

I. EMERGENCY RULES

Health

Bureau of Health Services Financing—Adult Dentures Program—Reimbursement (LAC 50:XXV.701)..... 635

Early and Periodic Screening, Diagnosis and Treatment Dental Services (LAC 50:XV.6905) 635

Home Health Program—Reimbursement Rate Increase (LAC 50:XIII.701) 636

Programs and Services Amendments Due to the Coronavirus Disease 2019 (COVID-19) Public Health Emergency..... 637

Governor

Division of Administration, Office of Broadband Development and Connectivity—Granting Unserved Municipalities Broadband Opportunities (GUMBO) (LAC 4:XXI.Chapters 1-7) 638

Wildlife

Wildlife and Fisheries Commission—2023 Private Recreational and State Charter Red Snapper Season 638

Shrimp Season in Portion State Outside Waters—Opening 639

II. RULES

Agriculture and Forestry

Board of Veterinary Medicine—Preceptor Program (LAC 46:LXXXV.Chapters 3-15)..... 640

Office of Agricultural and Environmental Sciences—Restrictions on Application of Certain Pesticides (LAC 7:XXIII.1103) 641

Education

Board of Elementary and Secondary Education—Foreign Languages (LAC 28:LXXIX.2109, 2111, 2317, 2323; and CXV.2318, 2319, 2345, and 2353) 642

Innovative Assessment Program (LAC 28:XI.301, 307, 601, 709, 3901, 3903, 4001, 5107, 5701, 6401, 6403, and 6405)..... 644

Learning Pods (LAC 28:CV.905, 3601, 3603, 3605, 3607, 3609, 3703 and CXXIX.2721) 647

Teacher Observations (LAC 28:CXLVII.105 and 301)..... 649

Governor

Board of Certified Public Accountants—Certified Public Accountants (LAC 46:XIX.101, 319, 501, 503, 505, 703, 705, 903, 1105, 1107, 1301, 1501, 1700, 1703, 1707, 1901, 1909 and 2301)..... 650

Commission on Law Enforcement and Administration of Criminal Justice—Peace Officer Training (LAC 22:III.4761)..... 654

Real Estate Commission—Licensure, Examination, Certificate of Authority, Vendors and Instructors (LAC 46:LXVII.501, 507, 901, 907, 1507, 3101, Chapter 45, 5307, 5319 and 5505)..... 655

Health

Board of Examiners of Psychologists—Code of Ethics for Licensed Specialists in School Psychology (LAC 46:LXIII.Chapter 42)..... 657

Continuing Education, Exemptions and Fees (LAC 46:LXIII. 601, 603, 803, 805, 806, 811, 905, 3402, 3403, and 4001)..... 665

Registration of Assistant to a Psychologist (LAC 46:LXIII.601, 1100, 1101, 1103, 1105, 1107, and 1109)..... 668

Training, Credentials and Scope of Practice for Neuropsychology Specialty Designation and Provisional Licensure (LAC 46:LXIII.100, 102, 103, 108, 201, 303, 305, 307, 701, 702, 705, 709, 1002, 1201, 1205, 1213, 1401, 1403, 1405, 1407, 1409, 1701, 1702, 1705, 1903, 1905, 3402 and 3403)..... 671

Board of Pharmacy—Nonresident Pharmacies (LAC 46:LIII.Chapter 23) 679

Partial Fills of Controlled Dangerous Substance Prescriptions (LAC 46:LIII.2735 and 2747) 681

Bureau of Health Services Financing—Dental Benefits Prepaid Ambulatory Health Plan (LAC 50:I.2101 and 2105)..... 682

Home and Community-Based Services Waivers—Adult Day Health Care Waiver—Direct Support Worker Wages and Bonus Payments (LAC 50:XXI.2901)..... 683

Home and Community-Based Services Waivers—Community Choices Waiver—Direct Support/Service Worker Wages and Bonus Payments (LAC 50:XXI.9503)..... 684

Home and Community-Based Services Waivers—Support Coordination Workforce Bonus Payments (LAC 50:XXI.553)..... 685

This public document is published in accordance with R.S. 49:954.1. The publication date for this issue of the *Louisiana Register* is April 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.

The Office of the State Register provides auxiliary aids for the *Louisiana Register* for visually impaired individuals. By appointment, oral presentation of the *Louisiana Register* is available at the Office of the State Register, or an audio cd of requested sections of the *Louisiana Register* can be provided for the production cost incurred. For more information, contact the Office of the State Register.

Inpatient Hospital Services	686
Intermediate Care Facilities for Persons with Intellectual Disabilities—Reimbursement Methodology	
Dental Services (LAC 50:VII.Chapter 329).....	687
Nurse Aide Training and Competency Evaluation Program—Medication Attendant Certified—Licensing	
Standards (LAC 48:I.Chapter 100).....	690
Personal Care Services—Long Term Direct Service Worker Wages and Bonus Payments	
(LAC 50:XV.12917 and 12921)	696
Targeted Case Management—Reimbursement Methodology—Workforce Retention Bonus Payments	
(LAC 50:XV.10704)	698
Office of Aging and Adult Services—Home and Community-Based Services Waivers—Adult Day Health Care	
Waiver—Direct Support Worker Wages and Bonus Payments (LAC 50:XXI.2901)	683
Home and Community-Based Services Waivers—Community Choices Waiver—Direct Support/Service	
Worker Wages and Bonus Payments (LAC 50:XXI.9503).....	684
Home and Community-Based Services Waivers—Support Coordination Workforce Bonus Payments	
(LAC 50:XXI.553).....	685
Personal Care Services—Long Term Direct Service Worker Wages and Bonus Payments	
(LAC 50:XV.12917 and 12921)	696
Insurance	
Office of the Commissioner—Regulation 126—Louisiana Fortify Homes Program (LAC 37:XIII.Chapter 182).....	698
Natural Resources	
Office of Conservation—License Renewal (LAC 46:LXXXIX.501 and 509).....	701
Revenue	
Policy Services Division—Income Tax Return Filing Extensions (LAC 61:III.2501, 2503, 2505, and 2507)	701
Wildlife and Fisheries	
Wildlife and Fisheries Commission—Daily Take and Possession Limits of King and Spanish Mackerel and	
Cobia (LAC 76:VII.327).....	703
Statewide Online Special Certificate Agent for Motorboat Registration and Titling (LAC 76:I.328)	704

III. NOTICES OF INTENT

Civil Service	
Board of Ethics—Food and Drink Limit (LAC 52:I.1703)	705
Education	
Board of Elementary and Secondary Education—Biocontaminants, Hazardous Materials, and Procedural	
Requirements for Documentation (LAC 28:CLXI.103 and 1901; CLXV.103, 309, 311, and 313).....	705
Bulletin 1508—Pupil Appraisal Handbook Interventions and Screenings (LAC 28:CI.305, 703, and 725).....	710
Environmental Quality	
Office of the Secretary, Legal Affairs and Criminal Investigations Division—Voluntary Environmental Self-Audit	
Regulations (LAC 33:I.Chapter 70) (OS100).....	711
Governor	
Division of Administration, Office of Group Benefits—Bariatric Surgery Services	
(LAC 32:III.107; V.205, 305, and 505).....	716
Motor Vehicle Commission—Availability of Vehicles (LAC 46:V.709)	723
Health	
Board of Pharmacy—DATA-Waiver Registration Elimination (LAC 46:LIII.2745)	724
Marijuana Pharmacy (LAC 46:LIII.Chapter 24).....	726
Pharmacy Change of Ownership (LAC 46:LIII.1135)	731
Staffing Ratios (LAC 46:LIII.709 and 907).....	734
Bureau of Health Services Financing—Adult Dentures Program—Reimbursement (LAC 50:XXV.701).....	736
Early and Periodic Screening, Diagnosis and Treatment—Dental Services (LAC 50:XV.6905).....	737
Federally Qualified Health Centers—Alternative Payment Methodology (LAC 50:XI.10703)	739
Healthcare Facility Sanctions (LAC 48:I.Chapter 46).....	740
Healthy Louisiana and Coordinated System of Care Waiver—Behavioral Health Directed Payments	
(LAC 50:XXXIII.503 and 703).....	744
Hospice Services—Payment Methodology (LAC 50:XV.4305 and 4309)	746
Hospital Licensing Standards—Rural Emergency Hospitals (LAC 48:I.Chapter 93).....	749
Inpatient Hospital Services—Medicare Part A Claims for Medicaid Eligible Beneficiaries	
(LAC 50:V.Chapter 23).....	750
Medicaid Eligibility—Act 421 Children’s Medicaid Option (LAC 50:III.2331)	752
Medicaid Eligibility—Disregard of Accumulated Resources (LAC 50:III.10705).....	754
Office for Citizens with Developmental Disabilities—Medicaid Eligibility—Act 421 Children’s Medicaid Option	
(LAC 50:III.2331).....	752
Office of Behavioral Health—Healthy Louisiana and Coordinated System of Care Waiver—Behavioral Health	
Directed Payments (LAC 50:XXXIII.503 and 703)	744
Office of Public Health, Bureau of Emergency Medical Services—Emergency Medical Services Professionals	
(LAC 46:XXXVIII.Chapters 1-5)	755

Public Safety and Corrections	
Office of Motor Vehicles—Auto Title Companies (LAC 55:III.Chapter 15)	769
Transportation and Development	
Office of Multimodal Commerce—Intermodal Transportation (LAC 70:IX.Chapters 1-7)	772
Louisiana Port Construction and Development Priority Program (LAC 56:III.Chapter 21)	792
Office of Operations—Toll Exemptions—Grand Isle School System Employees (LAC 70:XI.101)	805
Toll Exemptions—Roads and Bridges (LAC 70:XXXI.101)	807
Wildlife and Fisheries	
Wildlife and Fisheries Commission—Seismic Exploration (LAC 76:I.301)	808
IV. ADMINISTRATIVE CODE UPDATE	
Cumulative—January 2023 through March 2023	814
V. COMMITTEE REPORTS	
Senate	
Committee on Health and Welfare—Oversight Consideration of Proposed Rule—Board of Nursing Authorized Practice (LAC 46:XLVII.4513)	815
VI. POTPOURRI	
Agriculture and Forestry	
Office of Agricultural and Environmental Sciences—2023 Annual Quarantine List	816
Children and Family Services	
Division of Programs—Social Services Block Grant Intended Use Report	818
Louisiana’s 2023 Annual Progress and Services Report	819
Governor	
Division of Administration, Office of Broadband Development and Connectivity—Granting Unserved Municipalities Broadband Opportunities (GUMBO) Solicitation of Comments	819
Health	
Office of Public Health, Bureau of Family Health—Maternal and Child (MCH) Block Grant Federal Funding for FFY 2023	819
Justice	
Occupational Licensing Review Program —Accepting Participants for FY 2023-2024	820
VII. INDEX	821

Emergency Rules

DECLARATION OF EMERGENCY

Department of Health Bureau of Health Services Financing

Adult Dentures Program—Reimbursement (LAC 50:XXV.701)

The Department of Health, Bureau of Health Services Financing amends LAC 50:XXV.701 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:962, and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

Louisiana Medicaid currently utilizes the Full Medicaid Pricing program in order to establish dental rates and provide additional funds to dental providers. The U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) has ended this program, resulting in a potential loss of reimbursement to dental providers. In compliance with CMS requirements, the Department of Health, Bureau of Health Services Financing amends the provisions governing adult denture services to align the reimbursement rates to the Louisiana Medicaid fee schedule in order to maintain or enhance funding to dental providers.

This action is being taken to promote the health and welfare of Medicaid beneficiaries by ensuring continued provider participation in the Medicaid program. It is estimated that implementation of this Emergency Rule will have no fiscal impact to the Medicaid program for state fiscal year 2022-2023.

Effective March 10, 2023, the Department of Health, Bureau of Health Services Financing amends the provisions governing adult denture services to align the reimbursement rates to the Louisiana Medicaid fee schedule in order to maintain or enhance funding to dental providers.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXV. Adult Dentures

Chapter 7. Reimbursement

§701. Fees

A. - D.1. ...

E. Effective for dates of service on or after July 1, 2023, the reimbursement rates for adult denture services shall be reimbursed based on the Louisiana Medicaid fee schedule. All rates in the fee schedule are published on the Medicaid provider website at www.lamedicaid.com.

1. Implementation of these rates is subject to approval by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:81 (January 2005), repromulgated LR 31:1589 (July 2005), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:316 (February 2013), LR 40:1006 (May 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 49:

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.

Public Comments

Interested persons may submit written comments to Tara A. LeBlanc, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. LeBlanc 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.

Dr. Courtney N. Phillips
Secretary

2304#001

DECLARATION OF EMERGENCY

Department of Health Bureau of Health Services Financing

Early and Periodic Screening, Diagnosis and Treatment Dental Services (LAC 50:XV.6905)

The Department of Health, Bureau of Health Services Financing amends LAC 50:XV.6905 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:962, and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

Louisiana Medicaid currently utilizes the Full Medicaid Pricing program in order to establish dental rates and provide additional funds to dental providers. The U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) has ended this program, resulting in a potential loss of reimbursement to dental providers. In compliance with CMS requirements, the Department of Health, Bureau of Health Services Financing amends the provisions governing dental services in the Early and Periodic Screening, Diagnosis and Treatment Program to align the reimbursement rates to the Louisiana Medicaid

fee schedule in order to maintain or enhance funding to dental providers.

This action is being taken to promote the health and welfare of Medicaid beneficiaries by ensuring continued provider participation in the Medicaid program. It is estimated that implementation of this Emergency Rule will have no fiscal impact to the Medicaid program for state fiscal year 2022-2023.

Effective March 10, 2023, the Department of Health, Bureau of Health Services Financing amends the provisions governing dental services in the Early and Periodic Screening, Diagnosis and Treatment Program to align the reimbursement rates to the Louisiana Medicaid fee schedule in order to maintain or enhance funding to dental providers.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

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

Chapter 69. Dental Services

§6905. Reimbursement

A. - K.1.b. ...

L. Effective for dates of service on or after July 1, 2023, the reimbursement rates for EPSDT dental services shall be reimbursed based on the Louisiana Medicaid fee schedule. All rates in the fee schedule are published on the Medicaid provider website at www.lamedicaid.com.

1. Implementation of these rates is subject to approval by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:1138 (June 2007), amended LR 34:1032 (June 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1890 (September 2009), LR 36:2040 (September 2010), LR 37:1598 (June 2011), LR 39:1048 (April 2013), LR 40:1007 (May 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 49:

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.

Public Comments

Interested persons may submit written comments to Tara A. LeBlanc, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. LeBlanc 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.

Dr. Courtney N. Phillips
Secretary

2304#002

DECLARATION OF EMERGENCY

Department of Health Bureau of Health Services Financing

Home Health Program
Reimbursement Rate Increase
(LAC 50:XIII.701)

The Department of Health, Bureau of Health Services Financing amends LAC 50:XIII.701 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:962, and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health, Bureau of Health Services Financing amends the provisions governing reimbursement in the Home Health program to increase the rates for all home health services and base reimbursement on the Louisiana Medicaid fee schedule in order to align the reimbursement methodology with current practice.

This action is being taken to promote the health and welfare of Medicaid beneficiaries by ensuring continued provider participation in the Medicaid program. It is estimated that implementation of this Emergency Rule will increase expenditures in the Medicaid Program by approximately \$2,558,513 for state fiscal year 2022-2023.

Effective April 3, 2023, the Department of Health, Bureau of Health Services Financing amends the provisions governing reimbursement in the Home Health Program to increase the rates for all home health services and base reimbursement on the Louisiana Medicaid fee schedule in order to align the reimbursement methodology with current practice.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XIII. Home Health Program

Subpart 1. Home Health Services

Chapter 7. Reimbursement Methodology

§701. Nursing and Home Health Aide Services

A. - D. ...

E. Effective for dates of service on or after April 3, 2023, the reimbursement rates for all home health services shall be reimbursed based on the Louisiana Medicaid fee schedule. All rates in the fee schedule are published on the Medicaid provider website at www.lamedicaid.com.

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 34:654 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2281 (October 2010), LR 37:2159 (July 2011),

LR 39:1051 (April 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 49:

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.

Public Comments

Tara A. LeBlanc, 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.

Dr. Courtney N. Phillips
Secretary

2304#016

DECLARATION OF EMERGENCY

Department of Health Bureau of Health Services Financing

Programs and Services Amendments Due to the Coronavirus Disease 2019 (COVID-19) Public Health Emergency

On January 30, 2020, the World Health Organization declared a public health emergency of international concern and on January 31, 2020, U.S. Health and Human Services Secretary Alex M. Azar II declared a public health emergency for the United States, effective as of January 27, 2020, in response to the recent coronavirus disease 2019 (hereafter referred to as COVID-19) outbreak. On March 11, 2020, Governor John Bel Edwards declared a statewide public health emergency to exist in the State of Louisiana as a result of the imminent threat posed to Louisiana citizens by COVID-19. Likewise, the presidential declaration of a national emergency due to COVID-19 has an effective date of March 1, 2020.

In response to these public health emergency declarations and the rapid advancement of COVID-19 throughout Louisiana, the Department of Health, Bureau of Health Services Financing, the Office of Aging and Adult Services (OAAS), the Office of Behavioral Health (OBH), and the Office for Citizens with Developmental Disabilities (OCDD) promulgated Emergency Rules which amended the provisions of Title 50 of the *Louisiana Administrative Code* in order to adopt temporary measures to provide for the continuation of essential programs and services to ensure the health and welfare of the citizens of Louisiana (*Louisiana Register*, Volume 46, Number 4). The department subsequently promulgated an Emergency Rule, adopted on June 24, 2020, which further amended Title 50 of the *Louisiana Administrative Code* due to the COVID-19 public health emergency. This Emergency Rule included provisions waiving the timeframe for Medicaid applicants and enrollees to request a fair hearing and established a post-eligibility review process for asset verification (*Louisiana Register*, Volume 46, Number 7). The department rescinded the extension of the timeframe for fair hearing requests effective July 1, 2021 and is also no longer performing post-eligibility asset verification reviews; however, due to a clerical error, those provisions were included in the Emergency Rule

promulgated effective October 21, 2021 in order to continue the expiring provisions of the June 24, 2020 Emergency Rule (*Louisiana Register*, Volume 47, Number 10). As a result, the department promulgated an Emergency Rule which rescinded and replaced the provisions of the October 21, 2021 Emergency Rule (*Louisiana Register*, Volume 47, Number 11). This Emergency Rule is being promulgated in order to continue the provisions of the October 20, 2021 Emergency Rule. This Emergency Rule shall be in effect for the maximum period allowed under the Act or the duration of the COVID-19 public health emergency declaration, whichever comes first.

Effective April 16, 2023, the Department of Health, Bureau of Health Services Financing hereby amends Title 50 of the *Louisiana Administrative Code* to continue the following provisions of the Emergency Rule adopted on June 24, 2020 throughout the duration of the COVID-19 public health emergency declaration:

Medicaid Eligibility (LAC 50:III.Subpart 1)

For the duration of the COVID-19 public health emergency declaration, the following requirements for coverage under the Medical Assistance Program (Medicaid) will be relaxed:

Chapter 23. Eligibility Groups and Medicaid Programs

The department shall provide coverage under the Medical Assistance Program for uninsured individuals described at section 1902(a)(10)(A)(ii)(XXIII) and 1902(ss) of the Social Security Act as follows:

In accordance with section 1902(a)(10)(XVIII) of the Social Security Act, the medical assistance made available to uninsured individuals (as defined in subsection 1902(ss)) eligible for medical assistance only because of subparagraph (A)(ii)(XXIII) is limited to medical assistance for any in vitro diagnostic product described in section 1905(a)(3)(B) administered during the COVID-19 public health emergency declaration (and the administration of such product) and any visit described in section 1916(a)(2)(G) furnished during the emergency period.

Services for Special Populations—Hospice Recipient Eligibility—Waiver of Payment for Other Services (LAC 50:XV.3503)

During the COVID-19 public health emergency declaration, the department waives the provisions requiring daily visits by the hospice provider to all clients under the age of 21 in order to facilitate continued care while maintaining the safety of staff and beneficiaries. Visits will still be completed based on clinical need of the beneficiary and family, and availability of staff as requested by the family. The use of telemedicine visits as an alternative is allowed.

Medical Transportation Program—Emergency Medical Transportation—Ground Transportation Reimbursement (LAC 50:XXVII.325)

For the duration of the COVID-19 public health emergency declaration, reimbursement will be allowed for ambulance providers for allowable services on site without transport. Services provided by the ambulance provider shall be within established treatment protocols, under the direct supervision of a licensed physician.

**Pharmacy—Copayment and Maximum Quantity
(LAC 50:XXIX.111 and 119)**

During the period of state or federal declared emergency, member co-pays may be waived and select pharmacy edits may be revised to encourage recipients to get all necessary maintenance medications during one pharmacy visit.

Members are able to start receiving up to a 90-day supply, as appropriate, of maintenance medications that are not controlled substances. These include cardiovascular drugs (hypertension, coronary artery disease, thrombosis), diabetes drugs, respiratory drugs (inhaled and oral), contraceptives, antiretrovirals, direct-acting antivirals for hepatitis C, immunosuppressives, antipsychotics, and antidepressants, among others.

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.

Tara A. LeBlanc, 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
Secretary

2304#043

DECLARATION OF EMERGENCY

**Office of the Governor
Division of Administration
Office of Broadband Development and Connectivity**

**Granting Unserved Municipalities Broadband Opportunities
(GUMBO) (LAC 4:XXI.Chapters 1-7)**

The Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity hereby rescinds the February 20, 2023 Emergency Rule which amended LAC 4:XXI.Chapters 1-7 in the Granting Unserved Municipalities Broadband Opportunities (GUMBO) grant program by the Office of Broadband Development and Connectivity, in response to Acts 288 and 760 of the 2022 Regular Session.

Acts 288 and 760 of the 2022 Regular Legislative Session made several substantive changes to the GUMBO grant program. Broadband internet access has become a critical piece of infrastructure, relied upon to ignite economic growth and competitiveness, contribute to improved outcomes in healthcare, enhance agricultural output, and advance the educational experience of our children. Failure to connect the unconnected, and any further delay in constructing broadband infrastructure to serve those residents without it, would continue the substantial risk of hardship currently faced by hundreds of thousands of residents throughout the state. Further, these amendments allow for the alignment of administrative rules with the newly passed legislation in a timely manner, affords the

Office of Broadband Development and Connectivity the opportunity to implement program changes and solicit applications, and provides potential GUMBO grant program applicants with guidance and requirements necessary for participation in the program ahead of the normal rulemaking process timeline.

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 promulgation of future rules, whichever occurs first.

Jay Dardenne
Commissioner
and
Veneth Iyengar
Executive Director

2304#008

DECLARATION OF EMERGENCY

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

**2023 Private Recreational and State
Charter Red Snapper Season**

Under the provisions of state management, the National Oceanic and Atmospheric Administration (NOAA) Fisheries has delegated season and bag limit authority and an allocated quota to the Department of Wildlife and Fisheries for the management of Red Snapper. Louisiana’s private recreational and state charter season for the harvest of Red Snapper in Louisiana and federal waters is currently scheduled to open on Friday, May 26, 2023 on weekends only (Friday, Saturday, and Sunday) including Memorial Day, Labor Day and July 4. In order to maximize opportunity for Louisiana anglers to harvest the allotted portion of the private recreational Red Snapper quota, the department is modifying the 2023 Red Snapper season to allow for daily harvest.

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, and R.S. 56:326.3, which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, the commission hereby declares:

The season for the private recreational and state charter harvest of Red Snapper in state waters and federal waters off Louisiana shall be open daily beginning on Friday, May 26, 2023. The secretary shall monitor landings and close the season when appropriate to allow for the season to reopen during the Labor Day weekend (September 1, 2023 through September 4, 2023). The bag and possession limit shall be 3 fish per person per day. Size limits shall remain at the currently established minimum size limit in LAC 76:VII.335 of 16 inches total length. The season shall remain open as described until further notice.

The commission further authorizes the secretary of the department to modify the recreational season for the harvest of Red Snapper when monitoring data warrant a modification to ensure compliance with the allocation of Red Snapper for Louisiana.

Andrew J. Blanchard
Chairman

2304#030

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Shrimp Season in Portion State Outside Waters—Opening

The secretary of the Department of Wildlife and Fisheries has been notified that recent biological sampling conducted by the department has indicated that small white shrimp, which have over-wintered in these waters from January through the present time, have reached marketable sizes and the closure is no longer necessary. Notice of any opening, delaying or closing of a season by the secretary of the Department of Wildlife and Fisheries will be made by public notice at least 72 hours prior to such action.

In accordance with the emergency provisions of R.S. 49:962, the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, and R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall have the authority to open or close outside waters by zone

each year as it deems appropriate upon inspection of and based upon technical and biological data which indicate that marketable shrimp, in sufficient quantities are available for harvest; and, a Declaration of Emergency adopted by the Wildlife and Fisheries Commission on August 4, 2022 which authorizes the secretary of the Department of Wildlife and Fisheries to reopen any area closed to shrimping when the closure is no longer necessary, the secretary does hereby declare:

The portion of state outside waters between Caillou Boca and the Atchafalaya River Ship Channel at Eugene Island will reopen to shrimping at 6 a.m. on April 1, 2023. The eastern boundary line originates on the northwest shore of Caillou Boca at 29 degrees 02 minutes 46.00 seconds north latitude, -90 degrees 50 minutes 27.00 seconds west longitude and ends at a point on the three mile line as described in R.S. 56:495(A) at 28 degrees 59 minutes 30.00 seconds north latitude, -90 degrees 51 minutes 57.00 seconds west longitude. The western boundary line originates at the Atchafalaya River Ship Channel at Eugene Island as delineated by the red buoy line at 29 degrees 22 minutes 14.93 seconds north latitude, -91 degrees 22 minutes 58.92 seconds west longitude and ends at a point on the three-mile line as described in R.S. 56:495(A) at 29 degrees 18 minutes 33.89 seconds north latitude, -91 degrees 26 minutes 16.05 seconds west longitude.

Jack Montoucet
Secretary

2304#009

Rules

RULE

Department of Agriculture and Forestry Board of Veterinary Medicine

Preceptor Program (LAC 46:LXXXV.Chapters 3-15)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Board (“Board”) of Veterinary Medicine has amended LAC 46:LXXXV. Chapters 3-15, regarding the licensure of veterinarians in the state of Louisiana. Chapter 11 of the rules has been repealed as the preceptor program is being discontinued as a requirement for DVM licensure. The rationale behind the repeal and discontinuance of the preceptorship program is multi-faceted. Most schools of veterinary medicine require in their curriculum participation by students in externships, which provide most of the basic training offered by preceptorship. Further post-preceptorship surveys have cast doubt on the efficacy of the preceptorship program in familiarizing the candidate with the business demands and interactions with clients that served as the primary basis for implementing the preceptorship requirement. The board has found this requirement for out of state licensees where virtually no other state has a similar program to be increasingly unnecessary and problematic in granting Louisiana licenses to out of state applicants irrespective of the skills and prior clinic/business experience. The Rule has removed barriers to license mobility at a time many areas of the state are underserved with veterinary care and would align our state with most other states’ requirements for licensure. Sections 307, 700, 702, 714 are amended to reflect the removal of the preceptorship requirement for DVM licensure. This Rule is hereby adopted on the date of promulgation.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXXXV. Veterinarians

Chapter 3. Licensure Procedures

§307. Expedited License/Military Qualifications

- A. ...
- B. Repealed.
- C. - E. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Veterinary Medicine, LR 8:66 (February 1982), amended by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 23:965 (August 1997), LR 40:308 (February 2014), LR 49:640 (April 2023).

Chapter 7. Veterinary Practice

§700. Definitions

* * *

Preceptees—Repealed.

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:1328 (October 1993), amended LR 20:666 (June 1994), LR 20:1381 (December 1994), LR 24:940 and 941 (May 1998), LR 24:1932 (October 1998), LR 24:2257 (December 1998), LR 27:51 (January 2001), LR 27:543 (April 2001), LR 31:3162 (December 2005), LR 33:2424 (November 2007), LR 35:244 (February 2009), LR 40:308 (February 2014), LR 49:640 (April 2023).

§702. Direct Supervision

- A. - A.3. ...
- B. - B.2. Repealed.
- C. - D.2.f. ...
- E. *Unlicensed veterinarians*, as defined in §700, shall not practice veterinary medicine until such time as they are licensed by the state of Louisiana. An unlicensed veterinarian may only function as a veterinary assistant under direct supervision.
- F. - F.4. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:225 (March 1990), amended LR 19:1329 (October 1993), LR 24:940 (May 1998), LR 40:309 (February 2014), LR 49:640 (April 2023).

§714. Student/Shelters and Faculty Veterinarian

- A. - E. ...
- F. A student extern who is working during a school vacation for a licensed veterinarian shall be under continuous, visual, and on-site supervision of a veterinarian licensed by the board. The supervising veterinarian shall be ultimately responsible and held accountable by the board for the duties, actions, or work performed by such person; however, at no time shall the student's role extend beyond observing the supervising veterinarian in a support capacity during assessment, diagnosis, treatment, and surgery. The student extern shall not perform supervision of any nature, as defined in §700 and §702, of the tasks or procedures performed by other personnel of the facility at issue.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 29:1479 (August 2003), amended LR 34:1029 (June 2008), amended LR 49:640 (April 2023).

Chapter 11. Preceptor Program

§1101. Purpose

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:232 (March 1990), repealed LR 49:640 (April 2023).

§1103. Definitions

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:232 (March 1990), amended LR 19:208 (February 1993), LR 23:968 (August

1997), LR 24:1293 (July 1998), LR 27:543 (April 2001), LR 28:1208 (June 2002), LR 38:357 (February 2012), LR 40:309 (February 2014), repealed LR 49:640 (April 2023).

§1105. Applicants

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:232 (March 1990), amended LR 23:1686 (December 1997), LR 24:942 (May 1998), LR 27:543 (April 2001), LR 37:1571 (June 2011), LR 38:357 (February 2012), repealed LR 49:641 (April 2023).

§1107. Preceptorship Committee

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:233 (March 1990), repealed LR 49:641 (April 2023).

§1109. Preceptor's Responsibilities

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:233 (March 1990), amended LR 27:543 (April 2001), repealed LR 49:641 (April 2023).

§1111. Preceptee's Responsibilities

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:233 (March 1990), amended LR 27:544 (April 2001), repealed LR 49:641 (April 2023).

§1113. Practice Assessment Forms and Job Description Forms

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:233 (March 1990), amended LR 27:544 (April 2001), repealed LR 49:641 (April 2023).

§1115. Preceptorship Practice Requirements

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:233 (March 1990), amended LR 27:544 (April 2001), LR 28:1208 (June 2002), repealed LR 49:641 (April 2023).

§1117. Financial Arrangements and Agreements

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:234 (March 1990), amended LR 27:544 (April 2001), repealed LR 49:641 (April 2023).

§1119. Preceptorship Attendance Log

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:234 (March

1990), amended LR 23:968 (August 1997), LR 27:544 (April 2001), repealed LR 49:641 (April 2023).

§1121. Evaluations

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:234 (March 1990), amended LR 23:968 (August 1997), LR 27:544 (April 2001), repealed LR 49:641 (April 2023).

§1123. Effective Date

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:234 (March 1990), amended LR 27:545 (April 2001), repealed LR 49:641 (April 2023).

Jared B. Granier
Executive Director

2304#005

RULE

Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences

Restrictions on Application of Certain Pesticides (LAC 7:XXIII.1103)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority set forth in R.S. 3:3203 the Department of Agriculture and Forestry has enacted LAC 7:XXIII.1103(G) to exempt pesticides containing 2,4-D choline salt from the application restrictions set forth in LAC 7:XXIII.1103(C) only when being applied to certain 2,4-D resistant crops. This Rule is hereby adopted on the day of promulgation.

Title 7

AGRICULTURE AND ANIMALS

Part XXIII. Pesticides

Chapter 11. Regulations Governing Application of Pesticides

§1103. Restrictions on Application of Certain Pesticides

A. - F.4. ...

G. Those pesticides containing 2,4-D choline salt are exempt from the restrictions set forth in §1103.C only when being applied to the following 2,4-D resistant crops: soybeans, cotton or corn.

H. - K.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203, R.S. 3:3242 and R.S. 3:3249.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:189 (April 1983), amended LR 10:196 (March 1984), LR 11:219 (March 1985), LR 11:942 (October 1985), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:953 (September 1992), LR 19:1119 (September 1993), LR 21:668 (July 1995), LR 24:281 (February 1998), LR 24:2076 (November 1998), LR 26:1428 (July 2000), LR 26:1966 (September 2000), LR 27:279 (March 2001), LR 27:1672 (October 2001), LR 33:1855 (September 2007), LR 35:628 (April 2009), LR 36:1980 (September 2010), LR 37:269 (January 2011), LR 37:809 (March 2011), amended by Department of Agriculture and Forestry,

Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides, LR 37:3478 (December 2011), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 38:1556 (July 2012), amended by the Department of Agriculture and Forestry, Office of Agriculture and Environmental Sciences, LR 42:732 (May 2016), LR 47:1832 (December 2021), LR 49:641 (April 2023).

