meet their needs and providers to continue receiving Medicaid reimbursement. Implementation of this proposed rule is anticipated to increase expenditures for ADHC waiver services by approximately \$250,605 for FY 23-24, \$250,605 for FY 24-25, and \$250,605 for FY 25-26.

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

This rule has no known effect on competition and employment.

Kimberly Sullivan, JD  
Interim Medicaid Executive Director  
2311#035

Patrice Thomas  
Deputy Fiscal Officer  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Department of Health Bureau of Health Services Financing

Inpatient Hospital Services  
Teaching Hospitals  
(LAC 50:V.1301 and 1303)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:V.1301 and §1303 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health, Bureau of Health Services Financing proposes to amend the provisions governing inpatient hospital services to clarify the purpose of the affiliated agreement that hospitals must have with an accredited institution for major or minor teaching hospital graduation education training and the options applicable for residency programs in order to align the administrative rule with the current State Plan Amendment approved by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

#### Title 50

### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part V. Hospital Services

#### Subpart 1. Inpatient Hospitals Services

#### Chapter 13. Teaching Hospitals

#### Subchapter A. General Provisions

#### §1301. Major Teaching Hospitals

A. The Louisiana Medical Assistance Program's recognition of a major teaching hospital is limited to facilities having a documented affiliation agreement for the purpose of providing graduate medical education training with a Louisiana medical school accredited by the Liaison

Committee on Medical Education (LCME) or by the Commission on Osteopathic College Accreditation (COCA). A major teaching hospital shall meet one of the following criteria:

1. - 2. ...

B. For the purposes of recognition as a major teaching hospital, a facility shall be considered a "major participant" in a graduate medical education program if it meets the following criteria. The facility must participate in residency programs that:

1. require residents to rotate for a required experience; and

2. - 3. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:324 (February 2013), amended LR 40:1697 (September 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 49:70 (January 2023), LR 50:

### **§1303. Minor Teaching Hospitals**

A. The Louisiana Medical Assistance Program's recognition of a minor teaching hospital is limited to facilities having a documented affiliation agreement for the purposes of providing graduate medical education training with a Louisiana medical school accredited by the LCME or by the COCA. A minor teaching hospital shall meet the following criteria:

1. - 2. ...

B. For the purposes of recognition as a minor teaching hospital, a facility is considered to "participate significantly" in a graduate medical education program if it meets the following criteria. The facility must participate in residency programs that:

1. require residents to rotate for a required experience; and

2. - 3.a. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:324 (February 2013), amended LR 40:1698 (September 2014), amended LR 40:1698 (September 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 49:70 (January 2023), LR 50:

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

#### **Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

#### **Poverty Impact Statement**

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

#### **Small Business Analysis**

In compliance with the Small Business Protection Act, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule will have no impact on small businesses.

#### **Provider Impact Statement**

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct and indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

#### **Public Comments**

Interested persons may submit written comments to Kimberly Sullivan, JD, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. Sullivan is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on January 2, 2024.

#### **Public Hearing**

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on December 11, 2023. If the criteria set forth in R.S. 49:961(B)(1) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on December 28, 2023 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after December 11, 2023. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing.

Stephen R. Russo, JD  
Secretary

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Inpatient Hospital Services Teaching Hospitals**

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

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 23-24. It is anticipated that \$648 (\$324 SGF and \$324 FED) will be expended in FY 23-24 for the state's administrative expense for promulgation of this proposed rule and the final rule.

This proposed rule amends the provisions governing inpatient hospital services to clarify the purpose of the affiliated agreement that hospitals must have with an accredited institution for major or minor teaching hospital graduation education training and the options applicable for residency programs in order to align the administrative rule with the current State Plan Amendment approved by the U.S.

Department of Health and Human Services, Centers for Medicare and Medicaid Services.

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

It is anticipated that implementation of this proposed rule will have no effect on revenue collections other than the federal share of the promulgation costs for FY 23-24. It is anticipated that \$324 will be collected in FY 23-24 for the federal share of the expense for promulgation of this proposed rule and the final rule.

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

This proposed rule amends the provisions governing inpatient hospital services to clarify the purpose of the affiliated agreement that hospitals must have with an accredited institution for major or minor teaching hospital graduation education training and the options applicable for residency programs in order to align the administrative rule with the current State Plan Amendment (SPA) approved by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS). It is anticipated that implementation of this proposed rule will not result in costs to Medicaid providers or small businesses in FY 23-24, FY 24-25, and FY 25-26, but will be beneficial by ensuring that the program requirements in the Louisiana Administrative Code do not conflict with the CMS approved SPA.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Kimberly Sullivan, JD  
Interim Medicaid Executive Director  
2311#036

Patrice Thomas  
Deputy Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health  
Bureau of Health Services Financing**

**Intermediate Care Facilities for Persons  
with Intellectual Disabilities  
Leave of Absence Days  
(LAC 50:VII.33103)**

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50: VII.33103 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq.

The Department of Health, Bureau of Health Services Financing proposes to amend the provisions governing leave of absence days for intermediate care facilities for persons with intellectual disabilities (ICFs/IID) in order to increase the total leave days for ICF/IID clients from 45 to 60 and from 30 consecutive days in any single occurrence to 45 consecutive days.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part VII. Long Term Care**

**Subpart 3. Intermediate Care Facilities for Persons with Intellectual Disabilities**

**Chapter 331. Vendor Payments**

**§33103. Payment Limitations**

A. Temporary Absence of the Client. A client's temporary absence from an ICF/ID will not interrupt the monthly vendor payment to the ICF/ID, provided the following conditions are met:

- 1. ...
- 2. the absence is for one of the following reasons:

a. hospitalization, which does not exceed seven days per hospitalization for treatment of an acute condition; or

b. leave of absence. A temporary stay outside the ICF/ID provided for in the client's written individual habilitation plan. A leave of absence will not exceed 60 days per fiscal year (July 1 through June 30) and will not exceed 45 consecutive days in any single occurrence. Certain leaves of absence will be excluded from the annual 60-day limit as long as the leave does not exceed the 45-consecutive day limit and is included in the written individual habilitation plan. These exceptions are as follows:

- i. - iii. ...
- iv. trial discharge leave—14 days per occurrence;
- v. - v.i.(a). ...

c. the following leaves of absence will be excluded from both the annual 60-day limit and the 45-consecutive day limit as long as the leave of absence is included in the written individual habilitation plan:

- i. ...

NOTE: Elopements and unauthorized absences under the written individual habilitation plan count against allowable leave days. However, Title XIX eligibility is not affected if the absence does not exceed 30 consecutive days and if the ICF/ID has not discharged the client.

- 3. - 6. ...

7. the ICF/ID shall promptly notify DHH of absences beyond the applicable forty-five- or seven-day limitations. Payment to the ICF/MR shall be terminated from the forty-sixth or eighth day, depending upon the leave of absence. Payment will commence after the individual has been determined eligible for Title XIX benefits and has remained in the ICF/ID for 30 consecutive days;

- A.8. - J. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:578 (October 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:682 (April 1999), LR 31:1082 (May 2005), repromulgated LR 31:2257 (September 2005), amended by the Department of Health, Bureau of Health Services Financing, LR 43:325 (February 2017), LR 44:61 (January 2018), amended by the House of Representatives, 2020 Second Extraordinary Session, LR 46:1640 (November 2020), LR 50:

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

#### **Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule may have a positive impact on family functioning, stability and autonomy as described in R.S. 49:972, by allowing ICF/IID clients to spend additional time with their families away from the facility.

#### **Poverty Impact Statement**

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

#### **Small Business Analysis**

In compliance with the Small Business Protection Act, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule will have no impact on small businesses.

#### **Provider Impact Statement**

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, but may increase direct or indirect cost to the provider, and may have a negative impact on the provider's ability to provide the same level of service as described in HCR 170, if the additional leave days results in a reduction in Medicaid payments which adversely impacts the provider's financial standing.

#### **Public Comments**

Interested persons may submit written comments to Kimberly Sullivan, JD, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. Sullivan is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on January 2, 2024.

#### **Public Hearing**

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on December 11, 2023. If the criteria set forth in R.S. 49:961(B)(1) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on December 28, 2023 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call

Allen Enger at (225) 342-1342 after December 11, 2023. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing.

Stephen R. Russo, JD  
Secretary

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

#### **RULE TITLE: Intermediate Care Facilities for Persons with Intellectual Disabilities—Leave of Absence Days**

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

It is anticipated that implementation of this proposed rule may result in estimated programmatic savings to the state of approximately \$29,934 for FY 23-24, \$30,939 for FY 24-25, and \$30,939 for FY 25-26. It is anticipated that \$756 (\$378 SGF and \$378 FED) will be expended in FY 23-24 for the state's administrative expense for promulgation of this proposed rule and the final rule.

This proposed rule amends the provisions governing leave of absence days for intermediate care facilities for persons with intellectual disabilities (ICFs/IID) in order to increase the total leave days for ICF/IID clients from 45 to 60 and from 30 consecutive days in any single occurrence to 45 consecutive days which will allow ICF/IIDs to bill up to 60 leave days per fiscal year and up to 45 consecutive days.

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

It is anticipated that the implementation of this proposed rule may decrease revenue collections by approximately \$65,754 for FY 23-24, \$65,505 for FY 24-25, and \$65,505 for FY 25-26. It is anticipated that that \$378 will be collected in FY 23-24 for the federal share of the expense for promulgation of this proposed rule and the final rule.

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

This proposed rule amends the provisions governing leave of absence days for intermediate care facilities for persons with intellectual disabilities (ICFs/IID) in order to increase the total leave days for ICF/IID clients from 45 to 60 and from 30 consecutive days in any single occurrence to 45 consecutive days which will allow ICF/IIDs to bill up to 60 leave days per fiscal year and up to 45 consecutive days. The proposed rule will benefit ICF/IID clients by allowing them to spend additional time with their families away from the facility. Implementation of this proposed rule may reduce Medicaid program expenditures by approximately \$96,444 for FY 23-24, \$96,444 for FY 24-25, and \$96,444 for FY 25-26, if ICF/IID clients utilize the additional leave days and payments to facilities are reduced.

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

This proposed rule may impact-staffing ratios and possibly cause a reduction in total hours worked.

Kimberly Sullivan, JD  
Interim Medicaid Executive Director  
2311#037

Patrice Thomas  
Deputy Fiscal Officer  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Health Health Standards Section

Adult Day Health Care—Licensing Standards  
(LAC 48:I.Chapter 42)

The Department of Health, Health Standards Section proposes to amend LAC 48:I.Chapter 42 as authorized by R.S. 36:254 and R.S. 40: 40:2120.41-46. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health, Health Standards Section proposes to amend the provisions governing the licensing of adult day health care centers in order to add and revise definitions, update the process for granting waivers to building and construction guidelines and requirements, remove requirements for facility need review approval, and add provisions for an extension of the timeframe of inactivation of license due to a declared or non-declared disaster or emergency.

#### Title 48

#### PUBLIC HEALTH—GENERAL

#### Part I. General Administration

#### Subpart 3. Licensing and Certification

#### Chapter 42. Adult Day Health Care

#### Subchapter A. General Provisions

#### §4201. Introduction

A. - B.6. ...

C. All registered nurses, licensed practical nurses, and/or certified nurse aides supplied by staffing agencies, shall be provided through licensed nurse staffing agencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2177 (October 2008), repromulgated LR 34:2622 (December 2008), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1964 (October 2017), amended by the Department of Health, Health Standards Section, LR 50:

#### §4203. Definitions

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*Licensed Practical Nurse (LPN)*—a person who practices practical nursing and who is licensed to practice practical nursing in accordance with R.S. 37:961 et seq., or current law. The LPN works under the supervision of a registered nurse.

\* \* \*

*Nurse Staffing Agency (NSA)*—any person, partnership, corporation, unincorporated association, or other legal entity, including a digital website/platform or digital smart phone application that employs, assigns, or refers nurses or certified nurse aides to render healthcare services in a healthcare facility for a fee. For purposes of these regulations, NSA does not include the following:

1. an NSA that solely provides services in Louisiana under a contract or other agreement with the state of Louisiana, or any executive branch department or agency thereof, as a result of a declared disaster, emergency, or public health emergency;

2. the federal or state government department or agency that provides nursing staff or certified nurse aides to any healthcare provider setting, evacuation site, or shelter location as a result of a declared disaster, emergency, or public health emergency; and

3. an entity that solely provides administrative or consulting services.

\* \* \*

*Registered Nurse (RN)*—any individual licensed in accordance with R.S. 37:911 et seq., or current law, to engage in the practice of nursing as defined in R.S. 37:913 et seq., or current law.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2177 (October 2008), repromulgated LR 34:2622 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:2373 (September 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1964 (October 2017), amended by the Department of Health, Health Standards Section, LR 50:

#### §4205. Licensure Requirements

A. - B.2. ...

3. The ADHC center shall have admitted and have provided services to at least two participants in the past 12 months prior to their licensure resurvey onsite at the ADHC.

C. The licensed ADHC center is required to abide by and adhere to any state laws, rules, policy, and procedure manuals or memorandums pertaining to ADHC centers issued by LDH.

D. Plan Review. A complete online submittal of plans and specifications to the Office of the State Fire Marshal (OSFM) shall be made in accordance with the procedures established by that office. A letter shall accompany the plans to explain the scope of work. The letter shall include the types of services offered, ADHC center participant capacity, geographic location, special features, or specific requirements for the patient population served (e.g. age range, acuity level), and whether it is a relocation, renovation, and/or new construction. A copy of this letter is to be sent to the ADHC Program Desk Manager, with the applicable ADHC application packet.

##### 1. Submission of Plans

a. New Construction. All new construction shall be done in accordance with the specific requirements of the OSFM and the Office of Public Health (OPH). The requirements cover new construction in ADHCs, including submission of preliminary plans and the final work drawings and specifications to each of these agencies. Plan review shall be performed in accordance with the rules and regulations established by the OSFM. Plans and specifications shall be prepared by or under the direction of a licensed architect and/or a qualified licensed engineer and shall include scaled architectural plans stamped by an architect.

b. Adult Day Health Care. No ADHC shall hereafter be licensed without the prior written approval of, and unless in accordance with plans and specifications approved in advance by the OSFM. This includes new construction,

additions, renovations, or any change in service or the establishment of an ADHC in any healthcare facility or former healthcare facility.

## 2. Approval of Plans

a. Notice of satisfactory review from the OSFM 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, ordinances, codes, or rules of any responsible agency.

b. In the event that submitted materials do not appear to satisfactorily comply with the Louisiana State Uniform Construction Code Council (LSUCCC), the OSFM shall notify the party submitting the plans in writing, listing the particular items in question, and request further explanation and/or confirmation of necessary modifications.

## 3. Waivers

a. The secretary of the department may, within his/her sole discretion, grant waivers to building and construction guidelines or requirements and to provisions of the licensing rules involving the clinical operation of the ADHC. The facility shall submit a waiver request in writing to the licensing section of the department on forms prescribed by the department.

b. In the waiver request, the facility shall demonstrate the following:

i. how client health, safety, and welfare will not be compromised if such waiver is granted;

ii. how the quality of care offered will not be compromised if such waiver is granted; and

iii. the ability of the facility to completely fulfill all other requirements of the service or condition or regulation.

c. The licensing section of the department shall have each waiver request reviewed by an internal waiver review committee. In conducting such internal waiver review, the following shall apply:

i. the waiver review committee may consult subject matter experts as necessary, including the OSFM; and

ii. the waiver review committee may require the facility to submit risk assessments or other documentation to the department.

iii. the waiver review committee may require the facility to submit risk assessments or other documentation to the department.

d. The director of the licensing section of the department shall submit the waiver review committee's recommendation on each waiver to the secretary, or the secretary's designee, for final determination.

e. The department shall issue a written decision of the waiver request to the facility. The granting of any waiver may be for a specific length of time.

f. The written decision of the waiver request is final. There is no right to an appeal of the decision of the waiver request.

g. If any waiver is granted, it is not transferrable in an ownership change or change of location.

h. Waivers are subject to review and revocation upon any change of circumstance related to the waiver or

upon a finding that the health, safety, or welfare of a patient may be compromised.

i. Any waivers granted by the department prior to January 1, 2024, shall remain in place, subject to any time limitations on such waivers; further, such waivers shall be subject to the following:

i. such waivers are subject to review or revocation upon any change in circumstance related to the waiver or upon a finding that the health, safety, or welfare of a patient may be compromised; and

ii. such waivers are not transferrable in an ownership change or change of location.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2178 (October 2008), repromulgated LR 34:2623 (December 2008), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1965 (October 2017), amended by the Department of Health, Health Standards Section, LR 50:

### §4207. Initial License Application Process

A. An initial application for licensing as an ADHC center shall be obtained from the department.

B. A completed initial license application packet for an ADHC center shall be submitted to and approved by the department prior to an applicant providing ADHC services. An applicant shall submit a completed initial licensing packet to the department, which shall include:

B.1. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2178 (October 2008), repromulgated LR 34:2624 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:2373 (September 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1965 (October 2017), amended by the Department of Health, Health Standards Section, LR 50:

### §4223. Inactivation of License due to a Declared Disaster or Emergency

A. - A.1.c. ...

d. includes an attestation that all participants have been properly discharged or transferred to another center;

e. provides a list of each participant and where that participant is discharged or transferred to; and

f. pursuant to these provisions, an extension of the 60 day deadline for initiation of the request may be granted at the discretion of the department.

A.2. - F. ...

G. Failure to comply with any of the provisions of this Section shall be deemed a voluntary surrender of the ADHC center license.

H. If the ADHC center requires an extension of the timeframe allowed by §4223 due to circumstances beyond the ADHC center's control, the department will consider an extension of the original inactivation period for up to 12 months to complete construction or repairs. Such written request for extension shall show the ADHC center's active efforts to complete construction or repairs and the reasons for the request for extension of the ADHC's inactive license.



Any approval for extension is at the sole discretion of the department.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

**HISTORICAL NOTE:** Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:1970 (October 2017), amended by the Department of Health, Health Standards Section, LR 50:

#### **§4224. Inactivation of License due to a Non-Declared Disaster or Emergency**

A. - D. ...

EXCEPTION: Repealed.

1. If the ADHC center requires an extension of the timeframe allowed by §4224 due to circumstances beyond the ADHC center's control, the department will consider an extension of the original inactivation period for up to 12 months to complete construction or repairs. Such written request for extension shall show the ADHC center's active efforts to complete construction or repairs and the reasons for the request for extension of ADHC center's inactive license. Any approval for extension is at the sole discretion of the department.

E. - I. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

**HISTORICAL NOTE:** Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:1970 (October 2017), amended by the Department of Health, Health Standards Section, 50:

#### **Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

#### **Poverty Impact Statement**

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

#### **Small Business Analysis**

In compliance with the Small Business Protection Act, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule will result in an indeterminable decrease in costs to small business healthcare providers since there is no way to determine how many small business healthcare providers will no longer be required to pay nonrefundable facility need review (FNR) application fees. The proposed Rule will have a beneficial impact on small business healthcare providers by ensuring that the requirements for granting waivers are accurately reflected in the *Louisiana Administrative Code*.

#### **Provider Impact Statement**

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's

ability to provide the same level of service as described in HCR 170. It is anticipated that this proposed Rule will have an indeterminable decrease in costs to business healthcare providers since there is no way to determine how many business healthcare providers will no longer be required to pay nonrefundable facility need review (FNR) application fees. The proposed Rule will have a beneficial impact on business healthcare providers by ensuring that the requirements for granting waivers are accurately reflected in the *Louisiana Administrative Code*.

#### **Public Comments**

Interested persons may submit written comments to Tasheka Dukes, RN, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821. Ms. Dukes is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on January 2, 2024.

#### **Public Hearing**

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on December 11, 2023. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on January 4, 2024 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after December 11, 2023. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage, which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Stephen R. Russo, JD  
Secretary

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Adult Day Health Care Licensing Standards**

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

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 23-24. It is anticipated that \$1,296 will be expended in FY 23-24 for the state's administrative expense for promulgation of this proposed rule and the final rule.

This proposed rule amends the provisions governing the licensing of adult day health care (ADHC) centers in order to add and revise definitions, update the process for granting waivers to building and construction guidelines and requirements, remove requirements for facility need review (FNR) approval, and add provisions for an extension of the inactivation of license timeframe due to a declared or non-declared disaster or emergency.

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

It is anticipated that the implementation of this proposed rule will not affect federal revenue collections as this measure has no impact on licensing fees. It is anticipated that implementation of this proposed rule may result in an indeterminable decrease in state revenue collections in FY 23-24, FY 24-25, and FY 25-26, as ADHC providers will no longer be required to pay a nonrefundable FNR application fee.

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

This proposed rule amends the provisions governing the licensing of ADHC centers in order to add and revise definitions, update the process for granting waivers to building and construction guidelines and requirements, remove requirements for FNR approval, and add provisions for an extension of the inactivation of license timeframe due to a declared or non-declared disaster or emergency. It is anticipated that implementation of this proposed rule may result in an indeterminable decrease in costs to ADHC's in FY 23-24, FY 24-25, and FY 25-26, since ADHC's will no longer be required to pay nonrefundable FNR application fees.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule has no known effect on competition and employment.

Tasheka Dukes, RN  
Deputy Assistant Secretary  
2311#048

Patrice Thomas  
Deputy Fiscal Office  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health  
Health Standards Section**

Behavioral Health Service Providers  
Licensing Standards  
(LAC 48:I.5603, 5684, and 5690)

The Department of Health, Health Standards Section proposes to amend LAC 48:I.5603 and 5684, and to adopt 5690 as authorized by R.S. 36:254. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health, Health Standards Section proposes to amend the provisions governing the licensing of behavioral health service (BHS) providers in order to add the definition of Mental Health Partial Hospitalization Program, and to remove the age restriction for use of mobile crisis response services. The department also proposes to adopt licensing requirements governing BHS providers of Mental Health Partial Hospitalization programs.

**Title 48**

**PUBLIC HEALTH—GENERAL**

**Part I. General Administration**

**Subpart 3. Licensing and Certification**

**Chapter 56. Behavioral Health Service Providers**

**Subchapter A. General Provisions**

**§5603. Definitions**

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*Mental Health Partial Hospitalization Program*—professionally directed assessment, diagnosis, and treatment

provided in an organized non-residential treatment setting, including individual, group, family counseling and psycho-education, as well as medication management, medical and psychiatric examinations, and crisis mitigation coverage. Services may be offered during the day, before or after work or school, in the evening or on a weekend, and the program shall provide 20 or more hours of structured programming per week.

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AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1682 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1380 (July 2017), LR 46:587 (April 2020), LR 48:1277 (May 2022), LR 48:2755 (November 2022), LR 50:

**Subchapter L. Additional Requirements for Mental Health Programs**

**§5684. Mobile Services**

A. - C.9.d. ...

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**D. Mobile Crisis Response**

1. Mobile crisis response services are an initial or emergent crisis intervention response intended to provide relief, resolution, and intervention provided by a mobile crisis response team (MCRT).

2. This service shall be provided under the supervision of a licensed mental health professional (LMHP) with experience regarding this specialized mental health service. The LMHP or physician shall be available at all times to provide back-up, support and/or consultation from assessment of risk and through all services delivered during a crisis.

3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 48:1284 (May 2022), amended by the Department of Health, Health Standards Section, LR 50:

**§5690. Mental Health Partial Hospitalization Program (MHPHP)**

A. The provider shall:

1. develop admission criteria that recognizes the dual-function of MHPHPs (i.e., that they can serve as both a step-down from hospitalization and as a preventative measure to hospitalization);

a. services may be offered during the day or evening hours, before or after work or on weekends, while also allowing the patient to apply their new skills and strategies in the community;

2. maintain a minimum of 20 contact hours per week for adults, at a minimum of three days per week;

3. maintain a minimum of 20 hours per week for children/adolescents, as specified in the patient's treatment plan, which may occur during school hours;

a. adolescents shall have access to educational services; or

b. the provider shall be able to coordinate with the school system to ensure that the adolescent's educational needs are met;

4. review and update the treatment plan in collaboration with the client as needed or at a minimum of every 30 days;

5. have the capability to provide:

- a. individual, group, and family therapy;
- b. crisis management/coverage capabilities;
- c. medication management capabilities; and
- d. basic case management services;

6. conduct a biopsychosocial assessment that must include an assessment for substance use/addiction, and refer to a proper level of care for addiction treatment, where indicated;

7. offer aftercare/continuing care group counseling services to people successfully completing a MHPHP; and

8. have a structured psychoeducational curriculum in place that covers, at a minimum, the following subjects:

- a. disease education (i.e., education on mental illness/various psychiatric illnesses);
- b. the role of medication and proper medication management in the treatment of psychiatric illnesses;
- c. education on co-occurring illnesses;
- d. education on developing a long-term recovery plan, and guidance towards getting grounded in community-based support programming geared towards people with chronic mental health challenges;
- e. education on symptom management;
- f. education on crisis management;
- g. education on the role of nutrition in the treatment of mental health issues; and
- h. education on the role of family/key personal stakeholders in a recovery plan.

B. Staffing. The provider shall ensure that:

1. a physician is on site as needed for the management of psychiatric and medical needs and on call 24 hours per day, seven days per week;

2. there is a clinical supervisor on-site 10 hours a week and on call 24 hours per day, seven days per week;

3. there is at least one LMHP on site when clinical services are being provided;

4. each LMHP/unlicensed professional's caseload does not exceed 1:25 active clients; and

5. there are nursing services available as needed to meet the nursing needs of the clients.

a. nursing services may be provided directly by the BHS provider or may be provided or arranged via written contract, agreement, policy, or other document. The BHS provider shall maintain documentation of such arrangement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health, Health Standards Section, LR 50:

#### **Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule may have a positive impact on family functioning, stability, and autonomy as described in R.S. 49:972 by expanding the availability of mental health services.

#### **Poverty Impact Statement**

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this

proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

#### **Small Business Analysis**

In compliance with the Small Business Protection Act, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule may have an indeterminable cost increase to small business providers who may apply to be licensed to provide Mental Health Partial Hospitalization Program services, since there is no way to determine how many of these providers will apply.

#### **Provider Impact Statement**

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on staffing level requirements or qualifications required to provide the same level of service, but may have an indeterminable increase in the direct or indirect cost to the provider and on the provider's ability to provide the same level of service as described in HCR 170, since there is no way to determine how many behavioral health service providers will apply to be licensed to provide Mental Health Partial Hospitalization Program services.

#### **Public Comments**

Interested persons may submit written comments to Tasheka Dukes, RN, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821. Ms. Dukes is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on January 2, 2024.

#### **Public Hearing**

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on December 11, 2023. If the criteria set forth in R.S. 49:961(B)(1) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on January 4, 2024 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after December 11, 2023. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing.

Stephen R. Russo, JD  
Secretary

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Behavioral Health Service Providers Licensing Standards**

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

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 23-24. It is anticipated that \$864 will be expended in FY 23-24 for the state's

administrative expense for promulgation of this proposed rule and the final rule.

This proposed rule amends the provisions governing the licensing of behavioral health service (BHS) providers in order to add the definition of mental health partial hospitalization program, to remove the age restriction for use of mobile crisis response services, and to adopt licensing requirements governing BHS providers of mental health partial hospitalization programs.

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

It is anticipated that implementation of this proposed rule may result in an indeterminable increase in state revenue collections in FY 23-24, FY 24-25, and FY 25-26, as BHS providers who choose to provide additional behavioral health services will be required to pay a nonrefundable application fee.

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

This proposed rule amends the provisions governing the licensing of BHS providers in order to add the definition of mental health partial hospitalization program, and to remove the age restriction for use of mobile crisis response services. This proposed rule also adopts licensing requirements governing BHS providers of mental health partial hospitalization programs. It is anticipated that implementation of this proposed rule may result in an indeterminable cost increase to BHS providers in FY 23-24, FY 24-25, and FY 25-26, since BHS providers who choose to provide additional behavioral health services will be required to pay a nonrefundable application fee.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule has no known effect on competition and employment.

Tasheka Dukes, RN  
Deputy Assistant Secretary  
2311#049

Patrice Thomas  
Deputy Fiscal Office  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health  
Health Standards Section**

**Nurse Staffing Agencies—Licensing Standards  
(LAC 48:I.Chapter 77)**

The Department of Health, Health Standards Section, proposes to amend LAC 48:I.Chapter 77 as authorized by R.S. 36:254 and 40:2120.11 et seq. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health, Health Standards Section, proposes to amend the provisions governing the licensing of nurse staffing agencies in order to add and update definitions, adjust social media policy requirements, revise administrator requirements, and modify initial licensure and change of ownership requirements.

**Title 48**

**PUBLIC HEALTH—GENERAL**

**Part I. General Administration**

**Subpart 3. Licensing and Certification**

**Chapter 77. Nurse Staffing Agencies Licensing Standards**

**Subchapter A. General Provisions**

**§7703. Definitions**

\* \* \*

*Client*—the licensed healthcare facility or agency to which the registered nurse, licensed practical nurse, or certified nursing assistant is assigned an initial employment, assignment, or referral term for an undefined term, or an initial term of less than twenty-four continuous months exclusive of any extension.

\* \* \*

*Digital/Smart Phone Application*—a computer program or software application operated by an agency that maintains data of nurses or certified nurse aides for purposes of referring the nurse or certified nurse aide directly to a healthcare facility through the digital/smart phone application.

*Digital Website/Platform*—an online webpage or technology platform operated by an agency that maintains data of nurses or certified nurse aides submitted to the agency online, for purposes of referring the nurse or certified nurse aide directly to a healthcare facility by the digital website/platform agency.

\* \* \*

*Nurse Staffing Agency (NSA)*—any person, partnership, corporation, unincorporated association, or other legal entity, including a digital website/platform, or digital/smart phone application that employs, assigns, or refers nurses or certified nurse aides to render healthcare services in a healthcare facility for a fee. For purposes of these regulations, NSA does not include the following:

- 1. - 3. ...

\* \* \*

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254.

**HISTORICAL NOTE:** Promulgated by the Department of Health, Bureau of Health Services Financing, LR 49:1729 (October 2023), amended by the Department of Health, Health Standards Section, LR 50:

**§7707. Initial Licensure Application Process**

A. - B.7. ...

8. a completed disclosure of ownership and control form;

9. a statement of the days and hours of operation; and

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

11. Repealed.

C. - F. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254.

**HISTORICAL NOTE:** Promulgated by the Department of Health, Bureau of Health Services Financing, LR 49:1730 (October 2023), amended by the Department of Health, Health Standards Section, LR 50:

**§7715. Change of Ownership of a Nurse Staffing Agency Provider**

A. – B.7. ...

8. a completed disclosure of ownership and control information form;

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

10. Repealed.

C. - G. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 49:1733 (October 2023), amended by the Department of Health, Health Standards Section, LR 50:

**Subchapter B. Administration and Organization**

**§7737. Policy and Procedures**

A. – A.13. ...

14. a written policy to address prohibited use of social media. The policy shall ensure that all employees or contracted staff, at a minimum, ensure preservation of dignity, respect, and confidentiality of an individual or individuals' receipt of healthcare services, and protection of an individual or individuals receiving healthcare services' privacy and personal and property rights.

B. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 49:1739 (October 2023), amended by the Department of Health, Health Standards Section, LR 50:

**Subchapter C. Provider Responsibilities**

**§7751. Core Staffing Requirements**

A. - D.7. ...

8. implement an ongoing, accurate, and effective budgeting and accounting system; and

9. ensure that all employees or contracted staff receive proper orientation and training on policies and procedures, as required by law or as necessary to fulfill each employee or contracted staff person's responsibilities.

10. Repealed.

E. - E.3. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 49:1740 (October 2023), amended by the Department of Health, Health Standards Section, LR 50:

**Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

**Poverty Impact Statement**

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this

proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

**Small Business Analysis**

In compliance with the Small Business Protection Act, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule may result in an indeterminable decrease in costs to small business providers in FY 23-24, FY 24-25, and FY 25-26, since criminal background checks on all applicant(s), owner(s) with five percent or more ownership interest, or administrator(s)/director(s) for any state lived in within the last five years will no longer be required for initial licensure as a NSA or change of ownership of a NSA.

**Provider Impact Statement**

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service and no impact on the provider's ability to provide the same level of service as described in HCR 170. It is anticipated that this proposed Rule may result in an indeterminable decrease in costs to NSA in FY 23-24, FY 24-25, and FY 25-26, since criminal background checks on all applicant(s), owner(s) with five percent or more ownership interest, or administrator(s)/director(s) for any state lived in within the last five years will no longer be required for initial licensure as a NSA or change of ownership of a NSA.

**Public Comments**

Interested persons may submit written comments to Tasheka Dukes, RN, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821. Ms. Dukes is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on January 2, 2024.

**Public Hearing**

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on December 11, 2023. If the criteria set forth in R.S. 49:961(B)(1) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on January 4, 2024 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after December 11, 2023. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing.

Stephen R. Russo, JD  
Secretary

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

**RULE TITLE: Nurse Staffing Agencies  
Licensing Standards**

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

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 23-24. It is anticipated that \$864 will be expended in FY 23-24 for the state's administrative expense for promulgation of this proposed rule and the final rule.

This proposed rule amends the provisions governing the licensing of nurse staffing agencies (NSAs) in order to add and update definitions, adjust social media policy requirements, revise administrator requirements, and modify initial licensure and change of ownership requirements.

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

It is anticipated that the implementation of this proposed rule will not affect revenue collections as this measure has no impact on licensing fees.

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

This proposed rule amends the provisions governing the licensing of nurse staffing agencies (NSAs) in order to add and update definitions, adjust social media policy requirements, revise administrator requirements, and modify initial licensure and change of ownership requirements.

It is anticipated that this proposed rule may result in an indeterminable decrease in costs to NSA in FY 23-24, FY 24-25, and FY 25-26, since criminal background checks on all applicant(s), owner(s) with five percent or more ownership interest, or administrator(s)/director(s) for any state lived in within the last five years will no longer be required for initial licensure as a NSA or change of ownership of a NSA.

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

This proposed rule has no known effect on competition and employment.

Tasheka Dukes. RN  
Deputy Assistant Secretary  
2311#050

Patrice Thomas  
Deputy Fiscal Office  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health**

**Licensed Professional Counselors Board of Examiners**

Social and Cultural Foundations  
Continuing Education Requirement  
(LAC 46:LX.611, 707, 3315, and 3503)

Editor's Note: This Notice of Intent is being reprinted because of an error upon submission. The original Notice of Intent can be viewed in its entirety on pages 1647-1649 of the September 20, 2023 *Louisiana Register*.

In accordance with the applicable provisions of the Louisiana Administrative Procedures Act (R.S.49:950 et seq.) and through the authority of the Mental Health Counselor Licensing Act (R.S. 37:1101 et seq.), the Licensed Professional Counselors Board of Examiners proposes to amend the continuing education requirements for renewal applicants.

The Licensed Professional Counselors Board of Examiners hereby gives notice of intent to propose changes to Chapter 6, Section 611, Chapter 7, Section 707, Chapter 33, Section 3315, and Chapter 35, Section 3503 for publication in the September 20, 2023, edition of the *Louisiana Register* with the effective date of April 1, 2026.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS REVISED**

**Part LX. Professional Counselors**

**Subpart 1. Licensed Professional Counselors**

**Chapter 6. Application, Practice, and Renewal  
Requirements for Provisional Licensed  
Professional Counselors**

**§611. Continuing Education Requirements for  
Provisional Licensed Professional Counselors**

A. A provisional licensee must accrue 20 clock hours of continuing education by every renewal period every two years. Of the 20 clock hours of continuing education, one and a half clock hours must be accrued in ethics, one and a half hours must be accrued in social and cultural foundations, and one and a half clock hours must be accrued in diagnosis (assessment, diagnosis, and treatment under the Diagnostic and Statistical Manual of Mental Disorders 5, as published by the American Psychiatric Association).

A.1. - B.2.h. ...

C. Approved Content Areas. Continuing education hours must be in one of the following 14 content areas:

1. - 2. ...

3. social and cultural foundations—includes studies that provide a broad understanding of societal changes and trends, human roles, societal subgroups, social mores and interaction patterns, and differing lifestyles; an understanding of the cultural context of relationships; issues and trends in a diverse society related to such factors as culture, ethnicity, nationality, age, gender, sexual orientation, mental and physical characteristics, education, family values, religious and spiritual values, socioeconomic status; and unique characteristics of individuals, couples, families, ethnic groups and communities.

C.4. - D.8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Professional Counselors, LR 41:717 (April 2015), amended by the Department of Health, Licensed Professional Counselors Board of Examiners, LR 50:

**Chapter 7. Application and Renewal Requirements  
for Licensed Professional Counselors**

**§707. Renewal Requirements for Licensed  
Professional Counselors and Board Approved  
Supervisors**

A. ...

1. A licensee must accrue 40 clock hours of continuing education by every renewal period every two years. Of the 40 clock hours of continuing education, 3 clock hours must be accrued in ethics, 3 hours must be accrued in social and cultural foundations, and 6 clock hours must be accrued in diagnosis (assessment, diagnosis, and treatment under the *Diagnostic and Statistical Manual of Mental Disorders 5*, as published by the American Psychiatric

Association). A board-approved supervisor must accrue 3 clock hours (of the required 40 clock hours of continuing education) in supervision.

A.2. - B.2.i. ...

C. Approved Content Areas. Continuing education hours must be in one of the following 14 content areas:

1. - 2. ...

3. social and cultural foundations—includes studies that provide a broad understanding of societal changes and trends, human roles, societal subgroups, social mores and interaction patterns, and differing lifestyles; an understanding of the cultural context of relationships; issues and trends in a diverse society related to such factors as culture, ethnicity, nationality, age, gender, sexual orientation, mental and physical characteristics, education, family values, religious and spiritual values, socioeconomic status; and unique characteristics of individuals, couples, families, ethnic groups and communities.

C.4. - D.8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 41:719 (April 2015), amended by the Department of Health, Licensed Professional Counselors Board of Examiners, LR 50:

## **Subpart 2. Professional Standards for Licensed Marriage and Family Therapists and Provisional Licensed Marriage and Family Therapists**

### **Chapter 33. Requirements for Licensure and Provisional Licensure**

#### **§3315. Application Practice, and Renewal Requirements for Provisional Licensed Marriage and Family Therapists**

A. - E. ...

1. A provisional licensee must accrue 20 clock hours of continuing education by every renewal period every two years. Of the 20 clock hours of continuing education, one and a half clock hours must be accrued in ethics specific to marriage and family therapy, one and a half clock hours must be accrued in social and cultural foundations, and one and a half clock hours must be accrued in diagnosis (assessment, diagnosis, and treatment under the *Diagnostic and Statistical Manual of Mental Disorders*, Fifth Edition (DSM-5) as published by the American Psychiatric Association on May 18, 2013). The required training in diagnosis, assessment, and treatment under the DSM-5 may be specific to a particular condition and/or may be general training in diagnosis, assessment, and treatment. A generic ethics course is not acceptable.

1.a. - 2.c.ii. ...

3. Continuing education hours must be relevant to the practice of marriage and family therapy and generally evolve from the following eight areas.

a. - g. ...

h. Social and Cultural Foundations of Marriage and Family Therapy. Continuing education in this area shall contain such content as an understanding of the cultural context of relationships; issues and trends in a diverse society related to such factors as culture, ethnicity, nationality, age, gender, sexual orientation, mental and physical characteristics, education, family values, religious and spiritual values, socioeconomic status; and unique

characteristics of individuals, couples, families, ethnic groups and communities.

F. - F.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:158 (February 2003), amended LR 29:2787 (December 2003), LR 35:1114 (June 2009), LR 38:1966 (August 2012), LR 39:1806 (July 2013), LR 41:742 (April 2015), amended by the Department of Health, Licensed Professional Counselors Board of Examiners, LR 43:1983 (October 2017), LR 45:1204 (September 2019), LR 47:1529 (October 2021), LR 50:

### **Chapter 35. Renewal of License for Licensed Marriage and Family Therapists**

#### **§3503. Continuing Education Requirements**

A. - A.9. ...

10. A licensee must accrue three clock hours of training in the subject area of social and cultural foundations as defined in Subparagraph C.3.h. every renewal period.

11. Those licensed marriage and family therapists who hold another license that requires continuing education hours may count the continuing education hours obtained for that license toward their LMFT CEH requirements. Of the 40 CEHs submitted, however, 20 hours must be in the area of marriage and family therapy with an emphasis upon systemic approaches or the theory, research, or practice of systemic psychotherapeutic work with couples or families including three clock hours of ethics specific to marriage and family therapy and six clock hours specific to diagnosis.

12. The approval of and requirements for continuing education are specified in Subsection C.

B. - C.2.b.ii. ...

3. Continuing education hours must be relevant to the practice of marriage and family therapy and generally evolve from the following eight areas.

a. - g. ....

h. Social and Cultural Foundations of Marriage and Family Therapy. Continuing education in this area shall contain such content as an understanding of the cultural context of relationships; issues and trends in a diverse society related to such factors as culture, ethnicity, nationality, age, gender, sexual orientation, mental and physical characteristics, education, family values, religious and spiritual values, socioeconomic status; and unique characteristics of individuals, couples, families, ethnic groups and communities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:160 (February 2003), repromulgated LR 29:581 (April 2003), amended LR 29:2789 (December 2003), LR 41:752 (April 2015), amended by the Department of Health, Licensed Professional Counselors Board of Examiners, LR 50:

#### **Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of these rules on family has been considered. This proposal to create licensee statuses has no impact on family functioning, stability, or autonomy as described in R.S. 49:972.

#### **Poverty Impact Statement**

The proposed Rule should not have any known or foreseeable impact on any child, individual, or family as

defined by R.S. 49:973.B In particular, there should be no known or foreseeable effect on:

1. The effect on household income, assets, and financial security;
2. The effect on early childhood development and preschool through postsecondary education development;
3. The effect on employment and workforce development;
4. The effect on taxes and tax credits;
5. The effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

#### Small Business Analysis

Pursuant to R.S. 49:965.6, methods for reduction of the impact on small business, as defined in the Regulatory Flexibility Act, have been considered when creating this proposed Rule. This proposed Rule is not anticipated to have an adverse impact on small businesses; therefore, a Small Business Economic Impact Statement has not been prepared.

#### Provider Impact Statement

The proposed change should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. The effect on the staffing level requirements or qualifications required to provide the same level of service;
2. The total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. The overall effect on the ability of the provider to provide the same level of service.

#### Public Comments

Interested persons may submit written comments to Jamie S. Doming, Licensed Professional Counselors Board of Examiners, 11410 Lake Sherwood Avenue North Suite A, Baton Rouge, LA 70816 by October 10, 2023, at 5 p.m.

Jamie S. Doming  
Executive Director

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: Social and Cultural Foundations Continuing Education Requirement

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

The proposed rule will change the categorical requirements for continuing education standards for all licensees governed by the Licensed Professional Counselors Board (LPC Board). The proposed rule change requires one and a half clock hours to be accrued in social and cultural foundations for provisional licensees and three clock hours for Licensed Professional Counselors and Licensed Marriage and Family Therapists. These hours will count toward the current requirement of twenty clock hours for provisional licensees and forty clock hours for Licensed Professional Counselors and Licensed Marriage and Family Therapists every two years.

The proposed rule change will result in a one-time cost of \$213 per page to print the Notice of Intent and Final Rule in the state register. The proposed rule changes are not anticipated to result in any other costs or savings for state or local governmental units.

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

The proposed rule changes will not affect revenue collections for state or local governmental units.

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

The proposed changes would require a specific type of training but would not increase the number of hours that are currently required to renew a license. The coursework that would be required is currently available from existing continuing education providers. The fees for social and multicultural foundations coursework are comparable with those for general continuing education hours.

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

The proposed rule changes are not anticipated to affect competition or employment.

Jamie S. Doming  
Executive Director  
2311#008

Alan M. Boxberger  
Legislative Fiscal Officer  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Department of Health Licensed Professional Counselors Board of Examiners

#### Supervision Requirement for Provisional Licensed Professional Counselors (LAC:46:LX.803)

Editor's Note: This Notice of Intent is being reprinted because of an error upon submission. The original Notice of Intent can be viewed in its entirety on pages 1649-1650 of the September 20, 2023 *Louisiana Register*.

In accordance with the applicable provisions of the Louisiana Administrative Procedures Act (R.S.49:950 et seq.) and through the authority of the Mental Health Counselor Licensing Act (R.S. 37:1101 et seq.), the Licensed Professional Counselors Board of Examiners proposes to amend the supervision requirements for Provisional Licensed Professional Counselors to allow the discretion of the board-approved supervisor to determine if audiotapes and/or videotapes of counseling sessions shall be required as part of the supervision process.

The Licensed Professional Counselors Board of Examiners hereby gives notice of intent to propose changes to Chapter 8, Section 803 for publication in the September 20, 2023, edition of the *Louisiana Register*.

#### Title 46 PROFESSIONAL AND OCCUPATIONAL STANDARDS REVISED Part LX. Professional Counselors Subpart 1. Licensed Professional Counselors Chapter 8. Licensed Professional Counselor Supervisors

#### §803. Supervised Experience of Provisional Licensed Professional Counselors

A. - A.3. ...

4. The process of supervision must encompass multiple modes of supervision, including regularly scheduled live observation of counseling sessions (where possible) and review of audiotapes and/or videotapes of counseling sessions, at the board approved supervisor's discretion. The process may also include discussion of the provisional licensed professional counselor's self-reports, microtraining, interpersonal process recall, modeling, role-playing, and other supervisory techniques. (Supervision as



defined in these rules does not require the approved supervisor to be in the same room with the provisional licensed professional counselor during the provisional licensed professional counselor's provision of services to clients.)

5. - 13. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 41:722 (April 2015), amended by the Department of Health, Licensed Professional Counselors Board of Examiners LR 45:437 (March 2019), LR 50:

#### **Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of these rules on family has been considered. This proposal to create licensee statuses has no impact on family functioning, stability, or autonomy as described in R.S. 49:972.

#### **Poverty Impact Statement**

The proposed rule should not have any known or foreseeable impact on any child, individual, or family as defined by R.S. 49:973.B. In particular, there should be no known or foreseeable effect on:

1. The effect on household income, assets, and financial security;
2. The effect on early childhood development and preschool through postsecondary education development;
3. The effect on employment and workforce development;
4. The effect on taxes and tax credits;
5. The effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

#### **Small Business Analysis**

Pursuant to R.S. 49:965.6, methods for reduction of the impact on small business, as defined in the Regulatory Flexibility Act, have been considered when creating this proposed Rule. This proposed Rule is not anticipated to have an adverse impact on small businesses; therefore, a Small Business Economic Impact Statement has not been prepared.

#### **Provider Impact Statement**

The proposed change should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. The effect on the staffing level requirements or qualifications required to provide the same level of service;
2. The total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. The overall effect on the ability of the provider to provide the same level of service.

#### **Public Comments**

Interested persons may submit written comments to Jamie S. Doming, Licensed Professional Counselors Board of Examiners, 11410 Lake Sherwood Avenue North Suite A, Baton Rouge, LA 70816 by October 10, 2023, at 5 p.m.