Mike Strain, DVM
Commissioner

2304#006

RULE

Board of Elementary and Secondary Education

Foreign Languages
(LAC 28:LXXIX.2109, 2111, 2317, 2323;
and CXV.2318, 2319, 2345, and 2353)

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 has amended LAC 28:CXV in *Bulletin 741—Louisiana Handbook for School Administrators* and LAC 28:LXXIX in *Bulletin 741—Louisiana Handbook for Nonpublic School Administrators*. The revisions classify computer science and indigenous languages as foreign languages to align the TOPS University Diploma requirements with the Taylor Opportunity Program for Students (TOPS) core curriculum pursuant to Act 502 of the 2022 Regular Legislative Session and provide for considerations related to course credit. This Rule is hereby adopted on the day of promulgation.

Title 28

EDUCATION

Part LXXIX. Bulletin 741—Louisiana Handbook for Nonpublic School Administrators

**Chapter 21. Curriculum and Instruction
Subchapter C. Secondary Schools**

§2109. High School Graduation Requirements

- A. ...
- B. - C.7. Repealed
- D. - F.3.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 44:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2351 (November 2003), amended LR 30:2776 (December 2004), LR 31:3081 (December 2005), LR 34:2099 (October 2008), LR 36:2849 (December 2010), LR 37:2142, 2144 (July 2011), repromulgated LR 37:2390 (August 2011), amended LR 37:2597 (September 2011), LR 38:769 (March 2012), LR 38:1008 (April 2012), LR 39:1444 (June 2013), LR 40:1682 (September 2014), LR 40:2535 (December 2014), LR 41:915 (May 2015), LR 41:1485 (August 2015), LR 41:2127 (October 2015), LR 42:1064 (July 2016), LR 43:1289 (July 2017), LR 45:38 (January 2019), LR 45:1456 (October 2019), LR 46:1084 (August 2020), amended LR 48:34 (January 2022), LR 48:2098 (August 2022), LR 49:642 (April 2023).

§2111. State Diploma

- A. - B.1. ...
- B.1.a. Repealed

B.1.b. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 44:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2351 (November 2003), amended LR 31:636 (March 2005), LR 31:3082 (December 2005), LR 36:1498 (July 2010), LR 39:1446 (June 2013), LR 48:38 (January 2022), LR 48:2560 (October 2022); LR 49:642 (April 2023).

Chapter 23. High School Program of Studies

§2317. Foreign Languages

A. The foreign language course offerings shall be as follows.

Course Title(s)	Units
* * *	
Cambridge AICE—AS (Honors): Japanese	1
AP Computer Science A	1
Computer Science	1
Computer Coding as a Foreign Language I, II	1 each
Indigenous Languages I, II	1 each

B. AP Computer Science A shall be used as either an elective, math, or foreign language credit.

C. Computer Coding as a Foreign Language shall be aligned to a coding language approved by the Louisiana Workforce Commission to the industry based certification state focus list.

1. The instructor shall be certified in computer science.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2354 (November 2003), amended LR 31:3086 (December 2005), LR 38:770 (March 2012), LR 40:1685 (September 2014), LR 40:2538 (December 2014), LR 45:1458 (October 2019), LR 49:642 (April 2023).

§2323. Mathematics

A. - B. ...

* * *

C. AP Computer Science A shall be used as either an elective, math, or foreign language credit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.1, and R.S. 44:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2354 (November 2003), amended LR 30:2776 (December 2004), LR 31:3086 (December 2005), LR 34:2101 (October 2008), LR 36:2849 (December 2010), LR 38:771 (March 2012), LR 39:1449 (June 2013), LR 40:1685 (September 2014), LR 40:2538 (December 2014), LR 42:1064 (July 2016), LR 49:642 (April 2023).

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 23. Curriculum and Instruction

Subchapter A. Standards and Curricula

§2318. The TOPS University Diploma

- A. - A.2. Repealed
- B. Assessment Requirements
 - 1. - 1.c. Repealed
 - 2. - 2.c. ...

d. Repealed

3. - 7.d....

C. Minimum Course Requirements

1. - 2.j. Repealed

3. - 3.j. ...

4. - 6.a.vi. Repealed

D. - D.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:7, 17:24.4, 17:183.2, and 17:395.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1291 (June 2005), amended LR 31:2211 (September 2005), LR 31:3070 (December 2005), LR 31:3072 (December 2005), LR 32:1414 (August 2006), LR 33:429 (March 2007), LR 33:432 (March 2007), LR 33:2050 (October 2007), LR 33:2354 (November 2007), LR 33:2601 (December 2007), LR 34:1607 (August 2008), LR 36:1486 (July 2010), LR 37:547 (February 2011), LR 37:1128 (April 2011), LR 37:2129 (July 2011), LR 37:2132 (July 2011), LR 37:3193 (November 2011), LR 38:754, 761 (March 2012), LR 38:1001 (April 2012), LR 38:1584 (July 2012), LR 40:994 (May 2014), LR 40:1328 (July 2014), LR 40:1679 (September 2014), LR 40:2525 (December 2014), LR 41:915 (May 2015), LR 41:1482 (August 2015), LR 41:2126 (October 2015), LR 42:232 (February 2016), LR 42:1062 (July 2016), LR 42:1878 (November 2016), LR 42:2176 (December 2016), LR 43:1287 (July 2017), LR 43:2132 (November 2017), LR 43:2483 (December 2017), LR 44:263 (February 2018), LR 44:1868 (October 2018), repromulgated LR 44:1998 (November 2018), amended LR 45:1454 (October 2019), LR 46:556 (April 2020), LR 47:860 (July 2021), amended LR 48:33 (January 2022), LR 48:39 (January 2022), repromulgated LR 48:1092 (April 2022), LR 48:2098 (August 2022), LR 48:2560 (October 2022), LR 49:642 (April 2023).

§2319. The Career Diploma

A. - A.2. ...

B. Assessment Requirements

1. - 1.c. Repealed

B.2. - C.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:7, 17:24.4, 17:183.2, 17:183.3, 17:274, 17:274.1, and 17:395.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1291 (June 2005), amended LR 31:2211 (September 2005), LR 31:3070 (December 2005), LR 31:3072 (December 2005), LR 32:1414 (August 2006), LR 33:429 (March 2007), LR 33:432 (March 2007), LR 33:2050 (October 2007), LR 33:2354 (November 2007), LR 33:2601 (December 2007), LR 34:1607 (August 2008), LR 35:1230 (July 2009), LR 35:1876 (September 2009), LR 35:2321 (November 2009), LR 35:2750 (December 2009), LR 36:1490 (July 2010), LR 37:548 (February 2011), LR 37:1130 (April 2011), LR 37:2130 (July 2011), LR 37:3197 (November 2011), LR 38:761 (March 2012), LR 38:1005 (April 2012), LR 40:2522 (December 2014), LR 41:1482 (August 2015), LR 41:2594 (December 2015), LR 42:232 (February 2016), LR 43:1287 (July 2017), LR 43:2132 (November 2017), LR 43:2484 (December 2017), LR 44:1868 (October 2018), LR 45:1747 (December 2019), LR 46:557 (April 2020), LR 46:1086 (August 2020), LR 47:860 (July 2021), LR 48:39 (January 2022), repromulgated LR 48:1093 (April 2022), LR 48:2560 (October 2022), LR 49:643 (April 2023).

Subchapter B. Academic Programs of Study

§2345. Foreign Languages

A. The foreign language course offerings shall be as follows.

Course Title(s)	Units

Cambridge AICE—AS (Honors): Japanese	1
AP Computer Science A	1
Computer Science	1
Computer Coding as a Foreign Language I, II	1 each
Indigenous Languages I, II	1 each

B. - B.6. ...

C. AP Computer Science A shall be used as either an elective, math, or foreign language credit.

D. Computer Coding as a Foreign Language shall be aligned to a coding language approved by the Louisiana Workforce Commission to the industry based certification state focus list.

1. The instructor shall be certified in computer science.

2. Students shall take the industry based certification aligned to the course in order to receive credit for the courses. This can be taken during either the first course or second course.

3. The school system shall report the pass or fail course status of the student for the industry based certification to the LDE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7, R.S. 17:24.4, R.S. 273, and R.S. 17:284.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1295 (June 2005), amended LR 36:1996 (September 2010), LR 38:759 (March 2012), LR 38:2364 (September 2012), LR 39:2220 (August 2013), LR 40:998 (May 2014), LR 40:2527 (December 2014), LR 43:2133 (November 2017), LR 43:2484 (December 2017), LR 45:1455 (October 2019), LR 49:643 (April 2023).

§2353. Mathematics

A. The mathematics course offerings for the college diploma shall be as follows.

Mathematics Courses—College Diploma	
Course Title(s)	Units

1. AP Computer Science A shall be used as either an elective, math, or foreign language credit.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:7 and 17:24.4

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1296 (June 2005), amended LR 33:2605 (December 2007), LR 34:1609 (August 2008), LR 35:2322 (November 2009), LR 36:1493 (July 2010), LR 38:760 (March 2012), LR 40:999 (May 2014), LR 40:2527

(December 2014), LR 42:1063 (July 2016), LR 43:2134 (November 2017), LR 44:1868 (October 2018), LR 49:643 (April 2023).

Shan N. Davis
Executive Director

2304#039

RULE

Board of Elementary and Secondary Education

Innovative Assessment Program
(LAC 28:XI.301, 307, 601, 709, 3901, 3903, 4001, 5107, 5701, 6401, 6403, and 6405)

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 has amended LAC 28:XI.301, 307, 601, 709, 3901, 3903, and 4001 in *Bulletin 111—The Louisiana School, District, and State Accountability System* and LAC 28:XI.5107, 5701, 6401, 6403, and 6405 in *Bulletin 118—Statewide Assessment Standards and Practices*. The revisions update policy related to the Innovative Assessment Program, which provides an alternative approach to measuring how well students know and understand the Louisiana English Language Arts content standards. Revisions also add the new English Language Proficiency Test (ELPT) Connect, an alternate assessment created for English learners with significant cognitive disabilities. This Rule is hereby adopted on the day of promulgation.

**Title 28
EDUCATION**

Part XI. Accountability/Testing

Subpart 1. Bulletin 111—The Louisiana School, District and State Accountability System

Chapter 3. School Performance Score Component

**§301. School Performance Score Goal
[Formerly LAC 28:LXXXIII.301]**

A. - C.1. ...

2. Beginning in 2017-2018 (2018 SPS), the school performance score for K-8 schools will include an assessment index, progress index, and dropout/credit accumulation index. The interests and opportunities indicator will be included in school performance scores no later than 2019-2020 school year (2020 SPS).

K-8 School Performance Score Indices and Weights			
Index	Grades	Beginning in 2017-18	No Later than 2019-20
3-8 and high school LEAP 2025, Innovative Assessment, LEAP Connect, and ELPT* and ELPT Connect*	Grades K-7	75 percent	70 percent
* * *			

*Beginning in 2023-2024

3. Beginning in the 2017-2018 school year (2018 SPS), the school performance score for schools with a grade 12 will include five indicators as outlined in the table below.

The interests and opportunities indicator will be included in school performance scores no later than 2019-2020 school year (2020 SPS).

High School Performance Score Indices and Weights			
Index	Grades	Beginning in 2017-2018	No Later than 2019-2020
High school LEAP 2025, LEAP Connect, and ELPT* and ELPT Connect*	Grades 9-12	12.5 percent	12.5 percent
* * *			

*Beginning in 2023-2024

** When calculating a school's ACT index score, students participating in the LEAP Connect assessment shall not be included in the denominator of such calculation unless the students take the ACT.

4. - 6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2737 (December 2003), amended LR 31:1512 (July 2005), LR 32:1017 (June 2006), LR 32:2034, 2035 (November 2006), LR 33:424 (March 2007), LR 33:2349 (November 2007), LR 33:2593 (December 2007), LR 34:430 (March 2008), LR 35:639 (April 2009), LR 36:1987 (September 2010), LR 38:3105 (December 2012), LR 39:305 (February 2013), LR 39:1421 (June 2013), LR 39:2441 (September 2013), LR 40:1313 (July 2014), LR 40:2507 (December 2014), LR 41:1481 (August 2015), LR 41:2578 (December 2015), LR 42:2171, 2172 (December 2016), LR 44:447 (March 2018), LR 45:1449 (October 2019), LR 46:1372 (October 2020), LR 47:444 (April 2021), LR 49:644 (April 2023).

§307. Innovative Assessment Program

A. Beginning in the 2019-2020 school year, the LDE began piloting a new Innovative Assessment Program.

B. For the 2021-2022 school year only, the ELA assessment index for operational participants will be calculated using either the most recent pre-pilot assessment index for ELA or the current year pilot assessment index, whichever yields the higher school performance score, will be used as the ELA component of the overall assessment index.

1. This policy shall not impact a school or system's progression in intervention status for purposes of federal accountability. Intervention status will be determined by using the current year's IAP results.

C. Beginning in 2022-2023, a student's end of year Innovative Assessment Program achievement level and scale score shall be used in the calculation of accountability. If a student does not participate in all administrations of the Innovative Assessment Program and does not receive an end of year achievement level and scale score, they shall be required to take the traditional LEAP 2025 assessment in ELA.

D. The LDE will annually update BESE on the status of the assessment pilot transition beginning December 2019.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 45:1450 (October 2019), LR 49:644 (April 2023).

Chapter 6. Inclusion in Accountability
§601. State Assessments and Accountability
[Formerly §515]

A. - B.3. ...

C. All students who are English learners shall take the Louisiana English language proficiency test (ELPT) assessment or the English language proficiency test Connect (ELPT Connect) annually, as well as the appropriate state assessment for their enrolled grade.

D. ...

E. English learners who have not been enrolled in a school in the United States for one full school year shall participate in all required academic assessments and the ELPT or ELPT Connect (for qualifying students).

E.1. - G. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2741 (December 2003), amended LR 31:2422 (October 2005), LR 32:1022 (June 2006), LR 33:253 (February 2007), LR 36:1990 (September 2010), LR 37:2119 (July 2011), LR 38:1212 (May 2012), LR 38:3107 (December 2012), 39:2443 (September 2013), LR 40:2507 (December 2014), LR 44:452 (March 2018), LR 47:446 (April 2021), LR 49:645 (April 2023).

Chapter 7. Graduation Cohort, Index, and Rate
[Formerly Chapter 6]

§709. Calculating a Strength of Diploma Index
[Formerly §613]

A. Beginning in 2017-2018 (2016-2017 cohort), points shall be assigned for each member of a cohort according to the following table.

Student Results	Points
High School Diploma plus Associate's Degree	160
High School Diploma plus: (a). AP score of 3 or higher; IB score of 4 or higher; or CLEP score of 50 or higher OR (b). Advanced statewide Jump Start credential *Students achieving both (a) and (b) will generate 160 points.	150
High School Diploma plus: (a). At least one passing course grade for TOPS core curriculum credit of the following type: AP**; college credit; dual enrollment; or IB** OR (b). Basic statewide Jump Start credential *Students achieving both (a) and (b) will generate 115 points. **Students must take the AP/IB exam and pass the course to earn 110 points	110
High School Diploma (includes Career Diploma student with a regional Jump Start credential)	100
HiSET plus Jump Start credential	40
HiSET	25
Non-graduate without HiSET	0

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1025 (June 2006), amended LR 33:2031 (October 2007), LR 33:2594 (December 2007), LR 35:1472 (August 2009), LR 36:1769 (August 2010), repromulgated LR 36:1994 (September 2010), LR 36:2243 (October 2010), LR 37:3201 (November 2011), LR 38:1391 (June 2012), LR 38:3109 (December 2012), LR 39:306 (February 2013), LR 39:2444 (September 2013), LR 40:1317 (July 2014), LR 41:615 (April 2015), LR 42:1017 (July 2016), LR 42:2172 (December 2016), LR 44:455 (March 2018), LR 44:1998 (November 2018), LR 47:448 (April 2021), LR 49:645 (April 2023).

Chapter 39. Inclusion of Students with Disabilities
§3901. Assessment of Students with Disabilities
[Formerly LAC 28:LXXXIII.3901]

A. All students, including those with disabilities, shall participate in Louisiana's testing program. The scores of all students who are eligible to take the 3-8 or high school LEAP 2025, ACT, LEAP Connect, or Louisiana English language proficiency test (ELPT and ELPT Connect) shall be included in the calculation of the SPS. Students with disabilities shall take the assessments with accommodations, if required by their individualized education program (IEP).

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2754 (December 2003), amended LR 31:2763 (November 2005), LR 36:1994 (September 2010), LR 38:3115 (December 2012), LR 40:2508 (December 2014), LR 44:460 (March 2018), LR 47:449 (April 2021), LR 49:645 (April 2023).

§3903. LEAP Alternate Assessment Participation
Criteria [Formerly LAC 28:LXXXIII.3903]

A. Students with disabilities participating in the LEAP and ELPT alternate assessments LEAP Alternate Assessment, LEAP Connect, must meet specific participation criteria as stated in LAC 28:LV.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2754 (December 2003), amended LR 31:2763 (November 2005), LR 40:2508 (December 2014), LR 44:460 (March 2018), LR 47:449 (April 2021), LR 49:645 (April 2023).

Chapter 40. Definitions Related to English Proficiency
§4001. Proficient in English
[Formerly LAC 28:LXXXIII.4001]

A. - C. ...

D. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:767 (April 2004), amended LR 33:254 (February 2007), LR 34:2552 (December 2008), LR 36:2243 (October 2010), LR 38:3115 (December 2012), LR 44:460 (March 2018), LR 46:15 (January 2020), LR 49:645 (April 2023).

Subpart 3. Bulletin 118—Statewide Assessment Standards and Practices

Chapter 51. General Provisions

§5107. Assessment Programs

[Formerly LAC 28:CXL107]

A. - B.2. ...

C. Innovative Assessments. The Innovative assessment program allows for unit-based measures of performance that

indicate how well students in participating school systems and grade levels have mastered the English language arts state content standards.

D. LEAP Connect. The LEAP Connect is an alternate assessment, designed for students with significant disabilities, which evaluates each eligible special education student's knowledge and skills in targeted areas.

E. English Language Proficiency Test (ELPT). The ELPT is an assessment program designed to measure proficiency in reading, writing, speaking, and listening of English learners.

F. English Language Proficiency Test Connect (ELPT-Connect). The ELPT Connect is an alternate English proficiency test, designed for English learners with significant disabilities.

G. National Assessment of Educational Progress (NAEP). Also known as the nation's report card, NAEP is administered nationally to a random stratified sample population of students to gather data about subject-matter achievement, instructional experiences, and school environment.

H. Field Tests. Representative student populations from school districts throughout Louisiana are chosen to field test new items to be used in future statewide assessments. The items are tested, scored, ranked statistically, and identified as effective or ineffective.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1526 (July 2005), amended LR 32:233 (February 2006), LR 33:255 (February 2007), LR 36:477 (March 2010), LR 40:2509 (December 2014), LR 44:462 (March 2018), LR 47:566 (May 2021), LR 49:645 (April 2023).

Chapter 57. Assessment Program Overview

§5701. Overview of Assessment Programs in Louisiana [Formerly LAC 28:CX1.701]

A. Norm-Referenced and Criterion-Referenced Testing Programs Since 1986

Name of Assessment Program	Assessment Population	Administered
English Language Proficiency Test Connect (ELPT Connect)	English learners in grades K-12 who meet criteria for participation in alternate assessment	spring 2023-
English Language Development Assessment (ELDA)	Limited English Proficient (LEP) students in grades K-12	spring 2005-2017
Academic Skills Assessment (ASA) and ASA LAA 2 form	Students pursuing a State-Approved Skills Certificate (SASC) or GED	spring 2012 (one administration only, spring 2012)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1534 (July 2005), amended LR 32:235 (February 2006), LR 34:66 (January 2008), LR 34:1352 (July 2008), LR 35:218 (February 2009), LR 36:967 (May 2010), LR 37:858 (March 2011), LR 38:34 (January 2012), LR 39:74 (January 2013), LR 39:1019 (April 2013), LR 40:1319 (July 2014), LR 40:2512 (December 2014), LR 44:465 (March 2018), LR 44:2127 (December 2018), LR 46:15 (January 2020), LR 47:566 (May 2021), repromulgated LR 47:721 (June 2021), amended LR 49:38 (January 2022), LR 49:646 (April 2023).

Chapter 64. Innovative Assessments

Subchapter A. General Provisions

§6401. Introduction

A. The Innovative Assessment is a criterion-referenced testing program that is directly aligned with the state content standards for English Language Arts. The assessment is closely aligned to the LEAP 2025 English language arts assessments and measures how well students have mastered the state content standards using unit-based assessments. Test results are reported in terms of achievement levels and scale scores.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 49:646 (April 2023).

Subchapter B. Achievement Levels and Performance Standards

§6403. Achievement Levels

A. The Louisiana achievement levels are:

1. advanced;
2. mastery;
3. basic;
4. approaching basic; and
5. unsatisfactory.

B. Achievement Level Definitions. The definitions of the Louisiana achievement levels are consistent with the definitions of basic, proficient, and advanced in English language arts for NAEP.

1. *Advanced (Proficient)*—students performing at this level have exceeded college and career readiness expectations and are well prepared for the next level of studies in this content area.

2. *Mastery (Proficient)*—students performing at this level have met college and career readiness expectations and are prepared for the next level of studies in this content area.

Name of Assessment Program	Assessment Population	Administered
Kindergarten Screening		

Norm-Referenced Tests (NRTs)		

Criterion-Referenced Tests (CRTs)		

LEAP 2025	Civics	fall 2023-
Innovative Assessment	ELA grade 7	fall 2021-
Innovative Assessment	ELA grades 6, 7, 8	fall 2022-
Integrated NRT/CRT		

Special Population Assessments		

Louisiana Alternate Assessment-B (LAA-B) ["out-of-level" test]	Students with Individualized Education Programs (IEPs) who met eligibility criteria in grades 3-11.	spring 1999–spring 2003 (no longer administered)
English Language Proficiency Test (ELPT)	English Learners in grades K-12	spring 2018-

3. *Basic*—students performing at this level have nearly met college and career readiness expectations and may need additional support to be fully prepared for the next level of studies in this content area.

4. *Approaching Basic*—students performing at this level have partially met college and career readiness expectations and will need much support to be prepared for the next level of studies in this content area.

5. *Unsatisfactory*—students performing at this level have not yet met the college and career readiness expectations and will need extensive support to be prepared for the next level of studies in this content area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 49:646 (April 2023).

§6405. Performance Standards

A. Performance standards for Innovative assessment English language arts assessments are finalized in scale score form. The scale scores range between 650 and 850.

1. English Language Arts

English Language Arts						
Achievement Level	Grade 3	Grade 4	Grade 5	Grade 6	Grade 7	Grade 8
Advanced	810-850	790-850	799-850	790-850	785-850	794-850
Mastery	750-809	750-789	750-798	750-789	750-784	750-793
Basic	725-749					
Approaching Basic	700-724					
Unsatisfactory	650-699					

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 49:647 (April 2023).

Shan N. Davis
Executive Director

2304#036

RULE

Board of Elementary and Secondary Education

Learning Pods
(LAC 28:CXV.905, 3601, 3603, 3605,
3607, 3609, 3703 and CXXIX.2721)

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 has amended LAC 28:CXV in *Bulletin 741—Louisiana Handbook for School Administrators* and LAC 28:CXXIX in *Bulletin 126—Charter Schools*. The revisions to LAC 28:CXV in *Bulletin 741—Louisiana Handbook for School Administrators* provides the following: that elementary school teachers shall not teach no more than two grades in a combined group except when assigned to a learning pod; the rules that govern the implementation of learning pods by public school governing authorities and also defines what a

learning pod is; eligibility and admission requirements for students assigned to learning pods; pertinent policies, procedures and requirements for the implementation of learning pods in a public school governing authority; the qualifications and requirements of teachers providing instruction to learning pods; the required information that shall be provided to the department for each learning pod location request; and the definition of what a public school governing authority is. The revisions to LAC 28:CXXIX in *Bulletin 126* provides that charter schools may establish learning pods pursuant to R.S. 17:4036.1 and LAC 28:CXV. This Rule is hereby adopted on the day of promulgation.

Title 28

EDUCATION

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 9. Scheduling

§905. Elementary—Grades per Class

A. Elementary teachers shall teach no more than two grades in a combined group except in band, music, and art, or when assigned to a learning pod.

1. - 2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6; R.S. 17:7; R.S. 17:151; R.S. 17:174.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1271 (June 2005), amended LR 49:647 (April 2023).

Chapter 36. Learning Pods

§3601. Purpose

A. This section outlines rules for public school governing authorities to govern the implementation of learning pods as extensions of public schools.

B. A learning pod is defined as at least ten students enrolled in a school who receive instruction in a small group setting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(6) and R.S. 4036.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 49:647 (April 2023).

§3603. Student Assignment and Eligibility

A. A student is eligible for assignment to a learning pod if the student meets admission requirements in accordance with R.S. 17:221(B) and eligibility requirements in accordance with R.S. 17:222(A).

B. A student shall be assigned to a learning pod only if the assignment is:

1. requested, in writing, by the parent or legal guardian of the student; and
2. recommended by school officials.

C. Students shall be registered at the school with which the learning pod is affiliated.

D. Any students assigned to a learning pod shall be subject to all requirements applicable to students enrolled in the school who are not assigned to a learning pod.

E. Any students assigned to a learning pod shall be eligible for participation in all services and activities for which they would be eligible if not assigned to a learning pod.

1. Assignment to a learning pod shall not violate provision of services required in state and federal statute and BESE policy and shall be in compliance with Section 504 of the Rehabilitation Act and IDEA mandates.

2. If a required service is not available at the learning pod site, those services shall be provided to the student at the main school campus or by other acceptable alternative sites consistent with state and federal law.

F. A student assigned to a learning pod shall be withdrawn from the learning pod upon parental request, parental approval of a school recommendation to remove the student from the learning pod, or after a fair and impartial due process hearing.

G. The student population of a learning pod may be a blended population of multiple grade levels, in compliance with all state and federal laws and regulations.

H. Students assigned to a learning pod shall be counted among the enrollment of the school for purposes of full funding through the minimum foundation program formula, provided the student meets the MFP Membership Definition as provided in BESE Administrative Code (LAC 28:I.1107).

I. Students assigned to a learning pod shall be included in the performance measures for the school.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.1; R.S. 17:158; and R.S. 17:4036.1

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 49:647 (April 2023).

§3605. Policies and Procedures

A. Each public school governing authority may establish learning pods as an extension of any school under its jurisdiction.

B. The establishment of a learning pod shall be subject to policies and procedures adopted by a public school governing authority, which, at a minimum, shall provide for the following:

1. the student population of the learning pod, which may be a blended population of students of different grade levels, including the proposed number of students enrolled in each learning pod;

2. the method of instruction for the learning pod, which may occur in-person at a physical location on the school campus, remotely through virtual instruction, or through a hybrid approach that combines both methods, including the proposed school times for each learning pod;

3. any specialized curriculum or program provided in the learning pod;

4. the process for a parent to request student assignment to a learning pod, grant authorization for student assignment to a learning pod if recommended by school officials, and withdraw a student from a learning pod;

5. the process for seeking parent approval to enroll additional students in the learning pod should the enrollment in a learning pod fall below the threshold of 10 students;

6. emergency procedures required for each learning pod, which must be included in the emergency plan developed in accordance with §339 of this Part and must include the following:

a. a description of available communications systems located at the learning pod;

b. whether teachers at the learning pod have been trained on the incident report policy, threat assessment policy, and emergency response procedures of the public school governing authority and learning pod;

c. required contact information for local law enforcement for the learning pod location;

7. provision of special educational and related services to exceptional students in accordance with the IEP for the entirety of the school year;

8. an incident report policy for the learning pod;

9. if applicable, evidence of insurance coverage of learning pod location.

C. Attendance at a learning pod shall be checked and recorded in accordance with LAC 28:CXV.1103.

D. The facility in which a learning pod is located must meet the definition of a school as defined in R.S. 17:236 and must be structurally sound, lack known or potentially dangerous material that may be present in construction material, and should have sufficient available space to meet the needs of the students.

E. "Virtual instruction" does not constitute a "virtual school" as that term is defined by LRS 17:236.3(A).

F. Additional school policies may be adopted to address specific operation of the learning pod distinct from the general requirements applicable to all students enrolled in the school.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.1; R.S. 17:24.5; R.S. 17:232.B.(1); R.S. 17:236; and R.S. 17:4036.1

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 49:648 (April 2023).

§3607. Teacher Qualifications and Requirements

A. All instruction provided to students assigned to learning pods shall be provided by teachers employed by the school operating the learning pod.

B. All teachers providing instruction in a learning pod shall meet all qualifications and be subject to all requirements applicable to teachers at the school who are not assigned to a learning pod.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.1; R.S. 17:7(6); and R.S. 17:4036.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 49:648 (April 2023).

§3609. Reporting

A. Public school governing authorities shall provide the department the following information for each learning pod location upon request:

1. the physical location of each learning pod authorized by the public school governing authority;

2. the hours of operation;

3. the name of the teacher(s) of record in the learning pod;

4. the list of students served at the learning pod location;

5. the purpose or key focus area of each learning pod; and

6. evidence of insurance coverage for the learning pod location.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.1 and R.S. 17:4036.1

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 49:648 (April 2023).

Chapter 37. Glossary

§3703. Definitions

Public School—a school operated by publicly elected or appointed school officials and supported primarily by public funds.

Public School Governing Authority—the city, parish, charter, or other local public school board of any public elementary or secondary school.

Public School System Accreditation—an accreditation classification, which is based upon the fifth-year, on-site verification of the annual system and school reports, and which is granted by the state Department of Education.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:7, 17:439.1, and 17:3391.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1316 (June 2005), amended LR 39:2231 (August 2013), LR 46:1673 (December 2020), amended LR 48:34 (January 2022), LR 49:648 (April 2023).

Part CXXXIX. Bulletin 126—Charter Schools

Chapter 27. Charter School Recruitment and Enrollment

§2721. Learning Pods

A. Charter schools may establish learning pods pursuant to R.S. 17:4036.1 and LAC 28:CXV.Chapter 36 upon providing written notice to the department and completing a learning pod pre-opening checklist.

1. The school must provide written notice to the department prior to the scheduled opening date of the learning pod.

2. The charter school must complete all learning pod pre-opening requirements before students can enter the designated learning pod location.

3. The charter school must receive written notice of approval from the department before opening the designated learning pod location. Written approval shall be provided by the department to the charter school within 60 days of receipt of the request from the charter school; otherwise the request shall be deemed approved.

B. In accordance with R.S. 17:4036.1, a charter school pod shall be considered an extension of the charter school and be subject to all state and federal laws, policies, rules, and regulations applicable under the charter operating agreement, including compliance with R.S. 17:3991(E)(3).

C. The procedures for recruitment and enrollment of charter school students assigned to a learning pod shall be consistent with the provisions of LAC 28:CXXXIX.Chapter 7, except that the waitlist for the learning pod shall be maintained and administered separately from that of the charter school home campus.

D. The charter operator must seek a material amendment to the charter contract prior to opening a learning pod in the case of one or more of the following:

1. the school enrollment will exceed the authorized total enrollment stated in the charter agreement pursuant to R.S. 17:3991 and LAC 28:CXXXIX.2703;

2. more than 50 percent of the students enrolled in the charter school will attend a location other than the initially approved main school location site; or

3. more than 50 percent of the students enrolled in the charter school will engage in a virtual learning program for more than 50 percent of the school day averaged over a semester.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6; R.S. 17:7; R.S. 17:3981; and R.S. 17:4036.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 49:649 (April 2023).

Shan N. Davis
Executive Director

2304#038

RULE

Board of Elementary and Secondary Education

Teacher Observations (LAC 28:CXLVII.105 and 301)

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 has amended LAC 28:CXLVII.105 and 301 in *Bulletin 130—Regulations for the Evaluation and Assessment of School Personnel*. The revision extends the 2020-2021 and 2021-2022 observation policy for the 2022-2023 school year. If a teacher's first observation is scored "ineffective" or "effective: emerging," an additional observation is required; however, teachers who score "highly effective" or "effective: proficient" do not require a second observations, unless they request one from their evaluator. This Rule is hereby adopted on the day of promulgation.

Title 28

EDUCATION

Part CXLVII. Bulletin 130—Regulations for the Evaluation and Assessment of School Personnel

Chapter 1. Overview

§105. Framework for LEA Personnel Evaluation Programs

A. - B.2. ...

3. Observation/Data Collection Process. The evaluator or evaluators of each teacher and administrator shall conduct observations of teacher and administrator practice sufficient to gain a complete picture of performance and impart individualized feedback each year.

a. For the 2020-2021, 2021-2022, and 2022-2023 academic years only, this shall include one announced observation for teachers and administrators. A second observation shall be conducted upon the request of the evaluatee.

b. Any teacher or administrator who earns an observation rating of Ineffective or Effective: Emerging shall be observed a second time.

c. Following the 2022-2023 academic year, this shall include a minimum of two observations per academic year and may include more observations, particularly for teachers or administrators that are not meeting expectations. At least one of these observations shall be announced and shall include a pre- and post-observation conference. One of the observations may be waived for teachers who have earned a rating of highly effective according to the value-added model in the previous year. Following all observations, evaluators shall provide evaluates with feedback, including areas for commendation as well as areas for improvement. Additional evidence, such as data from periodic visits to the school and/or classroom as well as

written materials or artifacts, may be used to inform evaluation. The announced observation shall include a pre-and post-observation conference. Following all observations, evaluators shall provide evaluatees with feedback, including areas for commendation as well as areas for improvement. Additional evidence, such as data from periodic visits to the school and/or classroom as well as written materials or artifacts, may be used to inform evaluation.