Jamie S. Doming  
Executive Director

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

### **RULE TITLE: Supervision Requirement for Provisional Licensed Professional Counselors**

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

Current rules require a supervisor of a provisional licensed professional counselor to utilize multiple modes of supervision, including review of audiotapes or videotapes of counseling sessions. The proposed rule provides that review of such tapes is to be done at the supervisor's discretion.

There will be a cost of \$213 per page to the LA Licensed Professional Counselors Board of Examiners ("LPC Board") to publish the Notice of Intent and Final Rule in the state register. The proposed rule changes are not anticipated to result in any other costs or savings for state or local governmental units.

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

The proposed rule changes will not affect revenue collections for state or local governmental units.

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

The proposed rule changes are not anticipated to provide costs and/or benefits to directly affected persons, small businesses, or non-governmental groups.

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

The proposed rule changes are not anticipated to have an effect on competition and employment.

Jamie S. Doming  
Executive Director  
2311#009

Alan M. Boxberger  
Legislative Fiscal Officer  
Legislative Fiscal Office

## **NOTICE OF INTENT**

### **Department of Health Office of Public Health**

Consumable Hemp Products Labeling  
(LAC 49:I.519)

The Department of Health, Office of Public Health (LDH/OPH), pursuant to rulemaking authority granted by R.S. 3:1483(L), and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, hereby gives notice of its intent to amend LAC 49:I.519.7.C.

LAC 49:I.519.C.7, sets detection limits on the amounts of certain residual solvents, including ethanol, in consumable hemp products other than floral hemp materials. Ethanol is commonly used and found in non-hemp topicals, and its use therein has no material adverse health effects. The proposed rule will amend LAC 49:I.519.C.7 to exclude ethanol from the list of solvents for which consumable hemp products designed and intended for topical use only must be tested.

**Title 49**  
**PUBLIC HEALTH—FOOD, DRUGS,**  
**AND COSMETICS**  
**Part I. Regulations**

**Chapter 5. Registration of Foods, Drugs, Cosmetics and Prophylactic Devices**

**§519. Consumable Hemp Products Labeling Requirements: Certificate of Analysis**

A. - C.7.f. ...

g. ethanol—5,000 ppm; this ethanol limit shall not apply to consumable hemp products designed and intended solely for topical use;

C.8. - E. ...

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1483(L) and R.S. 40:604.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 46:359 (March 2020), amended LR 47:480 (April 2021), LR 48:1291 (May 2022), amended LR 48:2982 (December 2022), amended LR 50:

**Family Impact Statement**

The proposed Rule should not have any known or foreseeable impact on family formation, stability, and autonomy. In particular, the proposed Rule has no known or foreseeable impact on:

1. the stability of the family;
2. the authority and rights of persons regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

**Poverty Impact Statement**

The proposed Rule should not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973(B). In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

**Small Business Analysis**

The proposed Rule should have no adverse impact on small businesses as defined in the Regulatory Flexibility Act.

**Provider Impact Statement**

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

**Public Comments**

Interested persons may submit written comments on the proposed rule. Such comments must be received no later than Tuesday, December 26, 2023 at COB, 4:30 p.m., and should be addressed to Michael Vidrine, Director, Sanitarian Services, P.O. Box 4489, Baton Rouge, LA 70821.

**Public Hearing**

Interested persons may submit a written request to conduct a public hearing either by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on Tuesday, December 26, 2023. If the criteria set forth in R.S. 49:961(B)(1) are satisfied, LDH will conduct a public hearing at 9 a.m. on Tuesday, December 26, 2023 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 before Tuesday, December 26, 2023. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Stephen R. Russo, JD  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Consumable Hemp Products Labeling**

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

Other than the publication cost that is anticipated to increase Louisiana Department of Health (LDH), Office of Public Health expenditures by approximately \$479 SGF in FY 24, the proposed rule change is not anticipated to have any implementation costs.

In accordance with Act 498 of the 2022 Regular Legislative Session, the LDH proposes to amend Chapter 5 of Title 49, Registration of Foods, Drugs, Cosmetics, and Prophylactic Devices by updating the regulatory framework for consumable hemp products. Specifically, the rule provides for an exception provided to amend LAC 49:I.Chapter 5, §519.7.C to exclude ethanol from the list of solvents for which consumable hemp products designed and intended for topical use only must be tested.

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

To the extent the state experiences an increase in consumable hemp product registration applications, the proposed rule change may result in increased application fee revenue to the LDH. The LDH imposes a \$50 fee on applications for registration of a consumable hemp product.

The state imposes a three percent excise tax on sales of consumable hemp products. To the extent that additional product registrations result in an increase in total sales of

consumable hemp products, the state may receive an increase in excise tax revenues.

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

Manufacturers or retailers of consumable hemp products designed and intended for topical use may be positively impacted as they will now be able to sell these products in Louisiana by excluding ethanol from the list of solvents that must be tested in their certificates of analyses.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change may increase competition among makers of consumable hemp products to the extent that it increases the number of such products on the market.

Doris Brown  
Assistant Secretary  
2311#028

Patrice Thomas  
Deputy Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Public Safety and Corrections  
Board of Pardons  
and  
Committee on Parole**

Virtual Meetings  
(LAC 22:XI.601-607)

The Committee on Parole and Board of Pardons propose to adopt LAC 22:XI.601-607 as authorized by La. R.S. 42:14 and 42:17.2 regarding virtual meetings. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. The proposed Rule provides the manner in which the public will be notified that the Committee on Parole and Board of Pardons will be holding a virtual meeting. The proposed Rule also provides for the various ways in which the public may submit comments either prior to the virtual meeting or during the virtual meeting. Lastly, the proposed Rule outlines the procedures that will be followed by the Committee on Parole and Board of Pardons during a virtual meeting.

**Title 22**

**CORRECTIONS, CRIMINAL JUSTICE AND LAW  
ENFORCEMENT**

**Part XI. Committee on Parole**

**Chapter 6. Virtual Meetings**

**§601. Definitions**

*Anchor Location*—shall be board hearing room at 704 Mayflower Street, Baton Rouge, or any other physical location from which the meeting originates as provided in R.S. 42:17.2.

*Chairman*—shall mean the chairman of the Board of Pardons and Committee on Parole (Committee), or designee.

*Quorum*—shall mean a majority of members of the Committee on Parole, including those present at either the anchor location or participating in the meeting via electronic means.

*Recording Secretary*—shall mean the member of the board's staff responsible for recording the meeting.

*Virtual Meeting*—shall have the same meaning as “meeting via electronic means” as provided in R.S. 42:17.2.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:14 and R.S. 42:17.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Pardons and Committee on Parole, LR 50:

**§603. Notifying the Public of a Virtual Meeting**

A. The Committee shall post the agenda for the virtual meeting in accordance with the Louisiana Open Meetings Law, R.S. 42:11. The agenda for the virtual meeting shall specifically identify the meeting as a virtual meeting, or a meeting that will be conducted via electronic means, and shall include the following:

1. the anchor location for the virtual meeting;
2. an electronic link to access the virtual meeting;
3. instructions for joining the virtual meeting;
4. email address for the public to submit electronic comments prior to the virtual meeting;
5. the final date and time by which members of the public may submit electronic comments prior to the virtual meeting.

B. The electronic link, instructions for joining the virtual meeting, and email address to submit comments shall be placed on the board's website once the agenda is posted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:14 and R.S. 42:17.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Pardons and Committee on Parole, LR 50:

**§605. Public Comment Prior to and during a Virtual Meeting**

A. Members of the public wishing to participate in a virtual meeting may do so.

B. Members from the public wishing to provide public comment on any agenda item prior to the virtual meeting may do so by emailing those comments to the email designated on the agenda and the board's website. Such public comment(s) shall include the following information:

1. the individual's name;
2. entity/company represented (if applicable);
3. title/position (if applicable);
4. agenda item for which he/she is providing comment.

C. Members of the public wishing to provide public comment during the virtual meeting may do so in any one of the following manners:

1. by using an audio and/or video device at such time when the chairman calls for public comment on that agenda item;
2. by using the text feature within the software during the virtual meeting;
3. if attending the virtual meeting at the anchor location, by filling out a public comment card and providing it to the recording secretary. The recording secretary will then forward the public comment card to the chairman to read into the record when discussing that agenda item.

D. All public comments, both those submitted prior to the virtual meeting or during the virtual meeting, will be acknowledged and read into the record at the appropriate time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:14 and R.S. 42:17.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Pardons and Committee on Parole, LR 50:

**§607. Procedure during a Virtual Meeting**

A. Upon commencement of the meeting, all members of the public shall be muted. Once the meeting is called to order, the chairman shall state that this is a virtual meeting of the Committee on Parole and shall provide the manner in which the public may submit or make comments during the meeting.

B. Prior to the introduction of the first agenda item, the recording secretary shall take roll to establish a quorum. Members of the Committee may either be present at the anchor location or participate via electronic means.

1. Unless a member of the Committee has requested an accommodation, in order to participate in a virtual meeting via electronic means, they must participate via audio and video. As such, any member of the board participating via electronic means must be visually present throughout the meeting.

2. In the event a board member's audio or video capabilities are compromised, he/she may no longer be counted for purposes of a quorum, and thus, may not vote on any agenda item for which the audio or video was compromised.

3. A member of the board who is physically present at the anchor location and visible through the anchor location's camera shall satisfy the requirements for purposes of a quorum and participation.

C. Prior to action on an agenda item, the chairman shall read into the record the following:

1. any public comment received prior to the meeting (if any);

2. any public comment received during the meeting via public comment card, "chat" function, etc. (if any);

3. profanity and inappropriate language is prohibited and shall not be read into the record.

D. Prior to action on an agenda item, the chairman shall also ask if anyone from the public is present, either via electronic means or at the anchor location, and wishes to speak on those agenda item(s). If anyone from the public wishes to speak, the chairman shall allow him/her reasonable time to do so.

E. In accordance with R.S. 42:29(A)(5), all votes taken at a virtual meeting shall be by roll call vote.

F. To the extent possible, the board shall follow any and all procedures that it follows for its non-virtual meetings.

G. After the conclusion of a virtual meeting, a recording of the meeting shall be made available to the public via the Committee's website.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:14 and R.S. 42:17.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Pardons and Committee on Parole, LR 50:

**Family Impact Statement**

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

**Poverty Impact Statement**

This Rule could potentially allow those with financial restraints the ability to participate in board meetings by negating the need for travel.

**Small Business Analysis**

This Rule has no known impact on small business as described in R.S. 49:974.1 - 974.8.

**Provider Impact Statement**

This Rule has no known impact on providers as described in HCR 170 of 2014.

**Public Comments**

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by UT20. Such comments must be received no later than December 13, 2023, at 4:30 p.m., and should be sent to Francis Abbott, Executive Director, Board of Pardons and Committee on Parole, P. O. Box 94304, Baton Rouge, LA 70804 or by E-mail to paroleboard@la.gov.

Sheryl Ranatza  
Board Chair

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Virtual Meetings**

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

There will be no costs or savings to state or local governmental units as a result of the proposed rule change.

In accordance with La. R.S. 42:14 and 42:17.2, the Department of Public Safety and Corrections, Committee on Parole, proposes to adopt LAC 22:XI.601-607 – Virtual Meetings. Specifically, the rule provides:

1. definitions applicable to the proposed rule,
2. requirements for providing the public notice of virtual meetings,
3. rules applicable to providing public comment prior to and during virtual meetings, and
4. rules governing procedures during virtual meetings.

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

There will be no effect on revenue collections of state or local governmental units as a result of the proposed rule change.

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

Electronic meetings could potentially reduce expenses to directly affected persons, small businesses, or non-governmental groups by negating the need for travel to a board meeting.

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

There is no estimated effect on competition and employment as a result of the proposed rule change.

Thomas C. Bickham, III  
Undersecretary  
2311#031

Patrice Thomas  
Deputy Fiscal Officer  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Public Safety and Corrections Corrections Services

#### Administrative Remedy Procedure (LAC 22:I.325)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950), the Department of Public Safety and Corrections, Corrections Services, hereby gives notice of its intent to amend the contents of §325, Administrative Remedy Procedure.

The Department of Public Safety and Corrections, Corrections Services, proposes the deletion of sentence stating, "If the offender has been secured and is no longer in danger or imminent harm, the grievance procedure shall proceed as outlined within the deadlines and time limits stated in the Administrative Remedy Procedure." In accordance with 28 CFR §115.52, addition of sentence stating, "The initial response and final determination of whether the inmate is in substantial risk of imminent sexual abuse and the action taken in response to the emergency grievance shall be documented." Other technical revisions are also proposed.

#### Title 22

### CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

#### Part I. Corrections

#### Chapter 3. Adult Services

#### Subchapter A. General

#### §325. Administrative Remedy Procedure

A. Purpose—to constitute the department's "administrative remedy procedure" for offenders as a regulation.

B. Applicability—deputy secretary, chief of operations, regional wardens, wardens, and sheriffs or administrators of local jail facilities. Each unit head is responsible for ensuring that all unit written policies and procedures are in place to comply with the provisions of this regulation. Furthermore, the provisions of this regulation as amended are applicable retroactively, and thus apply to any policy, condition, action, or request for administrative remedy filed prior to the date.

C. Policy. It is the secretary's policy that all offenders and employees have reasonable access to and comply with the department's "administrative remedy procedure" through which an offender may seek formal review of a complaint. Offenders housed in local jail facilities shall also be afforded reasonable access to a grievance remedy procedure. Revisions shall be accomplished through this regulation under the signature of the secretary.

#### D. Administrative Remedy Procedure—Purpose

1. On September 18, 1985, the Department of Public Safety and Corrections installed in all of its adult institutions a formal grievance mechanism for use by all offenders committed to the custody of the department. The process bears the name Administrative Remedy Procedure (ARP). Offenders are required to use and complete all steps in the procedure properly, including obeying all rules of the procedural process, before they can proceed with a suit in federal and state courts. No action shall be brought in a federal or state court with respect to prison conditions by

any offender confined in any jail or correctional facility until all available administrative remedies are properly exhausted.

2. Corrections Services has established the administrative remedy procedure through which an offender may seek formal review of a complaint which relates to any aspect of his incarceration if less formal methods have not resolved the matter. Such complaints and grievances include, but are not limited to any and all claims seeking monetary, injunctive, declaratory or any other form of relief authorized by law and by way of illustration, includes actions pertaining to conditions of confinement, personal injuries, medical malpractice, time computations, even though urged as a writ of habeas corpus, or challenges to rules, regulations, policies or statutes, including grievances such as discrimination based on disability, offender requests for accommodations under the Americans with Disabilities Act and for complaints of sexual abuse under the Prison Rape Elimination Act.

3. Through this procedure, offenders shall receive reasonable responses and where appropriate, meaningful remedies.

#### E. Definitions

*ARP Screening Officer*—a staff member, designated by the warden, whose responsibility is to coordinate and facilitate the administrative remedy procedure process.

*Days*—calendar days.

*Emergency Grievance (or Request for Emergency Administrative Remedy)*—a matter in which disposition within the regular time limits would subject the offender to a substantial risk of personal injury or cause other serious and irreparable harm to the offender.

*Exhaustion*—proper exhaustion only occurs when an offender files a timely and procedurally proper request for remedy, which after it is accepted, is addressed on the merits at both the first and second step. A request for administrative remedy which is rejected is not considered properly exhausted, as such request has not been addressed on its merits at either of the two steps.

*Grievance (or Request for Administrative Remedy)*—a written complaint by an offender on the offender's own behalf regarding anything relating to prison conditions, including but not limited to a policy applicable within an institution, a condition within an institution, an action involving an offender of an institution, an incident occurring within an institution, or discrimination based on disability.

NOTE: The pronouns "he" and "his" as used herein are for convenience only and are not intended to discriminate against female employees or offenders.

#### F. General Policy

1. Offenders may request administrative remedies to situations arising from policies, conditions or events within the institution that affect them personally, including discrimination based on disability.

2. All offenders, regardless of their classification, impairment or disability, shall be entitled to invoke this grievance procedure. It shall be the responsibility of the warden to provide appropriate assistance for offenders with literacy deficiencies or language barriers (including hearing and visual impairments).

3. There are procedures already in place within all DPS and C institutions which are specifically and expressly incorporated into and made a part of this administrative

remedy procedure. These procedures shall constitute the administrative remedies for disciplinary matters and lost property claims.

a. General Procedures

i. Notification of Procedures

(a). Offenders must be made aware of the system by oral explanation at orientation and should have the opportunity to ask questions and receive oral answers.

(b). The procedures shall be posted in writing in areas readily accessible to all offenders.

(c). All offenders may request information about or assistance in using the procedure from their classification officer or from a counsel substitute who services their living area.

ii. Nothing in this procedure should serve to prevent or discourage an offender from communicating with the warden or anyone else in the department. All forms of communication to the warden will be handled, investigated and responded to as the warden deems appropriate.

iii. The requirements set forth in this document for acceptance into the administrative remedy procedure are solely to assure that incidents which may give rise to a cause of action will be handled through this two step system of review.

iv. The following matters shall not be appealable through this administrative remedy procedure:

(a). court decisions and pending criminal matters over which the department has no control or jurisdiction;

(b). Board of Pardons and Parole decisions (under Louisiana law, these decisions are discretionary and may not be challenged);

(c). sex offender assessment panel recommendations;

(d). lockdown review board decisions (offenders are furnished written reasons at the time this decision is made as to why they are not being released from lockdown, if that is the case. The board's decision may not be challenged. However, a request for administrative remedy on lockdown review board hearings can be made in the following instances):

(i). that no reasons were given for the decision of the board;

(ii). that a hearing was not held within 90 days from the offender's original placement in lockdown or from the last hearing. There will be a 20 day grace period attached hereto, due to administrative scheduling problems of the board; therefore, a claim based on this ground will not be valid until 110 days have passed and no hearing has been held;

(e). warden's decision regarding restoration of good time.

v. A request for accommodation under the Americans with Disabilities Act made using the administrative remedy procedure process and the resolution of the offender's request shall be deemed to be exhaustion of the administrative procedure. The initiation of the process and deadlines and time limits stated in the administrative remedy procedure remain applicable.

vi. If an offender registers a complaint against a staff member, that employee shall not be involved in the decision making process on the request for remedy. However, this shall not prevent the employee from

participating at the step one level, since this employee may be the best source from which to begin collecting information on an alleged incident.

vii. At each stage of decision and review, offenders will be provided written answers that explain the information gathered or the reason for the decision reached along with simple directions for obtaining further review.

viii. Prior to filing a grievance in federal or state court, unless specifically excepted by law, the offender must properly exhaust all available administrative remedies. Only after the request for administrative remedy is accepted can proper exhaustion occur. Exhaustion can only occur when a second step response on the merits has been issued.

ix. If an offender submits multiple requests during the review of a previous request, they will be logged and set aside for handling at such time as the request currently in the system has been exhausted at the second step or until time limits to proceed from the first step to the second step have lapsed. The warden may determine whether a letter of instruction to the offender is in order.

x. In cases where a number of offenders have filed similar or identical requests seeking administrative remedy, it is appropriate to respond only to the offender who filed the initial request. Copies of the decision sent to other offenders who filed requests simultaneously regarding the same issue will constitute a completed action. All such requests shall be logged separately.

xi. When an offender has filed a request at one institution and is transferred prior to the review, or if he files a request after transfer on an action taken by the sending institution, the sending institution shall complete the processing through the first step response (form OP-C-13-ARP-2). The warden of the receiving institution shall assist in communication with the offender.

xii. If an offender is discharged before the review of an issue is completed that affects the offender after discharge, or if he files a request after discharge on an issue that affects him after discharge, the institution shall complete the processing and shall notify the offender at his last known address. All other requests shall be considered moot when the offender discharges and the process shall not be completed.

xiii. No action shall be taken against anyone for the good faith use of or good faith participation in the procedure.

(a). Reprisals of any nature are prohibited. Offenders are entitled to pursue, through the grievance procedure, a complaint that a reprisal occurred.

(b). The prohibition against reprisals should not be construed to prohibit discipline of offenders who do not use the system in good faith. Those who file requests that are frivolous or deliberately malicious may be disciplined under the appropriate rule violation described in the DPS and C "disciplinary rules and procedures for adult offenders."

b. Maintenance of Records

i. Administrative remedy procedure records are confidential. Employees who are participating in the disposition of a request may have access to records essential to the resolution of requests. Otherwise, release of these records is governed by R.S. 15:574.12.

ii. All reports, investigations, etc., other than the offender's original letter and responses, are prepared in anticipation of litigation and to become part of the attorney's

work product for the attorney handling any anticipated future litigation of this matter; therefore these documents are confidential and not subject to discovery or the Public Records Act outlined in R.S. 44:1, et seq.

iii. Records shall be maintained as follows.

(a). An electronic log shall document the nature of each request, all relevant dates and disposition at each step.

(i). Each institution shall submit reports on administrative remedy procedure activity.

(ii). Cross references and notations shall be made on other appropriate databases such as ADA and PREA as may be warranted.

(b). Individual requests and disposition, and all responses and pertinent documents shall be kept on file at the institution or at headquarters.

(c). Records shall be kept four years following final disposition of the request.

c. Annual Review. The warden shall annually solicit comments and suggestions on the processing, the efficiency and the credibility of the administrative remedy procedure from offenders and staff. A report with the results of such review shall be provided to the chief of operations/office of adult services no later than January 31 of each year.

#### G. Initiating a Formal Grievance

1. Offenders are encouraged to resolve their problems within the institution informally, before initiating the formal process. Informal resolution is accomplished through communication with appropriate staff members. If an offender is unable to resolve his problems or obtain relief in this fashion, he may initiate the formal process. In order to ensure their right to use the formal procedure, a request to the warden shall be made in writing within a 90 day period after an incident has occurred. This requirement may be waived when circumstances warrant. The warden or designee shall use reasonable judgment in such matters. There is no time limit imposed for grievances alleging sexual abuse.

##### a. Initiating a Formal Grievance

i. The offender commences the process by completing a request for administrative remedy (form OP-C-13-ARP-1) or writing a letter to the warden, in which he briefly sets out the basis for his claim, and the relief sought. For purposes of this process, a letter is:

(a). any form of written communication which contains the phrase: "This is a request for administrative remedy" or "ARP;" or

(b). request for administrative remedy (form OP-C-13-ARP-1) at those institutions that wish to furnish forms for commencement of this process.

ii. The institution is not required to be responsible for furnishing the offender with copies of his letter of complaint. It is the offender's responsibility for obtaining or duplicating a copy of his letter of complaint through established institutional procedures and for retaining the copy for his own records. The form or original letter will become a part of the administrative record and will not be returned to the offender.

iii. Original letters or requests to the warden should be as brief as possible. Offenders should present as many facts as possible to answer all questions (who, what, when, where and how) concerning the incident. If a request

is unclear or the volume of attached material is too great, it may be rejected and returned to the offender with a request for clarity or summarization on one additional page. The response deadline for a request for clarity or summarization begins on the date the resubmission is received by the ARP screening officer.

iv. No request for administrative remedy shall be denied acceptance into the administrative remedy procedure because it is or is not on a form; however, no letter as set forth above shall be accepted into the process unless it contains the phrase, "This is a request for administrative remedy or ARP."

b. Withdrawing a Formal Grievance. After filing a formal request for administrative remedy, the offender may request in writing that the warden or secretary cancel the administrative remedy request at any time and for any reason. A withdrawn request cannot constitute a properly exhausted administrative remedy.

#### H. Emergency or Sensitive Issues

1. In instances where the offender's request is of an emergency or sensitive issue as defined below, the following procedures will apply.

a. If an offender feels he is subjected to emergency conditions, he must send an emergency request to the shift supervisor. The shift supervisor shall immediately review the request to determine the appropriate corrective action to be taken. All emergency requests shall be documented on an unusual occurrence report (form AM-I-4-W-1) by the appropriate staff member.

i. Abuse of the emergency review process by an offender shall be treated as a frivolous or malicious request and the offender shall be disciplined accordingly. Particularly, but not exclusively, matters relating to administrative transfers and time computation disputes are not to be treated as emergencies for purposes of this procedure, but shall be expeditiously handled by the shift supervisor, when appropriate.

b. If the offender believes the complaint is sensitive and that he would be adversely affected if the complaint became known at the institution, he may file the complaint directly with the secretary through the chief of operations/office of adult services (second step response-form OP-C-13-ARP-3). The offender must explain, in writing, his reason for not filing the complaint at the institution.

i. If the chief of operations/office of adult services agrees that the complaint is sensitive, he shall accept and respond to the complaint at the second step. If he does not agree that the complaint is sensitive, he shall so advise the offender in writing, and return the complaint to the warden's office. The offender shall then have five days from the date the rejection memo is received in the warden's office to submit his request through regular channels (beginning with the first step if his complaint is acceptable for processing in the administrative remedy procedure).

c. If an emergency complaint alleges that the offender is subject to a substantial risk of imminent sexual abuse, the grievance shall be sent immediately to the unit's PREA compliance manager who shall then immediately notify the unit's PREA investigator. The unit PREA compliance manager shall provide an initial response within 48 hours of receipt of the grievance outlining any corrective

actions warranted and shall issue a first step response within five days. The initial response and final determination of whether the inmate is in substantial risk of imminent sexual abuse and the action taken in response to the emergency grievance shall be documented.

#### I. Grievance Screening

1. The ARP screening officer shall screen all requests prior to assignment to the first step. The screening process should not unreasonably restrain the offender's opportunity to seek a remedy.

a. The ARP screening officer shall provide notice to the offender that his request is either:

- i. being accepted and will be processed, or
- ii. being rejected and will not be processed until the noted deficiency is corrected.

#### b. Accepted Requests

i. If the request is accepted, the warden, or designee, will assign a staff member to conduct further fact-finding and/or information gathering prior to rendering his response.

ii. Once an offender's request is accepted into the procedure, he must use the manila envelope that is furnished to him with the first step response (form OP-C-13-ARP-2) to continue in the procedure. The flaps on the envelope may be tucked into the envelope for mailing to the facility's ARP screening officer.

#### c. Rejected Requests

i. If a request is rejected, it must be for one of the following reasons:

(a). This matter is not appealable through this process, such as:

- (i). court decisions
- (ii). Board of Pardons and Committee on Parole decisions;
- (iii). sex offender assessment panel recommendations;
- (iv). lockdown review board (refer to Subsection F, General Policy).

(b). There are specialized administrative remedy procedures in place for this specific type of complaint, such as:

- (i). disciplinary matters;
- (ii). lost property claims.

(c). It is a duplicate request.

(d). The complaint concerns an action not yet taken or a decision which has not yet been made.

(e). The offender has requested a remedy for another offender (unless the request is a third party report of an allegation of sexual abuse).

(f). The request was not written by the offender and a waiver was not approved. The only exception is if the offender has alleged sexual abuse. In this instance, the offender:

(i). may seek help from a third party to file the initial grievance;

(ii). must attach written authorization for the named third party to submit the grievance on the offender's behalf; and

(iii). must personally pursue any remaining subsequent steps in the process, including participation in any resulting investigation.

(g). The offender has requested a remedy for more than one incident (a multiple complaint) unless the request is a report of an allegation of sexual abuse.

(h). Established rules and procedures were not followed.

(i). There has been a time lapse of more than 90 days between the event and the initial request, unless waived by the warden. Some exceptions may apply such as time computation issues, ADA issues, PREA issues, and on-going medical issues.

(j). The offender does not request some type of remedy unless the request pertains to an allegation of sexual abuse, in which case stopping the abuse is the implied request for remedy.

(k). The offender's request is unclear or the volume of attached material is too great.

(l). The offender requests a religious exemption via this administrative remedy procedure prior to exhausting the religious exemption process.

ii. The offender shall be provided written notification of the grounds upon which the rejection is based.

iii. A rejected request is not appealable to the second step. If a request is rejected for any of the reasons listed above, the offender must correct the noted deficiencies and resubmit the request to the ARP screening officer.

iv. The offender has not properly exhausted administrative remedies if his request is rejected for any of the reasons listed above.

#### J. Grievance Processing

1. The following process and time limits shall be adhered to in processing any ARP request.

#### a. First Step (time limit 40 days/5 days for PREA)

i. If an offender refuses to cooperate with the inquiry into his allegation, the request may be denied by noting the lack of cooperation on the appropriate step response and returning it to the offender.

ii. The warden shall respond to the offender within 40 days/5 days for PREA from the date the request is received at the first step utilizing the first step response (form OP-C-13-ARP-2).

iii. If the offender is not satisfied with the decision rendered at the first step, he should pursue his grievance to the secretary, through the chief of operations/office of adult services via the second step.

iv. For offenders wishing to continue to the second step, sufficient space will be allowed on the response to give a reason for requesting review at the next level. It is not necessary to rewrite the original letter of request as it will be available to all reviewers at each step of the process.

#### b. Second Step (time limit 45 days)

i. An offender who is dissatisfied with the first step response (form OP-C-13-ARP-2) may appeal to the secretary of the Department of Public Safety and Corrections by so indicating that he is not satisfied in the appropriate space on the response form and forwarding it to the ARP screening officer within five days of receipt of the decision.

ii. A final decision will be made by the secretary or designee and the offender shall be sent a response within 45 days from the date the request is received at the second



step utilizing the second step response (form OP-C-13-ARP-3).

iii. A copy of the secretary's decision shall be sent to the warden.

iv. If an offender is not satisfied with the second step response (form OP-C-13-ARP-3), he may file suit in district court. The offender must furnish the administrative remedy procedure number on the court documents.

c. Deadlines and Time Limits. No more than 90 days from the initiation to completion of the process shall elapse, unless an extension has been granted. Absent such an extension, expiration of response time limits shall entitle the offender to move on to the next step in the process.

i. An offender may request an extension in writing of up to five days in which to file at any stage of the process.

(a). This request shall be made to the ARP screening officer for an extension to initiate a request; to the warden for the first step response (form OP-C-13-ARP-2) and to the secretary through the chief of operations/office of adult services for the second step response (form OP-C-13-ARP-3).

(b). The offender must certify valid reasons for the delay, which must accompany his untimely request. The issue of sufficiency of valid reasons for delay shall be addressed at each step, along with the substantive issue of the complaint.

ii. The warden may request permission for an extension of time not more than five days from the chief of operations/office of adult services for the step one review/response.

(a). The offender must be notified in writing of such an extension.

(b). Cumulative extensions of time shall not exceed 25 days unless the grievance concerns sexual abuse, in which case an extension of time up to 70 days may be made.

(c). If the extension is approved, written communication shall be sent to the offender of the extension and a date by which the decision shall be rendered. Reasons for the extension of time for unusual circumstances shall be maintained in the administrative record.

#### K. Monetary Damages

1. Based upon credible facts within a grievance or complaint filed by an offender, the Department of Public Safety and Corrections may determine that such an offender is entitled to monetary damages where such damages are deemed by the department as appropriate to render a fair and just remedy.

a. Upon a determination that monetary damages should be awarded, the only remaining question is quantum or the dollar amount of the monetary damages to be awarded.

b. The determination of quantum shall be made after a formal review by the case contractor for the Office of Risk Management within the Division of Administration. The determination reached by the case contractor shall be submitted to the Office of Risk Management and the Department of Public Safety and Corrections for a final decision.

c. If a settlement is reached, a copy of the signed release shall be given to the warden on that same date.

#### L. Lost Property Claims

1. The purpose of this section is to establish a uniform procedure for handling lost property claims filed by offenders in the custody of the Department of Public Safety and Corrections. Each warden is responsible for ensuring that appropriate unit written policy and procedures are in place to comply with the provisions of this procedure and for advising offenders and affected employees of its contents.

a. When an offender suffers a loss of personal property, he may submit a lost personal property claim (form OP-C-13-a) to the warden or designee. The claim shall include the date the loss occurred, a full statement of the circumstances which resulted in the loss of property, a list of the items which are missing, the value of each lost item and any proof of ownership or value of the property available to the offender. All claims for lost personal property must be submitted to the warden or designee within 10 days of discovery of the loss.

i. Under no circumstances will an offender be compensated for an unsubstantiated loss, or for a loss which results from the offender's own acts or for any loss resulting from bartering, trading, selling to or gambling with other offenders.

b. The warden or designee shall assign an employee to investigate the claim. The investigative officer shall investigate the claim fully and will submit his report and recommendations to the warden or designee.

c. If a loss of an offender's personal property occurs through the negligence of the institution and/or its employees, the offender's claim may be processed in accordance with the following procedures.

##### i. Monetary:

(a). the warden or designee shall recommend a reasonable value for the lost personal property as described on the lost personal property claim (form OP-C-13-a). The state assumes no liability for any lost personal clothing;

(b). a lost personal property claim response (form OP-C-13-b) and agreement (form OP-C-13-c) shall be completed and submitted to the offender for his signature; and

(c). the claim shall be submitted to the chief of operations/office of adult services for review and final approval.

##### ii. Non-monetary:

(a). the offender is entitled only to state issue where state issued items are available;

(b). the warden or designee shall review the claim and determine whether or not the institution is responsible;

(c). a lost personal property claim response (form OP-C-13-b) shall be completed and submitted to the offender for his signature;

(d). an agreement (form OP-C-13-c) shall be completed and submitted to the offender for his signature when state issue replacement has been offered.

d. If the warden or designee determines that the institution and/or its employees are not responsible for the offender's loss of property, the claim shall be denied, and a

lost personal property claim response (form OP-C-13-b) shall be submitted to the offender indicating the reason. If the offender is not satisfied with the resolution at the unit level, he may indicate by checking the appropriate box on the lost personal property claim response (form OP-C-13-b) and submitting it to the ARP screening officer within five days of receipt. The screening officer shall provide the offender with an acknowledgment of receipt and date forwarded to the chief of operations/office of adult services. A copy of the offender's original lost personal property claim (form OP-C-13-a) and lost personal property claim response (form OP-C-13-b) and other relevant documentation shall be attached.

M. DPS and C Offenders Housed in Non-DPS and C Facilities

1. Offenders shall have reasonable access to a grievance remedy procedure that includes at least two levels of review if necessary.

a. A DPS and C offender housed in a non-DPS and C facility with a complaint that relates to time computation, requests for transfer, or transitional work program requests should submit his grievance request directly to DPS&C Headquarters Internal Affairs. A representative from Headquarters Internal Affairs shall respond to the offender within 90 days. If the offender is not satisfied with the response, he may file suit with the 19<sup>th</sup> Judicial District Court.

b. A DPS and C offender housed in a non-DPS and C facility with a complaint that relates to conditions of confinement, personal injuries, medical complaints, the classification process, challenges to rules, regulations, or policies, or any other complaint not outlined above in section a. should submit his grievance request to the jail administrator of the facility in which he is housed. If the offender is not satisfied with the response, he may file suit with the district court of the parish in which the facility is located.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:950.

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 28:857 (April 2002), amended LR 28:1993 (September 2002), amended by the Department of Public Safety and Corrections, Corrections Services LR 37:3275 (November 2011), LR 39:2779 (October 2013), LR 45:672 (May 2019) LR 50:

#### **Family Impact Statement**

Amendment to the current Rule should not have any known or foreseeable impact on family formation, stability or autonomy, as described in R.S. 49:972.

#### **Poverty Impact Statement**

The proposed Rule should not have any known or foreseeable impact on poverty as described in R.S. 49:973.

#### **Small Business Analysis**

The proposed Rule should not have any known or foreseeable costs and/or benefits to directly affected persons, small business, or non-governmental groups.

#### **Provider Impact Statement**

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session.

#### **Public Comments**

Written comments may be addressed to Natalie Laborde, Executive Counsel, Department of Public Safety and

Corrections, P.O. Box 94304, Baton Rouge, LA 70804 until 4:30 p.m. on December 10, 2023.

James M. Le Blanc  
Secretary

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Administrative Remedy Procedure**

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

There will be no costs or savings to state or local governmental units as a result of the proposed rule change.

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

In order to maintain compliance with the federal Prison Rape Elimination Act, the Department of Public Safety and Corrections, Corrections Services, proposes to amend Title 22, Part I, Chapter 3, Section 325 – Administrative Remedy Procedure. Specifically, the proposed rule amends the grievance process by updating the documentation needed for the initial response, final determination, and corresponding action taken in response to an emergency grievance submitted by an inmate and amends the disciplinary policy for inmates who file frivolous or deliberately malicious requests.

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

There is no estimated cost and/or economic benefit to directly affected persons, small businesses, or non-governmental groups.

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

There is no estimated effect on competition and employment as a result of the proposed rule change.

Thomas C. Bickham, III  
Undersecretary  
2311#010

Patrice Thomas  
Deputy Fiscal Officer  
Legislative Fiscal Office

### **NOTICE OF INTENT**

#### **Department of Public Safety and Corrections Gaming Control Board**

Application Withdrawal License Surrender Form  
(LAC 42:III.120)

The Department of Public Safety and Corrections, Louisiana Gaming Control Board, in accordance with R.S. 27:15, R.S. 27:24, and the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., hereby gives notice that it intends to amend LAC 42:III.120.A.7 and LAC 42:III.120.A.8. The rule change allows for the withdrawal of applications and surrender of licenses by fantasy sports and sports wagering applicants, licensees, and permittees.

#### **Title 42**

#### **LOUISIANA GAMING**

#### **Part III. Gaming Control Board**

#### **Chapter 1. General Provisions**

#### **§120. Application and Reporting Forms**

A. - A.7.a.xix. ...

b. application withdrawal license surrender form, LGCB6707-22.

8. - 8.b.xxii. ...  
c. application withdrawal license surrender form, LGCB6707-22.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR. 26:340 (February 2000), amended LR 40:1379 (July 2014), LR 41:2176 (October 2015), LR 42:575 (April 2016), LR 47:256 (February 2021), LR 48:46 (January 2022), LR 50:

#### **Family Impact Statement**

Pursuant to the provisions of R.S. 49:972, the Gaming Control Board, through its chairman, has considered the potential family impact of the proposed Rule.

The proposed Rule has no known impact on the following:

1. The effect on stability of the family.
2. The effect on the authority and rights of parents regarding the education and supervision of their children.
3. The effect on the functioning of the family.
4. The effect on family earnings and family budget.
5. The effect on the behavior and personal responsibility of children.
6. The ability of the family or a local government to perform the function as contained in the proposed rule.

#### **Poverty Impact Statement**

Pursuant to the provisions of R.S. 49:973, the Gaming Control Board, through its chairman, has considered the potential poverty impact of the proposed Rule.

The proposed Rule has no known impact on impact on the following:

1. The effect on household income, assets, and financial security.
2. The effect on early childhood development and preschool through postsecondary education development.
3. The effect on employment and workforce development.
4. The effect on taxes and tax credits.
5. The effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

#### **Small Business Analysis**

Pursuant to the provisions of R.S. 49:974.2-974.8, the Regulatory Flexibility Act, the Louisiana Gaming Control Board, through its chairman, has concluded that the proposed Rule is not anticipated to have an adverse impact on small business; therefore, a Small Business Impact Statement has not been prepared.

#### **Provider Impact Statement**

Pursuant to the provisions of HCR170 of 2014, the Gaming Control Board, through its chairman, has considered the potential provider impact of the proposed Rule.

The proposed Rule has no known impact on impact on the following:

1. The effect on the staffing level requirements or qualifications required to provide the same level of service.
2. The total direct and indirect effect on the costs to the provider to provide the same level of service.
3. The overall effect on the ability of the provider to provide the same level of service.

#### **Public Comments**

Interested persons may submit written comments to Venise Johnson, Assistant Attorney General, Louisiana Department of Justice, Gaming Division, 1885 North Third

Street, Fifth Floor, Baton Rouge, LA 70802. All comments must be submitted no later than the end of business day, central time zone, of December 11, 2023.

Ronnie S. Johns  
Chairman

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Application Withdrawal License Surrender Form**

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

It is not anticipated that state or local governmental units will incur any costs or savings as a result of this rule.

The Gaming Control Board proposes to amend Title 42, Part III, Chapter 1, §120-Application and Reporting Forms. Specifically, the rule provides a form for:

- Sports Wagering and Fantasy Sports Contest applicants to withdraw their applications, and
- Sports Wagering and Fantasy Sports Contest licensees to surrender their licenses.

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

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

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

There are no anticipated costs or economic benefits to directly affected person, small businesses, or non-governmental groups. The proposed rule simply provides a formal process to allow applications to be withdrawn and licenses to be surrendered.

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

Sports Wagering and Fantasy Sports Contest applicants and licensees that elect to withdraw applications and/or surrender licenses will no longer be able to offer sports betting in Louisiana.

Ronnie S. Johns  
Chairman  
2311#016

Allen M. Boxberger  
Legislative Fiscal Officer  
Legislative Fiscal Office

### **NOTICE OF INTENT**

#### **Department of Public Safety and Corrections Office of Motor Vehicles**

Driving Schools (LAC 55:III.Chapter 1)

Under the authority of R.S. 32:402.1(A)(1) and R.S. 40:1461, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:961 et seq., the Office of Motor Vehicles hereby proposes to amend sections in Chapter 1, regarding driving schools. This amends the listed sections, §143, §144, §145, §146, §147, §150, §151, §152, §154, §155, §156, §157, §185, and §187 as follows: amends definitions, amends the application process, amends the qualification requirements, adds verbiage on training requirements for all new instructors/examiners, adds the requirement for obtaining a valid email address for each instructor, adds the requirement for prevention of sexual harassment course prior to licensing an instructor/examiner,

removes the fee for adding or renewing a third party location, removes the fee for licensing an instructor as a third party examiner, adds verbiage for the schools to purchase equipment for students to take the OMV knowledge test electronically, removes the option for secondary schools to choose not to be third party testers, adds due dates for sending in proof of continuing education annually instead of biennially, adds verbiage on monitoring students during testing, changes the word destroyed to invalidated, changes verbiage of what items may be in the sealed envelope, changes percent score on behind the wheel assessment to a point score, adds verbiage on when the 15 minute break must be given during driving sessions, adds verbiage of giving a road skills test in place of a behind the wheel assessment at the end of the 8 hours of driving based on the discretion of the instructor/examiner, adds verbiage relative to OMV knowledge test being administered through approved means, and adds clarifying language on the contractual requirements for administering the knowledge and road skills test on behalf of OMV. These amendments shall become effective upon the promulgation of the permanent rule in the *Louisiana Register*.

#### **Title 55**

### **PUBLIC SAFETY**

#### **Part III. Motor Vehicles**

#### **Chapter 1. Driver's License**

#### **Subchapter A. General Requirements**

#### **§143. Commercial Driving Schools**

A. Definitions. As used in this Chapter, the following terms have the meanings described below.

*30-Hour Classroom Course*—a DPS approved program which shall consist of a course of not less than 30 hours of classroom instruction required of first-time driver's license applicants' age 14 years 9 months through 17 excluding lunch breaks. This course shall be conducted utilizing the curriculum contained in this Subchapter.

*Adult*—a person 18 years of age or older.

*Background Check*—a secure and reliable way to initiate a criminal check on potential owners, instructors, employees and other types of applicants.

*Behind-the-Wheel Instruction*—a course which shall consist of a minimum of eight hours of instruction with a student as the operator of a dual-controlled motor vehicle. The course is also referred to as BTW.

*Classroom Instruction*—a driver education course that is administered in a classroom environment that enables a student to learn through various instructional methods, under the direct guidance of a properly licensed driver education instructor.

*Commissioner*—the assistant secretary of the Department of Public Safety and Corrections, Public Safety Services, Office of Motor Vehicles.

*DPS*—the Louisiana Department of Public Safety and Corrections, Public Safety Services, acting directly or through its duly authorized officers and representatives.

*Driver Education Certificate of Completion*—proof of completion of any portion of the driver education course or the pre-licensing course required by law. The course is administered by a certified and approved driving school in the form designated by the DPS.

*Driver Education Course*—a formal class or program that prepares a new driver to obtain a learner's permit or

driver's license. The course of study may be administered in a classroom, and in a vehicle. Individuals are instructed on the techniques of driving a vehicle, safety precautions and traffic regulations and laws.

*Driver Education Registration and Course Form*—a document issued by the driving school on a form approved and provided by DPS. The registration of students, driving instruction details, behind-the-wheel assessment and other information will be documented on this form.

*Driving School*—an entity licensed by DPS that offers instruction for the purpose of educating and training an individual, by offering a 38-hour driver education course or a 14-hour pre-licensing course, or both.

*Eight-Hour behind the Wheel Course Assessment*—An assessment administered at the end of the Behind the Wheel driving to determine a student's driving ability. If under the age of 18, the student's parent or guardian may sign, authorizing the instruction. The assessment may be replaced by the Third-Party Road Skills Exam, for students registered in a 14-hour pre-licensing course, if the instructor determines the student has demonstrated the necessary skills during the eight hours behind the wheel training.

*Fees*—the monetary amount for a school license or instructor license. All fees shall be submitted in the form of a money order, certified check or secondary school system checks.

*Instructor*—a person who is licensed by DPS to provide the driver education curriculum through classroom or behind-the-wheel instruction, and is contracted with DPS to administer the knowledge and road skills test.

*Instructor License*—a license issued by DPS that authorizes the holder of the license to provide instruction in driver education courses.

*Knowledge Test*—final test for the driver education and pre-licensing classroom courses. This test is provided to the driving school by the Office of Motor Vehicles.

*Letter of Warning*—identification of a violation. The letter will provide that the violation must be corrected and may provide directions and a timeframe of the plans for the suggested corrections.

*Major Offense*—an infraction of major regulations and policies outlined within this Chapter, which may include but not be limited to, driving schools not adhering to all applicable federal and state laws or engaging in any form of unlawful discrimination or other activities. The commissioner maintains discretion to determine any violations which will amount to a major offense and any monetary penalty to be assessed.

*Minor*—a person under the age of 18.

*Minor Offense*—an infraction of minor regulations and policies outlined within this Chapter, which may include but not be limited to, failure to notify students of grievance procedures, accompanying students to OMV with the purpose of assisting the student in completion of the driver's license exam, failure to display the driving school license at the place of business, failure to maintain lesson plans and schedules for the driving school. The commissioner maintains discretion to determine any violations which will amount to a minor offense and any monetary penalty to be assessed.

*Motor Vehicle*—automobiles, trucks, truck-tractors, trailers and semi-trailers and motorcycles, propelled by

steam, gasoline, electricity, or any other source of energy other than muscular power, except farm implements temporarily operated or moved on a roadway or vehicles operated only on rails or tracks constructed therefor.

*OMV*—any reference herein to OMV shall be construed as referring to the Office of Motor Vehicles, Training and Certification Unit, P.O. Box 64886, Baton Rouge, LA 70896.

*Operator*—every person who is in actual physical control of a motor vehicle upon a roadway.

*Owner/Administrator*—a licensed person or provider who has the principle responsibility for a driver education program.

*Penalty*—monetary assessment for violation of prohibited activities and procedures outlined in this Chapter. Fine amounts will be based on the nature of the offense, the number of previous offenses, the number of rules violated and the number of times the violations occurred and will be determined by the commissioner. Any penalty assessed shall be between \$100 and \$1,500 per violation.

*Person*—every natural person, firm, co-partnership, association or corporation.