B.4. - 5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:391.10, R.S. 17:3881-3886, and R.S. 17:3901-3904, R.S. 17:3997, and R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:2251 (October 2010), amended LR 38:1215 (May 2012), LR 38:2359 (September 2012), LR 39:1273 (May 2013), LR 47:354 (March 2021), LR 48:413 (March 2022), LR 49:649 (April 2023).

Chapter 3. Personnel Evaluation

§301. Overview of Personnel Evaluation

A. - A.1. ...

2. For the 2020-2021, 2021-2022, and 2022-2023 academic years only, the 50 percent of the evaluation that is based on a qualitative measure of teacher and administrator performance shall include one announced observation for teachers and administrators unless a second observation is requested by the evaluatee. This portion of the evaluation may include additional evaluative evidence, such as walk-through observation data and evaluation of written work products.

a. Any teacher or administrator who earns an observation rating of Ineffective or Effective: Emerging shall be observed a second time.

b. Following the 2022-2023 academic year, the 50 percent of the evaluation that is based on a qualitative measure of teacher and administrator performance shall include a minimum of two observations or site visits. This portion of the evaluation may include additional evaluative evidence, such as walk-through observation data and evaluation of written work products.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:391.10, R.S. 17:3881-3886, and R.S. 17:3901-3904, R.S. 17:3997, and R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:1215 (May 2012), amended LR 38:2359 (September 2012), LR 39:1273 (May 2013), LR 41:1266 (July 2015), LR 43:2480 (December 2017), LR 47:354 (March 2021), LR 48:413 (March 2022), LR 49:650 (April 2023).

Shan N. Davis
Executive Director

2304#037

RULE

Office of the Governor Board of Certified Public Accountants

Certified Public Accountants
(LAC 46:XIX.101, 319, 501, 503, 505, 703, 705, 903, 1105, 1107, 1301, 1501, 1700, 1703, 1707, 1901, 1909 and 2301)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority vested in the Board of Certified Public Accountants (Board) by the

Louisiana Accountancy Act, R.S. 37:71 et seq., the board has amended its rules. This Rule is hereby adopted on the day of promulgation.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XIX. Certified Public Accountants

Chapter 1. General Provisions

§101. Definition of Terms Used in the Rules

A. ...

* * *

Signature—a mark or sign made by an individual on an instrument or document to signify knowledge, approval, acceptance, or obligation. Acceptable forms of signature include written (or wet), electronic (E-signature), and digital signatures.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated LR 6:1 (January 1980), amended LR 11:757 (August 1985), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1112 (September 1997), LR 26:1966 (September 2000), amended by the Office of the Governor, Board of Certified Public Accountants, LR 49:650 (April 2023).

Chapter 3. Operating Procedures

§319. Assessment of Application, Annual and Other Fees

A. - B. ...

1. In the event of a certificate which has been lost, the request for replacement must be accompanied by a sworn statement that the certificate is lost.

B.2. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated LR 6:8 (January 1980), amended LR 9:209 (April 1983), LR 11:758 (August 1985), LR 13:13 (January 1987), LR 15:619 (August 1989), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17:1070 (November 1991), LR 23:1124 (September 1997), LR 26:1968 (September 2000), amended by the Office of the Governor, Board of Certified Public Accountants, LR 28:1013 (May 2002), LR 31:1330 (June 2005), LR 43:1899 (October 2017), LR 49:650 (April 2023).

Chapter 5. Qualifications; Education and Examination

§501. Definition

Accredited University or College—a university or college accredited by any one of the six regional accreditation associations and any other accrediting organization recognized by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1119 (September 1997), amended LR 26:1969 (September 2000), Office of the Governor, Board of Certified Public Accountants, LR 43:1900 (October 2017), LR 49:650 (April 2023).

§503. Educational Requirements

A. ...

	Undergraduate Semester Hours	Graduate Semester Hours
Accounting Courses		

Accounting Electives; above the basic and beyond the elementary level	9	9

	Undergraduate Semester Hours	Graduate Semester Hours
Business Courses (other than Accounting Courses)	24	24
Including at least 3 semester hours in Business Law		

1. The board will accept for business course credit semester hours earned in courses offered through the institution's College of Business and reported on official transcripts in the following areas:

- a. business commercial law;
- b. - d. ...
- e. business communications including technical writing;
- f. - g. ...
- h. information technology systems;
- i.
- j. data analytics (college of business or any other college);

k. other business-related content areas included in the Uniform CPA Examination Blueprints or as may be approved by the board.

l. - 2. ...

3. Up to nine semester hours for internship and independent study may be applied to the education requirement. However, of the nine hours, a maximum of three semester hours may apply to the accounting courses, three semester hours toward the required business courses, and three semester hours toward the general education requirement.

A.4. - C. ...

D. With respect to courses required for the degree, other than those specified by §503.A, the board does recognize credit received for courses granted on the basis of advanced placement examinations (such as CLEP, ACT or similar examinations). Except for online courses at an accredited university or college approved by the board, the accounting and business course credits specifically listed in §503.A shall have been awarded pursuant to satisfactory completion of a course requiring personal attendance at classes in such course.

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated LR 6:6 (January 1980), amended LR 11:757 (August 1985), LR 13:13 (January 1987), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 15:616 (August 1989), LR 17:1072 (November 1991), LR 23:1120 (September 1997), LR 26:1969 (September 2000), amended by the Office of the Governor, Board of Certified Public Accountants, LR 43:1900 (October 2017), LR 49:650 (April 2023).

§505. Examination

A. - F.1.a. ...

b. In the event all test sections of the examination are not passed within a given rolling qualifying period, credit for any test section(s) passed outside that qualifying period will expire and that test section(s) must be retaken.

F.2. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated LR 6:6 (January 1980), amended LR 9:208 (April 1983), LR 12:88 (February 1986), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17:1068 (November 1991), LR 23:1119 (September 1997), LR 26:1970 (September 2000), amended by the Office of the Governor, Board of Certified Public Accountants, LR 29:1475 (August 2003), LR 32:2248 (December 2006), LR 43:1901 (October 2017), LR 46:338 (March 2020), LR 49:651 (April 2023).

Chapter 7. Qualifications; Application for CPA Examination

§703. Examination Application

A. - B. ...

C. Candidates or applicants who have completed educational requirements at institutions outside the U.S. must have their credentials evaluated by a board recognized evaluation service provider.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated and amended LR 6:8 (January 1980), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1122 (September 1997), LR 26:1971 (September 2000), amended by the Office of the Governor, Board of Certified Public Accountants, LR 29:1478 (August 2003), LR 43:1902 (October 2017), LR 49:651 (April 2023).

§705. Originals or Certified Copies Required

A. As it applies to this Chapter, all documents required to be submitted must be the original or certified copies thereof. For good cause shown, the board may waive or modify this requirement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated LR 6:8 (January 1980), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 26:1971 (September 2000), amended by the Office of the Governor, Board of Certified Public Accountants, LR 49:651 (April 2023).

Chapter 9. Qualifications for Initial Certificate

§903. Qualifying Experience

A. - A.2.a.i. ...

(a). the applicant shall have developed and or taught more than one academic course required to sit for the CPA exam;

A.2.a.i.(b). - C.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974,

promulgated LR 4:223 (June 1978), amended LR 6:7 (January 1980), LR 9:208 (April 1983), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 15:617 (August 1989), LR 23:1122 (September 1997), LR 26:1972 (September 2000), amended by the Office of the Governor, Board of Certified Public Accountants, LR 43:1903 (October 2017), LR 49:651 (April 2023).

Chapter 11. Issuance and Renewal of Certificate; Reinstatement

§1105. Certificate Application, Annual Renewals, Inactive or Retired Registration, Reinstatement, Practice Privileges under Substantial Equivalency

A. Applications

1. Applications for initial or reciprocal certificates pursuant to R.S. 37:76.F shall be made online via the Internet or on forms that may be furnished by the board, and shall be accompanied by application fees fixed by the board pursuant to §319. The forms shall contain all of the items and information requested in the appropriate space in order to be acceptable.

A.2. - E.4.b.ii. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated LR 6:9 (January 1980), amended LR 9:208 (April 1983), LR 11:758 (August 1985), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17:1070 (November 1991), LR 23:1124 (September 1997), LR 26:1974 (September 2000), amended by the Office of the Governor, Board of Certified Public Accountants, LR 32:2249 (December 2006), LR 33:2634 (December 2007), LR 34:2398 (November 2008), LR 43:1904 (October 2017), LR 49:652 (April 2023).

§1107. Change in Address or Practice Status

A. All certified public accountants, individuals registered in inactive or retired status, and individuals who have the privilege to practice under substantial equivalency shall be responsible for keeping the board informed of their current mailing address, email address, and practice status, and shall notify the board in writing of any changes within 30 days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated LR 6:8 (January 1980), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1125 (September 1997), LR 26:1976 (September 2000), amended by the Office of the Governor, Board of Certified Public Accountants, LR 43:1905 (October 2017), LR 49:652 (April 2023).

Chapter 13. Maintenance of Competency; Continuing Professional Education (CPE)

§1301. Basic Requirements

A. - A.5. ...

B. Exemption

1. The board may grant an exemption from CPE in accordance with R.S. 37:76(D)(2). In order to be granted an exemption, the certificate holder must register in inactive or retired status and follow the provisions of §1707.B.

2. CPE Reciprocity. A non-resident licensee seeking renewal of a certificate in this state shall be determined to have met the CPE requirement of this rule by meeting the CPE requirements for renewal of a certificate in the state in which the licensee's principal place of business is located.

a. Non-resident applicants for renewal shall demonstrate compliance with the CPE renewal requirements of the state in which the licensee's principal place of business is located by signing a statement to that effect on the renewal application of this state.

b. If a non-resident licensee's principal place of business state has no CPE requirements for renewal of a certificate, the non-resident licensee must comply with all CPE requirements for renewal of a certificate in this state.

c. However, in the years that this board has a professional ethics requirement, if the non-resident licensee's principal place of business state did not have a professional ethics requirement, they shall be required to complete the professional ethics requirements for Louisiana.

C. - E.1. ...

2. - 2.c. Repealed.

F. Compliance Period

1. The compliance period for continuing professional education is defined as a rolling two-year period ending on December 31 of each year (i.e. two-year period ending on December 31, 2018 including years 2017 and 2018, then two-year period ending on December 31, 2019 including years 2018 and 2019, and so forth.)

2. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Certified Public Accountants, LR 6:4 (January 1980), amended LR 9:208 (April 1983), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 15:614 (August 1989), LR 23:1116 (September 1997), LR 26:1976 (September 2000), amended by the Office of the Governor, Board of Certified Public Accountants, LR 32:2249 (December 2006), LR 41:1664 (September 2015), LR 43:1905 (October 2017), LR 49:652 (April 2023).

Chapter 15. Firm Permits to Practice; Attest Experience; Peer Review

§1501. CPA Firm Permits; Attest Experience; Application, Renewal, Reinstatement; Internet Practice

A. - C.1. ...

2. A firm registered pursuant to R.S. 37:77 shall file with the board a written notification of any of the following events concerning the practice of public accountancy within this state within 30 days after its occurrence:

a. - b. ...

c. addition of a new or change in the identities of the firm's partners, officers, members, managers or shareholders, whose principal place of business is in this state;

d. - e. ...

f. any change in the number or location of offices within the state;

g. any change in the identity of those persons in charge of any offices within the state e.g., the designated point of contact for the office, manager of the office, etc.;

h. any denial, revocation, or suspension of a permit by any other state;

i. the occurrence of any event or events which would cause such firm not to be in conformity with the provisions of the Act or any rules or regulations adopted by the board.

C.3. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated LR 3:308 (July 1997), amended LR 6:9 (January 1980), amended LR 9:209 (April 1983), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17:1070 (November 1991), LR 23:1124 (September 1997), LR 26:1980 (September 2000), amended by the Office of the Governor, Board of Certified Public Accountants, LR 32:2249 (December 2006), LR 33:2634 (December 2007), LR 34:2399 (November 2008), LR 43:1905 (October 2017), LR 49:652 (April 2023).

Chapter 17. Rules of Professional Conduct

§1700. General

A. - A.5. ...

B. Definition. The following term has meaning which is specific to §1700-1707.

Professional Services—services arising out of or related to the specialized knowledge or skills associated with certified public accountants e.g. matters of accounting and financial reporting, tax, finance, investment advice or financial planning, management, or consultation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Certified Public Accountants, LR 6:2 (January 1980), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1113 (September 1997), LR 26:1982 (September 2000), amended by the Office of the Governor, Board of Certified Public Accountants, LR 32:2249 (December 2006), LR 43:1907 (October 2017), LR 49:653 (April 2023).

§1703. Competence and Professional Standards

A. ...

* * *

B. ...

C. Professional Standards. Licensees shall comply with all applicable professional standards, including but not limited to those listed in §1703A.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Certified Public Accountants, LR 6:2 (January 1980), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1115 (September 1997), LR 26:1984 (September 2000), amended by the Office of the Governor, Board of Certified Public Accountants, LR 32:2251 (December 2006), LR 49:653 (April 2023).

§1707. Other Responsibilities and Practices

A. Acting through Others

1. A CPA licensee or CPA firm shall not permit others to carry out on his behalf or on the firm's behalf, either with or without compensation, acts which, if carried out by the licensee or CPA firm, would place him or the CPA firm in violation of the rules of professional conduct, professional standards, or any provisions of the Act.

2. Acting through an affiliated entity.

a. Definition

i. Affiliated Entity. Affiliated entities for purpose of this rule refers to entities which share elements of ownership structure with a CPA firm and which offer to clients, or the public, professional services or products related to the skills associated with CPAs. Conversely,

entities that offer services or products that do not relate to matters of accounting and financial reporting, tax, finance, investment advice or financial planning, management, or consultation are excluded.

ii. Similar Name. A similar name is one that contains one or more names, or initials of the names, or reference to that/those names that are included in a CPA firm applying for or currently holding a firm permit.

b. On and after January 1, 2008, a CPA firm shall not affiliate with an entity that has a similar name unless:

i. the affiliated entity is owned in accordance with §1707.A.2.d.i; or

ii. has been issued a firm permit by the board pursuant to §1707.A.2.d.ii; or

iii. the CPA firm has entered into a written agreement with the board pursuant to §1707.A.2.d.ii.

c. ...

d. Repealed.

e. depending on the ownership structure, an affiliated entity may be required to obtain a firm permit in order to use a similar name which indicates that the CPA or CPA firm is providing services through the affiliated entity.

i. - iii. ...

f. under R.S. 37:77(C), a majority of the ownership of a CPA firm (in terms of financial interests and voting rights of all partners, officers, shareholder, members, or managers) must belong to holders of valid licenses. Thus an unlicensed "holding company" cannot own a majority or 100 percent of a CPA firm. Therefore, such a "holding company" would have to apply for a CPA firm permit and qualify as such. The holding company and the CPA firm must both be registered as firms with the board even though the holding company will not directly offer services to clients. If the holding company does not otherwise meet the requirements to be licensed (e.g., the requirements that a majority ownership interest is held by licensees; the owners must be active in the firm or affiliates; and, the name must not be misleading) then such a firm structure would not be permissible.

B. Use of the "CPA Inactive" or "CPA Retired" Designation

1. Certificate only holders under prior law.

a. Prior to applying for and obtaining a certificate under R.S. 37:75.I, individuals who annually register in inactive status may use the "CPA inactive" designation in connection with an employment position held in industry, government or academia, or in personal correspondence.

b. Any such individual who offers to perform or performs, for the public, professional services of any type involving the use of accounting, management advisory, financial advisory, tax, or consulting skills shall not use the designation CPA or "CPA inactive" in connection therewith or in any other manner or in connection with any employment.

2. Certificate Holders Subject to CPE Exemption

a. ...

b. Any individual referenced in R.S. 37:76(D)(2) who after being granted an exemption under that Section offers to perform or performs for the public professional services of any type involving the use of accounting, management advisory, financial advisory, tax, or consulting skills shall no longer qualify for the use of the designation

and shall immediately cease all uses of the designation “CPA inactive” or “CPA-retired” in connection therewith or in any other manner or in connection with any employment or on any letterhead, business card, email signature, etc.

c. ...

C. Firm Name

1. - 2. ...

3. A CPA firm name is misleading within the meaning of R.S. 37:83(G) if, among other things:

a. ...

b. the CPA firm name includes the name of a person who is not a CPA and is not a past partner, shareholder, or member of the firm.

C.4. - E. ...

F. Cooperation with Board Inquiry or Investigation. A certificate holder, or CPA licensed in another state who has provided professional services to Louisiana clients, or CPA licensed in another state who may be granted rights under the substantial equivalency provisions of R.S. 37:94, shall fully cooperate with the board in connection with any inquiry or investigation made by the board. Full cooperation includes, but is not limited to, fully responding in a timely manner to all inquiries of the board or representatives of the board and claiming board correspondence from the U.S. Postal Service and from other delivery services used by the board.

G. Denial, Suspension, or Revocation by another state. Pursuant to R.S. 37:76 (F), each holder of or applicant for a certificate shall notify the board in writing within 30 days after the occurrence of any denial, revocation, or suspension of a certificate, license or permit by another state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Certified Public Accountants, LR 3:308 (July 1977), amended 4:358 (October 1978), LR 6:3 (January 1980), LR 9:207 (April 1983), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17:1068 (November 1991), LR 23:1115 (September 1997), LR 26:1985 (September 2000), amended by the Office of the Governor, Board of Certified Public Accountants, LR 32:2252 (December 2006), LR 43:1908 (October 2017), LR 49:653 (April 2023).

Chapter 19. Investigations; Hearings; Suspension, Revocations or Restrictions; Reinstatements

§1901. Charges in Writing; Investigative Files

A. Charges against holders of CPA certificates, practice privileges, and/or firm permits shall be made in writing, signed by the persons preferring the charges and addressed or delivered to the board. The board's investigative staff may establish or open an investigative file upon receipt of such charges.

B. ...

C. The board's staff may establish or open an investigative file:

1. upon receipt of written charges as described in §1901.A; or

2. at the written direction of any member of the board or other person who has been designated as investigating officer in accordance with §1903; or

3. upon receipt of other publicly available information which is suggestive of any potential violations of the rules, regulations, or statutes which the board is authorized to

enforce. The source of such other information must be identified in the file.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated LR 6:9 (January 1980), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1126 (September 1997), LR 26:1987 (September 2000), amended by the Office of the Governor, Board of Certified Public Accountants, LR 33:2636 (December 2007), LR 49:654 (April 2023).

§1909. Hearing

A. - U. ...

V. Any licensee whose certificate, practice privilege, or firm permit issued by the board is subsequently suspended or revoked may be required to return such certificate, registration or firm permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated LR 6:9 (January 1980), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1126 (September 1997), LR 26:1988 (September 2000), amended by the Office of the Governor, Board of Certified Public Accountants, LR 33:2636 (December 2007), LR 43:1909 (October 2017), LR 49:654 (April 2023).

Chapter 23. Declaratory Orders and Rulings

§2301. Petitions; Orders and Rulings

A. 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. The petition shall contain sufficient information to enable the board to act thereupon, and the board may request additional information and facts. The board shall issue its order or ruling as expeditiously as possible after deliberate consideration of the issues involved and the interests affected. 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. 37:71 et seq. and 49:977.4.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Certified Public Accountants, LR 49:654 (April 2023).

Lisa A. Benefield
Executive Director

2304#007

RULE

**Office of the Governor
Commission on Law Enforcement and
Administration of Criminal Justice**

Peace Officer Training (LAC 22:III.4761)

In accordance with the provision of R.S. 40:2401, et seq., the Peace Officer Standards and Training Act, and R.S. 40:905 et seq., which is the Administrative Procedure Act, the Peace Officer Standards and Training Council has promulgated rules and regulations relative to certification

requirements for human trafficking training. This Rule is hereby adopted on the day of promulgation.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part III. Commission on Law Enforcement and Administration of Criminal Justice

Subpart 4. Peace Officers

Chapter 47. Standards and Training

§4761. Advanced Training

A. - E.2.c.iv. ...

F. Human Trafficking Training

1. Within one year of employment, all Level 1 and Level 2 peace officers, as defined in R.S. 40:2402, shall complete seven hours of training on human trafficking from the POST learning management system (LMS) pursuant to R.S. 40:2405.7(D) and (E).

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 42:274 (February 2016), amended by the Office of the Governor, Commission on Law Enforcement, LR43:316 (February 2017), LR 44:1009 (June 2018), LR 48:298 (February 2022), LR 48:1276, (May 2022), LR 49:655 (April 2023).

Mr. Jim Craft
Executive Director

2304#032

RULE

Office of the Governor Real Estate Commission

Licensure, Examination, Certificate of Authority, Vendors and Instructors (LAC 46:LXVII.501, 507, 901, 907, 1507, 3101, Chapter 45, 5307, 5319 and 5505)

Under the authority of the Louisiana Real Estate License Law, R.S. 37:1430 et seq., and in accordance with the provisions of the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., the Real Estate Commission has adopted LAC 46:LXVII.Chapters 5, 9, 15, 31, 45, 53, and 55 with that changes are necessary to mirror changes made by amendment and reenactment of R.S. 37:1442 & 1443(4) during the 2019 Regular Session of the Legislature. Rule changes also clarify exam approval and retake process and the language regarding continuing education requirements to ensure that all licensees understand what is required to remain in good standing. This Rule is hereby adopted on the day of promulgation.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXVII. Real Estate

Subpart 1. Real Estate

Chapter 5. Examinations

§501. Authorization

A. The commission shall issue an examination authorization to each eligible applicant. The examination authorization shall be valid for one year.

B. ...

C. An applicant whose examination authorization expires prior to the applicant taking the examination shall receive a new examination authorization upon submission of a new application and the processing fee prescribed in R.S. 37:1443.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:38 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1446 (August 2006), repromulgated LR 37:3000 (October 2011), amended LR 49:655 (April 2023).

§507. Failure of Examination

A. Any applicant who fails an examination may apply to retake the examination. After one year the applicant shall be required to submit a new application and remit all prescribed fees to be eligible for the licensing examination.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:38 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1446 (August 2006), LR 37:3000 (October 2011), amended LR 49:655 (April 2023).

Chapter 9. Renewal of Licenses, Registrations and Certificates

§901. Timely Submission of License, Registration, or Certificate Renewal

A. - B. ...

C. A licensee, registrant, or certificate holder who fails to renew by December 31 is prohibited beginning January 1 from engaging in any activities requiring a license, registration, or certificate.

D. A licensee whose sponsoring broker fails to renew by December 31 is prohibited beginning January 1 from engaging in any activities requiring a license until such time as the licensee becomes sponsored by a duly-licensed, sponsoring broker.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:39 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1447 (August 2006), LR 37:3001 (October 2011), amended LR 49:655 (April 2023).

§907. Education Hours Required for Renewal

A. Each licensee renewing in the active status shall complete 12 hours of approved course work prior to license renewal. A minimum of four of the 12 hours shall be completed in annual mandatory topic(s) designated by the commission.

B. All initial licensees shall complete 45 post-license hours within 180 days of the initial license date. Post-licensing education credit hours may be used to satisfy no more than eight of the twelve annual continuing education credit hours required by law and shall not satisfy the mandatory topic requirements imposed by law or this Section.

C. ...

D. Education that is not obtained through an approved real estate continuing education vendor shall be submitted to

the commission prior to renewal for review and approval towards the annual continuing education requirement prescribed in R.S. 37:1437

E. - F.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:40 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1447 (August 2006), LR 37:3001 (October 2011), amended LR 49:655 (April 2023).

Chapter 15. Transfers and Terminations

1507. Change of Licensing Status

A. - B. ...

C. An individual broker that elects to become exclusively affiliated with a sponsoring broker shall submit a request to transfer on forms prescribed by the commission, which shall be accompanied by the fees prescribed in R.S. 37:1443. Prior to submitting the request to transfer, the individual broker shall notify any sponsored licensees of the intended transfer and shall complete and submit a termination of sponsorship as prescribed by the commission for each sponsored licensee.

D. - E.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:41 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 28:485 (March 2002), amended LR 32:1449 (August 2006), LR 37:3002 (October 2011), amended LR 49:656 (April 2023).

Chapter 31. Change of Address and/or Telephone Number

§3101. Reporting Change of Address and/or Telephone Number

A. The commission shall be notified in writing within 10 days of a change in the following information of a licensee, registrant, or certificate holder:

1. mailing address, physical address, or email address;
2. primary telephone number; or
3. any other contact information for the business or the domicile of record for the licensee, registrant, or certificate holder.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:47 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1454 (August 2006), LR 37:3007 (October 2011), amended LR 49:656 (April 2023).

Chapter 45. Franchise Operations

§4501. Registration of Franchise Name

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:50 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 28:830 (April 2002), LR 37:3011 (October 2011), repealed LR 49:656 (April 2023).

§4503. Registration of Franchise Operation

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:50 (January 2000), repromulgated by the Office of the Governor, Real Estate Commission, LR 37:3011 (October 2011), repealed LR 49:656 (April 2023).

§4505. Application for Registration

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:50 (January 2000), repromulgated by the Office of the Governor, Real Estate Commission, LR 37:3011 (October 2011), repealed LR 49:656 (April 2023).

§4507. Agent for Service of Process

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:50 (January 2000), repromulgated by the Office of the Governor, Real Estate Commission, LR 37:3012 (October 2011), repealed LR 49:656 (April 2023).

§4509. Annual Registration

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:50 (January 2000), repromulgated by the Office of the Governor, Real Estate Commission, LR 37:3012 (October 2011), repealed LR 49:656 (April 2023).

§4511. Renewal Requirements

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:51 (January 2000), repromulgated by the Office of the Governor, Real Estate Commission, LR 37:3012 (October 2011), repealed LR 49:656 (April 2023).

§4513. Penalty

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:51 (January 2000), repromulgated by the Office of the Governor, Real Estate Commission, LR 37:3012 (October 2011), repealed LR 49:656 (April 2023).

§4515. Violations of Law

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:51 (January 2000), repromulgated by the Office of the Governor, Real Estate Commission, LR 37:3012 (October 2011), repealed LR 49:656 (April 2023).

Chapter 53. Real Estate Schools

§5307. Certificates of Authority; Initial and Renewal Certifications

A. - E. ...

F. Applications for delinquent renewal of a certificate of authority shall not be accepted by the commission after December 31. Failure to renew an expired Certificate of

Authority during the prescribed delinquent period of October 1 through December 31 shall result in the forfeiture of renewal rights. Any real estate school that becomes ineligible to renew a Certificate of Authority shall apply as an initial applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Real Estate Commission, LR 37:3014 (October 2011), amended LR 49:656 (April 2023).

§5319. Pre-license Instructors; Initial and Renewal Applications; Guest Lecturers

A. - H.2....

3. Delinquent applications for renewal of a pre-license instructor certificate shall not be accepted by the commission after December 31. Failure to renew during the prescribed delinquent period of October 1 through December 31 shall result in the forfeiture of renewal rights. Any pre-license instructor that becomes ineligible to renew shall be required to apply as an initial applicant.

I. - K. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Real Estate Commission, LR 37:3015 (October 2011), amended LR 38:3171 (December 2012), amended LR 49:657 (April 2023).

Chapter 55. Real Estate Vendors; Post-licensing and Continuing Education

§5505. Real Estate Vendor Certifications; Initial and Renewal Certificates

A. - E. ...

F. Applications for delinquent renewal of a vendor certification shall not be accepted by the commission after December 31. Failure to renew an expired vendor certification during the prescribed delinquent period of October 1 through December 31 shall result in the forfeiture of renewal rights. Any real estate vendor that becomes ineligible to renew a vendor certification shall apply as an initial applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Real Estate Commission, LR 37:3019 (October 2011), amended LR 49:657 (April 2023).

Summer S. Mire
Executive Director

2304#004

RULE

Department of Health Board of Examiners of Psychologists

Code of Ethics for Licensed Specialists in School Psychology (LAC 46:LXIII.Chapter 42)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Board of Examiners of Psychologists has adopted Sections 4203, 4205, 4207, 4209, 4211 and amended Section 4201 related to the code of ethics for Licensed Specialists in School Psychology in accordance with the Louisiana Licensing Law for

Psychologist R.S. 37:2353.C(1) 37:2357.C(4), 37:2352(7), and the Administrative Procedures Act §968 and 971. This Rule is hereby adopted on the day of promulgation.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXIII. Psychologists

Subpart 2. Licensed Specialists in School Psychology Chapter 42. Ethical Standards for Licensed Specialists in School Psychology

§4201. Ethical Principles and Code of Conduct

A. Licensed Specialists in School Psychology, hereinafter referred to as LSSP, adhere to the Ethical Standards in this Chapter to ensure the respect dignity, and rights of all persons are maintained; to ensure professional competence and responsibility; to ensure honesty and integrity in professional relationships; and to ensure responsibility to schools, families, communities, the profession, and society.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2357.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, 41:2627 (December 2015), amended by the Department of Health, Board of Examiners of Psychologists, LR 49:657 (April 2023).

§4203. Definitions

A. The following definitions are applicable Chapter 42 and specialists in school psychology only.

Advocacy—LSSPs have a special obligation to speak up for the rights and welfare of students and families, and to provide a voice to clients who cannot or do not wish to speak for themselves. *Advocacy* also occurs when LSSPs use their expertise in psychology and education to promote changes in schools, systems, and laws that will benefit schoolchildren, other students, and families. Nothing in this code of ethics, however, should be construed as requiring LSSPs to engage in insubordination (willful disregard of an employer's lawful instructions) or to file a complaint about school practices with a federal or state regulatory agency as part of their advocacy efforts.

Assent—refers to a minor's affirmative agreement to participate in psychological services or research.

Child—as defined in law, generally refers to a minor, a person younger than the age of majority. Although this term may be regarded as demeaning when applied to teenagers, it is used in this document when necessary to denote minor status. The term *student* is used when a less precise term is adequate.

Client—the person or persons with whom the LSSP establishes a professional relationship for the purpose of providing school psychological services. The LSSP-client professional relationship is established by an informed agreement with client(s) about the LSSPs ethical and other duties to each party. While not clients per se, classrooms, schools, and school systems also may be recipients of school psychological services and often are parties with an interest in the actions of LSSPs.

Informed Consent—the person giving consent has the legal authority to make a consent decision, a clear understanding of what it is they are consenting to, and that their consent is freely given and may be withdrawn without prejudice. It is recommended that school distributed parent

handbooks and websites advise parents that a student may be seen by school health or mental health professionals (e.g., school nurse, counselor, social worker, LSSP) without parent notice or consent to ensure that the student is safe or is not a danger to others. Parents should also be advised that LSSPs routinely assist teachers in planning classroom instruction and monitoring its effectiveness and do not need to notify parents of, or seek consent for, such involvement in student support.

Parent—may be defined in law or policy, and can include the birth or adoptive parent, an individual acting in the place of a natural or adoptive parent (a grandparent or other relative, stepparent, or domestic partner), and/or an individual who is legally responsible for the child’s welfare.

Private Practice—the LSSP may provide *private practice* under the supervision of a licensed psychologist to provide school psychological services. In *private practice*, billing for the services of the LSSP is the responsibility of the licensed psychologist.

School-Based Practice—refers to the provision of school psychological services under the authority of a state, regional, or local educational agency. *School-based practice* occurs if the LSSP is an employee of the schools or contracted by the schools on a per-case or consultative basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2357.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Examiners of Psychologists, LR 49:657 (April 2023).

§4205. Respecting the Dignity and Rights of All Persons

A. LSSPs engage only in professional practices that maintain the dignity of all with whom they work. In their words and actions, LSSPs demonstrate respect for the autonomy of persons and their right to self-determination, respect for privacy, and a commitment to just and fair treatment of all persons.