*Pre-Licensing Course*—a program which shall consist of six hours of classroom instruction and an eight hour behind-the-wheel course required of first-time driver's license applicants 18 years of age or above, if a 30-hour classroom course is not completed. The six hours of classroom instruction of the pre-licensing course may be taught by alternative means.

*Revocation*—termination of license to operate a driving school or to instruct at a driving school as provided in these rules and regulations.

*Road Skills Test*—a driving test required for the issuance of a driver's license that demonstrates the applicant's ability to safely operate and maneuver a vehicle in traffic.

*School License*—a license issued by DPS authorizing the holder of the license to provide driver education courses.

*Secretary*—the deputy secretary of the Department of Public Safety and Corrections, Public Safety Services, or his appointed designee.

*Street or Roadway*—the entire width between the boundary lines of every publicly maintained thoroughfare when any part thereof is open to the use of the public for purposes of vehicular travel.

*Student*—a person who is enrolled or seeking enrollment in a driver education course or a pre-licensing course.

*Supervision*—the action or process of watching or directing what someone does or how something is done, or both.

*Suspension*—the temporary withdrawal of a school or instructor's license for violations of the laws and rules pertaining to driver's education, or both.

*Teaching Certificate*—a certificate issued by the Louisiana Department of Education indicating the holder is qualified to teach in the secondary schools of this state.

*Temporary Instructional Permit*—a Class "E" temporary instructional permit (TIP) obtained from OMV prior to the administration of the knowledge test to the student, operating a motor vehicle during on-road skills instruction or to be administered a road skills test.

*Third-Party Examiner*—an individual who has contracted with OMV to administer the OMV knowledge test and the road skills test through a third-party tester.

*Third-Party Tester*—for purposes of this Chapter, a driving school with which DPS has perfected a contract with to administer knowledge and road skills tests required by Louisiana law for driver's license issuance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:402.1(A)(1) and R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 38:1974 (August 2012), amended LR 38:3234 (December 2012), LR 43:1759 (September 2017), LR 45:1602 (November 2019), LR 50:

#### **§144. Driver Education and Driving Schools**

A. DPS shall establish a driver education and training program to be utilized by secondary school systems and private driving schools of this state.

1. A driver education course for any person under the age of 18 shall consist of a minimum of 30 hours of classroom instruction and no less than 8 hours of actual driving instruction.

2. A pre-licensing course shall consist of a minimum of 6 hours of classroom instruction and no less than 8 hours of actual driving instruction.

B. Any application received and approved for a driving school will be issued a license that provides for the administration of a 38-hour driver's education course, a 6-hour pre-licensing course, and the administration of written and road skills test as a third-party tester.

C. Every person licensed or contracted by DPS to operate a private driving training school or agency, or providing driving courses, shall also be contracted as a third-party tester pursuant to R.S. 40:1461.

D. Every person engaged in the operation of a private driving school shall apply for and procure a license from DPS. No driving school shall advertise without having first obtained a contract with DPS. No person shall for remuneration hold himself as a qualified or licensed instructor without obtaining a license and contract from DPS.

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:402.1(A)(1) and R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 38:1975 (August 2012), amended LR 43:1761 (September 2017), LR 50:

#### **§145. Qualifications for Driving School**

##### **Owners/Administrators and Instructors**

A. Qualifications for a Driving School Owner/Administrator. To become a driving school owner or administrator, the applicant shall:

1. ...

2. be at least 21 years of age and have at least five consecutive years of full licensure driving experience while possessing a valid driver's license issued by Louisiana or any other State of the United States;

3. - 4. ...

5. not have had driving privileges suspended or disqualified for submitting to or refusing a test pursuant to RS 32:661 et seq. or RS 32:414.2(A), or for a conviction of

operating a motor vehicle under the influence of alcohol, drugs, or a combination thereof within the last 10 years;

6. - 13. ...

14. attend and successfully complete the training course for school owners provided by DPS. The applicant must pass a test on his knowledge of LAC 55:III.143-160, 185, and 187;

15. - 16. ...

B. Qualifications for Instructor. In addition to meeting the qualifications of a driving school owner, with the exception of Subparagraph A.14 above), an instructor applicant shall:

1. ...

2. hold one of the following at the time of application:

a. a current valid teaching certificate, from the Department of Education, issued within the past five years with all of the following specialized education courses:

i. general safety education course—three hours;

ii. basic information course in driver education course—three hours;

iii. curriculum innovations and instructional devices course (three hours) in-depth study of driver education and traffic safety curricular materials and familiarization with related instructional devices; and

iv. first aid—one hour; or

b. a certificate of completion of a 30-hour driver education course from a DPS approved provider;

3. attend and successfully complete all required training for an instructor/examiner provided by DPS.

4. maintain a valid email address for testing and training purposes, and promptly notify DPS in any changes of the email address.

5. not be missing an eye, hand, or foot; and

6. have visual acuity not worse than 20/40 in each eye, with or without corrective lenses and not have any restrictions which indicate less than 20/40 vision or has physical impairment restrictions on his driver's license.

C. - C.4. Repealed.

D. All instructors shall be approved by DPS and obtain an instructor's license and an approved third-party examiner contract prior to providing instruction or testing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:402.1(A)(1) and R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 38:1975 (August 2012), amended LR 43:1761 (September 2017), LR 45:1602 (November 2019), LR 50:

#### **§146. Application Process and Fees for Driving Schools and Instructors**

A. Application Process for a new Driving School Owner. The application process is a four-phase approval process.

1. An applicant for an initial driving school license shall submit the following during phase 1:

a. complete and submit Driving School Owner Application;

b. ...

c. copy of high school diploma, college degree, school transcripts, or GED;

d. completed criminal history background check forms for each owner, including two fingerprint cards along with separate certified check or money order made payable to Department of Public Safety and Corrections, for each background check to be conducted;

2. Once the background check is completed and the Driving School Owner Application is approved, the applicant shall submit the following for phase 2:

a. lesson plan containing:

i. beginning and ending time of each class day, including lunch and break periods;

ii. number of class days in the course;

iii. material sources;

iv. how information is presented (i.e. handouts, videos, lectures); and

v. title of audio visual sources to be utilized;

b. copy of the detailed behind-the-wheel curriculum and Lesson plan for the eight (8) hours of driving instruction;

c. copy of any daily quizzes and verbal quizzes to be given with the answer key;

d. copy of the course specifications/school policies, which includes the information the school gives to parents and students prior to the beginning of the course;

e. copy of the information furnished for the parental orientation and responsibility segment with the parents of minor students. A copy of any contract signed by parents/students and the school as defined in LAC 55:III.147.B.3;

f. copy of any written document to the prospective student detailing the course to be provided and the fee charged for each service;

3. Upon receiving approval of phase 2, the applicant shall submit the following for phase 3 and 4:

a. a completed driving school initial location application along with the name of the school;

b. proof of filing if the school is registered with the La Secretary of State as a business structure such as a partnership, corporation, limited liability company and limited liability partnership;

c. occupational or occupancy license-with physical address of the driving school;

d. local fire department inspection to review schools building for classroom sizes and number of students/instructors allowed in each classroom or a State Fire Marshal Plan Review document;

e. a surety bond in the amount of \$20,000;

f. copy of the compliant or grievance sign to be posted in the classroom;

g. completed driving school add or remove vehicle form with all requirements prescribed in §151 F; and

h. approved 4-column route sheet for administering Third Party Road Skills Exams.

B. - C.1.f. ...

g. evidence of completion of a training course on the prevention of sexual harassment.

D. - E.3. ...

4. License fees pursuant to this Section may be prorated.

F. Instructor License Fees

1. Every application for an instructor license shall be accompanied by an application fee or renewal fee of \$10 per year, collected biennially, or if a duplicate license is required.

2. License fees pursuant to this Section may be prorated.

G. - G.2. ...

## H. Renewal

1. Prior to the beginning of the renewal period, a renewal invitation will be offered to eligible schools by email. Previous compliance reviews, incident reports, classroom observations, and complaints will determine eligibility.

2. Application for renewal shall be made on the form prescribed by OMV at a minimum of 120 days prior to license expiration.

3. All renewal applications for privately-owned schools shall be submitted to OMV before the close of business on October 1 of the expiration year. All renewal applications for secondary schools shall be submitted to OMV before the close of business on June 1 of the expiration year.

4. Applications received after October 1 for privately-owned schools and June 1 for secondary schools will be deemed untimely and may cause delay in renewal of the license.

5. A school that submitted an untimely renewal application and whose renewed license is not issued prior to December 31 for privately-owned schools and August 31 for secondary schools, shall not be authorized to conduct any classes, behind the wheel driving, or road skills exams, until the license is renewed.

6. Incomplete renewal applications will be returned and may result in a delay of the licensing process.

7. Proof of continuing education for each instructor shall be submitted as outlined in §151.

8. The following documents shall be submitted as part of the renewal packet:

- a. completed application listing all school locations, instructors, and vehicles being renewed;
- b. completed application packet for any new instructors added as outlined in 145 B;
- c. - d. ...
- e. surety bond with power of attorney.

### I. - L.8.b. ...

9. if the same instructors will remain with the school, a notification of instructors transfer of employment during ownership change shall be completed and submitted along with a \$10 application fee, in lieu of the instructor application packet;

### 10. - 14. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:402.1(A)(1), R.S. 40:1461 and R.S. 40:1462.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 38:1976 (August 2012), amended LR 40:2603 (December 2014), LR 41:2665 (December 2015), LR 43:1762 (September 2017), LR 50:

## §147. General Regulations for Driving Schools

A. All approved driving schools shall operate from an office or location in the following manner.

### A.1. - B.5.c. ...

C. A school shall have a commercially established primary location where records shall be kept in a secure manner. Records shall be available for inspection between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. All schools must secure a business location for record keeping and test administration.

### 1. - 3. ...

D. The following is a list of recommended hardware, operating systems, and web browsers that will run the software approved by the Department for administering the OMV Knowledge Test. This list was provided by the venter and should be followed as close as possible. If a school elects to not get the recommended devices the school will run the risk of the software not working correctly and will have to purchase other devices that will work. Additionally, failures in the examining process which adversely affects the student or the Department because the school elected not to follow these recommendations may cause the Department to issue an administrative violation against the school, the instructor, or both.

#### 1. Testing stations:

##### a. desktop/laptop computers:

- i. Windows 10 or higher;
- ii. industry standard web-browser with HTML5 support such as Microsoft Edge Chromium, Google Chrome, or Mozilla Firefox;
- iii. 4GB RAM or higher;
- iv. 21.5" or higher screen recommended [1920x1080 resolution recommended];
- vi. touch screen interface and no physical mouse/keyboard is recommended.

##### b. Chromebooks:

- i. industry standard web-browser with HTML5 support such as Microsoft Edge Chromium, Google Chrome, or Mozilla Firefox;
- ii. 4GB RAM or higher;
- iii. 13" or higher screen recommended [1920x1080 resolution recommended];
- iv. touch screen interface and no physical mouse/keyboard is recommended.

##### c. tablet devices:

- i. Windows 10 or higher (if using a Windows table);
- ii. Windows tablets have a script that can be uploaded and turn them into Kiosks for easier access for students;
- iii. industry standard web-browser with HTML5 support such as Microsoft Edge Chromium, Google Chrome, or Mozilla Firefox;
- iv. 4GB RAM or higher;
- v. 64 GB memory or higher;
- vi. 10.1" or higher screen recommended [1920x1080 resolution recommended];
- vii. touch screen interface and no physical mouse/keyboard is recommended.

#### 2. Control station(s):

##### a. desktop computers:

- i. Windows 10 or higher;
- ii. industry standard web-browser with HTML5 support such as Microsoft Edge Chromium, Google Chrome, or Mozilla Firefox;
- iii. 4GB RAM or higher;
- iv. 64 GB memory or higher;
- v. 21.5" or higher screen recommended [1920x1080 resolution recommended];
- vi. physical mouse and keyboard.

- b. laptop computers:
  - i. Windows 10 or higher;
  - ii. industry standard web-browser with HTML5 support such as Microsoft Edge Chromium, Google Chrome, or Mozilla Firefox;
  - iii. 4GB RAM or higher;
  - iv. 64 GB memory or higher;
  - v. 13” or higher screen recommended [1920x1080 resolution recommended];
  - vi. physical mouse and keyboard.

- c. Chromebook:
  - i. industry standard web-browser with HTML5 support such as Microsoft Edge Chromium, Google Chrome, or Mozilla Firefox;
  - ii. 4GB RAM or higher;
  - iii. 64 GB memory or higher;
  - iv. 13” or higher screen recommended [1920x1080 resolution recommended].

3. Examples of tablet devices:

- a. Window’s based tablets and Surface Pro’s;
- b. Android based tablets (i.e., Samsung, Acer, etc.);
- c. Amazon Fire tablets (if they meet all the recommended specifications).

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:402.1(A)(1), R.S. 40:1461 and R.S. 40:1462.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 38:1977 (August 2012), amended LR 40:2604 (December 2014), LR 41:2665 (December 2015), LR 43:1765 (September 2017), LR 45:1602 (November 2019), LR 50:

**§148. Secondary/Alternative School Driver Education Program**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:402.1(A)(1) and R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 38:1978 (August 2012), amended LR 43:1766 (September 2017), LR 45:1602 (November 2019), repealed LR 50:

**§149. Application Process and Fees for Secondary/Alternative Schools and Instructors**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:402.1(A)(1) and R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 38:1979 (August 2012), amended LR 38:3235 (December 2012), LR 43:1766 (September 2017), repealed LR 50:

**§150. Regulations and Policies for Secondary and Alternative School Driver Education Courses**

A. - A.8. ...

9. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:402.1(A)(1) and R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 38:1980 (August 2012), amended LR 43:1767 (September 2017), LR 50:

**§151. Regulations for All Driver Education Providers**

A. - A.6. ...

7. The school shall not, by advertisement or otherwise, state or imply that a driver’s license is guaranteed or assured upon completion of a driver education/pre-licensing training course or the road skills test.

8 - 12. ...

13. Each school shall maintain a minimum of one properly licensed instructor who is trained to administer knowledge and road skills tests.

14. - 19. ...

20. Driver education instructors shall participate in and provide evidence of completion of at least two separate courses from the following list to obtain credit for continuing education on an annual basis. Evidence of completion shall be submitted to OMV no later than December 31st for private/commercial driving schools and August 31st for secondary/alternative schools each calendar year. Credit shall be given only for courses that were completed during the appropriate licensing period. The same course cannot be submitted in consecutive years. The list includes:

A.20.a. - E.2. ...

3. Driving schools shall obtain and provide electronic devices to students to complete the OMV knowledge test at the end of the classroom portion of the 30 hour or 6 hour course as provided in §147.D. OMV shall furnish the school with the knowledge test if an exemption authorized in §157.C.12 is granted. The school shall shred all previous versions of the tests upon receipt of the new updated versions.

4. - 6. ...

7. The instructor/examiner shall monitor all students during the testing process. If an exemption is granted pursuant to §157.C.12, the instructor/examiner shall ensure that students seated next to each other have different versions of the test to complete.

8. Any student who fails the final exam shall be allowed to retest once the same day. If the student does not pass the test on the second attempt, the student may return any day thereafter and retest twice each day until the test is passed.

9. Students who cheat on the test will have the test invalidated and shall wait 30 days before retesting.

10. If an exemption is granted pursuant to §157.C.12, the completed test shall be attached to the certificate of completion for surrender to DPS at the time of license application. The certificate of completion, with the completed test, if applicable, shall be placed in a sealed envelope for surrender to DPS at the time of license application.

E.11. - K.10. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:402.1(A)(1) and R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 38:1980 (August 2012), amended LR 41:151 (January 2015), LR 43:1767 (September 2017), LR 45:1603 (November 2019), LR 50:

**§152. School Policies and Course Specifications**

A. - B.1. ...

2. DPS’ grading policy, indicating that a passing score of 80 percent on the classroom and a score of 70 points on the behind-the-wheel shall be achieved in order to be issued a driver education certificate of completion.

B.3. - C.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:402.1(A) (1) and R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR



### §154. Driver Education Curriculum

A. - C.10. ...

#### D. Eight-Hour Behind-the-Wheel Curriculum

1. The behind-the-wheel portion of the curriculum will be limited to no more than 4 hours behind-the-wheel for each student daily with a 15-minute break after 2 hours driving time. This shall be required on any drive that is scheduled over 2 hours for that driving session. There shall be no more than two students in the vehicle with the instructor. Upon completion of the behind-the-wheel portion, a skills assessment shall be performed by the instructor. A behind the wheel assessment test shall be administered and the student shall attain a minimum score of 70 points or more to pass.

2. In lieu of a behind the wheel assessment, a road skills test may be administered and the student shall attain a minimum score of 80 points or more to pass. This provision is offered to students that are 18 years or older and who's instructor determines their skill level is high enough to go straight to a driver's license.

3. Practical instruction shall include, at a minimum, the demonstration of and actual instructions in the following maneuvers:

- a. vehicle checks:
  - i. pre-trip vehicle inspection—outside/inside vehicle;
- b. turning skills:
  - i. steering; and
  - ii. turn signals;
- c. intersection awareness:
  - i. traffic signals;
  - ii. driving through;
  - iii. stops; and
  - iv. right of way laws;
- d. lane changes;
- e. signs, lanes, and signals;
- f. traffic signals;
- g. space management;
- h. S.I.P.D.E. process;
- i. parking skills;
- j. reversing skills;
- k. turnabouts;
- l. city driving;
- m. expressway;
- n. areas of high risk:
  - i. shared left turn lane;
  - ii. median crossover;
  - iii. service roads;
  - iv. off-road recovery;
  - v. head-on collisions;
  - vi. poor weather;
  - vii. skid recovery;
  - viii. controlled braking; and
  - ix. night time driving;
- o. railroad crossings;
- p. emergency vehicles;
- q. school buses; and
- r. breakdown/collision.

4. The instructor shall gauge the driver's proficiency and provide feedback on the following skills:

- a. observation;
- b. communication;
- c. speed adjustment;
- d. vehicle positioning;
- e. time and space management; and
- f. hazard perception.

5. Student Assessment. During the last driving session with the student, the instructor shall perform a skills test to determine the student's ability to safely operate a vehicle. A minimum score of 70 points shall be attained to pass the driver education course.

6. Upon completion of the eight-hour behind-the-wheel course, the instructor shall complete an in-depth assessment of the student's performance over each maneuver and skills covered above. The assessment shall be provided to the student and parent (if a minor) as a tool to continue driving instruction:

- a. visual search;
- b. space management;
- c. appropriate speed choices;
- d. attention (distractions);
- e. emergency evasive actions;
- f. physical control of the vehicle;
- g. pre-trip preparation;
- h. backing up;
- i. accelerating and braking;
- j. left turn;
- k. right turn;
- l. proper lane usage;
- m. lane change;
- n. obeying traffic signs and signals; and
- o. stopping.

7. The driver education certificate of completion shall be completed when a student has attained a minimum score of 80 percent on the knowledge test and a minimum score of 70 points on the eight-hour behind-the-wheel portion of the course.

E. - E.4. ...

5. The driver education certificate of completion shall be completed when a student has attained a minimum score of 80 percent on the knowledge test and a minimum score of 70 points on the eight-hour behind-the-wheel assessment or 80 points on the road skills test.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:402.1(A) (1) and R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 38:1985 (August 2012), amended LR 38:3235 (December 2012), amended LR 43:1773 (September 2017), LR 50:

### §155. Third-Party Tester/Examiner Requirements

A. R.S. 32:408 requires all driver education providers to become certified as third-party testers. All testers/examiners shall:

1. meet all the qualifications in §146;
2. have at least one instructor who is contracted with OMV to administer the knowledge and road skills tests; and
3. administer the knowledge and road skills test.
  - a. At the end of the classroom instruction, the tester/examiner shall administer a knowledge test to each student. The test shall be provided to the examiner by OMV.
  - b. The tester/examiner shall administer an approved road skills test to an eligible student.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:402.1(A)(1) and R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 38:1989 (August 2012), amended LR 38:3235 (December 2012), repromulgated LR 39:98 (January 2013), amended LR 40:2603 (December 2014), LR 43:1777 (September 2017), LR 50:

#### **§156. Application Process and Fees for Third-Party Testers/Examiners**

A. Each person requesting to be certified by and contract with DPS as a third-party tester shall submit the following:

1. completed third-party tester application for class D and E driver's license;
2. a certificate of general liability insurance as listed in §157.B.1;
3. a certificate of auto liability insurance as listed in §157.B.1;
4. a completed application for examiner license;
5. a third-party tester route for administering the road skills test to be approved by DPS. The route shall be different from the routes used during any eight-hour behind-the-wheel training.

B. - C.2. ...

3. attend an examiner training session administered by DPS; and,
4. pass a third-party examiner test administered by DPS.

D. - D.2. ...

3. The following documents shall be submitted in conjunction with the driver education renewal application:

- a. a certificate of general liability insurance as listed in §157.B.1;
- b. a certificate of auto liability insurance as listed in §157.B.1; and
- c. a third-party tester contract;

4. any tester that fails to renew his license/contract within six months of license or contract expiration shall be required to begin the initial application process again.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:402.1(A)(1) and R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 38:1990 (August 2012), amended LR 40:2603 (December 2014), LR 43:1777 (September 2017), LR 50:

#### **§157. General Regulations for Third-Party Testers**

A. - C.4. ...

5. If a paper knowledge test that was provided by DPS was used, completed test shall be attached to the certificate of completion for surrender to DPS at the time of license application. The Certificate of Completion and the paper knowledge test if used, shall be placed in a sealed envelope for surrender to OMV at the time of license application.

6. Schools and/or instructors that provide students with the answers to the knowledge test, teach only the information contained on the test, do not properly secure the test, and assist a student to pass the final exam by deceptive practices or accept bribes to give a student a passing score shall be subject to having their license/certification revoked.

7. - 10. ...

11. All uses of current paper knowledge tests issued by OMV shall cease on March 31, 2024, and schools shall only use the electronic testing system on and after April 1, 2024.

Any use of a paper knowledge test provided by OMV on or after April 1, 2024 shall only be allowed in accordance with a temporary exemption granted by OMV as provided in this section.

12. The transition period for all schools to stop administering the knowledge test using the paper knowledge test that were provided to the school by OMV and transition to the electronic testing software provide to the schools by OMV is November 20, 2023 through March 31, 2024. As of April 1, 2024, all schools shall be required to administer the knowledge test utilizing the electronic testing software provided to the school by OMV. Any request for a temporary exemption to this requirement shall be in writing and shall state in detail the reasons for requesting the exemption. No temporary exemption granted by OMV shall be effective unless it is in writing and signed by the commissioner, deputy commissioner, or the administrator over the driving school program. The temporary exemption shall state an effective date and ending date, and shall be subject to any conditions, restrictions, or other requirements contained in the approved temporary exemption.

13. Any school which had transitioned to the electronic testing software prior to November 20, 2023 shall continue to use the electronic software as previously approved by OMV.

D. - G.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:402.1(A)(1) and R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 38:1985 (August 2012), amended LR 38:3235 (December 2012), LR 43:1778 (September 2017), LR 45:1603 (November 2019), LR 45:1603 (November 2019), LR 50:

#### **Subchapter C. Third-Party Knowledge and Skills Testing for Class "D" and "E"**

##### **§185. Contract**

A. All contracts shall have a term of two years and shall expire on December 31 for privately-owned schools and August 31 for secondary schools. Contracts shall be renewed as set forth in §146.H.5 and §156.D.2.

B. As with any contract, contracts conferred pursuant to LAC 55, Part III, Chapter 1, Subchapter C, are renewable at the discretion of the department.

C. In the event of a new application for a privately-owned school which is submitted to OMV after the close of business on October 1st, the term of the contract maybe less than two years to allow for the expiration of the contract on December 31st. of the expiration year. In the event of a new application for a secondary school which is submitted to OMV after the close of business on June 1st, the term of the contract maybe less than two years to allow for the expiration of the contract on August 31st.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:408 and R.S. 32:408.1.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 27:1928 (November 2001), amended LR 40:2603 (December 2014), LR 50:

##### **§187. Compliance**

A. The third party tester and the third party examiners shall maintain at its place of business a record of each applicant for whom a third party examiner has conducted an

application, written test, visual examination, and the driving or skills test for a minimum of five years. Each such record shall include:

1. the applicant's name;
2. date of birth;
3. the date each test was administered;
4. the score obtained by the applicant;
5. the score sheets for each test conducted;
6. the name and address and certificate number of the third-party examiner administering said tests; and
7. the make/model/license plate number of any vehicle used to conduct the testing.

B. The third party tester shall maintain at each place of business for a minimum of five years, a record of each certified third party examiner in the employ of the third party tester to include:

1. a copy of the examiner's license issued by the State of Louisiana, Department of Public Safety;
2. a copy of the examiner's driving record, updated annually from the date of employment;
3. evidence of payroll employment status of the examiner;
4. copies of all third party examiner records, including the tests administered by the examiner.

C. Each third party tester and third party examiner shall utilize a department-approved knowledge test, through approved computer linking, to ensure all knowledge tests are electronically controlled and all results are electronically recorded through the department database.

D. - N. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:408 and R.S. 32:408.1.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 27:1928 (November 2001), amended LR 29:604 (April 2003), LR 40:2603 (December 2014), LR 50:

#### **Family Impact Statement**

The proposed Rule is not anticipated to have an impact on family formation, stability, and autonomy as described in R.S. 49:972.

#### **Poverty Impact Statement**

The proposed Rule is not anticipated to have an impact on poverty as defined by R.S. 49:973.

#### **Small Business Analysis**

Pursuant to R.S. 49:965.6, methods for reduction of the impact on small business, as defined in the Regulatory Flexibility Act, have been considered when creating this proposed Rule.

This proposed Rule is not anticipated to have an adverse impact on small businesses; therefore, a Small Business Economic Impact Statement has not been prepared.

#### **Provider Impact Statement**

The proposed Rule is not anticipated to have an impact on providers of services funded by the state as described in HCR 170 of the 2014 Regular Legislative Session.

#### **Public Comments**

All interested persons may submit written comments through December 11, 2023, to Stephen A. Quidd, Executive Management Officer, Office of Motor Vehicles, Louisiana Department of Public Safety and Corrections, at P. O. Box 64886, Baton Rouge, LA 70896, or faxed to (225)925-6303.

#### **Public Hearing**

A public hearing on the proposed Rule will be held on January 4, 2024, at the Louisiana Department of Public Safety and Corrections, Office of Motor Vehicles Headquarters, 7979 Independence Blvd., Suite 301, Baton Rouge, LA 70806, (225) 925-6281, 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 above number at least seven working days in advance of the hearing. For assistance, call (225) 925-6281 (voice and TDD). Any interested person should call before coming to the public hearing as the hearing will be cancelled if the requisite number of comments, as provided in R.S.49:961(B), are not received.

Karen St. Germain  
Commissioner

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Driving Schools**

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

The proposed rule is anticipated to reduce local government expenditures by \$900 (9 secondary schools x \$100 fee) in FY 25 and future odd-numbered years as a result of no longer having \$100 biennial fees.

In compliance with Act 176 of the 2023 RS, the Office of Motor Vehicles (OMV) proposes to amend Title 55, Part III, Chapter 1. Driver's License, Sections §143, §144, §145, §146, §147, §150, §151, §152, §154, §155, §156, §157, §185, and §187. Specifically, this rule:

Updates rules related to driver education course specifications

Updates qualifications for driving school Owners/Administrators and Instructors

Removes the \$50/year application fee for a third-party tester license (collected biennially)

Removes the \$25/year application fee for an examiner license (collected biennially), and

Provides for other technical changes.

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

The proposed rule change is anticipated to reduce Office of Motor Vehicle (OMV) revenues by \$80,900 in FY 24 and future even-numbered years and \$5,900 in FY 25 and future odd-numbered years. The revenue reduction is calculated as follows:

In FY 24 and future even-numbered fiscal years:

\$20,900 (209 private driving schools x \$100 fee)

\$60,000 (1,200 examiners x \$50 fee)

\$80,900

In FY 25 and future odd-numbered fiscal years:

\$900 (9 secondary schools x \$100 fee)

\$5,000 (100 instructors x \$50 fee)

\$5,900

The decrease in revenue is associated with removing the requirement for schools/testers and examiners must apply for a third-party license to administer both knowledge and on-road driving skills tests.

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

The proposed rule will economically benefit owners and examiners that previously had to pay a separate fee to be authorized to administer the knowledge and on-road driving skills tests.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated impact on competition and employment.

Karen G. St. Germain  
Commissioner  
2311#025

Patrice Thomas  
Deputy Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**  
**Department of Treasury**  
**State Bond Commission**

Meetings via Electronic Means (LAC 71:III.2501)

In accordance with R.S. 49:950 et seq., R.S. 42:14, and R.S. 42:17.2, the Louisiana State Bond Commission is proposing the following Rule, which amends LAC 71:III.2501-2507. This Rule would amend previously adopted virtual meeting rules so that the State Bond Commission may conduct meetings via electronic means in accordance with Act 393 of the 2023 Regular Session of the Legislature. The proposed Rule, much like the previous rule, provides for regulations and procedures to allow the public to participate via electronic means in State Bond Commission meetings that are held electronically. The first section of the Rule provides for agency eligibility. The second section of the Rule provides for postings prior to conducting a meeting via electronic means. The third section provides for electronic meeting requirements and limitations. The final section provides for disability accommodations.

**Title 71**

**TREASURY—PUBLIC FUNDS**

**Part III. Bond Commission—Debt Management**

**Chapter 25. Open Meetings via Electronic Means**

**§2501. Agency Eligibility**

A. The State Bond Commission meets the criteria pursuant to Act 393 to be eligible to conduct open public meetings via electronic means.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:17.2 (Act 393 of the 2023 Regular Session of the Louisiana Legislature).

HISTORICAL NOTE: Promulgated by the Department of the Treasury, State Bond Commission, LR 50:

**§2503. Postings Prior to Meeting via Electronic Means**

A. At least 24 hours prior to the meeting, the State Bond Commission shall post the following on the Department of Treasury's website:

1. meeting notice and agenda; and
2. detailed information regarding how members of the public may:

a. participate in the meeting via electronic means, including the applicable videoconference link and/or teleconference phone number; and

b. submit written comments regarding matters on the agenda prior to the meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:17.2 (Act 393 of the 2023 Regular Session of the Louisiana Legislature).

HISTORICAL NOTE: Promulgated by the Department of the Treasury, State Bond Commission, LR 50:

**§2505. Electronic Meeting Requirements and Limitations**

A. The State Bond Commission shall not conduct any more than one-third of its open meetings via electronic means, and will only conduct successive meetings via electronic meetings as needed.

B. To the extent practicable, a schedule of meetings identifying which will be conducted via electronic means and which will be conducted as in-person meetings may be posted on the Department of Treasury's website on an annual basis.

C. All members of the State Bond Commission, whether participating from the anchor location or via electronic means, shall be counted for the purpose of establishing a quorum and may vote.

D. An online archive of any open meetings conducted via electronic means shall be maintained and available for two years on the Department of Treasury's website.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:17.2 (Act 393 of the 2023 Regular Session of the Louisiana Legislature).

HISTORICAL NOTE: Promulgated by the Department of the Treasury, State Bond Commission, LR 50:

**§2507. Disability Accommodations**

A. In the event it has the capability to do so, the State Bond Commission shall provide an opportunity for people with disabilities, or their designated caregiver, to participate in any electronic meeting via electronic means, provided that the person with a disability or their designated caregiver request such accommodation prior to the meeting. If the State Bond Commission determines it does not have the above-referenced capability, it shall provide for a viable alternative method for participation in electronic meetings by people with disabilities.

B. People with disabilities are defined as any of the following:

1. a member of the public with a disability recognized by the Americans with Disabilities Act (ADA);
2. a designated caregiver of such a person; or
3. a participant member of the agency with an ADA-qualifying disability.

C. The written public notice for an open meeting, as required by R.S. 42:19, shall include the name, telephone number and email address of the designated agency representative to whom a disability accommodation may be submitted.

D. The requestor shall be provided with an accommodation, or viable alternative method, for participation via electronic means as soon as possible following receipt of the request, but no later than the start of the scheduled meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:17.2 (Act 393 of the 2023 Regular Session of the Louisiana Legislature).

HISTORICAL NOTE: Promulgated by the Department of the Treasury, State Bond Commission, LR 50:

**Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed rule on the family has been considered. This proposed rule is not

anticipated to have an impact on family functioning, stability, or autonomy as described in R.S. 49:972.

**Small Business Analysis**

Pursuant to R.S. 49:965.6, methods for reduction of the impact on small business, as defined in the Regulatory Flexibility Act, have been considered when creating this proposed Rule.

This proposed Rule is not anticipated to have an adverse impact on small businesses; therefore, a Small Business Economic Impact Statement has not been prepared.

**Poverty Impact Statement**

The proposed Rule should not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973.B. In particular, there should be no known or foreseeable effect on:

- 1. the effect on household income, assets, and financial security;
- 2. the effect on early childhood development and preschool through postsecondary education development;
- 3. the effect on employment and workforce development;
- 4. the effect on taxes and tax credits;
- 5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

**Provider Impact Statement**

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

- 1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
- 2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
- 3. the overall effect on the ability of the provider to provide the same level of service.

**Public Comments**

Interested persons may submit written comments on the proposed Rule until 5 p.m., December 10, 2023, to Cassie Berthelot, State Bond Commission, P.O. Box 44154, Baton Rouge, LA 70804. She is responsible for responding to inquiries regarding this proposed Rule.

Lela Folse  
Secretary

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

**RULE TITLE: Meetings via Electronic Means**

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

The Board is already in possession of the equipment necessary to provide teleconference or video conference participation in its meetings; therefore, there are no implementation costs for the State Bond Commission. However, electronic meetings could potentially reduce expense of local governmental units by negating the need for travel to a board meeting.

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

There are no estimated effects on revenue collections of state or local governmental units.

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

Electronic meetings could potentially reduce expenses to directly affected persons, small businesses, or non-governmental groups by negating the need for travel to a board meeting.

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

Implementation of this proposed rule is not expected to have an effect on competition and employment.

Lela M. Folse  
Director  
2311#026

Patrice Thomas  
Deputy Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

**Menhaden Season (LAC 76:VII.307)**

The Wildlife and Fisheries Commission does hereby give notice of intent to amend a Rule (LAC 76:VII.307) by extending the coast wide buffer zone for the commercial harvest of menhaden from 1/4 mile to one mile and adding provisions that establish a buffer zone three miles off of the area between Holly Beach and Rutherford Beach in southwestern Louisiana. Further modifications to the rule clarify when the retrieval of any menhaden or bycatch released into the environment must begin. The proposed rule modification details specific reporting elements required when an intentional or unintentional release of gear, menhaden, or bycatch occurs. Authority for amendment of this Rule is included in the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 56:6(25)(a), R.S. 56:313, R.S. 56:315, R.S. 56:326.3, R.S. 56:409.1 and R.S. 30:2531.3.

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, including but not limited to, the filing of the Fiscal and Economic Impact Statement, the filing of the Notice of Intent and compiling public comments and submissions for the commission's review and consideration. In the absence of any further action by the commission following an opportunity to consider all public comments regarding the proposed Rule, the secretary is authorized and directed to prepare and transmit a summary report to the legislative oversight committees and file the final Rule.

**Title 76**

**WILDLIFE AND FISHERIES**

**Part VII. Fish and Other Aquatic Life**

**Chapter 3. Saltwater Sport and Commercial Fishery §307. Menhaden Season**

A. - B. ...

C. The menhaden season shall apply to all waters one statute mile seaward of the inside-outside line described in R.S. 56:495, except as noted in Subsection D, including waters in the Federal Exclusive Economic Zone (EEZ), and in Chandeleur and Breton Sounds as described in

Subsection E below. All other inside waters and passes are permanently closed to menhaden fishing.

D. Coastal Buffer Restrictions

1. Restrictions off Grand Isle, Louisiana. The menhaden season shall apply to waters beginning 3 statute miles seaward of the inside-outside line from the eastern shore of Caminada Pass, Louisiana to the eastern shore of Barataria Pass, Louisiana.

2. Restrictions off Rutherford Beach and Holly Beach, Louisiana. The menhaden season shall apply to waters beginning 3 statute miles seaward of the inside-outside line from the area described below off Rutherford Beach, westward to the area near Holly Beach, Louisiana. Beginning to the east at Latitude 29 degrees 44 minutes 48.37 seconds N, Longitude 93 degrees 04 minutes 15.38 seconds W which is on the inside-outside line, thence seaward to Latitude 29 degrees 42 minutes 05.77 seconds N, Longitude 93 degrees 04 minutes 12.56 W, thence westward to Latitude 29 degrees 42 minutes 35.22 seconds N, Longitude 93 degrees 37 minutes 35.13 seconds W thence shoreward to Latitude 29 degrees 45 minutes 13.39 seconds N, Longitude 93 degrees 37 minutes 38.84 seconds W which is on the inside-outside line. All coordinates are in NAD 1983 feet.

E. - E.1. ...

F. No menhaden purse seine gear or contents of purse seine gear shall be released or abandoned while on the water or during the course of fishing operations.

1. In the event that gear is released, such gear shall be marked in an appropriate manner to facilitate retrieval and effectively warn of navigational hazards caused by the released gear. Such gear shall be retrieved from the water within 48 hours of release. Failure to retrieve the gear within the prescribed period shall be considered abandonment of the gear.

2. Any and all reasonable attempts to retrieve menhaden and any bycatch from the environment shall commence within 12 hours of any event where menhaden purse seine gear is lost, damaged, released, abandoned, or the contents of purse seine gear is released intentionally or unintentionally. Retrieval efforts shall continue until the released contents of the menhaden purse seine have been removed from the environment to the extent practicable.

3. Any unintentional or intentional release of purse seine gear or contents of purse seine gear by the commercial reduction menhaden fishery shall be reported to the Enforcement Division within two hours of such release. This reporting shall be by email and by phone call to the Enforcement Division dispatch and communications center. The report shall contain, at a minimum, the following information:

- a. the date and approximate time of the release,
- b. the species of fish released,
- c. the disposition of the fish released,
- d. the vessel which released the fish,
- e. an estimated number of fish released,
- f. photographic or video documentation of sufficient resolution to clearly depict the scope and composition of the release,
- g. the coordinates of the location of the release, and
- h. the causative factors of the release of fish.

4. Any release of the contents of a menhaden purse seine as described in this Subsection shall be considered waste of a fishery resource and subject to civil fine and restitution for the value of the wasted fish. Failure to retrieve menhaden purse seine gear from the environment within 48 hours of release of such gear, or failure to retrieve released contents of a menhaden purse seine to the extent practicable shall constitute a commercial littering violation pursuant to R.S. 30:2531.3.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25)(a), R.S. 56:313, R.S. 56:315, R.S. 56:326.3, and R.S. 56:409.1.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 5:329 (October 1979), amended LR 14:547 (August 1988), LR 19:58 (January 1993), LR 19:1179 (September 1993), LR 48:1588 (June 2022), LR 49:514 (March 2023), LR 50:

**Family Impact Statement**

In accordance with Act 1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issue its Family Impact Statement in connection with the preceding Notice of Intent. This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

**Poverty Impact Statement**

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

**Small Business Analysis**

This proposed Rule has no known impact on small businesses as described in R.S. 49:965.2 through R.S. 49:965.8.

**Provider Impact Statement**

This proposed Rule has no known impact on providers as described in HCR 170 of 2014.

**Public Comments**

Interested persons may submit comments relative to the proposed Rule to Jason Adriance, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000, or via e-mail to jadriance@wlf.la.gov prior to Thursday, January 4, 2024.

Andrew J. Blanchard  
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Menhaden Season**

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

The proposed rule change is not anticipated to have an effect on revenue collections of the Louisiana Department of Wildlife and Fisheries from license fees. A potential reduction in menhaden harvesting and processing may result in a decrease in state and local sales taxes and state income tax of up to \$3 million if the decline in landings were equivalent to the estimated percentage of recent commercial menhaden harvests reported as being drawn from waters affected by the proposed prohibition.

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

The proposed rule change is expected to reduce the receipts or income for commercial fishers and processors involved in the commercial harvest and processing of menhaden. The rule change has the potential to reduce menhaden harvests by as

much as 15 percent with a corresponding decline of up to \$12.5 million in dockside value or \$31.3 million in menhaden product sales. Depending on the reaction to the proposed rule change and ensuing behavior of the commercial fishers, this loss will be less should fishers shift their activity to locations outside the prohibited area, however the extent to which this will happen is indeterminable at this time.

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

The proposed rule change is expected to reduce the receipts or income for commercial fishers and processors involved in the commercial harvest and processing of menhaden. The rule change has the potential to reduce menhaden harvests by as much as 15 percent with a corresponding decline of up to \$12.5 million in dockside value or \$31.3 million in menhaden product sales. Depending on the reaction to the proposed rule change

and ensuing behavior of the commercial fishers, this loss will be less should fishers shift their activity to locations outside the prohibited area, however the extent to which this will happen is indeterminable at this time.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

In the event that there is a reduction in the landings of menhaden, the proposed rule change may have a negative effect on employment in the commercial menhaden harvesting and processing sectors. If the decline in employment is proportionate to the resulting decline in harvests, the potential reduction in jobs may be as high as 90 full time equivalents.

Bryan McClinton  
Undersecretary  
2311#023

Patrice Thomas  
Deputy Fiscal Officer  
Legislative Fiscal Office

# Committee Reports

## COMMITTEE REPORT

### House of Representatives Committee on Education

Oversight Consideration of the Board of Elementary and Secondary Education’s Proposed Rule to Amend Bulletin 741—The Louisiana School, District, and State Accountability System (LAC 28: CXV.717, 2321, and 2322)

In accordance with the Administrative Procedure Act, the House Committee on Education met on October 26, 2023, for the purpose of exercising legislative oversight with respect to an administrative rule proposed by the State Board of Elementary and Secondary Education (BESE) to amend LAC 28: CXV in *Bulletin 741—The Louisiana School, District, and State Accountability System*.

BESE gave notice of its intention to adopt this proposed rule through a Notice of Intent published on pages 1299 through 1303 of the July 2023 edition of the Louisiana Register.

BESE received requests for a public hearing regarding the Notice of Intent and held a public hearing on August 25, 2023.

On October 11, 2023, BESE submitted to the House Committee on Education its report pursuant to R.S. 49:966(D)(1)(b).

In its October 26, 2023, oversight hearing concerning this proposed rule, the House Committee on Education, by a vote of eight yeas and three nays, determined that the proposed rule is unacceptable.

By transmittal of this written report and a copy of the proposed rule in accordance with the Administrative Procedure Act, the House Committee on Education is notifying the Governor, the State Board of Elementary and Secondary Education, and the Louisiana Register of the action by which it has determined the proposed rule discussed in this committee report to be unacceptable.

Lance Harris  
Chairman

## COMMITTEE REPORT

### House of Representatives Committee on Natural Resources and Environment

Oversight Consideration of the Department of Wildlife and Fisheries’ Proposed Modification of Red Drum Harvest Regulations (LAC 76: VII.363)

In accordance with the powers conferred in the Administrative Procedure Act by R.S. 49:966, the House Committee on Natural Resources and Environment and the Senate Committee on Natural Resources met jointly on November 7, 2023, to exercise oversight authority on the attached Notice of Intent from the Louisiana Department of Wildlife and Fisheries on “Red Drum—Harvest Regulations” (LAC 76: VII.363).

The matter received a thorough hearing, including a presentation by the department, discussion from members, and testimony from members of the Wildlife and Fisheries Commissioner, department staff, and the public. Considering the state, commercial, and recreational interests involved and the data presented, the House Committee on Natural Resources and Environment determined that the proposed rule was unacceptable as provided in R.S. 49:966(D)(3). The committee further found that red drum harvest regulations would be acceptable with the following modifications to the Notice of Intent:

- 1). Increase the bag limit from 3 to 4 fish per day.
- 2). Increase the maximum size from 24 to 27 inches.

By transmittal of this written report of committee action, and pursuant to R.S. 49:966(F), the House Committee on Natural Resources and Environment hereby notifies the Governor, the Wildlife and Fisheries Commission, the Department of Wildlife and Fisheries, and the Louisiana Register of the committee action taken.

Jean-Paul Coussan  
Chairman



# Governor's Reports

## GOVERNOR'S REPORT

Governor's Response to Report of the House Education  
Committee on Board of Elementary  
and Secondary Education's Proposed Rule to Amend  
Bulletin 741—The Louisiana School, District,  
and State Accountability System  
(LAC 28: CXV.717, 2321, and 2322)

On October 26, 2023, I received written notice that the House Committee Education determined the proposed rule referenced above to be unacceptable. Education research illustrates that Louisiana's current policy of denying students a diploma based on the results of a standardized test does not reflect best practices. This proposed rule brings Louisiana in line with national norms and research. While standardized tests can be useful, this proposed rule will provide teachers with greater ability to meet the needs of individual students, and therefore, I disapprove of the action taken by the House Committee on Education.

John Bel Edwards  
Governor

# Potpourri

## POTPOURRI

### Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences

#### 2023 Annual Quarantine List Supplement

In accordance with the Administrative Procedures Act, R.S. 49:950 et seq., R.S. 3:1652, R.S. 3:1734, and LAC 7:XV:107 and 109, the annual quarantine listing for 2023 is hereby supplemented to include the following quarantines and locations.

#### 1.0 Sweetpotato Weevil

##### (*Cylas formicarius elegantulus* Sum)

(a) ...

(b) In the State of Louisiana:

1) ...

2) The properties located at the following coordinates: -91.79585, 32.744205; and any properties within a 300-yard radius of these coordinates.

Mike Strain DVM  
Commissioner

2311#054

## POTPOURRI

### Department of Agriculture and Forestry Office of Animal Health Services

#### Letter of Authorization Granting Hunting Season Variance

Pursuant to LAC 7: XXI.1719(A), farm-raised white-tailed deer may be harvested by killing from October 1 through January 31. LAC 7:XXI.1719(C) authorizes the Commissioner of Agriculture and Forestry to establish, by written order, variances of these dates as the commissioner deems necessary to carry out the purposes of R.S. 3:3101-3108.

In light of the foregoing, and in consideration of its application for a variance, Commissioner of Agriculture and Forestry, Mike Strain, DVM hereby authorizes:

Saints Whitetails, License No. 2084  
6674 La. Hwy 77, Fordoche, LA. 70732

through its owner, Dr. Michael St. Romain to open its hunting grounds for the purpose of harvesting farm-raised white-tailed deer from February 1, 2024, until February 28, 2024.

This notice will be published in the next issue of the Louisiana Register, in accordance with LAC 7:XXI.1719(C).

Mike Strain, DVM  
Commissioner

2311#032

## POTPOURRI

### Department of Health Bureau of Health Services Financing

#### Public Hearing-Substantive Changes to Proposed Rule Adult Residential Care Providers Licensing Standards (LAC 48:I.6831 and 6832)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health, Bureau of Health Services Financing published a Notice of Intent in the August 20, 2023 edition of the *Louisiana Register* (LR 48:1480-1482) to amend LAC 48:I.Chapter 68 as authorized by R.S. 36:254 and R.S. 40:2166.1-2166.8. This Notice of Intent proposed to amend the provisions governing the licensing of adult residential care providers in order to update the requirements for visitation by members of the clergy, immediate family members, and other designated persons during a public health emergency, in compliance with Act 367 of the 2023 Regular Session of the Louisiana Legislature.