1. Autonomy and Self-Determination (Consent and Assent). SSPs respect the right of persons to participate in decisions affecting their own welfare.

a. LSSPs encourage and promote parental participation in school decisions affecting their children (see 4207.A.3. Responsible Assessment and Intervention Practices). However, where LSSPs are members of the school’s educational support staff, not all of their services require informed parent consent. It is ethically permissible to provide school-based consultation services regarding a child or adolescent to a student assistance team or teacher without informed parent consent as long as the resulting interventions are under the authority of the teacher and within the scope of typical classroom interventions. Parent consent is not ethically required for a school based LSSP to review a student’s educational records, conduct classroom observations, assist in within-classroom interventions and progress monitoring, or to participate in educational screenings conducted as part of a regular program of instruction. Parent consent is required if the consultation about a particular child or adolescent is likely to be extensive and ongoing and/or if school actions may result in a significant intrusion on student or family privacy beyond what might be expected in the course of ordinary school activities. Parents must be notified prior to the

administration of school- or classroom-wide screenings for mental health problems and given the opportunity to remove their child or adolescent from participation in such screenings.

b. Except for urgent situations or self-referrals by a minor student, LSSPs seek parent consent (or the consent of an adult student) prior to establishing a professional relationship for the purpose of psychological diagnosis, assessment of eligibility for special education or disability accommodations, or to provide ongoing individual or group counseling or other non-classroom therapeutic intervention. It is recommended that school distributed parent handbooks and websites advise parents that a minor student may be seen by school health or mental health professionals (e.g., school nurse, counselor, social worker, LSSP) without parent notice or consent to ensure that the student is safe or is not a danger to others. Parents should also be advised that LSSPs routinely assist teachers in planning classroom instruction and monitoring its effectiveness and do not need to notify parents of, or seek consent for, such involvement in student support.

i. It is ethically permissible to provide psychological assistance without parent notice or consent in emergency situations or if there is reason to believe a student may pose a danger to others; is at risk for self-harm; or is in danger of injury, exploitation, or maltreatment.

ii. When a student who is a minor self-refers for assistance, it is ethically permissible to provide psychological assistance without parent notice or consent for one or several meetings to establish the nature and degree of the need for services and assure the child is safe and not in danger. It is ethically permissible to provide services to mature minors without parent consent where allowed by state law and school policy. However, if the student is not old enough to receive school psychological assistance independent of parent consent, the LSSP obtains parent consent to provide continuing assistance to the student beyond the preliminary meetings or refers the student to alternative sources of assistance that do not require parent notice or consent.

iii. LSSPs ensure that an individual providing consent for school psychological services is fully informed about the nature and scope of services offered, assessment/intervention goals and procedures, any foreseeable risks, the cost of services to the parent or student (if any), and the benefits that reasonably can be expected. The explanation includes discussion of the limits of confidentiality, who will receive information about assessment or intervention outcomes, and the possible consequences of the assessment/intervention services being offered. Available alternative services are identified, if appropriate. This explanation takes into account language and cultural differences, cognitive capabilities, developmental level, age, and other relevant factors so that it may be understood by the individual providing consent. LSSPs appropriately document written or oral consent. Any service provision by interns, practicum students, or other trainees is explained and agreed to in advance, and the identity and responsibilities of the supervising LSSP are explained prior to the provision of services.

c. LSSPs encourage a student's voluntary participation in decision-making about school psychological services as much as feasible. Ordinarily, LSSPs seek the student's assent to services; however, it is ethically permissible to bypass minor student assent to services if the service is considered to be of direct benefit to the student and/or is required by law. It is recommended that school distributed parent handbooks and websites advise parents that a student may be seen by school health or mental health professionals (e.g., school nurse, counselor, social worker, LSSP) without parent notice or consent to ensure that the student is safe or is not a danger to others. Parents should also be advised that LSSPs routinely assist teachers in planning classroom instruction and monitoring its effectiveness and do not need to notify parents of, or seek consent for, such involvement in student support.

i. If a student's assent for services is not solicited, LSSPs nevertheless honor the student's right to be informed about the services provided.

ii. When a student is given a choice regarding whether to accept or refuse services, the LSSP ensures the student understands what is being offered, honors the student's stated choice, and guards against overwhelming the student with choices the student does not wish or is not able to make.

d. LSSPs respect the wishes of parents who object to school psychological services and attempt to guide parents to alternative resources.

2. Privacy and Confidentiality. LSSPs respect the right of persons to choose for themselves whether to disclose their private thoughts, feelings, beliefs, and behaviors.

a. LSSPs respect the right of persons to self-determine whether to disclose private information.

b. LSSPs minimize intrusions on privacy. They do not seek or store private information about clients that is not needed in the provision of services. LSSPs recognize that client-LSSP communications are privileged in most jurisdictions and do not disclose information that would put the student or family at legal, social, or other risk if shared with third parties, except as permitted by the mental health provider-client privilege laws in their state.

c. LSSPs inform students and other clients of the boundaries of confidentiality at the outset of establishing a professional relationship. They seek a shared understanding with clients regarding the types of information that will and will not be shared with third parties. However, if a child or adolescent is in immediate need of assistance, it is permissible to delay the discussion of confidentiality until the immediate crisis is resolved. LSSPs recognize that it may be necessary to discuss confidentiality at multiple points in a professional relationship to ensure client understanding and agreement regarding how sensitive disclosures will be handled.

d. LSSPs respect the confidentiality of information obtained during their professional work. Information is not revealed to third parties without the agreement of a minor child's parent or legal guardian (or an adult student), except in those situations in which failure to release information would result in danger to the student or others, or where otherwise required by law. Whenever feasible, student assent is obtained prior to disclosure of their confidences to third parties, including disclosures to the student's parents.

e. LSSPs discuss and/or release confidential information only for professional purposes and only with persons who have a legitimate need to know. They do so within the strict boundaries of relevant privacy statutes.

f. LSSPs respect the right of privacy of students, parents, and colleagues with regard to sexual orientation, gender identity, or transgender status. They do not share information about the sexual orientation, gender identity, or transgender status of a student (including minors), parent, or school employee with anyone without that individual's permission.

g. LSSPs respect the right of privacy of students, their parents and other family members, and colleagues with regard to sensitive health information (e.g., presence of a communicable disease). They do not share sensitive health information about a student, parent, or school employee with others without that individual's permission (or the permission of a parent or guardian in the case of a minor). LSSPs consult their state laws and department of public health for guidance if they believe a client poses a health risk to others.

3. Fairness and Justice. In their words and actions, LSSPs promote fairness and justice. They use their expertise to cultivate school climates that are safe and welcoming to all persons regardless of actual or perceived characteristics, including race, ethnicity, color, religion, ancestry, national origin, immigration status, socioeconomic status, primary language, gender, sexual orientation, gender identity, gender expression, disability, or any other distinguishing characteristics.

a. LSSPs do not engage in or condone actions or policies that discriminate against persons, including students and their families, other recipients of service, supervisees, and colleagues based on actual or perceived characteristics including race; ethnicity; color; religion; ancestry; national origin; immigration status; socioeconomic status; primary language; gender; sexual orientation, gender identity, or gender expression; mental, physical, or sensory disability; or any other distinguishing characteristics.

b. LSSPs pursue awareness and knowledge of how diversity factors may influence child development, behavior, and school learning. In conducting psychological, educational, or behavioral evaluations or in providing interventions, therapy, counseling, or consultation services, the LSSP takes into account individual characteristics, including race, ethnicity, color, religion, ancestry, national origin, immigration status, socioeconomic status, primary language, gender, sexual orientation, gender identity, gender expression, disability, or any other distinguishing characteristics so as to provide effective services.

c. LSSPs work to correct school practices that are unjustly discriminatory or that deny students, parents, or others their legal rights. They take steps to foster a school climate that is safe, accepting, and respectful of all persons.

d. LSSPs strive to ensure that all children have equal opportunity to participate in and benefit from school programs and that all students and families have access to and can benefit from school psychological services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2357.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Examiners of Psychologists, LR 49:658 (April 2023).

§4207. Professional Competence and Responsibility

A. Beneficence, or responsible caring, means that the LSSP acts to benefit others. To do this, LSSPs must practice within the boundaries of their competence, use scientific knowledge from psychology and education to help clients and others make informed choices, and accept responsibility for their work.

1. To benefit clients, LSSPs engage only in practices for which they are qualified and competent.

a. LSSPs recognize the strengths and limitations of their training and experience, engaging only in practices for which they are qualified. They enlist the assistance of other professionals in supervisory, consultative, or referral roles as appropriate in providing effective services.

b. Practitioners are obligated to pursue knowledge and understanding of the diverse cultural, linguistic, and experiential backgrounds of students, families, and other clients. When knowledge and understanding of diversity characteristics are essential to ensure competent assessment, intervention, or consultation, LSSPs have or obtain the training or supervision necessary to provide effective services, or they make appropriate referrals.

c. LSSPs refrain from any activity in which their personal problems may interfere with professional effectiveness. They seek assistance when personal problems threaten to compromise their professional effectiveness (also see §4209.A.4. Multiple Relationships and Conflicts of Interest).

d. LSSPs engage in continuing professional development. They remain current regarding developments in research, training, and professional practices that benefit children, families, and schools. They also understand that professional skill development beyond that of the novice practitioner requires well-planned continuing professional development and professional supervision.

2. Accepting Responsibility for Actions. LSSPs accept responsibility for their professional work, monitor the effectiveness of their services, and work to correct ineffective recommendations.

a. LSSPs review all of their written documents for accuracy, signing them only when correct. They may add an addendum, dated and signed, to a previously submitted report if information is found to be inaccurate or incomplete.

b. LSSPs actively monitor the impact of their recommendations and intervention plans. They revise a recommendation, or modify or terminate an intervention plan, when data indicate the desired outcomes are not being attained. LSSPs seek the assistance of others in supervisory, consultative, or referral roles when progress monitoring indicates that their recommendations and interventions are not effective in assisting a client.

c. LSSPs accept responsibility for the appropriateness of their professional practices, decisions, and recommendations. They correct misunderstandings resulting from their recommendations, advice, or information and take affirmative steps to offset any harmful consequences of ineffective or inappropriate recommendations.

d. When supervising graduate students' field experiences or internships, LSSPs are responsible for the work of their supervisees.

3. Responsible Assessment and Intervention Practices. LSSPs maintain the highest standard for responsible professional practices in educational and psychological assessment and direct and indirect interventions.

a. Prior to the consideration of a disability label or category, the effects of current behavior management and/or instructional practices on the student's school performance are considered.

b. LSSPs use assessment techniques and practices that the profession considers to be responsible, research-based practice.

i. LSSPs use assessment instruments whose validity and reliability have been established for use with members of the population tested. When such validity or reliability has not been established, psychologists describe the strengths and limitations of test results and interpretation.

ii. LSSPs use assessment methods that are appropriate to an individual's language preference and competence, unless the use of an alternative language is relevant to the assessment issues.

iii. When using standardized measures, LSSPs adhere to the procedures for administration of the instrument that is provided by the author or publisher of the instrument. If modifications are made in the administration procedures for standardized tests or other instruments, such modifications are identified and discussed in the interpretation of the results.

iv. If using norm-referenced measures, LSSPs choose instruments with up-to-date normative data.

v. When using computer-administered assessments, computer-assisted scoring, and/or interpretation programs, LSSPs choose programs that meet professional standards for accuracy and validity. LSSPs use professional judgment in evaluating the accuracy of computer-assisted assessment findings for the examinee.

c. A psychological or psychoeducational assessment is based on a variety of different types of information from different sources.

d. Consistent with education law and sound professional practice, children with suspected disabilities are assessed in all areas related to the suspected disability.

e. LSSPs conduct valid and fair assessments. They actively pursue knowledge of the student's disabilities and developmental, cultural, linguistic, and experiential background and then select, administer, and interpret assessment instruments and procedures in light of those characteristics (see also §4205.A.3.a and §4205.A.3.b).

f. When interpreters are used to facilitate the provision of assessment and intervention services, LSSPs take steps to ensure that the interpreters are appropriately trained and are acceptable to clients.

g. It is permissible for LSSPs to make recommendations based solely on a review of existing records. However, they should utilize a representative sample of records and explain the basis for, and the limitations of, their recommendations.

h. LSSPs adequately interpret findings and present results in clear, understandable terms so that the recipient can make informed choices.

i. LSSPs use intervention, counseling and therapy procedures, consultation techniques, and other direct and

indirect service methods that the profession considers to be responsible, research-based practice:

i. LSSPs use a problem-solving process to develop interventions appropriate to the presenting problems and that are consistent with data collected.

ii. Preference is given to interventions described in the peer-reviewed professional research literature and LSSPs encourage and promote parental participation in designing interventions for their children. When appropriate, this includes linking interventions between the school and the home, tailoring parental involvement to the skills of the family, and helping parents gain the skills needed to help their children.

j. LSSPs discuss with parents the recommendations and plans for assisting their children.

i. This discussion takes into account the ethnic/cultural values of the family and includes alternatives that may be available. Subsequent recommendations for program changes or additional services are discussed with parents, including any alternatives that may be available.

ii. Parents are informed of sources of support available at school and in the community.

k. LSSPs discuss with students the recommendations and plans for assisting them. To the maximum extent appropriate, students are invited to participate in selecting and planning interventions.

4. Responsible School-Based Record Keeping. LSSPs safeguard the privacy of school psychological records and ensure parent access to the records of their own children.

a. LSSPs ensure that parents and adult students are informed of their rights regarding creation, modification, storage, and disposal of psychological and educational records that result from the provision of services. Parents and adult students are notified of the electronic storage and transmission of personally identifiable school psychological records and the associated risks to privacy.

b. LSSPs ensure that documentation of their work is maintained with sufficient detail to be useful in decision making by another professional and with sufficient detail to withstand scrutiny if challenged in a due process or other legal procedure.

c. LSSPs include only documented and relevant information from reliable sources in school psychological records.

d. LSSPs ensure that parents have appropriate access to the psychological and educational records of their child.

i. Parents have a right to access any and all information that is used to make educational decisions about their child.

ii. LSSPs respect the right of parents to inspect, but not necessarily to copy, their child's answers to school psychological test questions, even if those answers are recorded on a test protocol (also see §4207.A.5.a).

e. LSSPs take steps to ensure that information in school psychological records is not released to persons or agencies outside of the school without the consent of the parent except as required and permitted by law.

f. To the extent that school psychological records are under their control, LSSPs ensure that only those school personnel who have a legitimate educational interest in a student are given access to the student's school

psychological records without prior parent permission or the permission of an adult student.

g. To the extent that school psychological records are under their control, LSSPs protect electronic files from unauthorized release or modification (e.g., by using passwords and encryption), and they take reasonable steps to ensure that school psychological records are not lost due to equipment failure.

h. It is ethically permissible for LSSPs to keep private notes to use as a memory aid that are not made accessible to others. However, as noted in §4207.A.4.d, any and all information that is used to make educational decisions about a student must be accessible to parents and adult students.

i. LSSPs, in collaboration with administrators and other school staff, work to establish policies regarding the storage and disposal of school psychological records that are consistent with law and sound professional practice. They advocate for school policies and practices that:

i. safeguard the security of school psychological records while facilitating appropriate parent access to those records;

ii. identify timelines for the periodic review and disposal of outdated school psychological records that are consistent with law and sound professional practice;

iii. seek parent or other appropriate permission prior to the destruction of obsolete school psychological records of current students;

iv. ensure that obsolete school psychology records are destroyed in a way that the information cannot be recovered.

5. Responsible Use of Materials. LSSPs respect the intellectual property rights of those who produce tests, intervention materials, scholarly works, and other materials.

a. LSSPs maintain test security, preventing the release of underlying principles and specific content that would undermine or invalidate the use of the instrument. Unless otherwise required by law or policy, LSSPs provide parents with the opportunity to inspect and review their child's test answers rather than providing them with copies of their child's test protocols.

b. LSSPs do not promote or condone the use of restricted psychological and educational tests or other assessment tools or procedures by individuals who are not qualified to use them.

c. LSSPs recognize the effort and expense involved in the development and publication of psychological and educational tests, intervention materials, and scholarly works. They respect the intellectual property rights and copyright interests of the producers of such materials, whether the materials are published in print or digital formats. They do not duplicate copyright-protected test manuals, testing materials, or unused test protocols without the permission of the producer. However, LSSPs understand that, at times, parents' rights to examine their child's test answers may supersede the interests of test publishers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2357.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Examiners of Psychologists, LR 49:660 (April 2023).

§4209. Honesty and Integrity in Professional Relationships

A. To foster and maintain trust, LSSPs must be committed to the truth and adhere to their professional agreements. They are forthright about their qualifications, competencies, and roles; work in full cooperation with other professional disciplines to meet the needs of students and families; and avoid multiple relationships that diminish their professional effectiveness.

1. Accurate Presentation of Professional Qualifications. LSSPs accurately identify their professional qualifications to others.

a. Competency levels, education, training, experience, and certification and licensing credentials are accurately represented to clients, recipients of services, and others. LSSPs correct any misperceptions of their qualifications. LSSPs do not represent themselves as specialists in a particular domain without verifiable training and supervised experience in the specialty.

b. LSSPs do not use affiliations with persons, associations, or institutions to imply a level of professional competence that exceeds that which has actually been achieved.

2. Forthright Explanation of Professional Services, Roles, and Priorities. LSSPs are candid about the nature and scope of their services.

a. LSSPs explain their professional competencies, roles, assignments, and working relationships to recipients of services and others in their work setting in a forthright and understandable manner. School psychologists explain all professional services to clients in a clear, understandable manner (see §4205.A.1.b).

b. LSSPs make reasonable efforts to become integral members of the client service systems to which they are assigned. They establish clear roles for themselves within those systems while respecting the various roles of colleagues in other professions.

c. LSSPs communicate to school administration and staff their commitment to protecting the rights and welfare of clients is communicated to the school administration, staff, and others as the highest priority in determining services.

d. LSSPs who provide services to several different groups (e.g., families, teachers, classrooms) may encounter situations in which loyalties are conflicted. As much as possible, LSSPs make known their priorities and commitments in advance to all parties to prevent misunderstandings.

e. LSSPs ensure that announcements and advertisements of the availability of their publications, products, and services for sale are factual and professional. They do not misrepresent their degree of responsibility for the development and distribution of publications, products, and services.

3. Respecting Other Professionals. To best meet the needs of children, LSSPs cooperate with other professionals in relationships based on mutual respect.

a. To meet the needs of children and other clients most effectively, LSSPs cooperate with other psychologists and professionals from other disciplines in relationships based on mutual respect. They encourage and support the use of all resources to serve the interests of students. If a

child or other client is receiving similar services from another professional, LSSPs promote coordination of services.

b. If a child or other client is referred to another professional for services, LSSPs ensure that all relevant and appropriate individuals, including the client, are notified of the change and reasons for the change. When referring clients to other professionals, LSSPs provide clients with lists of suitable practitioners from whom the client may seek services.

c. Except when supervising graduate students, LSSPs do not alter reports completed by another professional without their permission to do so.

4. Multiple Relationships and Conflicts of Interest. LSSPs avoid multiple relationships and conflicts of interest that diminish their professional effectiveness.

a. This Chapter provides standards for professional conduct. LSSPs, in their private lives, are free to pursue their personal interests, except to the degree that those interests compromise professional effectiveness.

b. LSSPs refrain from any activity in which conflicts of interest or multiple relationships with a client or a client's family may interfere with professional effectiveness. LSSPs attempt to resolve such situations in a manner that provides greatest benefit to the client. LSSPs whose personal or religious beliefs or commitments may influence the nature of their professional services or their willingness to provide certain services inform clients and responsible parties of this fact. When personal beliefs, conflicts of interests, or multiple relationships threaten to diminish professional effectiveness or would be viewed by the public as inappropriate, LSSPs ask their supervisor for reassignment of responsibilities, or they direct the client to alternative services.

c. LSSPs do not exploit clients, supervisees, or graduate students through professional relationships or condone these actions by their colleagues. They do not participate in or condone sexual harassment of children, parents, other clients, colleagues, employees, trainees, supervisees, or research participants. LSSPs do not engage in sexual relationships with individuals over whom they have evaluation authority, including college students in their classes or program, or any other trainees, or supervisees. LSSPs do not engage in sexual relationships with their current or former pupil-clients; the parents, siblings, or other close family members of current pupil-clients; or current consultees.

d. LSSPs are cautious about business and other relationships with clients that could interfere with professional judgment and effectiveness or potentially result in exploitation of a client.

e. The LSSPs financial interests in a product (e.g., tests, computer software, professional materials) or service can influence their objectivity or the perception of their objectivity regarding that product or service. For this reason, LSSPs are obligated to disclose any significant financial interest in the products or services they discuss in their presentations or writings if that interest is not obvious in the authorship/ownership citations provided.

f. LSSPs neither give nor receive any remuneration for referring children and other clients for professional services.

g. LSSPs do not accept any remuneration in exchange for data from their client database without the permission of their employer and a determination of whether the data release ethically requires informed client consent.

h. LSSPs who provide school-based services and also engage in the provision of private practice services (dual setting practitioners) recognize the potential for conflicts of interests between their two roles and take steps to avoid such conflicts. Dual setting practitioners:

i. are obligated to inform parents or other potential clients of any psychological and educational services available at no cost from the schools prior to offering such services for remuneration;

ii. may not offer or provide private practice services to a student of a school or special school program where the practitioner is currently assigned;

iii. may not offer or provide private practice services to the parents or family members of a student eligible to attend a school or special school program where the practitioner is currently assigned;

iv. may not offer or provide an independent evaluation as defined in special education law for a student who attends a local or cooperative school where the practitioner is employed;

v. do not use tests, materials, equipment, facilities, secretarial assistance, or other services belonging to the public sector employer unless approved in advance by the employer;

vi. conduct all private practice outside of the hours of contracted public employment;

vii. hold appropriate credentials for practice in both the public and private sectors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2357.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Examiners of Psychologists, LR 49:662 (April 2023).

§4211. Responsibility to Schools, Families, Communities, the Profession, and Society

A. LSSPs promote healthy school, family, and community environments. They assume a proactive role in identifying social injustices that affect children and schools and strive to reform systems-level patterns of injustice. They maintain the public trust in LSSPs by respecting law and encouraging ethical conduct. LSSPs advance professional excellence by mentoring less experienced practitioners and contributing to the school psychology knowledge base.

1. Promoting Healthy School, Family, and Community Environments. LSSPs use their expertise in psychology and education to promote school, family, and community environments that are safe and healthy for children.

a. To provide effective services and systems consultation, LSSPs are knowledgeable about the organization, philosophy, goals, objectives, culture, and methodologies of the settings in which they provide services. In addition, LSSPs develop partnerships and networks with community service providers and agencies to provide seamless services to children and families.

b. LSSPs use their professional expertise to promote changes in schools and community service systems that will benefit children and other clients. They advocate for school policies and practices that are in the best interests of children

and that respect and protect the legal rights of students and parents.

2. Respect for Law and the Relationship of Law and Ethics. LSSPs are knowledgeable of and respect laws pertinent to the practice of school psychology. In choosing an appropriate course of action, they consider the relationship between law and their professional ethics herein.

a. LSSPs recognize that an understanding of the goals, procedures, and legal requirements of their particular workplace is essential for effective functioning within that setting.

b. LSSPs respect the law and the civil and legal rights of students and other clients. The Ethical Standards for LSSPs promulgated under this Chapter may require a more stringent standard of conduct than law, and in those situations LSSPs are expected to adhere to this Chapter.

c. When conflicts between ethics and law occur, LSSPs take steps to resolve the conflict through positive, respected, and legal channels. If not able to resolve the conflict in this manner, they may abide by the law, as long as the resulting actions do not violate basic human rights.

d. LSSPs may act as individual citizens to bring about change in a lawful manner. They identify when they are speaking as private citizens rather than as employees. They also identify when they speak as individual professionals rather than as representatives of a professional association.

e. Maintaining Public Trust by Self-Monitoring and Peer Monitoring. LSSPs accept responsibility to monitor their own conduct and the conduct of other LSSPs to ensure it conforms to ethical standards.

f. LSSPs know the Ethical Standards for LSSPs and thoughtfully apply them to situations within their employment context. In difficult situations, LSSPs consult experienced licensed psychologists, LSSPs or the Licensed Specialist in School Psychology Advisory Committee to the Louisiana State Board of Examiners of Psychologists.

g. When an LSSP suspects that another LSSP or another professional has engaged in unethical practices, the LSSP attempts to resolve the suspected problem through a collegial problem-solving process, if feasible.

h. If a collegial problem-solving process is not possible or productive, LSSPs take further action appropriate to the situation, including discussing the situation with a supervisor in the employment setting, consulting state association ethics committees, and, if necessary, filing a formal ethical violation complaint with the Louisiana State Board of Examiners of Psychologists and/or other appropriate regulatory agency in accordance with their procedures.

3. Contributing to the Profession by Mentoring, Teaching, and Supervision. As part of their obligation to students, schools, society, and their profession, LSSPs mentor less experienced practitioners and graduate students to assure high quality services, and they serve as role models for sound ethical and professional practices and decision making.

a. LSSPs who serve as directors of graduate education programs provide current and prospective graduate students with accurate information regarding program accreditation, goals and objectives, graduate

program policies and requirements, and likely outcomes and benefits.

b. LSSPs who supervise practicum students and interns are responsible for all professional practices of the supervisees. They ensure that practicum students and interns are adequately supervised as outlined in the NASP Graduate Preparation Standards for School Psychologists. Interns and graduate students are identified as such, and their work is cosigned by the supervising LSSP.

c. LSSPs who employ, supervise, or train professionals provide appropriate working conditions, fair and timely evaluation, constructive supervision, and continuing professional development opportunities.

d. LSSPs who are faculty members at universities or who supervise graduate education field experiences apply these ethical principles in all work with school psychology graduate students. In addition, they promote the ethical practice of graduate students by providing specific and comprehensive instruction, feedback, and mentoring.

4. Contributing to the School Psychology Knowledge Base. To improve services to children, families, and schools, and to promote the welfare of children, LSSPs are encouraged to contribute to the school psychology knowledge base by participating in, assisting in, or conducting and disseminating research.

a. When designing and conducting research in schools, LSSPs choose topics and employ research methodology, research participant selection procedures, data-gathering methods, and analysis and reporting techniques that are grounded in sound research practice. LSSPs identify their level of training and graduate degree to potential research participants.

b. LSSPs respect the rights, and protect the well-being, of research participants. LSSPs obtain appropriate review and approval of proposed research prior to beginning their data collection.

i. Prior to initiating research, LSSPs and graduate students affiliated with a university, hospital, or other agency subject to the U.S. Department of Health and Human Services (DHHS) regulation of research first obtain approval for their research from their Institutional Review Board for Research Involving Human Subjects (IRB) as well as the school or other agency in which the research will be conducted. Research proposals that have not been subject to IRB approval should be reviewed by individuals knowledgeable about research methodology and ethics and approved by the school administration or other appropriate authority.

ii. In planning research, LSSPs are ethically obligated to consider carefully whether the informed consent of research participants is needed for their study, recognizing that research involving more than minimum risk requires informed consent, and that research with students involving activities that are not part of ordinary, typical schooling requires informed consent. Consent and assent protocols provide the information necessary for potential research participants to make an informed and voluntary choice about participation. LSSPs evaluate the potential risks (including risks of physical or psychological harm, intrusions on

privacy, breach of confidentiality) and benefits of their research and only conduct studies in which the risks to participants are minimized and acceptable.

c. LSSPs who use their assessment, intervention, or consultation cases in lectures, presentations, or publications obtain written prior client consent or they remove or disguise identifying client information.

d. LSSPs do not publish or present fabricated or falsified data or results in their publications and presentations.

e. LSSPs make available their data or other information that provided the basis for findings and conclusions reported in publications and presentations, if such data are needed to address a legitimate concern or need and under the condition that the confidentiality and other rights of research participants are protected.

f. If errors are discovered after the publication or presentation of research or other information, LSSPs make efforts to correct errors by publishing errata, retractions, or corrections.

g. LSSPs only publish data or other information that make original contributions to the professional literature. They do not report the same study in a second publication without acknowledging previous publication of the same data. They do not duplicate significant portions of their own or others' previous publications without permission of copyright holders.

h. When publishing or presenting research or other work, LSSPs do not plagiarize the works or ideas of others. They appropriately cite and reference all sources, print or digital, and assign credit to those whose ideas are reflected. In in-service or conference presentations, LSSPs give credit to others whose ideas have been used or adapted.

i. LSSPs accurately reflect the contributions of authors and other individuals who contributed to presentations and publications. Authorship credit is given only to individuals who have made a substantial professional contribution to the research, publication, or presentation. Authors discuss and resolve issues related to publication credit as early as feasible in the research and publication process.

j. LSSPs who participate in reviews of manuscripts, proposals, and other materials respect the confidentiality and proprietary rights of the authors. They limit their use of the materials to the activities relevant to the purposes of the professional review. LSSPs who review professional materials do not communicate the identity of the author, quote from the materials, or duplicate or circulate copies of the materials without the author's permission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2357.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Examiners of Psychologists, LR 49:663 (April 2023).

Jaime T. Monic
Executive Director

2304#011

RULE

**Department of Health
Board of Examiners of Psychologists**

Continuing Education, Exemptions and Fees
(LAC 46:XXIII. 601, 603, 803, 805, 806, 811, 905, 3402, 3403, and 4001)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Board of Examiners of Psychologists has adopted Sections 806 and 905 and amended Sections 601, 603, 803, 805, 811, 3402, 3403, and 4001 related to the continuing education, exemptions and fees in accordance with the Louisiana Licensing Law for Psychologist R.S. 37:2353.C(1) 37:2357.C(4), 37:2352(7), and the Administrative Procedures Act §968 and 971. This Rule is hereby adopted on the day of promulgation.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXIII. Psychologists

Subpart 1. General Provisions

Chapter 6. Fees

§601. Licensing Fees

A. Licensing Fees

Licensing Fees	Amount
Application for Licensure	\$200
Application for Provisional Licensure	\$200
Application for Temporary Registration	\$200
Application for Authorization to Provide Telesupervision (Valid 1 year, per supervisor, per application)	\$25 for first supervisee \$10 for each thereafter
Jurisprudence Examination Fee	\$75
Oral Examination (Licensure, specialty change or additional specialty)	\$250
License Renewal	\$400
License Renewal Fee for Psychologists Qualifying under R.S. 37:2354(E) for a reduced rate	\$200
Provisional License Renewal	\$100
Initial Application and Renewal of Emeritus Status (Retired)	\$100
Reinstatement of Lapsed License	Current Application Fee plus Current Renewal Fee
Processing Fees for Paper Renewals	\$50
License Renewal Extension Request	\$25

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2354.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 33:647 (April 2007), amended LR 39:311 (February 2013), LR 41:2618 (December 2015), amended the Department of Health, Board of Examiners of Psychologists, LR 43:1173 (June 2017), LR 47:1111 (August 2021), amended LR 49:665 (April 2023).

§603. Administrative/Other Fees

A. Administrative/Other Fees

Administrative/Other Fees	Amount
Address List/Labels	\$100
License Verification	\$15
Disciplinary Action Report	\$25
Replacement Renewal Certificate	\$15
Replacement License Certificate	\$25

Administrative/Other Fees	Amount
Miscellaneous Copy Fee (other records)	\$1 page one, \$0.25 each page thereafter
Convenience Fee for Online Payments	2.9 percent plus .30/transaction
Sponsor Application for Pre-approval of Continuing Professional Development Workshop/Conference	\$100
Sponsor Application for Renewal of Continuing Professional Development Workshop/Conference	\$25
Psychologist Application for Pre-approval of Continuing Professional Development Workshop/Conference	\$25
Continuing Professional Development Activities (OPTIONAL) Board Sponsored	TBD not to exceed \$200 per offering

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2354.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 33:648 (April 2007), amended LR 39:311 (February 2013), LR 41:2618 (December 2015), amended by the Department of Health, Board of Examiners of Psychologists, LR 43:1173 (June 2017), LR 49 (November 2022), amended LR 49:665 (April 2023).

§803. Requirements

A. Each psychologist is required to complete 40 hours or credits of continuing professional development within the biennial reporting period, which begins on July 1 and ends on June 30.

B. Within each reporting period, two of the required hours or credits of continuing professional development must be within the area of ethics or law in accordance with the limitations specified in §807.

C. Within each reporting period, two of the required hours or credits of continuing professional development must be within the area of multiculturalism or diversity in accordance with the limitations specified in §807.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:2357.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 16:770 (September 1990), amended LR 19:46 (January 1993), LR 32:1228 (July 2006), LR 39:2754 (October 2013), amended by the Department of Health, Board of Examiners of Psychologists, LR 42:1662 (October 2016), amended LR 49:665 (April 2023).

§805. Acceptable Sponsorship, Offerings and Activities

A. Only those CPD offerings and activities approved by the Board shall satisfy the requirements for licensure set forth in §803.

B. Acceptable CPD activities offered for credit by approved sponsors defined in this section and that meet the content criteria described in §801 of this Chapter are automatically approved by the Board.

C. The board will recognize the following as acceptable sponsors of the continuing education requirements:

1. accredited institutions of higher education;
2. hospitals and medical centers which have approved regional medical continuing education centers;
3. hospitals which have APA approved doctoral internship training programs;

4. international, national, regional, or state professional associations, or divisions of such associations, which specifically offer or approve graduate or post-doctoral continuing education training;

5. American Psychological Association (APA) approved sponsors and activities offered by APA (including home study courses);

6. activities sponsored by the Board of Examiners of Psychologists; and

7. activities sponsored by the Louisiana Department of Health or its subordinate units;

D. The board will recognize the following activities offered by acceptable sponsors in Part C.1 above.

1. Workshops—live workshops offered for credit. Live workshops may be presented in-person or by video conference/virtual format.

2. Conference Workshops/Training Activities—Conferences are trainings lasting longer than one day (eight hours). Conference training may be presented in-person or by video conference/virtual format.