As a result of comments received in response to the proposed Rule, the department determined that additional, non-technical revisions are necessary to the provisions of §6831 and §6832 of the August 20, 2023 Notice of Intent.

Taken together, these revisions will closely align the proposed Rule with the department's original intent and the concerns brought forth during the comment period for the Notice of Intent as originally published.

#### Title 48

#### PUBLIC HEALTH—MEDICAL ASSISTANCE

##### Part I. General Administration

##### Subpart 3. Licensing and Certification

##### Chapter 68. Adult Residential Care Providers

##### Subchapter B. Administration and Organization

##### §6831. Visitation by Members of the Clergy During a Declared Public Health Emergency

A. - I.5. ...

6. An ARCP shall within 24 hours after establishing its written policies and procedures on clergy member visitation, make its written policies and procedures easily accessible from the homepage of its website, if the ARCP has a website.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 47:1500 (October 2021), amended LR 50:

##### §6832. Visitation by Immediate Family Members and Other Designated Persons during a Declared Public Health Emergency

A. - E.5. ...

6. An ARCP shall within 24 hours after establishing its written policies and procedures on family members and

other designated persons' visitation, make its written policies and procedures easily accessible from the homepage of its website, if the ARCP has a website.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

**HISTORICAL NOTE:** Promulgated by the Department of Health, Bureau of Health Services Financing, LR 47:1500 (October 2021), amended LR 50:

Interested persons may submit written comments to Tasheka Dukes, RN, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821. Ms. Dukes is responsible for responding to inquiries regarding these substantive changes to the proposed Rule. A public hearing on the substantive changes to the proposed Rule is scheduled for Thursday, December 28, 2023 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m., January 2, 2024.

Stephen R. Russo, JD  
Secretary

2311#046

## POTPOURRI

### Department of Health Health Standards Section

Public Hearing—Substantive Changes to Proposed Rule  
Intermediate Care Facilities for Persons with Developmental  
Disabilities—Licensing Standards  
(LAC 48:I.8531 and 8591)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health, Bureau of Health Services Financing published a Notice of Intent in the August 20, 2023 edition of the *Louisiana Register* (LR 49:1492-1494) to amend LAC 48:I.Chapter 85 as authorized by R.S. 36:254 and R.S.40:2180-2180.5. This Notice of Intent proposed to amend the provisions governing intermediate care facilities for persons with developmental disabilities (ICF/DD) in order to update the requirements for visitation by close family members of a resident during a declared PHE, in compliance with Act 367 of the 2023 Regular Session of the Louisiana Legislature. The department also proposed to adopt provisions requiring the ICF/DD to develop policies and procedures to ensure that residents, family members, and/or responsible parties or guardians are notified upon admission of registered sex offenders by the facility.

As a result of comments received in response to the proposed Rule, the department determined that additional, non-technical revisions are necessary to the provisions of §8531 of the August 20, 2023 Notice of Intent.

Taken together, these revisions will closely align the proposed Rule with the department's original intent and the

concerns brought forth during the comment period for the Notice of Intent as originally published.

## Title 48

### PUBLIC HEALTH—GENERAL

#### Part I. General Administration

#### Subpart 3. Licensing and Certification

#### Chapter 85. Intermediate Care Facilities for Persons with Developmental Disabilities

#### Subchapter B. Administration and Organization

#### §8531. Governing Body

A. - I.10. ...

J. The ICF/DD is not required to admit registered sex offenders; however, if the ICF/DD admits a registered sex offender, as described in R.S. 15:542, or current law, then the ICF/DD shall develop policies and procedures to ensure that residents, their family members including at a minimum, their primary and secondary contact, and/or their responsible parties, any authorized representative, or guardians are notified upon admission of sex offenders living in the facilities. Such policies and procedures must include provisions for addressing the safety and well-being of other residents, staff, and visitors, subject to 42 C.F.R. §483.420, or current law. The requirement of notification shall continue for as long as the information is considered a public record.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and R.S. 40:2180-2180.5.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3190 (December 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 50:

Interested persons may submit written comments to Tasheka Dukes, RN, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821. Ms. Dukes is responsible for responding to inquiries regarding these substantive changes to the proposed Rule. A public hearing on the substantive changes to the proposed Rule is scheduled for Thursday, December 28, 2023 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m., January 2, 2024.

Stephen R. Russo, JD  
Secretary

2311#047

## POTPOURRI

### Department of Natural Resources Office of Conservation

#### Orphaned Oilfield Sites

Office of Conservation records indicate that the Oilfield Sites listed in the table below have met the requirements as set forth by Section 91 of Act 404, R.S. 30:80 et seq., and as such are being declared Orphaned Oilfield Sites.

Operator	Field	District	Well Name	Well Number	Serial Number
Campground Corporation	Little Creek	M	Mixon A	001	31109
Campground Corporation	Little Creek	M	Mixon A	003	35367
Campground Corporation	Little Creek	M	Mixon A	004	50301
Campground Corporation	Little Creek	M	Mixon A	005	58577
Campground Corporation	Little Creek	M	Mixon Swd	001	63519
Campground Corporation	Little Creek	M	Oknoes Swd	001	78981
Campground Corporation	Tullos Urania	M	J C Maxwell	001	90573
Campground Corporation	Tullos Urania	M	R W Holmes Swd	003	116377
Campground Corporation	Tullos Urania	M	Thacker	003	146279
Campground Corporation	Tullos Urania	M	Tidwell Heirs	001	147074
Campground Corporation	Tullos Urania	M	Tidwell Heirs	002	147199
Campground Corporation	Tullos Urania	M	Tidwell Heirs	003	147341
Campground Corporation	Tullos Urania	M	Ella Long	001	153338
Campground Corporation	Little Creek	M	Csc,Inc.- Godwin Swd	001	157001
Campground Corporation	Little Creek	M	Haddox	001	157052
Campground Corporation	Little Creek	M	Haddox	002	157087
Campground Corporation	Tullos Urania	M	Thacker	001	160639
Campground Corporation	Tullos Urania	M	Thacker	002	160912
Campground Corporation	Little Creek	M	Godwin	002	163770
Campground Corporation	Tullos Urania	M	Ella Long	002	165683
Campground Corporation	Little Creek	M	Haddox	004	167094
Campground Corporation	Little Creek	M	Haddox Swd	001	167095
Campground Corporation	Little Creek	M	Godwin	003	171198
Campground Corporation	Tullos Urania	M	J C Maxwell	002	172722
Campground Corporation	Tullos Urania	M	J C Maxwell	003	184664
Campground Corporation	Little Creek	M	Shapiro	001	185303
Campground Corporation	Tullos Urania	M	J L & W L Holmes	001	186175
Campground Corporation	Tullos Urania	M	J L & W L Holmes Swd	002	186176
Campground Corporation	Tullos Urania	M	J L & W L Holmes	003	193691
Campground Corporation	Little Creek	M	Mixon	001	195138
Campground Corporation	Little Creek	M	Mixon	003	195140
Campground Corporation	Little Creek	M	Mixon	004	195141
Campground Corporation	Little Creek	M	Mixon Swd	002	195143
Campground Corporation	Little Creek	M	Mixon	008	195145
Campground Corporation	Little Creek	M	Mixon	009	195146

Operator	Field	District	Well Name	Well Number	Serial Number
Campground Corporation	Little Creek	M	Mixon	010	195147
Campground Corporation	Little Creek	M	Mixon	011	195148
Campground Corporation	Little Creek	M	Mixon	012	195149
Campground Corporation	Little Creek	M	Mixon	014	195770
Campground Corporation	Little Creek	M	Mixon	018	197456
Campground Corporation	Little Creek	M	Mixon	017	197615
Campground Corporation	Little Creek	M	Mixon	019	197616
Campground Corporation	Little Creek	M	Mixon	020	197617
Campground Corporation	Little Creek	M	Mixon	021	197618
Campground Corporation	Little Creek	M	Simmons	001	197889
Campground Corporation	Little Creek	M	Mixon	023	198249
Campground Corporation	Little Creek	M	Simmons	002	199184
Campground Corporation	Little Creek	M	Simmons Whatley	001	199773
Campground Corporation	Little Creek	M	Wx A Ra Su53; Godwin	001	207543
Campground Corporation	Catahoula Lake	M	S1 18607	003	234172
D-Mop Investments, L.L.C.	Monroe	M	Navarro Miles	006	138527
D-Mop Investments, L.L.C.	Monroe	M	Navarro Miles	007	138528
D-Mop Investments, L.L.C.	Monroe	M	Navarro Miles	009	138622
D-Mop Investments, L.L.C.	Monroe	M	Navarro Miles	010	138690
D-Mop Investments, L.L.C.	Monroe	M	Navarro Miles	012	138691
D-Mop Investments, L.L.C.	Monroe	M	Navarro Miles	008	138721
D-Mop Investments, L.L.C.	Monroe	M	Navarro Miles	011	138781
D-Mop Investments, L.L.C.	Monroe	M	Navarro Miles	001	140338
D-Mop Investments, L.L.C.	Monroe	M	Navarro Miles	002	140339
D-Mop Investments, L.L.C.	Monroe	M	Navarro Miles	003	140340
D-Mop Investments, L.L.C.	Monroe	M	Navarro Miles	004	140341
D-Mop Investments, L.L.C.	Monroe	M	Navarro Miles	005	140568
D-Mop Investments, L.L.C.	Monroe	M	Exxon	001	154809
D-Mop Investments, L.L.C.	Monroe	M	Exxon	002	154810

Operator	Field	District	Well Name	Well Number	Serial Number
D-Mop Investments, L.L.C.	Monroe	M	Exxon	003	154825
D-Mop Investments, L.L.C.	Monroe	M	Exxon	004	155513
D-Mop Investments, L.L.C.	Monroe	M	Exxon	005	155541
D-Mop Investments, L.L.C.	Monroe	M	Exxon	007	156202
D-Mop Investments, L.L.C.	Monroe	M	Edwards	002	161622
D-Mop Investments, L.L.C.	Monroe	M	Edwards	003	171801
D-Mop Investments, L.L.C.	Monroe	M	Edwards	004	171802
D-Mop Investments, L.L.C.	Monroe	M	Glenda P 12	007	174153
D-Mop Investments, L.L.C.	Monroe	M	Glenda P 12	008	174154
D-Mop Investments, L.L.C.	Monroe	M	Glenda P 12	009	174155
D-Mop Investments, L.L.C.	Monroe	M	Glenda P 12	001	174347
D-Mop Investments, L.L.C.	Monroe	M	Glenda P 12	002	174348
D-Mop Investments, L.L.C.	Monroe	M	Glenda P 12	003	174349
D-Mop Investments, L.L.C.	Monroe	M	Glenda P 12	004	174350
D-Mop Investments, L.L.C.	Monroe	M	Glenda P 12	005	174351
D-Mop Investments, L.L.C.	Monroe	M	Glenda P 12	010	174352
D-Mop Investments, L.L.C.	Monroe	M	Glenda P 12	011	174353
D-Mop Investments, L.L.C.	Monroe	M	Glenda P 12	012	174354
D-Mop Investments, L.L.C.	Monroe	M	Glenda P 12	013	174355
D-Mop Investments, L.L.C.	Monroe	M	Exxon	008	178659
D-Mop Investments, L.L.C.	Monroe	M	Exxon	009	178660
D-Mop Investments, L.L.C.	Monroe	M	Exxon	010	178884
D-Mop Investments, L.L.C.	Monroe	M	Exxon	011	178886
D-Mop Investments, L.L.C.	Monroe	M	Wanda Hevron et al	001	199866

Operator	Field	District	Well Name	Well Number	Serial Number
D-Mop Investments, L.L.C.	Monroe	M	Edwards	005	206629
D-Mop Investments, L.L.C.	Monroe	M	Edwards	006	206630
D-Mop Investments, L.L.C.	Monroe	M	Edwards	007	206749
D-Mop Investments, L.L.C.	Monroe	M	Edwards	008	217300
D-Mop Investments, L.L.C.	Monroe	M	Edwards	009	217301
D-Mop Investments, L.L.C.	Monroe	M	Edwards	011	218290
Geronimo Oil & Gas, LLC	Aloha	M	W Fletcher Swd	003	48840
Geronimo Oil & Gas, LLC	Aloha	M	Walter Fletcher	002	51030
Geronimo Oil & Gas, LLC	Aloha	M	Walter Fletcher	001	147022
Geronimo Oil & Gas, LLC	Aloha	M	Wx Dub Ra Suc; Doris M Hall	001	163729
Geronimo Oil & Gas, LLC	Aloha	M	Wx Dub Ra Sud; Doris M Hall	003	166526
Geronimo Oil & Gas, LLC	Aloha	M	Wx Dub Ra Suc; Doris M Hall	006-alt	188414
Geronimo Oil & Gas, LLC	Aloha	M	Walter Fletcher	006	203373
Hrubetz Oil Co.	Iberia	L	Bullock-Noble et al	1	184261 (30)
Louisiana Delta Oil Co, LLC	Larose	L	UI 2-4a Ra Sua; C Mitchell et al	001	230327
Louisiana Delta Oil Co, LLC	Larose	L	Hugh A Hawthorne et al Swd	001	231308
Louisiana Delta Oil Co, LLC	Larose	L	UI 2-4a Ra Sua; C Mitchell et al	002-alt	231332
Louisiana Delta Oil Co, LLC	Delta Farms, West	L	La Delta Farms Swd	001	231536
Louisiana Delta Oil Co, LLC	Delta Farms, West	L	Vua;La Delta Farms	001	231614
Louisiana Delta Oil Co, LLC	Delta Farms, West	L	La Delta Farms-Dfw	002	233892
Louisiana Delta Oil Co, LLC	Delta Farms, West	L	Vub;La Delta Farms	002	234206
Louisiana Delta Oil Co, LLC	Larose	L	La Delta Farms Co	001	236674
Louisiana Delta Oil Co, LLC	Delta Farms, West	L	Vub; La Delta Farms	004	237361
Tholl Oil Company	Caddo Pine Island	S	Crye	B-4	43405

Operator	Field	District	Well Name	Well Number	Serial Number
Tholl Oil Company	Caddo Pine Island	S	Crye	B-8	56465
W & K Oil Co.	Caddo Pine Island	S	Pala	11	58540(30)
W. C. Curry	Caddo Pine Island	S	Feist	2	36949
White Oak Operating Co, LLC	Lake Verret, West	L	JL&S Co	20	33012
White Oak Operating Co, LLC	Lake Verret, West	L	WLVE Q Ra Su;Burdin St U5	4	78586
White Oak Operating Co, LLC	Lake Verret, West	L	H Burdin	13	84139
White Oak Operating Co, LLC	Lake Verret, West	L	JL&S Co	58	85475
White Oak Operating Co, LLC	Lake Verret, West	L	JL&S U C	3	96105
White Oak Operating Co, LLC	Lake Verret, West	L	JL&S Co	60	96106
White Oak Operating Co, LLC	Lake Verret, West	L	WLVE X Ra Su; JI & S St Un C	003D	96875
White Oak Operating Co, LLC	Lake Verret, West	L	JL&S Co	060-D	97499
White Oak Operating Co, LLC	Lake Verret, West	L	K Ra Sud; Norman Breaux A	14	102451
White Oak Operating Co, LLC	Lake Verret, West	L	WLVE Q Ra Su; Burdin St Un 4	3	107451
White Oak Operating Co, LLC	Lake Verret, West	L	Vuc; St Martin Ph Sch Bd	12	125259
White Oak Operating Co, LLC	Lake Verret, West	L	J Ra Sue; Burdin St Un 5	8	129888
White Oak Operating Co, LLC	Lake Verret, West	L	JL&S Co	76	132329
White Oak Operating Co, LLC	Lake Verret, West	L	WLVE G20 Ra Su; Burdin St U6	3	132417
White Oak Operating Co, LLC	Lake Verret, West	L	Burdin State Un6	003D	133477
White Oak Operating Co, LLC	Lake Verret, West	L	JL&S Co	076D	133715
White Oak Operating Co, LLC	Lake Verret, West	L	JL&S Co	058D	134464
White Oak Operating Co, LLC	Lake Verret, West	L	Burdin St Un 4	7	134949
White Oak Operating Co, LLC	Lake Verret, West	L	N 4 Ra Sud;Burdin St U4	007-D	135855
White Oak Operating Co, LLC	Lake Verret, West	L	WLVE Z1 Rb Su;Pr Norman A	7	137309

Operator	Field	District	Well Name	Well Number	Serial Number
White Oak Operating Co, LLC	Bayou Boeuf, South	L	Bowie Lumber Company	3	144051
White Oak Operating Co, LLC	Bayou Boeuf, South	L	Cib Op N Ra Sub; Bowie	003-D	145010
White Oak Operating Co, LLC	Lake Verret, West	L	C2a-L Ra Sua; JL&S Co St Ug	5	145976
White Oak Operating Co, LLC	Bayou Boeuf, South	L	Bowie Lbr Co Swd	5	146336
White Oak Operating Co, LLC	Bayou Boeuf, South	L	SBBF Q Rb Su; Bowie A	5	146919
White Oak Operating Co, LLC	Lake Verret, West	L	H Burdin	23	147806
White Oak Operating Co, LLC	Lake Verret, West	L	WLVE Ko Ra Su; Norman Breaux A	21	150070
White Oak Operating Co, LLC	Bayou Boeuf, South	L	SBBF M1 Ra Su; Bowie	9	154686
White Oak Operating Co, LLC	Bayou Boeuf, South	L	Bowie Lumber Company	12	155805
White Oak Operating Co, LLC	Bayou Boeuf, South	L	Bowie Lumber Company	009-D	156798
White Oak Operating Co, LLC	Bayou Boeuf, South	L	SBBF M Ra Su; Bowie	012D	157119
White Oak Operating Co, LLC	Bayou Boeuf, South	L	N Rc Sua; Bowie Lumber Co	008-alt	157180
White Oak Operating Co, LLC	Bayou Boeuf, South	L	Bowie Lumber Company	008-D	157727
White Oak Operating Co, LLC	Lake Verret, West	L	JL&S Co	89	158382
White Oak Operating Co, LLC	Lake Verret, West	L	Z Rc Sua; H Burdin	21	158704
White Oak Operating Co, LLC	Lake Verret, West	L	R Vua; JL&S Ua	7	159340
White Oak Operating Co, LLC	Bayou Boeuf, South	L	SBBF M1 Ra Su; Bowie	14	160735
White Oak Operating Co, LLC	Bayou Boeuf, South	L	SBBF M Ra Su; Bowie	014-D	162142
White Oak Operating Co, LLC	Lake Verret, West	L	WLVE Ko Rb Su; JL&S Co	91	167368
White Oak Operating Co, LLC	Bayou Boeuf, South	L	SBBF X Ra Su; Bowie	16	169806
White Oak Operating Co, LLC	Lake Verret, West	L	JL&S State Unit A Swd	11	170203
White Oak Operating Co, LLC	Murphy Lake	L	Marg V Ra Sub; Stockstill	002-alt	170487
White Oak Operating Co, LLC	Bayou Boeuf, South	L	Bowie Lumber Company	016-D	171321
White Oak Operating Co, LLC	Lake Verret, West	L	Vud; JL&S UA	8	173456

Operator	Field	District	Well Name	Well Number	Serial Number
White Oak Operating Co, LLC	Breton Sound Block 20	L	SI 8191 Swd	3	178198
White Oak Operating Co, LLC	Bayou Boeuf, South	L	R Rc Sua; Bowie Lumber Co	18	178489
White Oak Operating Co, LLC	Bayou Boeuf, South	L	Bowie Lumber Company	018-D	181199
White Oak Operating Co, LLC	Lake Verret, West	L	JL&S Co Swd	98	186723
White Oak Operating Co, LLC	Lake Verret, West	L	JL&S Co	100	191883
White Oak Operating Co, LLC	Lake Verret, West	L	Vuc; Norman Breaux A	24	193841
White Oak Operating Co, LLC	Lake Verret, West	L	JL&S Co	101	194912
White Oak Operating Co, LLC	Lake Verret, West	L	JL&S Co	102	195481
White Oak Operating Co, LLC	Lake Verret, West	L	St Martin Ph Sch Bd	36	196152
White Oak Operating Co, LLC	Lake Verret, West	L	H Burdin	24	198012
White Oak Operating Co, LLC	Lake Verret, West	L	S Ra Sub;H Burdin	22	198013
White Oak Operating Co, LLC	Lake Verret, West	L	G 6c Ra Sua; H Burdin	29	198474
White Oak Operating Co, LLC	Bayou Boeuf, South	L	Bowie Lumber Co Swd	20	198587
White Oak Operating Co, LLC	Lake Verret, West	L	Vud;JL&S Ua	10	199255
White Oak Operating Co, LLC	Lake Verret, West	L	H Burdin	25	200560
White Oak Operating Co, LLC	Murphy Lake	L	Marg V Ra Sua; Down Norman	2	201077
White Oak Operating Co, LLC	Lake Verret, West	L	WLVE Bb2 Ra Su;Burdin St U4	11	201547
White Oak Operating Co, LLC	Lake Verret, West	L	Vuc; St Martin Ph Sch Bd	40	201576
White Oak Operating Co, LLC	Lake Verret, West	L	JL&S Co	108	201725
White Oak Operating Co, LLC	Lake Verret, West	L	JL&S Co Swd	109	201970
White Oak Operating Co, LLC	Bayou Boeuf, South	L	N Rc Sua; Bowie Lumber Co	21	202728
White Oak Operating Co, LLC	Bayou Boeuf, South	L	Bowie Lumber Company	021-D	203951
White Oak Operating Co, LLC	Lake Verret, West	L	G 6b Rb Sua;JL&S Co	111	204229

Operator	Field	District	Well Name	Well Number	Serial Number
White Oak Operating Co, LLC	Little Cheniere, East	L	Amoco Fee Swd	1	205944
White Oak Operating Co, LLC	Lake Verret, West	L	C4 Ra Sub;JL&S St Ud	7	206080
White Oak Operating Co, LLC	Lake Verret, West	L	C4 Ra Sua;JL&S St Ud	8	206081
White Oak Operating Co, LLC	Lake Verret, West	L	Norman Breaux A	22	206676
White Oak Operating Co, LLC	Lake Verret, West	L	Norman Breaux A	23	206825
White Oak Operating Co, LLC	Lake Verret, West	L	Bo-B Ra Sug; Burdin St U7	3	207467
White Oak Operating Co, LLC	Murphy Lake	L	Marg V Ra Sub; Stockstill et al	1	207746
White Oak Operating Co, LLC	Lake Verret, West	L	WLVE G20 Ra Su; H Burdin	28	210270
White Oak Operating Co, LLC	Lake Verret, West	L	Vuc; P R Norman A	11	210272
White Oak Operating Co, LLC	Lake Verret, West	L	St Martin Ph Sch Bd	54	210294
White Oak Operating Co, LLC	Lake Verret, West	L	Vuc; St Martin Ph Sch Bd	55	210295
White Oak Operating Co, LLC	Bayou Boeuf, South	L	SBBF T Rc Su; Bowie Lbr Assoc	1	211502
White Oak Operating Co, LLC	Little Cheniere, East	L	U Plan Ra Sub;Amoco Fee	2	213074
White Oak Operating Co, LLC	Lake Verret, West	L	C4 Ra Sua;JL&S St Ud	009-alt	213465
White Oak Operating Co, LLC	Bayou Boeuf, South	L	SBBF O Ra Su; Bowie Lumber Co	22	216408
White Oak Operating Co, LLC	Lake Verret, West	L	JL&S Co	122	216889
White Oak Operating Co, LLC	Second Bayou	L	Miami Fee Corp	1	218209
White Oak Operating Co, LLC	Second Bayou	L	Miami Fee Corp	001-D	218554
White Oak Operating Co, LLC	Second Bayou	L	Miami Fee Corp	2	218968
White Oak Operating Co, LLC	Lake Verret, West	L	JL&S Co	127	219378
White Oak Operating Co, LLC	Second Bayou	L	Miami Fee Corp	3	221004
White Oak Operating Co, LLC	Breton Sound Block 20	L	SI 8191	4	222414