E. Sponsors of CPD approved under Part B of this Section may not advertise a CPD as board-approved or endorsed or purport that the CPD satisfies the licensure requirements set forth in §803.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2354.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 16:770 (September 1990), amended LR 19:46 (January 1993), LR 22:1131 (November 1996), LR 25:1098 (June 1999), LR 32:1228 (July 2006), LR 36:1007 (May 2010), amended by the Department of Health, Board of Examiners of Psychologists, LR 42:1663 (October 2016), amended LR 49:665 (April 2023).

§806. Board Approval of Proposed CPD Offerings and Activities; CPD promotion and Advertisement

A. Any individual or entity may apply for board approval of a proposed CPD offering or activity as follows.

1. The individual or entity providing the proposed CPD offering or activity files a completed CPD Approval Application on the form provide by the board.

2. The individual or entity providing the proposed CPD offering or activity provides information sufficient to the board that the CPD meets requirements set forth under §801; and

3. Payment of the required application fee.

B. Board approval of a proposed CPD pursuant to Subsection E of this Section shall permit the individual or entity to offer the program one time. Subsequent offerings of the same activity shall require the individual or entity offering the CPD to submit an application for renewal of the approval on the form provided by the board with required renewal fee.

1. Upon receipt of written documentation of board CPD approval, the individual or entity providing the proposed CPD offering or activity may advertise as approved or endorsed by the Louisiana State Board of Examiners of Psychologists.

2. Course and activities approved by the board shall be posted on the board website and shall indicate the maximum number of credits which may be earned and the classification of the course.

C. CPD offerings and activities not approved by the board under Subsections B or E of this Section may generate acceptable CPD credits for licensees under the following circumstances:

1. The licensee submits a complete application for preapproval of the course or activity using the form provided by the board and payment of an application fee required under Chapter 6.

2. The course or activity submitted for approval shall only be considered for the licensee who submits the approval.

3. A licensee may not request approval of an activity after June 30 of their reporting year for the renewal of their license.

a. A provisionally licensed psychologist that fails to meet the CPD requirements by June 30 of their reporting year, including acceptable sponsorship, offerings and activities, shall be subject to the provisions of R.S. 37:2356.2.

b. A licensed psychologist that fails to meet the CPD requirements by June 30 of their reporting year, including acceptable sponsorship, offerings and activities, shall be subject to the provisions of R.S. 37:2357.A(2).

D. The licensee may choose to apply for preapproval of the following unsponsored activities. These activities shall be limited to 10 credits:

1. workshops/conferences without approved sponsor;

2. peer consultation and supervision. Acceptable consultation is regularly scheduled interactions with colleagues, licensed in a health care profession or other general applied psychology profession, in a structured and organized format. Examples include case consultation groups, journal clubs, research groups, and shadowing a colleague. Acceptable supervision is one-to-one general professional, specific case discussion, or skill training that is provided under Chapter 7 of this Part by a qualified supervisor. One hour of acceptable consultation or supervision equals one hour of credit. Documentation required to earn credit shall be a verification form providing evidence that it is a structured program of consultation with regularly scheduled meetings and showing the nature of the consultation, or in the case of supervision the supervised practice plan approved by the board; and The person providing the consultation, or facilitating the case consultation group, must attest, by signature, to the description of the program, number of hours met and that the verification form has been completed;

3. *practice outcome monitoring*—assessing patient/client outcomes via questionnaire(s) that is appropriate to the practice endeavor. One client equals one credit per reporting period. If requested, documentation required to earn credit shall be a verification form and a de-identified copy of the patient/client questionnaire;

4. *professional activities*—serving on an international, national, regional, or state psychological association board or committee; or board member of regulatory body related to the field of psychology. Professional activities shall not include lobbying activities. One year equals 10 credits;

5. *registered attendance at conferences/conventions*—attendance at a conference related to the field of psychology or a conference, that aids in the licensee's professional

development. One conference day equals one credit. This credit is separate from traditional continuing education units that may be awarded by an approved sponsor at said conference. A certificate of attendance is required;

6. *academic courses*—a graduate-level course related to the psychologist’s discipline and practice, taken for credit from a regionally accredited university or one pre-approved by the board. One three-hour course or equivalent equals 20 credits; or, one registered audit, documented by the university, equals five credits;

7. *instruction*—preparation and teaching of a semester-long graduate or undergraduate course, related to psychology, in a regionally accredited institution; or continuing education workshop presentation. Credit can only be received the first time teaching or presenting the material:

a. credit hours for preparing and teaching a workshop shall be calculated at four times the credit granted attendees, divided by the number of presenters;

b. credit hours for teaching a university course shall be calculated at 10 times the number of credit hours awarded the students. Documentation required to earn credit shall be the course syllabus or brochure;

8. *publications*—author of an article for peer-reviewed publications or author, editor or co-editor of a book/book chapter related to the field of psychology. One article equals 10 hours; one book/book chapter equals 10 credit hours. Documentation required to earn credit shall include a copy of journal abstract or a copy of the publication.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2357.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Examiners of Psychologists, LR 49:666 (April 2023).

§811. Extensions/Exemptions

A. - C. ...

D. Licensees who meet the requirements for a reduced fee under R.S. 37:2354.E during the applicable reporting period and who are fully retired from the practice of psychology may be granted an exemption from continuing professional development requirements.

1. A licensee granted an exemption under this provision will be classified with the status “emeritus” and may use the title “psychologist Emerit: retired”.

2. A licensee granted emerit status under this provision shall be prohibited from engaging in the practice of psychology; rendering psychological services in any form; and/or engaging in any activity that might be construed as the practice of psychology within the state of Louisiana.

3. A psychologist emerit: retired, is subject to license renewal in accordance with the provisions of Chapter 9 of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2354.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 19:47 (January 1993), amended LR 32:1229 (July 2006), LR39:2755 (October 2013), LR 41:2617 (December 2015), amended by the Department of Health, Board of Examiners of Psychologists, LR 42:1664 (October 2016), amended LR 49:667 (April 2023).

Chapter 9. Licensees

§905. Psychologists Emerit: Retired

A. A psychologist emeritus: retired is eligible to renew their emerit status license provided they submit such renewal application along with the annual renewal fee at the reduced rate established under Chapter 6 of this Part; and are fully retired from the practice of psychology, not rendering psychological services in any form, and are not engaging in any activity that might be construed as the practice of psychology within the state of Louisiana.

B. A psychologist emerit is eligible to renew their current license until July 31 of each year upon submission of the required renewal fee and renewal application form and on showing that the licensee:

1. has been a licensed psychologist for a minimum of 20 years;

2. has no outstanding complaints or ethical violations;

3. is subject to the LSBEP ethics code;

4. is retired from the practice of psychology;

5. is only able to use the title psychologist emeritus: retired;

6. is not required to complete CPD unless they want to reinstate as specified in Subsection C below.

C. A psychologist emerit: retired is eligible to reinstate their status to Licensed Psychologist and resume the independent practice of psychology in Louisiana upon submission of a reinstatement application for licensure including the required reinstatement fee and fulfillment of all continuing professional development requirements as defined under this Chapter, provided they are not in violation of any of the provisions of the Louisiana Revised Statutes, Title 37 Chapter 28. Psychologists.

D. A psychologist emerit returning to full practice after five or more years shall be subject to an oral examination prior to reinstatement to the status of licensed psychologist.

E. A licensee who renews their emerit status shall be exempt from continuing professional development requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2357.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Examiners of Psychologists, LR 49:667 (April 2023).

Subpart 2. Licensed Specialists in School Psychology Chapter 34. Specialist Programs in School Psychology §3402. Program Requirements—Supervised Practica Prior to Internship

A. - A.4. ...

5. close supervision of students by program faculty and qualified practicum supervisors, including appropriate performance-based evaluation, to ensure that students are developing professional work characteristics and designated competencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2357.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 41:2623 (December 2015), amended by the Department of Health, Board of Examiners of Psychologists LR 49:667 (April 2023).

§3403. Program Requirements—Internship

A. - A.2. ...

3. completion of activities and attainment of school psychology competencies that are consistent with the goals and objectives of the program and emphasize human diversity, and provision of school psychology services that result in direct, measurable, and children, families, schools, and/or other consumers;

4. inclusion of both formative and summative performance-based evaluations of interns that are completed by both program faculty and field-based supervisors, are systematic and comprehensive, and insure that interns demonstrate professional work characteristics and attain competencies needed for effective practice as school psychologists;

A.5. - A.10. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2357.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 41:2623 (December 2015), amended by the Department of Health, Board of Examiners of Psychologists, LR 49:668 (April 2023).

Chapter 40. Continuing Education Requirements of Licensed Specialist in School Psychology
§4001. General Requirements

A. Pursuant to R.S. 37:2357 each licensed specialist in school psychology is required to complete continuing education hours within biennial reporting periods. Continuing education is an ongoing process consisting of learning activities that increase professional development.

B. Each licensed specialist in school psychology is required to complete 40 hours of credit of continuing education within a biennial reporting period beginning in July 1 and ending June 30.

1. Two of the above 40 hours of credit of continuing education must be in the areas of ethics or law.

2. Within each reporting period, LSSPs must earn credits in at least two of the nine categories listed under §4002.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2357.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 41:2625 (December 2015), amended by the Department of Health, LR 49:668 (April 2023).

Jaime T. Monic
 Executive Director

2304#013

RULE

Department of Health
Board of Examiners of Psychologists

Registration of Assistant to a Psychologist
 (LAC 46:LXIII.601, 1100, 1101,
 1103, 1105, 1107, and 1109)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., that the Board of Examiners of Psychologists has adopted §§1100, 1105, 1107 and 1109 and amended §§601, 1101 and 1103 related to the

registration of assistants to psychologists in accordance with the Louisiana Licensing Law for Psychologist R.S. 37:2353.C(1) 37:2357.C(4), 37:2352(7), and the Administrative Procedures Act §968 and 971. This Rule is hereby adopted on the day of promulgation.

Title 46

OCCUPATIONAL AND PROFESSIONAL STANDARDS

Part LXIII. Psychologists

Subpart 1. General Provisions

Chapter 6. Fees

§601. Licensing Fees

A. Licensing Fees

Licensing Fees	Amount
Application for Licensure	\$200
Application for Provisional Licensure	\$200
Application for Temporary Registration	\$200
Application for Authorization to Provide Telesupervision (Valid 1 year, per supervisor, per application)	\$25 for first supervisee, \$10 for each thereafter
Jurisprudence Examination Fee	\$75
Oral Examination (Licensure, specialty change or additional specialty)	\$250
License Renewal	\$400
License Renewal Fee for Psychologists Qualifying under R.S. 37:2354(E) for a reduced rate	\$200
Provisional License Renewal	\$100
Application for Registration of Assistant to Psychologist	\$50
Application for Renewal of Assistant to Psychologist	\$40
Reinstatement of Lapsed License	\$600
Processing Fees for Paper Renewals	\$50
License Renewal Extension Request	\$25

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2354.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 33:647 (April 2007), amended LR 39:311 (February 2013), LR 41:2618 (December 2015), amended the Department of Health, Board of Examiners of Psychologists, LR 43:1173 (June 2017), amended LR 47:1111 (August 2021), amended LR 49:668 (April 2023).

Chapter 11. Supervision of Assistants to Psychologists

§1100. Scope and Definitions

A. Psychologists may use an assistant to a psychologist (ATAP) to aid them in the provision of psychological services to clients as defined under this Chapter. The rules of this Chapter govern the registration, utilization, and supervision of an assistant to a psychologist in conformity with RS 37:2365.C.(3). Nothing in this Chapter shall be construed as creating a property interest or right to a hearing of the ATAP.

B. The following terms are defined for the purpose of this Chapter.

1. *Assistant to a Psychologist* (ATAP)—a non-licensed individual who aids a Licensed Psychologist in the provision of psychological services to patients and clients. ATAP's do not evaluate, interpret or make other judgments related to psychological tests. ATAP's may be responsible for implementing, not designing, interventions or protocols.

2. *General Professional Supervision*—the direct supervisory contact with the ATAP. Supervision in this

context may include activities such as individual supervision, group supervision, case management, professional development, and review of the work completed by the ATAP.

3. *Continuous Professional Supervision*—ongoing training and oversight for the procedure furnished under the psychologist’s overall direction and control, including maintenance of the necessary equipment and supplies. Under Continuous Professional Supervision the psychologist’s presence is not required during the performance of the procedure. However, the supervisor shall be available to the ATAP in person, during the time when the ATAP is rendering professional services, or arrange the availability of a qualified supervisor who is authorized to intervene with a client. Exceptions to this provision must have prior approval by the board.

4. *Supervisor or Supervising Psychologist*—a psychologist licensed under the provisions of Title 37 Chapter 28 of the Louisiana Revised Statutes who shall have competence in the specific area of practice in which supervision is being given.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2354.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Examiners of Psychologists, LR 49:668 (April 2023).

§1101. Conditions for Utilization of Assistants

A. Upon, or pending, employment of an ATAP, but prior to assisting in psychological duties, the Supervising Psychologist shall submit a complete application for initial registration, required registration fee, and documentation on such form and in such manner as may be prescribed by the board to demonstrate that the registrant meets all of the following criteria:

1. is 18 years of age or older;
2. possesses a minimum of a high school diploma or its equivalent;
3. is of good moral character as determined by a criminal background check conducted under the authority of R.S. 37:2356.1 and the provisions of this Part;
4. is not in violation of any of the provisions of the La. Revised Statutes Title 37, Chapter 28. Psychologists; or the *Louisiana Administrative Code*, Title 46, Part LXIII; or any provision governing the practice of psychology under the jurisdiction of the board;
5. is qualified, or will receive supervised training commensurate with the services to be performed and is under the direct and continuous supervision of the Supervising Psychologist as defined in this Chapter.

B. Prior to the approval of any registration, the registrant shall initiate a criminal background check from the Louisiana State Police, Bureau of Criminal Identification and Information in accordance with this Part, and the criminal history records information report must be received and cleared by the board.

C. Upon review of the application, the board shall notify the licensed psychologist of record that the application and evidence submitted for registration is satisfactory and the registration has been approved; or that the application or evidence is unsatisfactory and rejected; or other pending status. If the application is rejected, a notice from the board shall include the reasons for the rejection.

D. An assistant to a psychologist may be dually registered and provide services under the direction of more than one supervising psychologist. A single application and fee shall be required if services are provided under a single employer or organization.

E. An approved registration shall be subject to annual renewal, during the month of July, and beginning in the year immediately subsequent to the initial registration of the ATAP.

a. The registration of an ATAP may be renewed if the psychologist of record submits to the board a renewal application and associated fee as prescribed by the board. The renewal fee shall be determined annually by the board and shall not exceed \$50.

b. The registration of any ATAP that has not been renewed by the supervising psychologist during the month of July immediately following the initial issuance of the registration, shall be considered lapsed.

c. The registration of any ATAP that has lapsed due to failure to renew, may be reinstated in accordance with the provisions of section 1107 of this Chapter.

F. An assistant registered under the provisions of this Chapter shall utilize the title “assistant to a psychologist” also referred to as “ATAP” only within the context of their employment with a licensed psychologist or their employment within an agency or hospital while under the direct supervision of a licensed psychologist; other titles an assistant to a psychologist may use include psychological technician, psychometrician, and other titles as approved by board.

G. An ATAP providing psychological services must be under the general and continuing professional supervision of a licensed psychologist. In order to maintain ultimate legal and professional responsibility for the welfare of every client, the supervisor must be vested with functional authority over the psychological services provided by an ATAP.

H. Supervisors shall have sufficient contact with clients, and must be empowered to contact any client in order to plan effective and appropriate services and to define procedures. The supervisor shall be present at the point of service, for emergency consultation and intervention.

I. Work assignments shall be commensurate with the skills of the ATAP and procedures shall under all circumstances be planned in consultation with the supervisor.

J. The supervisory contact with the ATAP shall occur in the service delivery setting, unless otherwise approved by the board of examiners.

K. Public announcement of fees and services and contact with lay or professional public shall only be offered in the name of the supervising psychologist; in all advertisements and descriptions of services ATAPs shall be clearly identified as being under the supervising authority of a psychologist.

L. Billing for psychological services shall not be in the name of an ATAP.

M. A provisional licensed psychologist may not supervise unlicensed assistants.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists, LR 5:250 (August 1979), amended by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 36:1246 (June 2010), LR 41:2620 (December 2015), amended by the Department of Health, Board of Examiners of Psychologists, LR 49:669 (April 2023).

§1103. Responsibilities of Supervisors

A. The Supervising Psychologist:

1. is responsible for the registration and renewal of an assistant to a psychologist in conformity with this Chapter on such form and in such manner as prescribed by the board;
2. directs the provision of psychological services to clients;
3. is administratively, clinically, ethically, functionally, and legally responsible for all activities of the Assistant to a Psychologist;
4. is accountable for the planning, course and outcome of the work. The conduct of supervision shall ensure the welfare of the client, and the ethical and legal protection of the assistant;
5. is responsible for general communication regarding the needs of the clients and services rendered;
6. is responsible for continuing professional supervision of the ATAP;
7. provides general professional supervision of the ATAP that shall include one cumulative hour per week as a minimum for direct supervisory contact:
 - a. exceptions to this requirement must have prior approval of the board;
 - b. it is likely that more than one hour per week would be required for assistants of lesser experience;
8. shall limit the number of assistants supervised so as to ensure adequate ability to monitor services and protect the public;
9. shall be available for emergency consultation and intervention;
10. shall have competence in the specific area of practice in which supervision is being given;
11. shall maintain a record of supervision which details the types of activities in which the assistant is engaged and the level of competence in each. This record shall be kept in such form as may be prescribed by the board;
12. shall ensure the following is disclosed to the client prior to the provision of any psychological service:
 - a. the psychologist of record's full name and contact information;
 - b. the extent and limits of their interaction with the client;
 - c. the client's right to meet with or communicate with the supervising psychologist or psychologist of record prior to or during the course of services rendered by an ATAP.

B. Neglect in maintaining the above standards of practice may result in disciplinary action against the supervisor's license to practice, including suspension or revocation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists, LR 5:250 (August 1979), amended by the Department of Health and Hospitals, Board of Examiners of

Psychologists, LR 36:1008 (May 2010), amended by the Department of Health, Board of Examiners of Psychologists, LR 49:670 (April 2023).

§1105. Special Considerations Related to an Assistant to a Psychologist

A. A registration is not the property right of the assistant to a psychologist.

B. Nothing in this Chapter shall be construed to allow an assistant to a psychologist to:

1. independently engage in any activity or service defined as the practice of psychology in R.S. 37:2352(7) et al;
2. independently engage in psychological services outside the supervisory relationship approved through registration by the board;
3. render any diagnosis;
4. sign any evaluations or reports as the provider of record; however should be notated as having engaged in the service within the report;
5. violate any of the provisions of this Chapter or the rules and regulations adopted by the board;
6. use any title or description to represent themselves as a psychologist or imply that they are qualified to practice psychology;
7. independently advertise psychological services;
8. assign or delegate psychological duties or otherwise engage in the independent practice of psychology.

C. With regard to psychological testing, services of the ATAP shall be limited to the administration and/or scoring of standardized objective (non-projective) psychological or neuropsychological tests defined in this Part, which have specific predetermined and manualized administrative procedures, and which entail behavioral observations, and/or recording test responses.

D. An ATAP is prohibited from evaluating, interpreting, or rendering any judgment related to psychological tests, and/or implementation of interventions or protocols unless designated and delegated by the licensed psychologist of record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Examiners of Psychologists, LR 49:670 (April 2023).

§1107. Denial, Revocation, or Lapse of a Registration for an Assistant to a Psychologist

A. The board has the authority to conduct investigations and take such actions permitted under RS 37:2351-2378, et al in matters involving the ATAP and/or their supervisor.

B. The board may deny or revoke the registration of an assistant to a psychologist (ATAP) that is in the best interest of public health, safety, and welfare for any unethical, unlawful, or other unprofessional conduct under the jurisdiction of the board.

C. Immediate action may be taken to administratively suspend an ATAP's registration in the event information is received that the action(s) of an ATAP is causing harm to clients, is otherwise likely to cause harm to future clients or patients, or the action(s) is unethical or unlawful. Such action may be taken in instances including but not limited to falsifying information in an application; and/or receipt of information involving an arrest, warrant for an arrest, or conviction of the ATAP.

1. The supervising psychologist(s) of record shall be immediately notified of an administrative action.

2. The de-identified administrative action shall be reported to the board at their next regularly scheduled meeting.

3. The board shall have the final determination on the denial or revocation of a registration.

4. The supervising psychologist(s) of record shall be notified of the final action of the Board.

D. The registration of an assistant to a psychologist shall immediately lapse upon the occurrence of any one of the following:

1. If the supervisory relationship between a psychologist of record and the assistant to a psychologist terminates, the licensed psychologist shall notify the board in writing upon such form and in such manner as prescribed by the board. The notice shall be submitted within 10 calendar days of the termination.

2. Suspension, revocation, or other action that restricts, limits, or prohibits the utilization of ATAP's by a psychologist, taken against the license of the psychologist of record in any jurisdiction.

3. Evidence that the assistant to a psychologist has violated any of the provisions of this Chapter or the rules and regulations of the Board.

4. Loss of license of the psychologist of record due to lapse or failure to renew.

5. Failure to renew the registration of an ATAP.

a. A psychologist of record who fails to renew the registration of an assistant to a psychologist in accordance with the provisions herein may obtain reinstatement of the lapsed registration provided the following: if the following conditions are met:

i. the assistant to a psychologist is not in violation of any of the provisions of this Chapter, or any other applicable laws;

ii. the psychologist of record submits to the Board a renewal application as prescribed by the Board; along with a late renewal fee which shall be the sum of the current ATAP application fee, plus the ATAP renewal fee.

E. It shall be considered the unlawful and unauthorized practice of psychology for an ATAP to continue to provide services without a current, valid, and unrestricted registration issued under this Chapter.

F. Nothing in this section shall be construed as creating a property interest or right to a hearing of the ATAP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.C.(1)

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Examiners of Psychologists, LR 49:670 (April 2023).

§1109. Exceptions to the Registration of an Assistant to a Psychologist

A. The provisions of this Section shall not apply to the following:

1. a medical psychologist utilizing assistants under the provisions of RS 37:1360.61 under the jurisdiction of the Louisiana State Board of Medical Examiners.

2. an individual licensed under this part as a licensed specialist in school psychology who is providing services defined under RS 37:2356.3.

3. a matriculated graduate student whose activities constitute a part of the course of study for a graduate degree in psychology at a school or college.

4. an individual who is an applicant for licensure under this Chapter and who is pursuing post-doctoral training or experience in psychology, including persons seeking to fulfill the requirements for licensure under this Chapter.

5. an individual engaged in academic or research activities that are not defined as the practice of psychology under RS 37:2352.7.

6. members of other professions who are working in association or collaboration with a licensed psychologist, and who are licensed or certified under the laws of this state to independently render and bill for services that are consistent with their scope of practice under the jurisdiction of their respective license or certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 37:2353.C.(1)

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists, LR 49:671 (April 2023).

Jaime T. Monic
Executive Director

2304#010

RULE

Department of Health Board of Examiners of Psychologists

Training, Credentials and Scope of Practice
for Neuropsychology Specialty Designation
and Provisional Licensure

(LAC 46:LXIII.100, 102, 103, 107, 201, 303, 305, 307, 701, 702, 705, 709, 1002, 1201, 1205, 1213, 1401, 1403, 1405, 1407, 1409, 1701, 1702, 1705, 1707, 1903 and 1905)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Board of Examiners of Psychologists has adopted §§100, 107, 702, 1401, 1403, 1405, 1407, 1409, and 1905 and amended §§102, 103, 201, 303, 305, 307, 701, 705, 709, 1002, 1201, 1205, 1213, 1701, 1702, 1705, 1707 and 1903. These changes are related to training and credentials for provisional licensure and for the practice of psychology and neuropsychology amendments are included to correct grammar and technical corrections to outdated statutory references in accordance with the Louisiana Licensing Law for Psychologist R.S. 37:2353.C(1) 37:2357.C(4), 37:2352(7), and the Administrative Procedures Act §968 and 971. This Rule is hereby adopted on the day of promulgation.

Title 46

OCCUPATIONAL AND PROFESSIONAL STANDARDS

Part LXIII. Psychologists

Subpart 1. General Provisions

Chapter 1. Definitions

§100. General Definitions

Advisory Workgroup—two or more individuals selected by the Board to provide research or recommendations on matters requested by the board.

Board—the Louisiana State Board of Examiners of Psychologists. The term “Board” or “board” is synonymous with agency.

Board of Directors—the board members appointed by the governor to serve on the board.

Chairperson—the chief executive officer and member of the board of directors. The chairperson provides leadership and direction to standing committees; ensures the organization is managed effectively; provides support and supervision to the chief administrative officer; represents the board as its figurehead and in its mission of public protection.

Examiner—an examining board member who is a current board member.

Executive Committee—a standing committee of the board established to facilitate the proper functioning of the agency, with authority to execute tasks and duties of the board, including but not limited to summary suspension authority, and utilized to facilitate the proper functioning of the agency. This committee shall consist of two or more board members and may include other personnel.

Executive Director—the chief administrative officer responsible for the daily operations of the board; authorized to take action and make decisions not inconsistent with the statutory and regulatory requirements, but within the boundaries delegated by the board for the proper management of all aspects of daily board operations including but not limited to subpoena signing authority.

Licensing Examiner—a former board member that is currently licensed and approved by the board to conduct licensing examinations.

Standing Committee—a working committee established by the chairperson to facilitate the proper functioning of the board. Standing committees consist of appointed members of the board.

Vice-Chairperson—an officer and member of the board of directors. The vice-chairperson provides support to the chairperson and may act in the absence or recusal of the chairperson.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Examiners of Psychologists, LR 49:671 (April 2023).

§102. Definition of Applicant for Provisional Licensure

A. - A.4. ...

5. has completed a minimum of one year of experience practicing psychology under the supervision of a licensed psychologist or medical psychologist licensed in accordance with R.S. 37:1360.51 et seq., or has completed an approved predoctoral internship as defined in the rules and regulations of the board and required as part of the doctoral degree in psychology as defined by the board;

6 - 7. ...

8. submits such number of full sets of fingerprints and fees and costs as may be incurred by the board in requesting or obtaining criminal history record information as authorized by R.S. 37:2356.1, and in the form and manner prescribed by the boards rules and regulations. The results of the criminal history record information search to be obtained, reviewed and considered acceptable by the board prior to admission to candidacy status.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 41:2617 (December 2015), amended Department of Health, Board of Examiners of Psychologists, LR 49:672 (April 2023).

§103. Definition of Applicant for Licensure

A. - A.6. ...

7. submits such number of full sets of fingerprints and fees and costs as may be incurred by the board in requesting or obtaining criminal history record information as authorized by R.S. 37:2356.1, and in the form and manner prescribed by the boards rules and regulations. The results of the criminal history record information search to be obtained, reviewed and considered acceptable by the board prior to admission to candidacy status.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists, LR 5:248 (August 1979), amended LR 34:1406 (July 2008), amended Department of Health, Board of Examiners of Psychologists, LR 49:672 (April 2023).

§107. Definition of Provisional Licensed Psychologist

A. A *provisional licensed psychologist* is a person who has been issued a provisional license under the provision of R.S.37:2356.2.

B. A provisionally licensed psychologist may practice psychology as defined under R.S. 37:2352(7) while under the continuing professional supervision of a licensed psychologist.

C. A provisional license is required for a Candidate’s early admittance to the written examination for licensure, while completing the final year of postdoctoral supervision.

D. A provisional license may be renewed no more than three times. A provisional license that is not renewed in accordance with the provisions of this Part shall lapse.

E. Provisional licensed psychologists may not:

1. contract directly with individuals, couples, families, agencies or institutions for clinical services, consultation, supervision or educational services; or

2. claim to be independently licensed, in private practice or otherwise advertise as such.

F. Provisional licensed psychologists:

1. must practice psychology under the continuing professional supervision of a licensed psychologist and in accordance with the requirements of Chapter 7 of this Part;

2. shall use the title “provisional licensed psychologist” in representing themselves, their work or their services;

3. shall disclose their supervisory relationships to clients/patients in the provision of psychological services and to third parties in engaged in professional activities related to the field of psychology;

4. shall not supervise other mental health professionals or independently evaluate persons;

G. The supervising licensed psychologist, or the agency, hospital, or corporation that employs the supervising licensed psychologist, may bill for psychological services performed by the provisional licensed psychologist.

H. The termination of the supervisory relationship must be immediately reported to the board in accordance with the

requirements of Chapter 7 of this Part. Following termination, the provisional license shall be considered lapsed, and the provisional licensed psychologist may not practice under these provisions until an approved supervisory relationship with a licensed psychologist has been approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353 and R.S. 37:2356.2.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Examiners of Psychologists, LR 49:672 (April 2023).

Chapter 2. Reciprocity

§201. Licensure of Psychologists through Reciprocity

A. - B. ...

C. Applicants for reciprocal licensing must submit such number of full sets of fingerprints, or other identifiable information, and fees and costs as may be incurred by the board in requesting or obtaining criminal history record information as authorized by R.S. 37:2356.1, and in the form and manner prescribed by the boards rules and regulations. The results of the criminal history record information search to be obtained, reviewed and considered acceptable by the board prior to admission to candidacy status.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 23:861 (July 1997), amended LR 27:723 (May 2001), LR 29:207 (October 2003), LR 34:1406 (July 2008), amended by the Department of Health, Board of Examiners of Psychologists, LR 49:673 (April 2023).

Chapter 3. Training and Credentials

§303. Doctoral Programs in Psychology

A. A graduate whose of a doctoral program, at the time of graduation, that is either accredited by the American Psychological Association, or listed by the Association of State and Provincial Psychology Boards (ASPPB) and the National Register of Health Service Providers in Psychology's former yearly joint publication of the Doctoral Psychology Programs Meeting Designation Criteria is recognized as holding a doctoral degree with a major in psychology from a university offering a full-time graduate course of study in psychology.

B. A graduate of a doctoral program that is neither listed in Designate Doctoral Programs in Psychology nor accredited by the American Psychological Association must meet the criteria in Paragraphs B.1-B.11 below.

1. Training in professional psychology is doctoral training offered in a regionally accredited institution of higher education.

2. The program, wherever it may be administratively housed, must be clearly identified and labeled as a psychology program. Such a program must specify in pertinent institutional catalogs and brochures its intent to educate and train professional psychologists in an applied area of psychology recognized by the board.

3. The psychology program must stand as a recognizable, coherent organizational entity within the institution.

4. There must be a clear authority and primary responsibility for the core and specialty areas whether or not the program cuts across administrative lines.

5. The program must be an integrated, organized sequence of study.

6. There must be an identifiable psychology faculty and a psychologist responsible for the program.

7. The program must have an identifiable body of students who are matriculated in that program for a degree.

8. The program must include supervised practicum, internship, field or laboratory training appropriate to the practice of psychology, in an applied area of specialization recognized by the board.

9. The program shall be an internal degree program (as opposed to an external degree program unless it is either designated by the Association of State and Provincial Psychology Boards (ASPPB) and the National Register or it is accredited by the American Psychological Association.)

10. The doctoral program shall involve at least one continuous academic year of full-time residency on the campus of the institution at which the degree is granted.

11. For individuals who were trained prior to 2015, the curriculum shall encompass a minimum of three academic years of full-time graduate study. The program of study shall typically include graduate coursework with a minimum of three semester hours (five quarter hours) in each of the following three areas: scientific and professional ethics and standards, research design and methodology, and statistics and methodology. In cases where the material from one of these areas was incorporated into other courses, the program director shall submit material to the board indicating the educational equivalence of this requirement. Additionally, the core program shall require each student to demonstrate competence in each of the following substantive areas. This requirement typically will be met by including a minimum of three or more graduate semester hours (five or more graduate quarter hours) in each of the four substantive content areas. Graduates who cannot document competence in all substantive content areas (§303.C.11.a-d below), may demonstrate competence by taking additional course work or examination, not to exceed one substantive content area:

a. biological bases of behavior—physiological psychology, comparative psychology, neuropsychology, sensation and perception, psychopharmacology;

b. cognitive-affective bases of behavior—learning, thinking, motivation, emotion;

c. social bases of behavior—social psychology, group processes, organizational and systems theory;

d. individual difference—personality theory, human development, abnormal psychology. In addition, all professional doctoral programs in psychology will include course requirements in specialty areas.

C. For individuals whose training began after 2015, the curriculum shall encompass training in the nine profession-wide competencies, which include certain competencies required for all students who graduate from programs accredited in health service psychology. Programs must provide opportunities for all of their students to achieve and demonstrate each required profession-wide competency. Although in general, the competencies appearing at or near the top of the following list serve as foundations upon which later competencies are built, each competency is considered critical for graduates in programs accredited in health service psychology. The specific requirements for each competency are articulated in APA Commission on Accreditation Implementing Regulations. Because science is at the core of health service psychology, programs must

demonstrate that they rely on the current evidence-base when training students in the following competency areas. At a minimum, students must demonstrate competence in the following.

1. Research. For example, individuals demonstrate knowledge, skills, and competence sufficient to produce new knowledge; to critically evaluate and use existing knowledge to solve problems; substantial knowledge of scientific methods, procedures, and practices; and ability to disseminate research.

2. Ethical and Legal Standards. For example, individuals demonstrate knowledge of ethical principles and state law; recognize ethical dilemmas as they arise; apply ethical decision-making processes; and conduct oneself in an ethical manner in all professional activities.

3. Individual and Cultural Diversity. For example, individuals are sensitive to cultural and individual diversity of clients and committed to providing culturally sensitive services. Individuals are aware of how one's background impacts clinical work and are committed to continuing to explore their own cultural identity issues and how they relate to clinical practice.

4. Professional Values, Attitudes, and Behaviors. For example, individuals behave in ways that reflect the values and attitudes of psychology; engage in self-reflection regarding their personal and professional functioning; and actively seek and demonstrate openness to feedback.

5. Communication and Interpersonal Skills. For example, individuals can establish and maintain effective interrelationships as well as produce and comprehend oral, nonverbal, and written communications that are informative and well-integrated.

6. Assessment. For example, individuals demonstrate competence in choosing, administering, interpreting and providing results from evidenced-based assessments. Individuals also demonstrate knowledge of current diagnostic classification systems.

7. Intervention. For example, individuals demonstrate competence in utilizing evidenced-based interventions which have been chosen to meet the unique needs of the individual or group; demonstrate the ability to establish effective working relationships with clients and are able to evaluate the effectiveness of their interventions.

8. Supervision. For example, individuals demonstrate knowledge of supervision models and have applied this knowledge to the practical application of supervision principles.

9. Consultation and interprofessional/interdisciplinary skills, for example, individuals demonstrate the ability to intentionally collaborate with other professionals to address a problem; have knowledge of consultation models; and have applied practice serving in the role of consultant.

D. - D.2.f. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353 and R.S. 37:2356.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists, LR 6:489 (August 1980), amended LR 13:180 (March 1987), amended by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 15:87 (February 1989), LR 27:1895 (November 2001), LR 36:1005 (May

2010), amended Department of Health, Board of Examiners of Psychologists, LR 49:673 (April 2023).

§305. Specialty Areas

A. Health Service Psychology. The provision of direct health and/or behavioral health services requires training in an applied health service area such as clinical psychology, counseling psychology, clinical neuropsychology, school psychology, or other developed health service areas that are offered under training programs that are accredited by the American Psychological Association (APA) in a health service area. Training programs may also combine two or more of the recognized practice areas listed above. In addition to didactic courses, training in health service psychology shall include early and continuing involvement of students in applied healthcare settings. Such experiences shall occur at two levels: practicum and internship.

1. - 2.e. ...

f. At least 25 percent of trainee's time was in direct client contact (minimum 375 hours).

g. - l. ...

B. General Applied Psychology. The provision of psychological services in applied non-healthcare areas include services outside health and behavioral health fields; direct services to individuals and/or groups for assessment and/or evaluation of personal abilities and characteristics for individual development, behavior change, and/or for making decisions about the individual; and may also include services to organizations that are provided for the benefit of the organization. Training areas recognized by the board in general applied psychology include those specialty programs designated as educational psychology, developmental psychology, experimental psychology, social psychology, or industrial-organizational psychology. Internship training for non-health service psychology areas may take the form of post-doctoral supervised experience as defined in the regulations of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353 and R.S. 37:2356.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists, LR 13:181 (March 1987), amended by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 19:1323 (October 1993), LR 36:1005 (May 2010), amended Department of Health, Board of Examiners of Psychologists, LR 49:674 (April 2023).

§307. Clinical Neuropsychology

A. - B.4. ...

5. These regulations recognize the overlapping roles in certain aspects of clinical neuropsychological assessment and intervention of other professionals, such as behavioral neurologists, speech pathologists, and learning disability specialists, and are not meant to constrain or limit the practice of those individuals as affirmatively set forth in their relevant enabling statutes. These regulations are not meant to constrain or limit the practice of licensed psychologists who through education, training, and experience have acquired competence in the use of psychological assessment instruments that measure various aspects of function to include but not limited to general intelligence, complex attention, executive function, learning and memory, language, perceptual motor and social cognition.

C. - C.1.c. ...

d. specialty internship in clinical neuropsychology (one year minimum), followed by the completion of one year of post-doctoral supervised experience in clinical neuropsychology; or, the equivalent of two full years (4,000 hours) of post-doctoral experience in clinical neuropsychology under the supervision of a qualified clinical neuropsychologist (as defined here and in LAC 46:LXIII.307.C.2, 3, and 4). The majority of these hours must involve clinical neuropsychological assessment, and some portion of the remaining hours should be related to rehabilitation of neuropsychological deficits. The supervision, as defined above, should involve a minimum of one hour of face-to-face supervision a week, though additional supervisory contact may be required during training phases and case discussions;

l.e. - 3.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353 and R.S. 37:2356.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 19:1323 (October 1993), amended LR 36:1006 (May 2010), amended by the Department of Health, Board of Examiners of Psychologists, LR 49:674 (April 2023).

Chapter 7. Supervised Practice Leading toward Licensure

§701. Preface

A. This Chapter details reasonable minimal standards for supervised practice and establishes that the legal, administrative and professional responsibility of supervision rests with the licensed psychologist or medical psychologist licensed in accordance with R.S. 27:1360.51 et seq., designated as supervisor.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists, LR 5:249 (August 1979), amended LR 7:187 (April 1981), amended by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 41:2618 (December 2015), repromulgated by the Department of Health, Board of Examiners of Psychologists, LR 42:1089 (July 2016), amended LR 49:675 (April 2023).

§702. Definitions

Continuing Professional Supervision—the ongoing training and oversight for the procedure furnished under the psychologist's overall direction and control, including maintenance of the necessary equipment and supplies. Supervision in this context does not require the supervisor's presence during the performance of the procedure. However, the supervisor shall be available to the supervisee in person during the time when the supervisee is rendering professional services, or arrange the availability of a qualified supervisor who is authorized to intervene with a client. Exceptions to this provision must have prior approval by the board.

General Professional Supervision—direct supervisory contact with the supervisee. Supervision in this context includes activities such as individual supervision, group supervision, specific case discussion and management, skill

training, and professional development and review of the work completed by the supervisee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Examiners of Psychologists, LR 49:675 (April 2023).

§705. Qualifications of Supervisors

A. Responsibility for the overall supervision of the supervisee's professional growth resides in the licensed psychologist or medical psychologist. Supervising psychologists shall be licensed to practice psychology at the doctoral level by the regulatory body that is vested with jurisdictional authority over the practice of psychology in the respective jurisdiction.

B. Have training in the specific area of practice to render competently any psychological service undertaken by their supervisee in which they are offering supervision. Specific skill training may be assigned to other specialists, under the authority of the supervising psychologist. The non-psychologist specialist shall have clearly established practice and teaching skills demonstrable to the satisfaction of both the supervising psychologist and the supervisee.

C. The supervisor shall limit the number of persons supervised so as to be certain to maintain a level of supervision and practice consistent with professional standards ensuring the welfare of the supervisee and the client.

D. The supervisor may not supervise any more than two candidates for licensure at the same time.

E. The supervisor shall not be a member of the supervisee's immediate family.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists, LR 5:249 (August 1979), amended LR 7:187 (April 1981), amended by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 41:2619 (December 2015), repromulgated by the Department of Health, Board of Examiners of Psychologists, LR 42:1089 (July 2016), amended LR 49:675 (April 2023).

§709. Conduct of Supervision

A. - C.2. ...

3. Billing and receipt of payment is the responsibility of the employing agency or the licensed psychologist/ or medical psychologist. The setting and the psychological work performed shall be clearly identified as that of the licensed psychologist. The physical location where services are delivered may not be owned, leased, or rented by the supervisee.

C.4. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists, LR 5:249 (August 1979), amended LR 7:187 (April 1981), amended by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 41:2619 (December 2015), Department of Health, Board of Examiners of Psychologists, LR 49:675 (April 2023).

Chapter 10. Temporary Registration

§1002. Emergency Temporary Registration for Psychologists

A. Pursuant to R.S. 29:769(E), licensed psychologists from other jurisdictions of the United States may respond to a declared public health emergency and be granted a temporary registration to engage in the practice of psychology as defined in R.S. 37:2352(7).

B. - I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:769(E).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 33:459 (March 2007), amended LR 36:1007 (May 2010), LR 39:2757 (October 2013), amended Department of Health, Board of Examiners of Psychologists, LR 49:676 (April 2023).

Chapter 12. Criminal History Records Information

§1201. Scope of Chapter

A. The rules of this Chapter govern the collection and use of criminal history records information in connection with applications for an initial license, renewal, or reinstatement of a license of a psychologist in conformity with R.S. 37:2356.1

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2372.1. Repromulgated in accordance with R.S. 37:2356.1

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 34:1406 (July 2008), amended by the Department of Health, Board of Examiners of Psychologists, LR 49:676 (April 2023).

§1205. Criminal History Record Information

Requirement

A. ...

B. The board will use the fingerprints to request and obtain criminal history record information relative to the applicant as provided in R.S. 37:2372.1.2356.1

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2372.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 34:1406 (July 2008), amended by the Department of Health, Board of Examiners of Psychologists, LR 49:676 (April 2023).

§1213. Confidentiality of Criminal History Record

Information

A. Criminal history record information obtained by the board pursuant to R.S. 37:2356.1 and the rules of this Chapter, which is not already a matter of public record or to which the privilege of confidentiality has not otherwise been waived or abandoned, shall be deemed confidential information, restricted to and utilized exclusively by the board, its officers, members, investigators, employees, agents, and attorneys in evaluating the applicant's eligibility or disqualification for licensure. Criminal history record information shall not, except with the written consent of the applicant or by the order of a court of competent jurisdiction, be released or otherwise disclosed by the board to any other person or agency, provided, however, that any such information or documents which are admitted into evidence and made part of the administrative record in any adjudicatory proceeding before the board shall become public records upon the filing of a petition for judicial review of the board's final decision therein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2372.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychology, LR 34:1407 (July 2008), amended by the Department of Health, Board of Examiners of Psychologists, LR 49:676 (April 2023).

Chapter 14. Telepsychology and Telesupervision

§1401. Purpose and Scope

A. To facilitate the process for a Louisiana Licensed Psychologist to provide psychological services via telecommunications.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 37:2353.C.(1) and R.S. 40:1223.4

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Examiners of Psychologists, LR 49:676 (April 2023).

§1403. Definitions

Distant Site—the location of the Louisiana Licensed Psychologist at the time of service.

Licensed Psychologist—a person licensed by this board under Title 37, Chapter 28 of the Louisiana Revised Statutes.

Originating Site—the location of the client at the time of service.

Telecommunication—the preparation, transmission, communication, or related processing of information by electrical, electromagnetic, electromechanical, electro-optical, or electronic means (Committee on National Security Systems, 2010).

Telepsychology—the practice of psychology which includes assessment, diagnosis, intervention, consultation or information by psychologists using interactive telecommunication technology that enables a psychologist and a client, at two different locations separated by distance to interact via two-way audio/ or audio only transmissions simultaneously. Telepsychology is not a separate specialty. If the use of technology is for purely administrative purposes, it would not constitute telepsychology under this Chapter.

Telesupervision—a method of providing supervision to psychology trainees via two-way video and audio transmissions simultaneously or other telecommunication technologies.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 37:2353.C.(1) and R.S. 40:1223.4

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Examiners of Psychologists, LR 49:676 (April 2023).

§1405. Use of Telepsychology by a Louisiana Licensed Psychologist

A. The use of telecommunications is not appropriate for all problems. The specific process of providing professional services varies across situation, setting and time, and decisions regarding the appropriate delivery of telepsychology services are made on a case-by-case basis.

B. Any service that would require the psychologist to personally interact with, touch, and/or examine the client may not be suitable for telepsychology. (Examples include but are not be limited to the sensory-perceptual examinations of some neuropsychological assessments; and examination of the client for signs of movement) disorders like the AIMS and Simpson-Angus exams. Psychologists must ensure that the integrity of the examination procedure is not compromised through the use of telepsychology.

C. A Psychologist using Telepsychology must:

1. reflect on multicultural issues when delivering telepsychology services to diverse clients;

2. obtain the necessary professional and technical training, experience, and skills to adequately conduct the telepsychology services that they provide;

3. maintain their competence in this area via appropriate continuing education. Competence includes knowledge of ethics and law applicable to the use of telepsychology;

4. assess whether involved participants have the necessary knowledge and skills to benefit from those services.

D. If the psychologist determines that telepsychology is not appropriate, they inform those involved of appropriate alternatives

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 37:2353.C.(1) and R.S. 40:1223.4

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Examiners of Psychologists, LR 49:676 (April 2023).

§1407. Responsibilities of the Louisiana Licensed Psychologist utilizing Telecommunications

A. Psychologist and Client Identity and Location

1. At the beginning of a Telepsychology service with a client, the following essential information shall be verified by the psychologist.

a. Psychologist and Client Identity Verification. The name and credentials of the psychologist and the name of the client shall be verified. The originating site of the client shall be verified as within Louisiana.

b. Psychologist and Client Location Documentation. The location where the client will be receiving services shall be confirmed and documented by the psychologist. Documentation should at least include the date, location, duration and type of service.

B. Secure Communications/Electronic Transfer of Client

1. Psychologists use secure Health Insurance Portability and Accountability Act (HIPAA)/Health Information Technology for Economic and Clinical Health (HITECH) Act compliant communications.

C. Non-Secured Communications

1. Obtain consent for use of non-secured communications.

2. In cases of emergency, non-secured communications may be used with the consent of the patient and/or at the discretion of the psychologist based on clinical judgment

D. Informed Consent

1. A thorough informed consent at the start of all services shall be performed.

2. The consent should be conducted in real-time.

3. Local, regional and national laws regarding verbal or written consent shall be followed.

4. The consent should include all information contained in the consent process for care including confidentiality and the limits to confidentiality in electronic communication:

a. an agreed upon emergency plan, particularly in settings without clinical staff immediately available;

b. the potential for technical failure, process by which patient information will be documented and stored;

c. a protocol for contact between sessions; and conditions under which telepsychology services may be terminated and/or a referral made.

E. Privacy

1. Efforts shall be made to ensure privacy so clinical discussion cannot be overheard by others either inside or outside of the room where the service is provided.

2. Psychologists review with clients their policy and procedure to ensure privacy of communications via physical, technical, and administrative safeguards.

F. Emergency Management

1. Psychologists shall have an Emergency Management plan in case of emergency in a telepsychology session.

2. The psychologist's plan should include but not be limited to: patient safety, information for patient support person, uncooperative patients and identifying local emergency personnel.

3. In an emergency situation with a patient, psychologists will follow the normal clinical emergency protocols.

4. In an emergency situation where a patient refuses to consent, emergency procedures will be followed using the pre-identified resources available at the remote site and permitted by prior consent/agreement of the client.

G. Recordkeeping

1. Psychologists ensure that documentation of service delivery via telepsychology is appropriately included in the clinical record (paper or electronic).

2. Psychologists ensure the secure destruction of any documents maintained in any media of telepsychology sessions and in accordance with APA guidelines, and all federal, state, and local laws and regulations.

H. Service Delivery

1. Psychologists are responsible for ensuring that any services provided via telecommunications are appropriate to be delivered through such media without affecting the relevant professional standards under which those services would be provided if delivered in person.

2. It is recommended that the initial interview/assessment occur in person. However, if conducted via telepsychology then the psychologist is responsible for meeting the same standard of care. This also includes but is not limited to reliability and validity of psychometric tests and other assessment methods; and consideration of normative data for such psychometric/assessment tools; maintaining conditions of administration.

3. When providing therapeutic interventions, psychologists ensure that the modality being used is appropriate for delivery through electronic media and is appropriate for delivery to individuals, groups, and/or families/couples as indicated.

4. Psychologists reassess appropriateness of the use of telepsychology throughout the course of contact with the client.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 37:2353.C.(1) and R.S. 40:1223.4

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Examiners of Psychologists, LR 49:677 (April 2023).

§1409. Supervision via Telepsychology (“Telesupervision”)

A. In-person, face-to-face supervision remains the most appropriate and beneficial format for supervisees to learn effectively from their supervisors as well as the most

appropriate format to ensure full professional responsibility for the welfare of the client.

B. Prior to conducting telesupervision, the supervising psychologist shall request pre-approval from the board by completing an application for Authorization to Provide Telesupervision and application fee.

1. The supervising psychologist shall provide an explicit rationale as to why this is an appropriate and effective form of supervision for this supervisee in this particular work setting.

2. The board may deny a request for telesupervision that is found to be inadequate or inappropriate.

C. Telesupervision shall:

1. not be the sole means of communication with a supervisee;

2. only be utilized when in-person supervision in the service delivery setting is not feasible or under other extenuating circumstances (e.g. the supervisor has taken planned medical leave and will be off-site for a month);

3. not account for more than 50 percent of the required supervisory contact for that supervisees' level of training, except under extending circumstances which have been approved by the board;

4. not be permitted for a graduate student completing their first practicum experience.

D. Individuals who are considered assistants to psychologists ATAPs or individuals completing a post-doctoral fellowship require a minimum of one hour a week of individual supervision.

1. For an assistant with lesser experience, they may require more than the minimum of one hour a week of supervision.

2. For individuals currently in training completing a pre-doctoral psychology internship, a minimum of two hours of individual supervision is required. Therefore, if a supervisee engages in telesupervision, telesupervision shall not account for more than 26 hours of the minimum requirement for individual supervision for ATAPS or post-doctoral fellows and 52 hours of the minimum requirement for individual supervision for pre-doctoral interns over the course of a year.

E. It shall be the supervising psychologist's responsibility in providing telesupervision, to:

1. maintain a license to practice psychology in the state of Louisiana;

2. maintain full legal functioning authority and professional responsibility for the welfare of the client and have functional authority over the psychological services provided by the supervisee.

3. establish a clear protocol for managing emergency consultation and be available to the supervisee as needed in the event of an emergency with a client;

4. ensure telesupervision is conducted via two-way video/audio or audio only transmissions simultaneously;

5. take into account the training needs of the supervisee and the service needs of the clients, protecting them from harm;

6. inform the supervisee of the risks and limitations specific to telepsychology supervision, including limits to confidentiality, security and privacy;

7. identify at the onset of each contact the identity of the supervisee, as well as the identity of all individuals who can access any electronically transmitted communication;

8. inform supervisees of procedures to manage technological difficulties or interruptions in service;

9. obtain and maintain competence in the chosen telecommunication technology;

10. ensure that telesupervision is provided in compliance with the supervision requirements of Chapter 7. Supervised Practice Leading towards Licensure of *Louisiana Administrative Code*, Title 46, Part LXIII as well as those outlined in Chapter 11. Supervision of Assistants to Psychologists.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 37:2353.C.(1) and R.S. 40:1223.4

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Examiners of Psychologists, LR 49:677 (April 2023).

Chapter 17. Specialty Titles

§1701. Definition of Practice of Psychology

A. The definition of the practice of psychology, as contained in R.S. 37:2352(7), is a generic description, individuals certified under the provisions of R.S. 37:2351-2367 are licensed to practice psychology in accordance with that statute and the rules and regulations of the board adopted under the provisions of state statute.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists, LR 6:602 (October 1980), amended by the Department of Health, Board of Examiners of Psychologists, LR 49:678 (April 2023).

§1702. Definition of Psychological Testing, Evaluation and Assessment

A. As contained in R.S. 37:2352(7), the practice of psychology includes, but is not limited to, psychological testing and evaluation or assessment of personal characteristics such as intelligence, personality, abilities, interests, aptitudes, and neuropsychological functioning. The Board of Examiners of Psychologists finds it necessary to formally define psychological testing in order to protect the people of this state from the unlawful, unqualified and improper use of psychological tests. The intent of this rule is to provide a definition of psychological testing sufficient to allow this board to effectively regulate this aspect of psychological practice. The Board of Examiners of Psychologists recognizes that, except as otherwise provided by law, psychological testing may only be administered and interpreted by a person duly licensed as a psychologist by this board under R.S. 37:2351 et seq., or by a person under the direct supervision of a psychologist, provided that such supervision is in compliance with the regulations of this board.

B. Nothing in these regulations should be interpreted or construed as to limit or restrict the practice of physicians duly licensed to practice medicine by the Board of Medical Examiners. Also, nothing in this rule should be construed as having application to any persons licensed or certified under other laws of this state when acting within the legal scope of

such licensure or certification in rendering services as expressly set forth under those relevant statutes.

C. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 19:496 (April 1993), amended by the Department of Health, Board of Examiners of Psychologists, LR 49:678 (April 2023).

§1705. Use of Specialty Title

A. ...

B. The term *specialty* refers to an area within the profession of psychology which can be identified on the basis of a history and tradition of service, research, and scholarship to have a body of knowledge and a set of skills related to that knowledge base, and which is distinguishable from other such specialties.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists, LR 6:602 (October 1980), amended by the Department of Health, Board of Examiners of Psychologists, LR 49:679 (April 2023).

§1707. List of Specialties

A. ...

B. Those specialties which are currently recognized by the board are: clinical psychology, clinical neuropsychology, counseling psychology, school psychology, educational psychology, developmental psychology, experimental psychology, industrial-organizational psychology, and social psychology. The board may recognize other developed practice areas under training programs that are accredited by the American Psychological Association. Training programs may also combine two or three of the acceptable practice areas listed above.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists, LR 6:602 (October 1980), amended by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 19:1423 (November 1993), amended by the Department of Health, Board of Examiners of Psychologists, LR 49:679 (April 2023).

Chapter 19. Public Information

§1903. Public Display of Board's Address

A. There shall at all times be prominently displayed in the place(s) of business of each licensee regulated under this law the official sign provided by the board containing the name, mailing address, and telephone number of the board along with the following statement:

“BE IT KNOWN THAT THE LOUISIANA STATE BOARD OF EXAMINERS OF PSYCHOLOGISTS RECEIVES QUESTIONS REGARDING THE PRACTICE OF PSYCHOLOGY.”

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 15:87 (February 1989), amended LR 22:980 (October 1996), amended by the Department of Health, Board of Examiners of Psychologists, LR 49:679 (April 2023).

§1905. Petitions to the Board

A. In accordance with the provisions of Title 49 Section 953C (1), any interested person may petition an agency to request the adoption, amendment, or repeal of a rule. This section sets forth the board's procedure for their submission, considerations, and disposition.

1. Procedures for Submission. The board shall consider any petition that is signed, dated, and received by the board via USPS certified mail on the form specified by the board.

2. The form shall require the name and contact information of the petitioner; reference to the specific statutory or regulatory provision the petitioner is seeking to change; reason(s) for the request; the petitioner's personal interest in the requested change; and/or the petitioner's professional interest in the requested change.

B. Disposition

1. Upon receiving a petition, the agency shall acknowledge its receipt and docket the petition for review at the next regularly scheduled board meeting.

2. The board shall provide a response to the petition within 90 days of submission. The board's response will include its determination to either deny the petition, stating reasons in writing for the denial, or notify the petitioner of its intent to initiate rulemaking proceedings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Examiners of Psychologists, LR 49:679 (April 2023).

Jaime T. Monic
Executive Director

2304#012

RULE

Department of Health Board of Pharmacy

Nonresident Pharmacies (LAC 46:LIII.Chapter 23)

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 has amended several sections of its rules relative to nonresident pharmacies. Changes in §§2301, 2305, 2309, 2311, 2317, and 2319 include the replacement of the term “out of state” with “nonresident” making it consistent with the chapter and section titles. The change in §2303.A is meant to clarify the intent for a nonresident pharmacy to hold a current pharmacy permit in their resident state. The change in §2303.B removes the plural form of word “state” to clarify the intent for the pharmacist to be licensed in the state in which the pharmacy permit is located. The change in §2303.C removes the requirement for a nonresident pharmacy to designate a resident agent and a registered office in Louisiana which eliminates an unnecessary regulatory burden. The change in §2305.B replaces the statutory reference used for the annual permit fee because the current fee has been moved to proposed rule. The change in §2307.D modifies the responsibility on the pharmacist-in-

charge from developing and maintaining policies to implementing policies and procedures which more accurately reflects current trends. The changes in §2307.I extend the notification requirement regarding a change of pharmacist-in-charge on the nonresident pharmacy permit holder and on a newly appointed pharmacist-in-charge to match the requirement for resident pharmacies, from 10 days to 30 days. The changes in §2307.J removes the requirement for notarization of the affidavit and also makes a correction to which record the document is filed. This Rule is hereby adopted on the day of promulgation.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LIII. Pharmacists

Chapter 23. Nonresident Pharmacy

§2301. Purpose

A. Nonresident pharmacies shall comply with the provisions of this Chapter in order to be and remain permitted to operate in Louisiana as a nonresident pharmacy.

B. ...

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 18:1380 (December 1992) effective January 1, 1993, LR 29:2099 (October 2003), effective January 1, 2004, amended by the Department of Health, Board of Pharmacy, amended LR 49:680 (April 2023).

§2303. Nonresident Pharmacy Requirements

A. The nonresident pharmacy shall hold a current pharmacy permit in good standing in the state in which it is located.

B. Each pharmacist dispensing drugs into Louisiana shall be licensed as a pharmacist in good standing in the state where he practices.

C. Every nonresident pharmacy doing business in Louisiana by dispensing and delivering prescription drugs and devices to offenders in the custody of the Louisiana Department of Public Safety and Corrections or local law enforcement agency shall obtain and maintain a nonresident correctional center pharmacy permit, and further, shall comply with the provisions of Chapter 18 of this Part, with the single exception of the necessity for acquiring a separate correctional center pharmacy permit.

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 18:1380 (December 1992) effective January 1, 1993, LR 29:2100 (October 2003), effective January 1, 2004, LR 39:3074 (November 2013), amended by the Department of Health, Board of Pharmacy, LR 46:574 (April 2020), amended LR 49:680 (April 2023).

§2305. Nonresident Pharmacy Permit Requirements

A. The nonresident pharmacy shall apply for a permit and annual permit renewals on forms provided by the board. The board may require such information as reasonably necessary to carry out the provisions of R.S. 37:1232, including, without limitation, the name, address, and position of each officer and director of a corporation or of the owners, if the pharmacy is not a corporation.

B. The nonresident pharmacy shall pay an annual permit fee as defined by the Board.

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 18:1380 (December 1992) effective January 1, 1993, LR 29:2100 (October 2003), effective January 1, 2004, amended by the Department of Health, Board of Pharmacy, LR 49:680 (April 2023).

§2307. Pharmacist-in-Charge

A. - C. ...

D. Policy and Procedure Manual. The pharmacist-in-charge shall be responsible for the implementation of policies and procedures regarding quality pharmacy services including drug control, distribution, patient compliance accountability, inspection, and record keeping.

E. - H. ...

I. Change of Pharmacist-in-Charge. Written notice to the board shall be required when the pharmacist-in-charge designation for a pharmacy has changed.

1. The permit holder shall notify the board within 30 days of the prior pharmacist-in-charge's departure date. The permit holder shall designate a new pharmacist-in-charge within 10 days of the departure of the prior pharmacist-in-charge.

2. The new pharmacist-in-charge shall afford the board written notice of his newly designated pharmacist-in-charge status within 30 days of the departure of the prior pharmacist-in-charge.

3. A pharmacist-in-charge who voluntarily leaves a pharmacy shall give written notice to the board and the owner of the permit at least 10 days prior to this voluntary departure, unless replaced in a shorter period of time.

J. Affidavit of Responsibility and Duties. The designated pharmacist-in-charge shall sign an affidavit on a form supplied by the board indicating his understanding and acceptance of the duties and responsibilities of a pharmacist-in-charge. This document shall be submitted to the board for inclusion in the pharmacist's record 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 18:1381 (December 1992) effective January 1, 1993, LR 29:2100 (October 2003), effective January 1, 2004, LR 33:1133 (June 2007), amended by the Department of Health, Board of Pharmacy, LR 43:50 (January 2017), amended LR 49:680 (April 2023).

§2309. Applicable Laws and Regulations

A. Louisiana pharmacy laws and regulations shall be applicable to regulate the practice of pharmacy for that portion of the nonresident pharmacy's Louisiana pharmacy practice or operation.

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 18:1381 (December 1992) effective January 1, 1993, LR 29:2100 (October 2003), effective January 1, 2004, amended by the Department of Health, Board of Pharmacy, LR 49:680 (April 2023).

§2311. Inspection

A. The facilities and records of the nonresident pharmacy shall be subject to inspection by the board or its designated agent(s).

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 18:1381 (December 1992) effective January 1, 1993, LR 29:2101 (October 2003), effective January 1, 2004, amended by the Department of Health, Board of Pharmacy, LR 49:681 (April 2023).

§2317. Nonresident Pharmacy Closure Procedures

A. Notice. Notice shall be afforded the board not less than 10 days prior to the anticipated closure date of a nonresident pharmacy. Said notice shall include the location of all transferred prescription files for Louisiana residents.

B. Permit. The nonresident pharmacy permit holder shall surrender the pharmacy permit to the board upon closure.

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 18:1381 (December 1992) effective January 1, 1993, LR 29:2101 (October 2003), effective January 1, 2004, amended by the Department of Health, Board of Pharmacy, LR 49:681 (April 2023).

§2319. Jurisdiction

A. Nonresident pharmacies soliciting, receiving, and dispensing and delivering prescription drugs and devices, including controlled dangerous substances as defined in 21 USC §1, et seq. and 21 CFR 1 et seq., or their successors, and delivered to residents in Louisiana constitutes doing business in Louisiana.

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 18:1381 (December 1992) effective January 1, 1993, LR 29:2101 (October 2003), effective January 1, 2004, amended by the Department of Health, Board of Pharmacy, LR 49:681 (April 2023).

M. Joseph Fontenot Jr.
Executive Director

2304#028

RULE

**Department of Health
Board of Pharmacy**

**Partial Fills of Controlled Dangerous Substance
Prescriptions (LAC 46:LIII.2735 and 2747)**

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 has amended §§2735 and 2747 of its rules relative to prescriptions for controlled dangerous substances. The change in §2735 require pharmacies dispensing prescriptions for controlled dangerous substances to use a dispensing information system capable of accurately recording partial fills and refills of such prescriptions. The changes in §2747 require a pharmacist to dispense a partial fill of a

prescription for a controlled dangerous substance when requested by the patient or prescriber, subject to the pharmacist’s obligation relative to corresponding responsibility. This Rule is hereby adopted on the day of promulgation.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LIII. Pharmacists

Chapter 27. Controlled Dangerous Substances

Subchapter E. Recordkeeping Requirements

§2735. Continuing Records

A. - A.4. ...

B. Records for Manufacturers, Distributors, Third-Party Logistics Providers, Dispensers, Researchers, Importers, and Exporters

1. - 2. ...

3. Record for Dispensers and Researchers

a. Each person authorized to dispense or conduct research with controlled substances shall maintain records with the same information required of manufacturers pursuant to this Section.

b. In addition, records shall be maintained of the number of units or volume of such finished form dispensed, including the name and address of the person to whom it was dispensed, the date of dispensing, the number of units or volume dispensed, and the written or typewritten name or initials of the individual who dispensed or administered the substance on behalf of the dispenser.

c. In addition to the requirements of this Paragraph, practitioners dispensing gamma-hydroxybutyric acid under a prescription shall also comply with federal law.

d. Pharmacies dispensing prescriptions for controlled substances shall use a dispensing information system capable of accurately recording partial fills and refills.

B.4. - F.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 34:2142 (October 2008), amended by the Department of Health, Board of Pharmacy, LR 46:571 (April 2020), amended LR 49:681 (April 2023).

§2747. Dispensing Requirements

A. ...

B. Prescriptions for Controlled Substances Listed in Schedule II

1. - 4.c. iv ...

5. Partial Filling of Prescription

a. The partial filling of a prescription for a controlled substance listed in Schedule II is permissible with the following limitations:

i. ...

ii. When a partial fill is requested by the patient or the prescriber, the pharmacist shall dispense a quantity less than the total quantity prescribed. The total quantity dispensed in all partial fillings shall not exceed the total quantity prescribed. No remaining portion of a partial filling may be dispensed more than 30 days after the date on which the prescription was written. The requirement for a pharmacist to comply with a patient or prescriber request to dispense a partial fill shall not supersede the pharmacist’s

obligation relative to corresponding responsibility as described in Subsection E of this Section.

5.b. - 8.b.iii. ...

C. Prescriptions for Controlled Substances Listed in Schedule III, IV, or V

1. - 4.c.v. ...

5. Partial Filling of Prescriptions. When requested by the patient or prescriber, the pharmacist shall dispense a partial fill of a controlled substance listed in Schedules III, IV or V, provided that:

a. the information required for a partial filling, and the manner in which it is recorded, is the same as that required for a refill;

b. the number of partial fillings is not limited; however, the total quantity dispensed in all partial fillings shall not exceed the total quantity authorized on the original prescription. The total quantity authorized may be calculated as the sum of:

i. the quantity prescribed, and

ii. the calculated amount of the quantity prescribed times the number of refills originally authorized by the prescriber;

c. no dispensing shall occur more than six months after the date on which the prescription for a controlled substance listed in Schedule III or IV was issued, or more than one year after the date on which the prescription for a controlled substance listed in Schedule V was issued; and

d. the requirement for a pharmacist to comply with a patient or prescriber request to dispense a partial fill shall not supersede the pharmacist's obligation relative to corresponding responsibility as described in Subsection E of this Section.