Operator	Field	District	Well Name	Well Number	Serial Number
White Oak Operating Co, LLC	Second Bayou	L	Miami Fee Corp	5	223579
White Oak Operating Co, LLC	Lake Verret	L	Vua; S1 16626	1	224214
White Oak Operating Co, LLC	Lake Verret, West	L	JL&S Co Swd	132	225266
White Oak Operating Co, LLC	Lake Verret	L	Vua; S1 16625	1	225287
White Oak Operating Co, LLC	Wildcat-So La Lafayette Dist	L	S1 16077	1	225466
White Oak Operating Co, LLC	Little Cheniere, East	L	12600 Ra Sua; Amoco Fee	6	225716
White Oak Operating Co, LLC	Lake Verret, West	L	Vug; JL&S St Ud	10	226626
White Oak Operating Co, LLC	Lake Verret, West	L	JL&S Co	142	226912
White Oak Operating Co, LLC	Little Cheniere	L	11500 Ra Sua; Baccigalopi	1	227226
White Oak Operating Co, LLC	Lake Verret, West	L	WLVE G6b Ra Su; JL&S St Ud	11	227571
White Oak Operating Co, LLC	Lake Verret, West	L	JL&S Co	145	228264
White Oak Operating Co, LLC	Little Lake, South	L	S1 17780	1	228650
White Oak Operating Co, LLC	Lake Verret, West	L	JL&S Co	147	228969
White Oak Operating Co, LLC	Lake Verret, West	L	JL&S Co	148	229441
White Oak Operating Co, LLC	Bayou Boeuf, South	L	M1 Rb Sua; Bowie Lbr Co	25	229490
White Oak Operating Co, LLC	Lake Verret, West	L	JL&S Co	149	229870
White Oak Operating Co, LLC	Plum Point	L	10950 Rb Sua; A J Roussell Etal	1	230022
White Oak Operating Co, LLC	Lake Verret, West	L	JL&S Co	153	230584
White Oak Operating Co, LLC	Lake Verret, West	L	St Martin Ph Sch Bd	61	230622
White Oak Operating Co, LLC	Lake Verret, West	L	JL&S Co	154	231571
White Oak Operating Co, LLC	Belle Isle, Southwest	L	Vua; S1 18350	1	231605
White Oak Operating Co, LLC	Little Lake	L	S1 18146 Swd	1	232199

Operator	Field	District	Well Name	Well Number	Serial Number
White Oak Operating Co, LLC	Lake Verret, West	L	G10 Ra Sua; JL&S Co	156	232554
White Oak Operating Co, LLC	Little Lake	L	S1 18146	2	232783
White Oak Operating Co, LLC	Lake Verret, West	L	JL&S Co	157	233135
White Oak Operating Co, LLC	Little Cheniere	L	Baccigalopi Swd	2	235126
White Oak Operating Co, LLC	Lake Verret, West	L	WLVE L Ra Su; Burdin St Un 5	9	243266
White Oak Operating Co, LLC	Murphy Lake	L	Murphy Lake Swd	1	970699
White Oak Operating Co, LLC	Second Bayou	L	Miami Fee Corp Swd	1	972699
White Oak Operating Co, LLC	Lake Verret	L	S1 16625 Swd	1	973015
White Oak Operating Co, LLC	Belle Isle, Southwest	L	S1 18350 Swd	1	974277

Monique M. Edwards  
Commissioner

2311#022

**POTPOURRI**

**Department of Public Safety and Corrections  
Office of State Fire Marshal  
Uniform Construction Code Council**

Substantive Changes to Proposed Rule:  
Uniform Construction Code  
(LAC 17:I.103 and 107)

This potpourri notice announces the correction of section numbers found in LR 48 Vol. 10 (October 2022) and the removal of duplicated sections found in LAC Chapter 17. The Louisiana State Uniform Construction Code Council published a Notice of Intent in the July 20, 2022 edition of the *Louisiana Register* (LR 48:1986-2018). The notice solicited comments and testimony. The duplications and the inability of recognizing the strike thru lines matching the cross hatch lines in the number 4 created section numbers which do not exist. Also the national publication of a third printing from the original first printing used for the code review had other section number changes. The title and verbiage remain the same with only the section number changing. By making these corrections the document in LAC Chapter 17 will be brought into current compliance with the national codes. No fiscal or economic impact will result from the correction of the section numbers or the removal of the printed duplicated sections.



**Title 17  
CONSTRUCTION**

**Part I. Uniform Construction Code**

**Chapter 1. Adoption of the Louisiana State Uniform Construction Code**

**§103. International Building Code**

**(Formerly LAC 55:VI.301.A.1)**

A. *International Building Code* (IBC), 2021 Edition, not including Chapter 1, Administration, Chapter 11, Accessibility, Chapter 27, Electrical. The applicable standards referenced in that code are included for regulation of construction within this state. Furthermore, IBC shall be amended as follows and shall only apply to the *International Building Code*.

* * *		
Amend	Section 1027.6	
Amend	Exceptions	
Adopt	Item (5)	(5.) Exterior stairs or ramps which serve no more than one story above the level of exit discharge and constructed with non-combustible materials or constructed with fire retardant treated lumber, shall be allowed when the fire separation distance is between 5 and 10 feet measured from the exterior edge of the stairway or ramp.
Amend	Section 1031.2	
Amend	Exception	
Amend	Item (6)	(6.) In other than Group R-3 occupancies, buildings equipped throughout with an approved automatic sprinkler system in accordance with Section 903.3.1.1 or 903.3.1.2.
Repeal	Section 1207, Enhanced Classroom Acoustics.	
* * *		
Amend	Item (3.)	(3.) Glazing in Risk Category II, III or IV buildings located over 60 feet (18 288 mm) above the ground and over 30 feet (9144 mm) above aggregate surface roofs located within 1,500 feet (458 m) of the building shall be permitted to be unprotected.
Amend	Section 1612.2, Design and Construction.	Effective August 1, 2023--The design and construction of buildings and structures located in flood hazard areas, including coastal high hazard areas and coastal A zones, shall be in accordance with Chapter 5 of ASCE 7 and ASCE 24. The local jurisdictions, utilizing flood plain manager, shall have the authority to adopt higher freeboard amounts as needed (CRS, etc.) but shall not have the authority to adopt freeboard amounts less than those required in ASCE-24.
Amend	Section 1613.1, Scope.	Every structure, and portion thereof, including nonstructural components that are permanently attached to structures and their supports and attachments, shall be designed and constructed to resist the effects of earthquake motions in accordance with ASCE 7, excluding Chapter 14 and Appendix 11A. The seismic design category for a structure is permitted to be determined in accordance with Section 1613 or ASCE 7-10. Figure 1613.5(1) shall be replaced with ASCE 7-10 Figure 22-1. Figure 1613.5(2) shall be replaced with ASCE 7-10 Figure 22-2.
* * *		

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 40:1730.22(C) and (D) and 40:1730.26(1).

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:291 (February 2007), amended LR 34:93 (January 2008), LR 34:883 (May 2008), LR 34:2205 (October 2008), LR 35:1904 (September 2009), LR 36:2574 (November 2010), effective January 1, 2011, LR 37:601 (February 2011), LR 37:913 (March 2011), repromulgated LR 37:2187 (July 2011), repromulgated LR 37:2726 (September 2011), LR 37:3065 (October 2011), LR 38:1994 (August 2012), amended by the Department of Public Safety and Corrections, Uniform Construction Code Council, LR 39:1825 (July 2013), LR 39:2512 (September 2013), LR 40:2609 (December 2014), amended by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 41:2380 (November 2015), amended by the Department of Public Safety and Corrections, Office of the State Fire Marshal, Uniform Construction Code Council, LR 44:75 (January 2018), repromulgated LR 45:912 (July 2019), amended LR 45:1786 (December 2019), LR 48:2578 (October 2022, LR

49:1141 (June 2023), effective August 1, 2023, repromulgated LR 49:1448 (August 2023).

**§107. International Residential Code  
(Formerly LAC 55:VI.301.A.3.a)**

A.1. *International Residential Code*, 2021 Edition, not including Parts I-Administrative, and VIII-Electrical. The applicable standards referenced in that code are included for regulation of construction within this state. The enforcement of such standards shall be mandatory only with respect to new construction, reconstruction, additions to homes previously built to the *International Residential Code*, and extensive alterations. 2021 *International Residential Code*, Appendix AQ, Tiny Houses, with inspections on site and or in the manufacturing plant as required by the LSUCCC regulations. Appendix J, Existing Buildings and Structures, may be adopted and enforced only at the option of a parish, municipality, or regional planning commission.

***		
	Item (1)	Sawn lumber used in buildings located in a geographical region where experience has demonstrated that climatic conditions preclude the need to use naturally durable or preservative-treated wood where the structure is exposed to weather. "The committee felt the State of Louisiana did not have such a geographical region to preclude and the "experienced" was not well defined.
Amend	Section R322.1, General	Buildings and structures constructed in whole or in part in flood hazard areas, including A or V Zones and Coastal A Zones, as established in Table R301.2, and substantial improvement and repair of substantial damage of buildings and structures in flood hazard areas, shall be designed and constructed in accordance with the provisions contained in this section. Buildings and structures that are located in more than one flood hazard area shall comply with the provisions associated with the most restrictive flood hazard area. Buildings and structures located in whole or in part in identified floodways shall be designed and constructed in accordance with ASCE 24. The local jurisdictions, utilizing flood plain managers, shall have the authority to adopt higher freeboard amounts as needed (CRS, etc.) but shall not have the authority to adopt freeboard amounts less than those required in ASCE-24
Amend	Section R506.2.3	A minimum 6 mil (0.006 inch) vapor retarder conforming to ASTM E1745 Class A requirements with joints lapped not less than 6 inches (152 mm) shall be placed between the concrete floor slab and the base course or the prepared subgrade where a base course does not exist.
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**AUTHORITY NOTE:** Promulgated in accordance with R.S. 40:1730.22(C) and (D) and 40:1730.26(1).

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:291 (February 2007), amended LR 34:93 (January 2008), LR 34:883 (May 2008), LR 34:2205 (October 2008), LR 35:1904 (September 2009), LR 36:2574 (November 2010), effective January 1, 2011, LR 37:601 (February 2011), LR 37:913 (March 2011), repromulgated LR 37:2187 (July 2011), repromulgated LR 37:2726 (September 2011), LR 37:3065 (October 2011), LR 38:1994 (August 2012), amended by the Department of Public Safety and Corrections, Uniform Construction Code Council, LR 39:1825 (July 2013), LR 39:2512 (September 2013), LR 40:2609 (December 2014), amended by the Department of Public Safety and Corrections, Office of State Fire Marshall, LR 41:2383 (November 2015), amended LR 42:1672

(October 2016), amended by the Department of Public Safety and Corrections, Office of the State Fire Marshal, Uniform Construction Code Council, LR 44:79 (January 2018), amended LR 44:2218 (December 2018), repromulgated LR 45:916 (July 2019), amended LR 45:1789 (December 2019), amended LR 48:2582 (October 2022), LR 49:1142 (June 2023), effective August 1, 2023, repromulgated LR 49:1448 (August 2023).

**§111. The International Plumbing Code (Formerly LAC 55:VI.301.A.5)**

A. The *International Plumbing Code*, 2021 Edition. The appendices of that code may be adopted as needed, but the specific appendix or appendices shall be referenced by name or letter designation at the time of adoption (per R.S. 40:1730.28, eff. 1/1/16).

***		
Adopt		2. Prohibited Fixture. Combination sink/drinking fountain units which share the same sink bowl are prohibited except in individual prison cells."
Adopt		2. A floor drain shall be required in the recess room for sterilizers in a medical facility.
Amend	Section 413, Floor and Trench Drains.	
Adopt	Section 413.5, Miscellaneous Areas.	
Adopt		1. A floor drain shall be required in public toilet rooms, excluding hotel/motel guest rooms or patient rooms of a hospital or nursing home.
Adopt	Section 422.4 Handwash Sinks	
Adopt		1. Dedicated handwash sinks shall be located to permit convenient use by all employees in food processing, food preparation, and other food handling areas.
Adopt		2. Each commercial body art (tattoo) facility shall provide a hand washing sink to be used solely for hand washing in body art procedure area for the exclusive use of the operator. A separate instrument sink shall also be provided for the sole purpose of cleaning instruments and equipment prior to sterilization.
Adopt		3. A hand washing sink may not be used for purposes other than hand washing.
Adopt		4. Sinks used for food preparation or for washing and sanitizing of equipment and utensils shall not be used for hand washing.
Adopt	Section 422.5, Manual Warewashing, Sink Requirements.	A sink with at least three compartments constructed of smooth, impervious non-corrosive material such as stainless steel or high density food grade polymer plastic shall be provided in slaughter rooms, packing rooms, retail food establishments, and other food handling areas for manual washing, rinsing and sanitizing equipment and utensils except where there are no utensils or equipment to wash, rinse and sanitize; i.e., such as in a facility with only prepackaged foods.
Adopt	Section 422.6, Handwashing Facilities.	Medical facilities, including doctor's office and clinics, shall be provided with hand washing facilities within each patient examination and treatment room. The hand wash facility shall be provided with hot and cold water delivered via a mixing faucet.

Amend	Exception	1. In healthcare setting such as doctor's offices and clinics where there is no reasonably anticipated exposure to blood or other potentially infectious materials (OPIM), where hands are not expected to be visibly soiled and clinical situations described in items 1C-J (IA) (74,93,166,169,283,294,312,398) are followed, use of an alcohol-based hand rub for routinely decontaminating hands shall be allowed in lieu of handwashing facilities. The design professional shall provide documentation to the building official specifying the anticipated exposure.
Amend	Chapter 5, Water Heaters.	
* * *		
Amend	Section 608.16.4, Protection by a Vacuum Breaker.	Openings and outlets shall be protected by atmospheric-type or pressure-type vacuum breakers. The critical level of atmospheric type vacuum breakers shall be installed not less than 6 inches (152 mm) above all downstream piping and not less than 6 inches (152 mm) above the flood-level rim of the fixture receptor or device served. Shutoff or control valves shall not be installed downstream from an atmospheric vacuum breaker. Atmospheric vacuum breakers including, but not limited to, hose bibb vacuum breakers shall not be subjected to continuous water pressure. The critical level of pressure type vacuum breakers shall be installed not less than 12 inches (305 mm) above all downstream piping and not less than 12 inches (305 mm) above the flood-level rim of the fixture receptor or device served. Fill valves shall be set in accordance with Section 425.3.1. Vacuum breakers shall not be installed under exhaust hoods or similar locations that will contain toxic fumes or vapors.
Amend	Section 608.17, Connections to the Potable Water System.	Connections to the potable water system shall conform to Sections 608.17.1 through 608.17.27. These Sections (608.17.1-608.17.27) are not inclusive of all potential contamination sources which may need fixture isolation protection. For potential contamination sources not listed in Sections 608.17.1 through 608.17.27, backflow prevention methods or devices shall be utilized in accordance with Table B1 of CAN/CSA B64.10-1994. When a potential contamination source and its associated backflow prevention method or device is not identified in this code or Table B1 of CAN/CSA B64.10-1994, backflow prevention methods or devices shall be utilized as directed by the building official.
Amend	Section 608.17.5, Connections to Lawn/Landscape Irrigation Systems.	The potable water supply to lawn/landscape irrigation systems shall be protected against backflow by an atmospheric vacuum breaker, a pressure vacuum breaker assembly or a reduced pressure principle backflow prevention assembly. Shutoff or control valves shall not be installed downstream from an atmospheric vacuum breaker. When a lawn/landscape sprinkler system is provided with separate zones, the potable water supply shall be protected by a pressure vacuum breaker or reduced pressure principle backflow prevention assembly. Atmospheric vacuum breakers shall be installed at least 6 inches (152 mm) above the highest point of usage (i.e., 6 inches (152 mm) above all downstream piping and highest sprinkler head). Pressure type vacuum breakers shall be installed at least 12 inches (305 mm) above the highest point of usage (i.e., 12 inches (305 mm) above all downstream piping and the highest sprinkler head). Where chemicals are introduced into the system, the potable water supply shall be protected against backflow by a reduced pressure principle backflow prevention assembly.
Amend	Section 608.17.8, Portable Cleaning Equipment.	Where the portable cleaning equipment connects to the water distribution system, the water supply system shall be protected against backflow in accordance with Section 608.14.1, 608.14.2, 608.14.3, 608.14.7 or 608.14.8. The type of backflow preventer shall be selected based upon the application in accordance with Table 608.1.
Adopt	Section 608.17.11, Cooling Towers.	The potable water supply to cooling towers shall be protected against backflow by an air gap.
Adopt	Section 608.17.12, Chemical Tanks.	The potable water supply to chemical tanks shall be protected against backflow by an air gap.
Adopt	Section 608.17.13, Commercial Dishwashers in Commercial Establishments.	The potable water supply to commercial dishwashers in commercial establishments shall be protected against backflow by an air gap, atmospheric vacuum breaker, or pressure vacuum breaker. Vacuum breakers shall meet the requirements of Section 608.16.4.
Adopt	Section 608.17.14, Ornamental Fountains.	The potable water supply to ornamental fountains shall be protected against backflow by an air gap.
* * *		
Adopt	Section 608.17.24, Laboratory and/or Medical Aspirators.	The potable water supply to laboratory and/or medical aspirators shall be protected against backflow by an atmospheric or pressure vacuum breaker installed in accordance with Sections 608.3.1 and 608.15.4.
Adopt	Section 608.17.25, Laboratory or other Sinks with Threaded or Serrated Nozzles.	The potable water supply to laboratory sinks or other sinks with threaded or serrated nozzles shall be protected against backflow by an atmospheric or pressure vacuum breaker installed in accordance with Sections 608.3.1 and 608.16.4.
Adopt	Section 608.17.26, Mortuary/Embalming Aspirators.	The potable water supply to mortuary/embalming aspirators shall be protected against backflow by a pressure vacuum breaker installed in the supply line serving the aspirator. The critical level of the vacuum breaker shall be installed a minimum of 12 inches higher than the aspirator. The aspirator shall be installed at least 6 inches above the highest level at which suction may be taken. An air gap shall be provided between the outlet of the discharge pipe and the overflow rim of the receiving fixture.
* * *		

Amend	Section 1003.3.5, Hydromechanical Grease Interceptors, Fats, Oils and Greases Disposal Systems and Automatic Grease Removal Devices.	When specifically allowed under the exception of Section 1003.2.1 of this code, hydromechanical grease interceptors; fats, oils, and greases disposal systems and automatic grease removal devices shall be sized in accordance with ASME A112.14.3, ASME A112.14.4, ASME A112.14.6, CSA B481.3 or PDI-G101. Hydromechanical grease interceptors; fats, oils, and grease disposal systems and automatic grease removal devices shall be designed and tested in accordance with ASME A112.14.3, ASME A112.14.4, CSA B481.1, PDI G101 or PDI G102. Hydromechanical grease interceptors; fats, oils, and greases disposal systems and automatic grease removal devices shall be installed in accordance with the manufacturer's instructions. Where manufacturer's instructions are not provided, hydromechanical grease interceptors; fats, oils, and greases disposal systems and automatic grease removal devices shall be installed in compliance with ASME A112.14.3, ASME A112.14.4, ASME A112.14.6, CSA B481.3 or PDI-G101.
Amend	Section 1003.3.7, Gravity Grease Interceptors/Grease Traps.	Gravity grease interceptors shall comply with the requirements of Sections 1003.3.47.1 through 1003.3.47.8 and shall be sized in accordance with Section 1003.2.1 of this code.
Adopt	Section 1003.3.1, Indoor Installations.	If a gravity grease interceptor must be installed within an enclosed building, any access covers shall be gasketed to prevent the intrusion of odors into the building.
***		

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D) and 40:1730.26(1) and Act836 of the 2014 of the Regular Louisiana Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:291 (February 2007), amended LR 34:93 (January 2008), LR 34:883 (May 2008), LR 34:2205 (October 2008), LR 35:1904 (September 2009), LR 36:2574 (November 2010), effective January 1, 2011, LR 37:601 (February 2011), LR 37:913 (March 2011), repromulgated LR 37:2187 (July 2011), repromulgated LR 37:2726 (September 2011), LR 37:3065 (October 2011), LR 38:1994 (August 2012), amended by the Department of Public Safety and Corrections, Uniform Construction Code Council, LR 39:1825 (July 2013), LR 39:2512 (September 2013), LR 40:2609 (December 2014), amended by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 41:2386 (November 2015), amended by the Department of Public Safety and Corrections, Office of State Fire Marshal, Uniform Construction Code Council, LR 42:1672 (October 2016), LR 44:81 (January 2018), repromulgated LR 45:919 (July 2019), amended LR 45:1794 (December 2019), LR 46:1611 (November 2020), amended LR 48:2589 (October 2022), LR 50:

**Public Hearing**

All interested persons are invited to submit written comments on the proposed regulation. Such comments should be submitted via the U.S. Mail to Mark Joiner, Office of State Fire Marshal, 8181 Independence Blvd. Baton

Rouge, LA 70806. Written comments may also be hand-delivered to Mark Joiner, Office of State Fire Marshal, 8181 Independence Boulevard, Baton Rouge, LA 70806. All written comments are required to be signed by the person submitting the comments, dated, and received on or before January 10, 2024 at 4:30 p.m. If necessary, a public hearing will be scheduled pursuant to R.S. 49:953(A)(1)(a).

Mark Joiner  
Administrator

2311#056

**POTPOURRI**

**Workforce Commission  
Office of Unemployment Insurance Administration**

**Notice of the Maximum Weekly Benefit Amount for  
Unemployment Insurance**

The Louisiana Workforce Commission is required, under R.S. 23:1474(G)(3)(b), to annually publish the formula for computation of benefits. The following table shall be applied by the administrator subsequent to his determination of comparative balance, and applied trust fund balance range.

Procedure	Applied Trust Fund Balance Range	Maximum Dollar Amount of "wages" under R.S. 23:1474	Formula for Computation of Benefits	Maximum Weekly Benefit Amount
1	Less than seven hundred fifty million dollars	Eight thousand five hundred dollars	Apply R.S. 23:1592 without seven percent discount under R.S. 23:1592(C) to formula for computation of benefits	Two hundred forty-nine dollars
2	Equal to or greater than seven hundred fifty million dollars but less than one billion one hundred fifty million dollars	Seven thousand seven hundred dollars	Apply R.S. 23:1592 without seven percent discount under R.S. 23:1592(C) and without five percent discount under R.S. 23:1592(D), to formula for computation of benefits	Two hundred seventy-five dollars
3	Equal to or greater than one billion one hundred fifty million dollars but less than one billion four hundred million dollars	Seven thousand dollars	Apply R.S. 23:1592 without seven percent discount under R.S. 23:1592(C) and without five percent discount under R.S. 23:1592(D), to formula for computation of benefits	Two hundred eighty-two dollars
4	Greater than one billion four hundred million dollars	Seven thousand dollars	Apply R.S. 23:1592 without seven percent discount under R.S. 23:1592(C) and without five percent discount under R.S. 23:1592(D), to formula for computation of benefits	Three hundred twelve dollars

J. Robert Wooley  
Secretary

2311#003

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