C.6. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 34:2152 (October 2008), LR 41:685 (April 2015), amended by the Department of Health, Board of Pharmacy, LR 46:577 (April 2020), LR 47:1645 (November 2021), amended LR 49:681 (April 2023).

M. Joseph Fontenot, Jr.
Executive Director

2304#027

RULE

**Department of Health
Bureau of Health Services Financing**

**Dental Benefits Prepaid Ambulatory Health Plan
(LAC 50:I.2101 and 2105)**

The Department of Health, Bureau of Health Services Financing has amended LAC 50:I.2101 and 2105 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 I. Administration

Subpart 3. Managed Care for Physical and Behavioral Health

Chapter 21. Dental Benefits Prepaid Ambulatory Health Plan

§2101. General Provisions

A. ...

B. All Medicaid beneficiaries will receive dental services administered by a dental benefit plan manager (DBPM).

1. The number of DBPMs shall be no more than required to meet the Medicaid enrollee capacity requirements and ensure choice for Medicaid beneficiaries.

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 40:784 (April 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 46:1227 (September 2020), LR 49:682 (April 2023).

§2105. Prepaid Ambulatory Health Plan Responsibilities

A. - A.5. ...

B. The department will contract with an enrollment broker who will be responsible for the enrollment and disenrollment process for DBPM participants. The enrollment broker shall be:

1. the primary contact for beneficiaries regarding the DBPM enrollment and disenrollment process, and shall assist the beneficiary to enroll in a DBPM;

2. the only authorized entity, other than the department, to assist a beneficiary in the selection of a DBPM; and

B.3. - N. ...

O. A DBPM shall be responsible for conducting routine provider monitoring to ensure:

1. continued access to dental care for eligible Medicaid beneficiaries; and

O.2. - U.2. ...

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 40:784 (April 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 46:1228 (September 2020), LR 49:682 (April 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
LDH Secretary

2304#054

RULE

**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
Direct Support Worker Wages and Bonus Payments
(LAC 50:XXI.2901)

The Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services has adopted LAC 50:XXI.2901 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.

House Concurrent Resolution 127 (HCR 127) of the 2021 Regular Session of the Louisiana Legislature requested the department make adjustments in the state Medicaid budget for the purpose of increasing funding more equitably to providers throughout the disabilities services system. The U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) approved the use of bonus payments for agencies providing adult day health care (ADHC) services to home and community-based services waiver participants under section 9817 of the American Rescue Plan.

In compliance with HCR 127, the Department of Health, Bureau of Health Services Financing and the Office for Aging and Adult Services promulgated an Emergency Rule which adopted provisions governing reimbursement in the Adult Day Health Care (ADHC) Waiver in order to establish a direct wage floor and workforce retention bonus payments for direct support workers at ADHC centers along with audit procedures and sanctions (*Louisiana Register*, Volume 48, Number 8). This Rule is being promulgated to continue the provisions of the July 31, 2022 Emergency Rule. This Rule is hereby adopted on the day of promulgation.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

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

Subpart 3. Adult Day Health Care Waiver

Chapter 29. Reimbursement

**§2901. Adult Day Health Care (ADHC) Direct Support
Worker Wages, Other Benefits, and Workforce
Retention Bonus Payments**

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.

3. - 4. Repealed.

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 49:683 (April 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.

Dr. Courtney N. Phillips
Secretary

2304#055

RULE

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

Home and Community-Based Services Waivers
Community Choices Waiver
Direct Support/Service Worker Wages and Bonus Payments
(LAC 50:XXI.9503)

The Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services have adopted LAC 50:XXI.9503 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 XXI. Home and Community-Based Services
Waivers**

Subpart 7. Community Choices Waiver

Chapter 95. Reimbursement

§9503. Direct Support/Service Worker Wages, Other Benefits, and Workforce Retention Bonus Payments

A. Establishment of Direct Support/Service Worker Wage Floor and Other Benefits

1. Personal assistance service (PAS) providers that were providing services on or after October 1, 2021 and employing direct service workers (DSWs) will receive the equivalent of a \$5.50 per hour rate increase.

2. DSWs providing self-direction PAS on or after July 31, 2022 shall be paid a minimum wage floor of \$9 per hour.

3. Adult day health care (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).

4. All PAS and ADHC providers affected by this rate increase shall be subject to passing 70 percent of their rate increases directly to the direct support/service worker in various forms. These forms include a minimum wage floor of \$9 per hour and other wage and non-wage benefits. This wage floor and wage and non-wage benefits are effective for all affected direct support/service workers of any working status, whether full-time or part-time.

5. The rate increase, 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.

6. The Department of Health (LDH) reserves the right to adjust the direct support/service 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/Service Worker Workforce Bonus Payments

1. PAS and ADHC providers who provided services from April 1, 2021 to October 31, 2022 shall receive bonus payments of \$300 per month for each direct support/service worker that worked with participants for those months.

2. The PAS and ADHC direct support/service 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 direct support/service workers of any working status, whether full-time or part-time.

C. Audit Procedures for Direct Support/Service Worker Wage Floor, Other Benefits, and Workforce Bonus Payments

1. The wage enhancements, wage and non-wage benefits and bonus payments reimbursed to providers shall be subject to audit by LDH.

2. Providers shall provide to LDH or its representative all requested documentation to verify that they are in compliance with the direct support/service 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. 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 enhancements, wage and non-wage benefits and/or bonus payments were paid directly to direct support/service workers may result in the following:

- a. sanctions; or
- b. disenrollment from the Medicaid Program.

D. Sanctions for Direct Support/Service Worker Wages, Other Benefits, and Workforce Payments

1. Providers 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 PAS and ADHC provider rate increases directly to the direct support/service 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 PAS and ADHC provider has not passed 70 percent of the provider rate increases directly to the direct support/service 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 PAS and ADHC provider rate increases directly to the direct support/service 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 49:684 (April 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
LDH Secretary

2304#056

RULE

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

Home and Community-Based Services Waivers
Support Coordination Workforce Bonus Payments
(LAC 50:XXI.553)

The Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services have adopted LAC 50:XXI.553 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 XXI. Home and Community-Based Services Waivers

Subpart 1. General Provisions

Chapter 5. Support Coordination Standards for Participation for Office of Aging and Adult Services Waiver Programs

Subchapter C. Provider Responsibilities

§553. Workforce Retention Bonus Payments

A. Establishment of Support Coordination Workforce Bonus Payments

1. Support coordination agencies (SCAs) who provided services from April 1, 2021 to October 31, 2022 shall receive bonus payments of \$300 per month for each SCA staff member that worked directly with participants for those months.

2. The SCA staff member who worked directly with participants from April 1, 2021 to October 31, 2022 must receive at least \$250 of this \$300 bonus payment paid to the agency. This bonus payment is effective for all affected SCA staff members of any working status, whether full-time or part-time.

B. Audit Procedures for Support Coordination Workforce Bonus Payments

1. The bonus payments reimbursed to support coordination agencies shall be subject to audit by LDH.

2. Support coordination agencies shall provide to LDH or its representative all requested documentation to verify that they are in compliance with the SCA staff member bonus payments.

3. This documentation may include, but is not limited to, payroll records, wage and salary sheets, check stubs, etc.

4. Support coordination agencies shall produce the requested documentation upon request and within the timeframe provided by LDH.

5. Non-compliance or failure to demonstrate that the bonus payments were paid directly to SCA staff member may result in the following:

- a. sanctions; or
- b. disenrollment from the Medicaid program.

C. Sanctions for Support Coordination Workforce Bonus Payments

1. The support coordination agencies will be subject to sanctions or penalties for failure to comply with this Rule. The severity of such action shall depend upon the following:

- a. failure to pay SCA staff members the \$250 monthly bonus payments;
- b. the number of employees identified as having been paid less than the \$250 monthly bonus payments; or
- c. the persistent failure to pay 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 49:685 (April 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
LDH Secretary

2304#057

RULE

**Department of Health
Bureau of Health Services Financing**

Inpatient Hospital Services

The Department of Health, Bureau of Health Services Financing has repealed the following uncodified rules in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act.

Register Date	Title	Register Volume, Number	Page Number
July 20, 1977	Policy Change to allow hospital reimbursement when dentists admit patients	Vol 3 No 7	309
March 20, 1980	Inpatient Hospital Benefits for Diagnostic Procedures	Vol 6 No 3	113
June 20, 1983	Discontinue use of Professional Standards Review Organizations (PSROs)	Vol 9 No 6	413
August 20, 1984	Office of Family Security—Change in in-patient hospital reimbursement methodology	Vol 10 No 8	599
December 20, 1985	Medical Assistance Program (MAP) – Delete prior authorizations for surgical procedures	Vol 11 No 12	1147

Register Date	Title	Register Volume, Number	Page Number
February 20, 1987	Medical Assistance Program (MAP) – Elimination of categories O, F, V and I	Vol. 13 No. 2	92
October 20, 1987	Medical Assistance Program (MAP) – Psychiatric hospitals standards for payments	Vol. 13 No. 10	578
June 20, 1988	Office of Eligibility Determination—MAP—Hospital program rate freeze	Vol. 14 No. 6	351
October 20, 1992	Inpatient Hospital Services Reimbursement (Infants Under One Year)	Vol. 18 No. 10	1132
June 20, 1993	Inpatient Psychiatric Services—Reimbursement	Vol. 19 No. 6	751
July 20, 1993	Hospital Neurological Rehabilitation Program	Vol. 19 No. 7	893
June 20, 1994	Pre-admission Certification and Length of Stay Criteria for Inpatient Hospital Services	Vol. 20 No. 6	668
June 20, 1995	Inpatient Psychiatric Services	Vol.21 No. 6	575
January 20, 1996	Hospital Program-Reimbursement Inflation	Vol.22 No. 1	33
February 20, 1996	Hospital Program—Acute Inpatient Hospital Services, Outlier	Vol. 22 No. 2	106
February 20, 1997	Hospital Prospective Reimbursement Methodology for Rehabilitation Hospitals	Vol. 23 No. 2	202
May 20, 1999	Hospital Neurological Rehabilitation Program—Reimbursement Methodology	Vol. 25 No. 5	875
May 20, 1999	Inpatient Psychiatric Services Reimbursement Methodology	Vol. 25 No. 5	875
June 20, 1999	Office of Secretary, BHSF—Private Hospital—Reimbursement Methodology	Vol. 25 No. 6	1099
March 20, 2000	Hospital Prospective Reimbursement Methodology—Teaching Hospitals	Vol 26 No. 03	498
June 20, 2000	Inpatient Hospital Reimbursement Medicare Part A Claims	Vol 26 No. 06	1299
June 20, 2001	Inpatient Hospital Services Extensions and Retrospective Reviews of Length of Stay	Vol. 27 No. 6	856
December 20, 2001	Inpatient Psychiatric Services Reimbursement Increase	Vol. 27 No. 12	2238
June 20, 2003	Private Hospitals Outlier Payments	Vol. 29 No. 06	914
December 20, 2003	Public Hospitals Inpatient Reimbursement Methodology Target Rate per Discharge	Vol. 29 No. 12	2803
February 20, 2004	Public Hospitals Reimbursement Methodology Upper Payment Limit	Vol. 30 No. 2	254
June 20, 2004	State Owned or Operated Hospitals Inpatient Psychiatric Services Reimbursement Increase	Vol. 30 No. 6	1211
November 20, 2004	Private and Public Non-State Owned and Operated Hospitals Inpatient Psychiatric Services Reimbursement Increase	Vol. 30 No. 11	2489
February 20, 2006	Inpatient Hospital Services—State Hospitals—Reimbursement Methodology	Vol. 32 No. 2	247
February 20, 2007	Inpatient Psychiatric Services—Private Hospitals—Reimbursement Rate Increase	Vol. 33 No. 2	289

This Rule is promulgated in accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

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
LDH Secretary

2304#058

RULE

Department of Health Bureau of Health Services Financing

Intermediate Care Facilities for Persons with Intellectual
Disabilities
Reimbursement Methodology
Dental Services
(LAC 50:VII.Chapter 329)

The Department of Health, Bureau of Health Services Financing has amended LAC 50:Chapter 329 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part VII. Long-Term Care

Subpart 3. Intermediate Care Facilities for Persons with Intellectual Disabilities

Chapter 329. Reimbursement Methodology

Subchapter A. Non-State Facilities

§32903. Rate Determination

A. Resident per diem rates are calculated based on information reported on the cost report. ICFs/IID will receive a rate for each resident. The rates are based on cost components appropriate for an economic and efficient ICF/IID providing quality service. The resident per diem rates represent the best judgment of the state to provide reasonable and adequate reimbursement required to cover the costs of economic and efficient ICF/IID.

B. ...

C. A resident's per diem rate will be the sum of:

1. - 3. ...

4. capital rate;

5. provider fee; and

6. dental pass-through/add-on per diem rate (effective for dates of service on or after May 1, 2023).

D. - D.1....

a. Median Cost. The direct care per diem median cost for each ICF/IID is determined by dividing the facility's total direct care costs reported on the cost report by the facility's total days during the cost reporting period. Direct care costs for providers in each peer group are arrayed from low to high and the median (50th percentile) cost is determined for each peer group.

b. - d. ...

* * *

e. Direct Service Provider Wage Enhancement. For dates of service on or after February 9, 2007, the direct care

reimbursement in the amount of \$2 per hour to ICF/IDD providers shall include a direct care service worker wage enhancement incentive. It is the intent that this wage enhancement be paid to the direct care staff. Non-compliance with the wage enhancement shall be subject to recoupment.

1.e.i. - 2. ...

a. Median Cost. The care related per diem median cost for each ICF/IID is determined by dividing the facility's total care related costs reported on the cost report by the facility's actual total resident days during the cost reporting period. Care related costs for all providers are arrayed from low to high and the median (50th percentile) cost is determined.

2.b. - 3. ...

a. Median Cost. The administrative and operating per diem median cost for each ICF/IID is determined by dividing the facility's total administrative and operating costs reported on the cost report by the facility's actual total resident days during the cost reporting period. Administrative and operating costs for all providers are arrayed from low to high and the median (50th percentile) cost is determined.

3.b. - 4. ...

a. Median Cost. The capital per diem median cost for each ICF/IID is determined by dividing the facility's total capital costs reported on the cost report by the facility's actual total resident days during the cost reporting period. Capital costs for providers of each peer group are arrayed from low to high and the median (50th percentile) cost is determined for each peer group.

4.b. - d.i. ...

5. The dental add-on per diem rate shall be a statewide price, and the pass-through, once calculated, will be facility specific. This pass-through/add-on may be adjusted annually and will not follow the rebasing and inflationary adjustment schedule. The dental pass-through/add-on per diem rate shall be determined as follows:

a. Prior to inclusion of these costs on facility cost reports, a per diem add on will be created based on estimates provided by the state's actuary and should reflect the costs associated with those basic dental services that are excluded from the dental PMPMs paid to the Louisiana Medicaid dental managed care entity(ies).

b. The above dental add-on per-diem, but not the pass-through rate, paid to each facility will be subject to a wholly separate and distinct floor calculation for each cost report year that the per-diem is in effect, beginning July 1, 2023. The total sum of the per-diem add-on paid to each facility will be compared to each facilities costs associated with basic dental services that are excluded from the dental PMPMs paid to the Louisiana Medicaid dental managed care entity(ies). Should 95 percent of the total per-diem add-on paid exceed the facilities noted cost, the facility shall remit to the bureau the difference between these two amounts.

c. Once these dental expenses have been recognized in a facility cost report with a year ended on or after June 30, 2024 that is utilized in a rate rebase period, the add-on will no longer be paid to that facility and a facility specific pass-through per-diem rate will be calculated as the total dental cost reported on the cost report divided by total cost report patient days. These per-diem rates and costs will follow the

same oversight procedures as noted at Section 32909. The facility specific pass-through per-diem may be reviewed and adjusted annually, at the discretion of the department.

E. The rates for the 1-8 bed peer group shall be set based on costs in accordance with §32903.B-D.4.d. The reimbursement rates for peer groups of larger facilities will also be set in accordance with §32903.B-D.4.d; however, the rates, excluding any dental pass-through/add-on will be limited as follows.

E.1. - G. ...

H. A facility requesting a pervasive plus rate supplement shall bear the burden of proof in establishing the facts and circumstances necessary to support the supplement in a format and with supporting documentation specified by the LDH ICAP Review Committee.

1. The LDH ICAP Review Committee shall make a determination of the most appropriate staff required to provide requested supplemental services.

2. The amount of the Pervasive Plus supplement shall be calculated using the Louisiana Civil Service pay grid for the appropriate position as determined by the LDH ICAP Review Committee and shall be the 25th percentile salary level plus 20 percent for related benefits times the number of hours approved.

I. ...

1. The provider must submit sufficient medical supportive documentation to the LDH ICAP Review Committee to establish medical need for enteral nutrition, ostomy or tracheotomy medical supplies.

I.1.a. - J. ...

K. Effective for dates of service on or after August 1, 2010, the per diem rates for non-state intermediate care facilities for persons with developmental disabilities (ICFs/IID) shall be reduced by 2 percent of the per diem rates on file as of July 31, 2010.

1. Effective for dates of service on or after December 20, 2010, non-state ICFs/IID which have downsized from over 100 beds to less than 35 beds prior to December 31, 2010 shall be excluded from the August 1, 2010 rate reduction.

L. Effective for dates of service on or after August 1, 2010, the per diem rates for ICFs/IID which have downsized from over 100 beds to less than 35 beds prior to December 31, 2010 shall be restored to the rates in effect on January 1, 2009.

M. Effective for dates of service on or after July 1, 2012, the per diem rates for non-state intermediate care facilities for persons with developmental disabilities (ICFs/IID) shall be reduced by 1.5 percent of the per diem rates on file as of June 30, 2012.

N. Pursuant to the provisions of Act 1 of the 2020 First Extraordinary Session of the Louisiana Legislature, effective for dates of service on or after July 1, 2020, private ICF/IID facilities that downsized from over 100 beds to less than 35 beds prior to December 31, 2010 without the benefit of a cooperative endeavor agreement (CEA) or transitional rate and who incurred excessive capital costs, shall have their per diem rates (excluding provider fees) increased by a percent equal to the percent difference of per diem rates (excluding provider fees and dental pass through) they were paid as of June 30, 2019. See chart below with the applicable percentages:

* * *

1. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:2253 (September 2005), amended LR 33:462 (March 2007), LR 33:2202 (October 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1555 (July 2010), LR 37:3028 (October 2011), LR 39:1780 (July 2013), LR 39:2766 (October 2013), LR 41:539 (March 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 47:370 (March 2021), LR 49:687 (April 2023).

§32904. Temporary Reimbursement for Private Facilities

A. - B. ...

C. The temporary Medicaid reimbursement rate is all-inclusive and incorporates the following cost components:

1. - 4. ...

5. administrative;

6. the provider fee; and

7. dental pass-through/add-on per diem rate (effective for dates of service on or after January 1, 2023).

D. - E.2.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, Bureau of Health Services Financing, LR 47:593 (May 2021), amended LR 48:2129 (August 2022), LR 49:688 (April 2023).

§32905. ICAP Requirements

A. An ICAP must be completed for each recipient of ICF/IID services upon admission and while residing in an ICF/IID in accordance with departmental regulations.

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 Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1593 (July 2005), repromulgated LR 31:2254 (September 2005), LR 49:688 (April 2023).

§32907. ICAP Monitoring

A. ICAP scores and assessments will be subject to review by LDH and its contracted agents. The reviews of ICAP submissions include, but are not limited to:

1. - 4. ...

B. ICAP Review Committee

1. Requests for Pervasive Plus must be reviewed and approved by the LDH ICAP Review Committee.

B.2. - C. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1594 (July 2005), repromulgated LR 31:2254 (September 2005), amended by the Department of Health, Bureau of Health Services Financing, LR 49:688 (April 2023).

§32909. Audits

A. Each ICF/IID shall file an annual facility cost report and a central office cost report.

B. ICF/IID shall be subject to financial and compliance audits.

C. All providers who elect to participate in the Medicaid Program shall be subject to audit by state or federal

regulators or their designees. Audit selection for the department shall be at the discretion of LDH.

1. A representative sample of the ICF/IID shall be fully audited to ensure the fiscal integrity of the program and compliance of providers with program regulations governing reimbursement.

2. Limited scope and exception audits shall also be conducted as determined by LDH.

3. LDH conducts desk reviews of all the cost reports received. LDH also conducts on-site audits of provider records and cost reports.

a. LDH seeks to maximize the number of on-site audited cost reports available for use in its cost projections although the number of on-site audits performed each year may vary.

b. Whenever possible, the records necessary to verify information submitted to LDH on Medicaid cost reports, including related-party transactions and other business activities engaged in by the provider, must be accessible to LDH audit staff in the state of Louisiana.

D. Cost of Out-of-State Audits

1. When records are not available to LDH audit staff within Louisiana, the provider must pay the actual costs for LDH staff to travel and review the records out-of-state.

2. If a provider fails to reimburse LDH for these costs within 60 days of the request for payment, LDH may place a hold on the vendor payments until the costs are paid in full.

E. In addition to the exclusions and adjustments made during desk reviews and on-site audits, LDH may exclude or adjust certain expenses in the cost-report data base in order to base rates on the reasonable and necessary costs that an economical and efficient provider must incur.

F. The facility shall retain such records or files as required by LDH and shall have them available for inspection for five years from the date of service or until all audit exceptions are resolved, whichever period is longer.

G. If LDH's auditors determine that a facility's records are unauditible, the vendor payments may be withheld until the facility submits an acceptable plan of correction to reconstruct the records. Any additional costs incurred to complete the audit shall be paid by the provider.

H. Vendor payments may also be withheld under the following conditions:

1. ...

2. a facility fails to respond satisfactorily to LDH's request for information within 15 days after receiving the department's letter.

I. If LDH's audit of the residents' personal funds account indicate a material number of transactions were not sufficiently supported or material noncompliance, then LDH shall initiate a full scope audit of the account. The cost of the full scope audit shall be withheld from the vendor payments.

J. The ICF/IID shall cooperate with the audit process by:

1. - 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 Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1594 (July 2005), repromulgated LR 31:2254 (September 2005), amended by the Department of Health, Bureau of Health Services Financing, LR 49:688 (April 2023).

§32913. Leave of Absence Days

A. The reimbursement to non-state ICFs/IID for hospital leave of absence days is 85 percent of the applicable per diem rate.

B. ...

1. A leave of absence is a temporary stay outside of the ICF/IID, for reasons other than for hospitalization, provided for in the recipient's written individual habilitation plan.

C. Effective for dates of service on or after February 20, 2009, the reimbursement to non-state ICFs/IID for leave of absence days is 85 percent of the applicable per diem rate on file as of February 19, 2009.

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 27:57 (January 2001), repromulgated LR 31:2255 (September 2005), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1897 (September 2009), amended by the House of Representatives, House Concurrent Resolution No. 4 of the 2022 Regular Legislative Session, LR 48:2024 (July 2022), amended by the Department of Health, Bureau of Health Services Financing, LR 49:689 (April 2023).

Subchapter C. Public Facilities

§32965. State-Owned and Operated Facilities

A. Medicaid payments to state-owned and operated intermediate care facilities for persons with developmental disabilities are based on the Medicare formula for determining the routine service cost limits as follows:

1. calculate each state-owned and operated ICF/IID's per diem routine costs in a base year;

A.2. - B. ...

C. The sum of the calculations for routine service costs and the capital and ancillary costs "pass-through" shall be the per diem rate for each state-owned and operated ICF/IID. The base year cost reports to be used for the initial calculations shall be the cost reports for the fiscal year ended June 30, 2002.

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 39:325 (February 2013), amended by the Department of Health, LR 49:689 (April 2023).

§32967. Quasi-Public Facilities

A. ...

B. The payment rates for quasi-public facilities shall be determined as follows:

1. determine each ICF/IID's per diem for the base year beginning July 1;

B.2. - C. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:326 (February 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 49:689 (April 2023).

§32969. Transitional Rates for Public Facilities

A. Effective October 1, 2012, the department shall establish a transitional Medicaid reimbursement rate of \$302.08 per day per individual for a public ICF/IID facility

over 50 beds that is transitioning to a private provider, as long as the provider meets the following criteria:

1. - 2.a. ...

3. incurs or will incur higher existing costs not currently captured in the private ICF/IID rate methodology; and

4. shall agree to downsizing and implement a pre-approved OCDD plan:

a. any ICF/IID home that is a cooperative endeavor agreement (CEA) to which individuals transition to satisfy downsizing requirements, shall not exceed 6-8 beds.

B. - G. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:326 (February 2013), amended LR 40:2588 (December 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 44:60 (January 2018), LR 44:772 (April 2018), LR 45:273 (February 2019), LR 45:435 (March 2019), LR 49:689 (April 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
LDH Secretary

2304#059

RULE

**Department of Health
Bureau of Health Services Financing**

**Nurse Aide Training and Competency Evaluation Program
Medication Attendant Certified
Licensing Standards
(LAC 48:I.Chapter 100)**

The Department of Health, Bureau of Health Services Financing has amended LAC 48:I.Chapter 100 as authorized by R.S. 36:254 and R.S. 40:2131-2141. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Act 112 of the 2022 Regular Session of the Louisiana Legislature revised the requirements for medication administration and medication attendant services provided in long-term care facilities. In compliance with Act 112, the Department of Health, Bureau of Health Services Financing has amended the provisions governing the Nursing Aide Training and Competency Evaluation Program in order to update the licensing requirements for medication attendants certified that provide services in licensed long-term care facilities. 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 G. Medication Attendant Certified

§10080. Definitions

Abuse—Repealed.

1. - 4. Repealed.

Adult Residential Care Provider—a facility, agency, institution, society, corporation, partnership, company, entity, residence, person or persons, or any other group which provides adult residential care for compensation to two or more adults who are unrelated to the licensee or operator.

Licensed Nurse—a licensed registered nurse (RN) or a licensed practical nurse (LPN) who is acting within the scope of practice of his/her respective licensing board(s) and/or certifications.

Licensed Practical Nurse (LPN)—a person who practices practical nursing and who is licensed to practice practical nursing in accordance with R.S. 38:961, or current law.

Licensed Long-Term Care Facility (LLCF)—nursing home as defined in R.S. 40:2009.2 and an adult residential care provider as defined in R.S. 40:2166.3.

Medication Attendant Certified (MAC)—a person certified by LDH to administer medications to licensed long-term care facility residents, hereafter referred to as a MAC.

Medication Error—the observed or identified preparation or administration of medications or biologicals that is not in accordance with:

1. the prescriber’s order(s);
2. manufacturer’s specifications regarding the preparation and administration of the medication or biological; or
3. accepted professional standards and principles that apply to professionals providing services. Accepted professional standards and principles include any state practice regulations and current commonly accepted health standards established by national organizations, boards, and councils.

Medication Error Rate—is determined by calculating the percentage of medication errors observed during a medication administration observation. The numerator in the ratio is the total number of errors that the HSS survey team observes, both significant and non-significant. The denominator consists of the total number of observations, or opportunities for errors, and includes all the doses the HSS survey team observed being administered plus the doses ordered but not administered. The equation for calculating a medication error rate is as follows: medication error rate equals number of errors observed divided by the opportunities for errors times 100.

Nurse Aide—Repealed.

Nursing Facility or Nursing Home—an institution licensed pursuant to R.S. 40:2009.1-2009.10.

Nursing Home—Repealed.

Registered Nurse (RN)—any individual licensed and/or certified 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, or current law.

* * *

Significant Medication Error—one which causes the resident discomfort or jeopardizes health or safety. The significance of medication errors is a matter of professional judgement. A significant medication error shall be determined based on the resident's condition, drug category, and frequency of error.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 37:1026.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1413 (July 2008), amended by the Department of Health, Bureau of Health Services Financing, LR 46:29 (January 2020), LR 49:690 (April 2023).

§10081. General Provisions

A. The LDH establishes provisions for the use of MACs in LLCFs. The department shall maintain a registry of individuals who have, at a minimum:

1. passed a qualifying CNA examination and are in good standing;

2. successfully completed a state-approved MAC training course and competency evaluation administered by a state-approved testing source; and

3. ...

B. The MAC registry shall contain the following items:

1. a list of individuals who have successfully completed the approved MAC training curriculum and competency evaluation. Each individual listed shall have the following information maintained on the registry:

a. - i.iii. ...

iv. exploitation and misappropriation of property;

v. significant medication errors; and

vi. an accurate summary of findings after action on findings are final and after any appeal is ruled upon or the deadline for filing an appeal has expired;

B.1.j. - C. ...

D. Change of Information. A MAC certificate holder shall notify the department as soon as possible but no later than 30 days after changing his or her address, telephone number, e-mail address, or name.

E. ...

F. Letter of Certification. An initial letter of certification shall be valid for 12 months from the date of issuance.

1. - 3. Repealed.

G. A MAC may perform certain duties and functions delegated by a licensed RN and under direct supervision of a licensed nurse who is on-site and on duty at the LLCF. Although the performance of selected medication administration tasks are delegated to the MAC by the RN, the RN retains the accountability for the total nursing care of the resident, regardless of whether the care is provided solely by the RN or by the RN in conjunction with other licensed or unlicensed assistive personnel. The MAC shall:

1. function in accordance with applicable laws and rules relating to administration of medication and operation of a LLCF; and

2. comply with the department's rules applicable to such personnel used in a LLCF.

H. Persons employed as MACs in a LLCF shall comply with the requirements relating to CNAs as set forth in the Omnibus Budget Reconciliation Act of 1987, Public Law 100-203 and minimum licensure standards for nursing facilities, and CNA training and competency evaluation, or subsequent amendments.

I. Restriction. While on duty, a MAC's sole function shall be to administer medications to residents. Persons employed as medication attendants in a LLCF may not be assigned additional responsibilities. If medication administration has been completed, they may assist in other areas.

J. LLCFs may count the MAC in required nursing hours.

J.1. - M. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 37:1026.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1413 (July 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:1248 (May 2012), repromulgated LR 38:1412 (June 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 46:30 (January 2020), LR 49:691 (April 2023), LR 49:691 (April 2023).

§10082. General Requirements

A. Prior to application for a certificate under this Chapter, all persons shall:

1. - 5. ...

6. be currently employed in a LLCF as a CNA on the first official day of an applicant's MAC training program;

7. have a minimum of one year experience in a LLCF; and

8. successfully pass a statewide criminal background/security check conducted by the State Police, or its designee, within 90 days of an applicant starting the MAC program and be free of abused substances as evidenced by periodic drug testing in accordance with the LLCF's policies and procedures. Verification of these results must be received by the training entity, documented, and maintained in the personnel file.

B. A MAC may not administer medication to a resident in a LLCF unless he/she:

1. ...

2. is currently enrolled in the state approved training course and is acting under the direct supervision of faculty.

C. All MAC training and competency evaluation programs must be approved by the department. Each state-approved MAC training and competency evaluation program shall:

1. maintain qualified, approved RNs and LPNs for classroom and clinical instruction;

2. protect the integrity of the competency evaluations by keeping them secure;

3. utilize a pass rate of at least 80 percent for each individual student; and

4. assure the curriculum meets state requirements.

D. Clinical instruction shall be conducted in an approved LLCF with a ratio of no more than 5:1 under the direct supervision of the instructor.

1. - 4. Repealed.

E. Training programs that do not meet minimum standards and cannot provide an acceptable plan for correcting deficiencies shall be eliminated from participation.

F. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 37:1026.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1414 (July 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:1249 (May 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 46:30 (January 2020), LR 49:691 (April 2023).

§10083. Certification Requirements

A. Initial Certification

1. be a CNA in good standing;
 - a. - b. Repealed.
2. be employed in a MAC approved LLCF;
3. meet requirements set forth in §10082; and
4. complete the required MAC training program.

B. Renewal Certification

1. A MAC certificate holder shall:
 - a. be a CNA in good standing;
 - b. have no findings on the MAC registry;
 - c. submit the following documentation to the registry prior to the expiration date of the certificate:
 - i. a signed attestation acknowledging review of the current MAC requirements;
 - ii. documentation of having completed four hours of state-approved continuing education administered by an approved institution focusing on medication administration, prior to expiration of the certificate; and
 - iii. documentation of having worked at least 400 hours within the previous 12 months as a MAC in an LLCF.
 - d. - 3. Repealed.

C. Denial of Renewal. The department shall deny renewal of the certificate of a MAC who is in violation of this Chapter at the time of the application renewal.

1. - 3. Repealed.

D. Reciprocity. A person who holds a valid license, registration or certificate as a MAC issued by another state shall also be certified in Louisiana if the transferring state's training program is at least 120 hours or more and the applicant passed that state's-approved MAC competency examination.

1. The applicant shall initially submit an application for reciprocity to the CNA registry as set forth in the CNA training competency evaluation program, §10035 of this Chapter.

2. Once placed on the CNA registry in the state of Louisiana, the applicant may submit an application for reciprocity to the MAC Registry.

3. The application shall include a certified copy of the license or certificate for which the reciprocal certificate is requested.

4. The department shall contact the issuing agency to verify the applicant's status with the agency.

5. The applicant shall submit documentation of 400 hours employed as a MAC within the previous 12 months.

E. Expired Certification. A MAC whose certificate has expired shall not perform medication administration until the

certificate has been reissued. The following criteria shall be met and documentation submitted to the registry for consideration of certificate re-issuance:

1. Documentation of 400 employment hours worked within the last 12 months in a LLCF as a MAC; and

2. A signed attestation acknowledging review of the current MAC requirements within 30 calendar days of expiration of the certification; or

3. Documentation supporting completion of a minimum of 40 hours of re-orientation of medication administration and the job duties of the MAC within 12 months of expiration of certification to be provided by a MAC approved LLCF. At a minimum the re-orientation shall:

a. include authorized duties and prohibited duties described in this Subchapter, and the facility's medication administration policies;

b. be provided by a licensed RN who is employed by the LLCF in which the MAC is currently employed; and

c. include documentation of a competency evaluation through skills demonstration and written examination.

4. Failure to meet the certificate renewal or re-issuance requirements within 12 months from the expiration of the certification, will be considered a voluntary surrender of the MAC certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 37:1026.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1415 (July 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:1249 (May 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 46:31 (January 2020), LR 49:692 (April 2023).

§10084. Coordinators, Instructors, and Trainers

A. Program Coordinator. The state-approved MAC training program shall have a program coordinator who provides general supervision of the training received by the MAC trainees.

1. The program coordinator shall be an RN and shall have the following experience and qualifications:

a. a minimum of two years of nursing experience, of which at least one year must be in caring for the elderly or chronically ill, obtained through employment in any of the following:

i. a LLCF unit;

ii. a geriatrics department;

iii. a chronic care hospital;

iv. other long-term care setting; or

v. experience in varied responsibilities including, but not limited to, direct resident care or supervision and staff education; and

b. completion of Vocational Trade and Industrial Education (VTIE) or Career and Technical Trade and Industrial Education (CTTIE) licensure, "train the trainer" type program, or a master's degree or higher.

2. The program coordinator shall supervise no more than two MAC training programs simultaneously and shall be on the premises where the program is being conducted for at least 50 percent of the duration of the program.

3. - 4. Repealed.

B. Instructors. Instructors shall be RNs or LPNs in a ratio such that not less than 50 percent of the instructors are RNs and shall hold a current, unencumbered Louisiana nursing license or PTP. Licensed practical (vocational) nurses, under the direct supervision of the coordinator, may provide classroom and clinical skills instruction and supervision of trainees if they have two years of experience in caring for the elderly and/or chronically ill of any age or have equivalent experience.

1. Such experience may be obtained through employment in:

- a. a LLCF;
- b. a geriatrics department;
- c. a chronic care hospital; or
- d. another long-term care setting.

2. Experience in resident care, supervision and staff education is preferred.

3. The ratio of instructors to trainees in clinical training shall not exceed 1:5 and the ratio of instructors to trainees in the classroom shall not exceed 1:15.

4. - 5. Repealed.

C. Program Trainers. Qualified resource personnel from the health field may participate as program trainers as needed for discussion or demonstration of specialized medication procedures.

1. Qualified resource personnel shall have a minimum of one year of experience in their health care field and shall be licensed, registered and/or certified, if applicable, and may include:

- a. registered nurses;
- b. licensed practical/vocational nurses;
- c. pharmacists;
- d. dietitians;
- e. LLCF administrators;
- f. gerontologists;
- g. physical therapists and occupational therapists;
- h. activities specialists; and
- i. speech/language/hearing therapists.

2. All program trainers shall have a minimum of one year of current experience in caring for the elderly and/or chronically ill of any age or have equivalent experience.

3. The training program may utilize other persons such as residents, experienced aides, and ombudsmen as resource personnel if these persons are needed to meet the planned program objectives or a specific unit of training.

D. Trainees

1. Each MAC trainee shall be clearly identified as a trainee during all clinical portions of the training. Identification should be recognizable to residents, family members, visitors and staff.

a. - c. Repealed.

2. Trainees shall take the competency evaluation (through skills demonstration and written examination) within 30 days after completion of the training program. Trainees will be given a maximum of two opportunities within 90 days following completion of the training program to successfully complete the competency evaluation program.

3. If a trainee fails to successfully complete the competency evaluation program, he or she shall re-enroll in the approved training program.

4. - 30. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 37:1026.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1415 (July 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:1250 (May 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 46:31 (January 2020), LR 49:692 (April 2023).

§10085. Training Curriculum

A. The goal of the MAC training and competency evaluation program is the provision of safe, effective and timely administration of medication to residents by MACs who are able to:

1. communicate and interact completely on a one-to-one basis with residents as part of the team implementing resident care;

2. demonstrate sensitivity to the resident's emotional, social and mental health needs through skillful, directed interactions;

3. exhibit behavior to support and promote the rights of residents; and

4. demonstrate proficiency in the skills related to medication administration.

B. Each MAC training program shall provide all trainees with a LLCF orientation that is not included in the required minimum 120 hours of core curriculum. The orientation program shall include, but not be limited to:

1. an explanation of the facility's organizational structure;

2. the facility's policies and procedures;

3. discussion of the facility's philosophy of care;

4. a description of the resident population; and

5. employee policies and procedures.

C. Core Curriculum. The curriculum content for the training program must include material which provides a basic level of knowledge and demonstrable skills for each individual completing the program. The content should include the needs of populations which may be served by an individual LLCF.

1. The core curriculum shall be a minimum of 120 hours in length which shall include a minimum of 45 clinical hours.

2. Each unit objective shall be behaviorally-stated for each topic of instruction. Each objective must state performance criteria which are measurable and will serve as the basis for the competency evaluation.

D. Minimum Curriculum. The training program shall be developed and conducted to ensure that each MAC, at a minimum, is able to demonstrate competency in the following areas including, but not limited to:

1. the basic principles of medication administration and the responsibilities of the MAC including:

a. the role and functions of a MAC;

b. the professional relationship between the MAC and the residents and their families; and

c. prohibited functions or duties;

2. definition of nurse delegation;

3. definition of the basic terms used in medication administration, including identification of the abbreviations used in medication orders and on the medication administration records;

4. review of the various forms of medications;

5. methods of medication administration including:
 - a. proper positioning of resident for various medication administrations; and
 - b. the value of good body alignment prior to and after medication administration;
6. requirements for proper storage and security of medications;
7. proper methods for disposal of drugs;
8. infection control;
9. basic anatomy and physiology;
10. the functions of the gastrointestinal, musculoskeletal, integumentary, nervous, sensory, renal and urinary, reproductive, cardiovascular, respiratory, and endocrine systems;
 - a. description of the common disorders associated with these systems; and
 - b. the effect of aging on these systems;
11. definition of pharmacology including:
 - a. medication classifications;
 - b. a description of a controlled drug and how administration of these drugs differ;
 - c. the cycle of a drug in the body; and
 - d. side effects of medications;
12. the safe administration of all forms of oral medication including:
 - a. a description of the difference among all forms of oral medication; and
 - b. special precautions observed when administering time-released capsules, enteric-coated tablets and oral suspensions;
13. appropriate procedures to follow when the resident is nothing by mouth (NPO), dysphagic, refuses the medication, vomits the medication, or has allergies;
14. application of topical medications and the standard precautions utilized in administering a topical medication;
15. the safe instillation of ophthalmic drops and ointments;
16. the safe administration of nose drops;
17. proper technique for administration of inhalant medications including:
 - a. a description of when the MAC may administer an inhalant;
18. the safe administration of a rectal suppository;
19. the safe administration of a vaginal medication;
20. developing proficiency in measuring liquid medications in a medicine cup or syringe;
21. measuring apical pulse and/or blood pressure (B/P) prior to medication administration;
22. the importance of the "chain of command;"
23. developing effective communication and interpersonal skills;
24. maintaining communication with the licensed nurse including:
 - a. a description of the situations that must be reported to the nurse;
25. the purpose of the clinical record and the importance of timely, clear and complete documentation in the medication administration record;
26. methods for avoiding medication errors:
 - a. reporting and documentation requirements when medication errors occur;

27. a resident's rights related to medication administration;
28. a discussion of the "rights" of medication administration;
29. the application and certification; and
30. violations of the laws and rules that may result in disciplinary action and/or loss of certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 37:1026.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1416 (July 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:1250 (May 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 46:32 (January 2020), LR 49:693 (April 2023).

§10086. Competency Evaluation

A. A competency evaluation shall be developed by the training entity and conducted to ensure that each trainee, at a minimum, is able to demonstrate competencies taught in each part of the training curriculum.

B. Written examinations shall be provided by the training entity or organizations approved by the department. The examination shall reflect the content and emphasis of the training curriculum and will be developed in accordance with accepted educational principles.

1. - 12. Repealed.

C. The entity responsible for the training and competency evaluation shall report to the registry the names of all individuals who have satisfactorily completed the curriculum after the training is completed. Within 15 days after a MAC has successfully completed the training and competency evaluation, the training entity shall notify the registry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 37:1026.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1416 (July 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:1250 (May 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 46:32 (January 2020), LR 49:694 (April 2023).

§10087. Authorized Duties

A. The MAC may perform certain duties and functions delegated by a licensed RN and under the direct supervision of a licensed nurse who is on-site and on duty. These authorized duties shall apply to MAC trainees under the supervision of the clinical instructor. The ratio of MACs to licensed nurses shall not exceed two medication attendants to one licensed nurse at any given time.

1. - 16. Repealed.

B. MACs may:

1. observe and report to the licensed nurse a resident's adverse reaction to a medication;
2. administer medications which require vital signs only with direct authorization from the licensed nurse prior to administration;
3. take and record vital signs prior to the administration of medication that could affect or change the vital signs;
4. in an emergency only, administer oxygen at 2 liters per minute per nasal cannula and immediately after the

emergency, verbally notify the licensed nurse on duty and appropriately document the action and notification;

5. administer regularly prescribed medication only after personally preparing (setting up) the medications to be administered;

6. deliver and administer certain prescribed medications ordered by an authorized prescriber by the following methods:

- a. orally;
- b. topically (to intact skin only);
- c. drops and sprays for the eye, ear or nose;
- d. vaginally;
- e. rectally;
- f. transdermally;
- g. by metered dose oral inhalation; or
- h. sublingually;

7. record medications administered in the resident's chart and/or medication administration record;

8. chart medication effects and side effects;

9. administer medications which require vital signs, only with direct authorization from the licensed nurse prior to administration:

a. the results of the vital signs must be documented in the clinical record;

10. administer pro re nata (prn), as needed medications only with direct authorization of the licensed nurse;

11. measure prescribed liquid medication only if verified by the licensed nurse prior to administration; and

12. crush prescribed medications only if ordered by the physician and verified by the licensed nurse.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 37:1026.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1416 (July 2008), amended by the Department of Health, Bureau of Health Services Financing, LR 46:32 (January 2020), LR 49:694 (April 2023).

§10088. Prohibited Duties

A. Medication attendants certified shall not:

1. administer any controlled dangerous substances (schedules II through V) as set forth by the Drug Enforcement Agency or the Louisiana Board of Pharmacy;

2. administer any medications by the following parenteral routes:

- a. intramuscular;
- b. intravenous;
- c. subcutaneous;
- d. intradermal; or
- e. other routes restricted in department rules;

3. administer any medication used for intermittent positive pressure breathing (IPPB) treatments;

4. administer an initial dose of a medication that has not been previously administered to a resident as determined by the clinical record;

5. calculate medication doses for administration;

6. administer medications or feedings by way of a tube inserted in a cavity of the body;

7. receive or assume responsibility for writing any verbal or telephone order from an authorized prescriber;

8. order new medications or medications whose directions have changed from the pharmacy;

9. apply topical medications that involve the treatment of skin that is broken;

10. steal, divert or otherwise misuse medication;

11. violate any provision of this Chapter;

12. procure or attempt to procure a certificate by fraudulent means;

13. neglect to administer prescribed medications in a responsible and timely manner;

14. perform a task involving the administration of a medication which requires:

- a. an assessment of the patient's physical status;
- b. an assessment of the need for the medication;
- c. a calculation of the dose of the medication; or
- d. the conversion of the dose;

15. perform a task involving the administration of a medication if the patient is unstable or has changing nursing needs, unless the supervising nurse is able to monitor the patient and the effect of the medication on the patient; or

16. administer medications if he/she is unable to do so with reasonable skill and safety to the resident if the resident is impaired by reason of excessive use of mood altering drugs, narcotics, chemicals or any other type of material.

B. - F. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 37:1026.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1417 (July 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:1250 (May 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 46:32 (January 2020), LR 49:695 (April 2023).

§10089. Allegations of Medication Attendant Certified Wrong-Doing

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

C. Through the formal hearing process, determinations will be made on both the certificate for MAC pursuant to this Section and the certificate for CNA practice in accordance with LAC 48:I. §10061-§10079.

1. If the allegation of wrongdoing results in determinations being made against both the MAC and CNA certification simultaneously, both certifications must be brought to informal dispute resolution or appeal together.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 37:1026.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1417 (July 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:1250 (May 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 46:33 (January 2020), LR 49:695 (April 2023).

§10090. Suspension, Revocation or Denial of Renewal

A. ...

B. The following are grounds for disciplinary actions:

1. ...

2. procuring or attempting to procure a certificate by fraudulent means;

3. violating any provision of this Chapter; or

4. knowingly making false claims or providing false, forged, or altered information in the resident's medical record or providing false, forged, or altered documentation to the department.

C. - E.3. ...

F. The department shall investigate prior to making a final determination on a suspended certificate. During the

time of suspension, the suspended certificate holder shall not perform as a MAC in any capacity.

1. - G.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 37:1026.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1417 (July 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:1250 (May 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 46:33 (January 2020), LR 49:695 (April 2023).

§10091. Provider Participation and Responsibilities

A. An LLCF with a license that is in good standing with the department may apply to the department to utilize MACs. Upon receipt of a facility's application, the department shall review the facility's compliance history.

B. If a facility is non-compliant with program regulations, the department shall take into consideration the findings that resulted in the facility's noncompliance before making a determination whether or not to allow the facility to utilize MACs. Emphasis shall be placed on deficiencies cited in the area of medication administration such as significant medication errors, medication error rates and repeat deficiencies of such.

C. The department may deny a facility's request to use MACs if it is determined that, based upon the compliance history, the safety and well-being of residents would be jeopardized. If the facility is denied participation, the facility may ask for a reconsideration and review of the circumstances which contributed to the denial of the application.

1. knowingly making false claims, or providing false, forged, or altered information or documentation to the department, law enforcement, or authorized agencies shall permanently render revocation of the LLCF's participation in the MAC program.

D. The following application information shall be submitted to the HSS for consideration of approval of MAC utilization:

1. the number of beds for the entire LLCF and beds per unit;
2. the total resident capacity for the LLCF;
3. the type of LLCF;
4. policy and procedure describing the plan for orientation, utilization of MACs, tracking and trending of medication errors for MACs, including orientation of all staff to the role of MACs;
5. documentation of the number and type of medication errors in the year prior to the utilization of MACs; and
6. a statement that the LLCF will utilize the MACs in accordance with the department's rules and regulations and will provide evaluation information as indicated.

E. A facility's application that is not complete within 90 calendar days of receipt by the department shall be considered null and void.

F. Approved LLCFs shall have written policies and procedures that a minimum, address the MAC's role, responsibilities, authorized duties, prohibited duties, and medication errors.

G. Disqualification of MAC program. The department may sanction a facility and/or revoke a facility's

participation in the MAC program for a period of two years, if it is determined by the department that, based upon the facility's compliance history, the safety and well-being of residents is jeopardized by the facility's non-compliance with licensing standards. The department may also sanction and/or revoke a facility's participation in the MAC program, if the facility provides false statements and/or documentation concerning their MAC program. If the facility's participation is revoked, the facility may ask for a reconsideration and review of the circumstances which contributed to the revocation of participation in the MAC program.

H. Reinstatement of MAC Provider Participation. A LLCF who has lost their MAC program and/or nurse aide training and competency evaluation programming (NATCEP) program due to non-compliance resulting in substandard quality of care, harm or immediate jeopardy, including but not limited to medication errors, may re-apply to participate in the MAC program upon the end of the two-year period of the prohibition timeframe. If the facility's participation in the MAC program is revoked for providing false statements or documentation, the facility may not reapply for reinstatement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 37:1026.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 49:696 (April 2023).

Dr. Courtney N. Phillips
Secretary

2304#060

RULE

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

Personal Care Services—Long Term
Direct Service Worker Wages and Bonus Payments
(LAC 50:XV.12917 and 12921)

The Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services has amended LAC 50:XXI.12917 and adopted §12921 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.

House Concurrent Resolution 127 (HCR 127) of the 2021 Regular Session of the Louisiana Legislature requested the department make adjustments in the state Medicaid budget for the purpose of increasing funding more equitably to providers throughout the disabilities services system. The U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) approved the use of bonus payments for agencies providing long term-personal care services (LT-PCS) under section 9817 of the American Rescue Plan.

In compliance with HCR 127, the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services promulgated an Emergency Rule

which amended and adopted provisions governing LT-PCS in order to establish a wage floor and workforce retention bonus payments for direct service workers along with audit procedures and sanctions (*Louisiana Register*, Volume 48, Number 8). This Rule is being promulgated to continue the provisions of the July 31, 2022 Emergency Rule. This Rule is hereby adopted on the day of promulgation.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 9. Personal Care Services

Chapter 129 Long Term Care

§12917. Reimbursement

A. Reimbursement for personal care services shall be a prospective flat rate for each approved unit of service that is provided to the participant. One quarter hour (15 minutes) is the standard unit of service for personal care services. Reimbursement shall not be paid for the provision of less than one quarter hour (15 minutes) of service. Additional reimbursement shall not be available for transportation furnished during the course of providing personal care services.

B. The state has the authority to set and change LT-PCS rates and/or provide lump sum payments to LT-PCS providers based upon funds allocated by the legislature.

C. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:913 (June 2003), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:253 (February 2008), LR 34:2581 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 35:1901 (September 2009), LR 36:1251 (June 2010), LR 37:3267 (November 2011), LR 39:1780 (July 2013), LR 42:904 (June 2016), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 47:594 (May 2021), LR 49:697 (April 2023).

§12921. Direct Service Worker Wages, Other Benefits, and Workforce Bonus Payments

A. Establishment of Direct Service Worker Wage Floor and Other Benefits

1. Long term-personal care services (LT-PCS) providers that were providing LT-PCS on or after October 1, 2021 and employing direct service workers (DSWs) will receive the equivalent of a \$4.50 per hour rate increase.

2. This increase or its equivalent will be applied to all service units provided by DSWs with an effective date of service for the LT-PCS provided on or after October 1, 2021.

3. All LT-PCS providers affected by this rate increase shall be subject to passing 70 percent of their rate increases directly to the DSW 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 DSWs of any working status, whether full-time or part-time.

4. The LT-PCS 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 DSW 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 Service Worker Workforce Bonus Payments

1. LT-PCS providers who provided services from April 1, 2021 to October 31, 2022 shall receive bonus payments of \$300 per month for each DSW that worked with participants for those months.

2. The DSW who provided services from April 1, 2021 to October 31, 2022 to participants must receive at least \$250 of this \$300 bonus payment paid to the provider. This bonus payment is effective for all affected DSWs of any working status, whether full-time or part-time.

3. - 4. Repealed.

C. Audit Procedures for Direct Service Worker Wage Floor, Other Benefits, and Workforce Bonus Payments

1. The wage enhancements, wage and non-wage benefits and bonus payments reimbursed to LT-PCS providers shall be subject to audit by LDH.

2. LT-PCS providers shall provide LDH or its representative all requested documentation to verify that they are in compliance with the DSW 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, etc.

4. LT-PCS 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/or bonus payments were paid directly to DSWs may result in the following:

a. sanctions; or

b. disenrollment from the Medicaid program.

D. Sanctions for Direct Service Worker Wage Floor, Other Benefits, and Workforce Bonus Payments

1. The LT-PCS 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 upon the following factors:

a. failure to pass 70 percent of the LT-PCS provider rate increases directly to the DSWs 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 LT-PCS provider has not passed 70 percent of the LT-PCS provider rate increases directly to the DSWs 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 LT-PCS provider rate increases directly to the LT-PCS DSWs 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 49:697 (April 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.

Dr. Courtney N. Phillips
Secretary

2304#061

RULE

Department of Health Bureau of Health Services Financing

Targeted Case Management Reimbursement Methodology Workforce Retention Bonus Payments (LAC 50:XV.10704)

The Department of Health, Bureau of Health Services Financing has adopted LAC 50:XV.10704 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 XV. Services for Special Populations

Subpart 7. Targeted Case Management

Chapter 101. General Provisions

§10704. Targeted Case Management Workforce

Retention Bonus Payments

A. Establishment of Targeted Case Management Workforce Retention Bonus Payments

1. Case management agencies for the early and periodic screening, diagnosis, and treatment (EPSDT) targeted population and for participants in the New Opportunities Waiver (NOW) who provided services from April 1, 2021 to October 31, 2022 shall receive bonus payments of \$300 per month for the case manager that worked with participants for those months.

2. The case manager who provided services to participants from April 1, 2021 to October 31, 2022 must receive at least \$250 of this \$300 bonus payment paid to the agency. This bonus payment is effective for all affected case managers of any working status, whether full-time or part-time.

B. Audit Procedures for Targeted Case Management Workforce Bonus Payments

1. The bonus payments reimbursed to case management agencies shall be subject to audit by LDH.

2. Case management agencies shall provide to LDH or its representative all requested documentation to verify that they are in compliance with the targeted case management bonus payments.

3. This documentation may include, but is not limited to, payroll records, wage and salary sheets, check stubs, etc.

4. Case management agencies shall produce the requested documentation upon request and within the time frame provided by LDH.

5. Non-compliance or failure to demonstrate that the bonus payments were paid directly to case managers may result in the following:

a. sanctions; or

b. disenrollment from the Medicaid Program.

C. Sanctions for Targeted Case Management Workforce Bonus Payments

1. The case management agency will be subject to sanctions or penalties for failure to comply with this Rule. The severity of such action will depend upon the following:

a. failure to pay case managers the \$250 monthly bonus payments;

b. the number of employees identified as having been paid less than the \$250 monthly bonus payments;

c. the persistent failure to pay 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, LR 49:698 (April 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
LDH Secretary

2304#062

RULE

Department of Insurance Office of the Commissioner

Regulation 126—Louisiana Fortify Homes Program (LAC 37:XIII.Chapter 182)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and specifically R.S. 22:11, the Department of Insurance has promulgated Regulation 126 to set forth rules and requirements governing the administration of the Louisiana Fortify Homes Program (LFHP) and eligibility criteria for LFHP grants as set forth in Act No. 554 of the 2022 Regular Session. This Rule is hereby adopted on the day of promulgation.

Title 37

INSURANCE

Part XIII. Regulations

Chapter 182. Regulation Number 126—Louisiana Fortify Homes Program

§18201. Purpose

A. The purpose of Regulation 126 is to set forth rules and requirements governing the administration of the Louisiana Fortify Homes Program (LFHP) and eligibility

criteria for LFHP grants in accordance with Act No. 554 of the 2022 Regular Session.

AUTHORITY NOTE: Promulgated in accordance with R.S.22:11 and R.S. 22:1483.1(A).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 49:698 (April 2023).

§18202. Definitions

A. As used in Regulation 126, the following terms shall have the meanings herein specified.

1. *Evaluator*—an independent third party certified by the Insurance Institute for Business and Home Safety (IBHS) as a fortified evaluator for hurricane and high wind and hail who can verify that a home meets the fortified roofing construction standard. Homeowners can find a list of certified evaluators at www.lds.la.gov/fortifyhomes.

2. *Insurance Institute for Business and Home Safety (IBHS)*—a non-profit research and communications organization of the property and casualty insurance industry that defines the FORTIFIED roofing construction standard for homes, information for which can be found at www.fortifiedhome.org.

3. *Louisiana Fortify Homes Program (LFHP)*—a program, enacted by Act No. 554 of the 2022 Regular Session, to be administered by the Louisiana Department of Insurance through its Office of Policy, Innovation and Research, to make financial grants to retrofit roofs of insurable property, as defined in R.S. 22:1483(C)(9), with a homestead exemption, to resist loss due to hurricane, tornado, or other catastrophic windstorm events and to meet or exceed the fortified roof standard of the Insurance Institute for Business and Home Safety, information for which can be found at www.lds.la.gov/fortifyhomes.

4. *National Flood Insurance Program (NFIP)*—a program enacted by the National Flood Insurance Act of 1968 (P.L. 90-448), which the Federal Emergency Management Agency (FEMA) administers, through its Federal Insurance and Mitigation Administration (FIMA) division, to provide an insurance alternative to disaster assistance to meet the escalating costs of repair damage to buildings and their contents caused by floods. The NFIP designates flood zones and flood maps, which illustrate a community's flood risk, information for which can be found at www.floodsmart.gov.

AUTHORITY NOTE: Promulgated in accordance with R.S.22:11 and R.S. 22:1483.1(A).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 49:699 (April 2023).

§18203. Contractor Eligibility Requirements and Conflicts of Interest

A. Contractor Eligibility Requirements. To be eligible to work as a Louisiana Fortify Homes Program contractor (LFHP-approved contractor), the contractor must meet all of the following program requirements:

1. submit and maintain a current copy of all certificates, licenses and proof of insurance coverages with the LFHP;

2. hold a valid residential license or home improvement registration issued by the Louisiana State Licensing Board for Contractors (LSLBC) and must be in good standing with the LSLBC;

3. hold any other valid state or jurisdictional business licenses or work permits required by law in Louisiana;

4. maintain a general liability policy with \$1,000,000 in liability coverage;

5. maintain a workers' compensation policy in compliance with Louisiana law;

6. provide a certificate of successful completion of the fortified roof for high wind and hail and hurricane training issued by the Insurance Institute for Business and Home Safety (IBHS) or its successor. The training may be offered as separate courses, and the contractor is responsible for paying all fees associated with the training;

7. be in compliance with all regulatory and tax laws regulating businesses in the state of Louisiana;

8. maintain internet access and have a valid, active email address on file with the LFHP for communication with the LFHP;

9. avoid conflicts of interest in any work performed on projects funded by LFHP grants;

10. agree to follow the LFHP procedures and rules as established by the Commissioner of the Department of Insurance.

B. Contractor Conflicts of Interest

1. LFHP-approved contractors may not possess a financial interest in any project for which they perform work toward a fortified designation other than for payment on behalf of the homeowner by the LFHP.

2. LFHP-approved contractors cannot be the evaluator for a fortified designation on any project funded by LFHP grants.

3. The LFHP-approved contractor is responsible for reporting to the LFHP any potential conflicts of interest before work commences on any job funded by LFHP grants.

AUTHORITY NOTE: Promulgated in accordance with R.S.22:11 and R.S. 22:1483.1(A).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 49:699 (April 2023).

§18204. Evaluator Eligibility Requirements and Conflicts of Interest

A. Evaluator Eligibility Requirements. To be eligible to work on the Louisiana Fortify Homes Program (LFHP), an evaluator must meet all of the following program requirements:

1. submit and maintain a copy of all current certificates and licenses with the LFHP;

2. be in good standing with the Insurance Institute for Business and Home Safety (IBHS) and maintain an active certification as a fortified home evaluator for hurricane and high wind and hail, issued by the IBHS or its successor;

3. possess all necessary business licenses to perform the work required;

4. be in compliance with all regulatory and tax laws regulating businesses in the state of Louisiana;

5. avoid conflicts of interest in any work performed on projects funded by LFHP grants.

B. Evaluator Conflicts of Interest

1. Evaluators may not possess a financial interest in any project for which they inspect for fortified designation purposes in connection with the LFHP.

2. Evaluators cannot be a contractor or supplier of any materials, products or systems installed in any home they inspect for fortified designation purposes for the LFHP.

3. Evaluators cannot be a sales agent for any home being designated for the LFHP program.

4. Evaluators have a duty to inform the LFHP of any potential conflicts of interest before commencing inspections on any job funded by LFHP grants.

AUTHORITY NOTE: Promulgated in accordance with R.S.22:11 and R.S. 22:1483.1(A).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 49:699 (April 2023).

§18205. Louisiana Fortify Homes Program Grants

A. Grant Eligibility. To be eligible for a Louisiana Fortify Homes Program (LFHP) grant, an applicant must meet the following requirements.

1. The home must be an owner-occupied, single-family, primary residence with a homestead exemption and cannot be a condominium or mobile home.

2. The home must be in good repair unless damaged by a hurricane, non-hurricane wind, or hail.

3. The homeowner must fortify the home's roof to meet the Insurance Institute for Business and Home Safety (IBHS) fortified roof standard.

4. The homeowner must provide the LFHP proof of a wind insurance policy on the home. Additionally, if the home is in a designated National Flood Insurance Program (NFIP) flood zone, the homeowner must provide the LFHP proof of a flood insurance policy on the home.

5. The homeowner must obtain and pay for all permits required by law or ordinance for the construction.

6. The homeowner must arrange and pay for inspections required by law or ordinance and the terms of the grant, which shall include inspection pursuant to R.S. 22:1483(C)(3).

7. The work must comply with applicable building codes.

8. The LFHP project must be completed within three months of the date of the grant award notification, which will be delivered to the applicant through electronic means. Failure to timely complete the LFHP project may result in a forfeiture of the grant.

B. Grant Application Process

1. In order to apply, a homeowner must complete and submit an online grant application to the LFHP. The online grant application portal will be accessible via www.lds.la.gov/fortifyhomes.

2. The homeowner will be responsible for paying for a certified evaluator of the homeowner's choice to provide an IBHS home review evaluation on the home seeking to be fortified. A list of certified evaluators can be found at www.lds.la.gov/fortifyhomes. The LFHP may remove an evaluator from the list of certified evaluators at any time upon a finding that the evaluator failed to meet any of the program requirements listed in §18204 of this Regulation.

3. The evaluator shall determine whether or not the home meets a minimum structural standard on a pass or fail basis before identifying all improvements required to meet the IBHS fortified roof standard. Afterward, the evaluator shall submit a report to the IBHS for approval and provide a copy of the submitted report to the LFHP.

4. Via the LFHP online application portal, the homeowner must then upload bids from three LFHP-approved contractors of their choice to improve the home to meet the IBHS fortified roof standard. If an LFHP-approved contractor is not available in the area where the home is located, the minimum number of bids required for the

application will be reduced to reflect the number of contractors that are available in the area. A list of eligible contractors can be found at www.lds.la.gov/fortifyhomes. The LFHP may remove a contractor from the list of eligible contractors at any time upon a finding that the contractor failed to meet any of the program requirements listed in §18203 of this Regulation.

C. Awarding of Grants. The LFHP will review all applications for completeness and will perform appropriate audits to verify the accuracy of the information in the application and whether the applicant meets the eligibility criteria. Verified applicants will then be placed in the order received, and grants will be awarded on a first-come basis, subject to availability of funding. Upon submission of an LFHP grant application, the LFHP will have 30 days to approve or deny the application. However, the LFHP may extend the time for review and approval of applications as it deems necessary. The LFHP will notify an applicant if the time for review and approval of the application has been extended. LFHP-approved contractors are not authorized to begin work on a home until the grant for the work is approved.

D. Maximum Grant Award. The amount of a grant award shall be equivalent to the actual cost to upgrade to the IBHS fortified roof standard not to exceed \$10,000. The Commissioner of the Department of Insurance may periodically update the amount of the grant award.

E. Release of Funds. Grant funds will only be released on behalf of an approved applicant once an IBHS fortified certificate has been issued for the home. Funds will be paid by the LFHP, on behalf of the homeowner, directly to the contractor that performed the work to fortify the roof.

F. Grant Award Process

1. Once the grant application is approved, the homeowner may contract with an LFHP-approved contractor to fortify the home. Once the fortification work on the home is completed, the LFHP-approved contractor will submit a copy of the signed contract to the LFHP, along with an invoice seeking payment and an affidavit verifying that the fortified standard was met by the work done by the LFHP-approved contractor.

2. The evaluator will perform all required evaluations, including the required interim inspection during construction and the final inspection, confirming that the work was completed according to the IBHS fortified roof specifications. The IBHS will review the evaluation and determine whether to issue a fortified designation, which is a written certificate that the home meets the fortified standard.

3. The LFHP will pay the LFHP-approved contractor's costs covered by the grant, and the homeowner shall pay the remaining costs to the LFHP-approved contractor.

4. The homeowner then must submit the declaration pages of the required insurance coverage to the LFHP within 30 days of receiving the fortified designation.

5. The LFHP may conduct random inspections to detect any fraud or irregularities.

6. To timely manage the processing of grant applications or to meet funding limitations, it may be necessary to establish specific periods when the LFHP will accept grant applications.

AUTHORITY NOTE: Promulgated in accordance with R.S.22:11 and R.S. 22:1483.1(A).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 49:700 (April 2023).

§18206. Severability

A. If any rule or portion of a rule or its applicability to any person or circumstance is held invalid by any court, the remainder of this Chapter or the applicability of the provision to other persons or circumstances shall not be affected.

AUTHORITY NOTE: Promulgated in accordance with R.S.22:11 and R.S. 22:1483.1(A).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 49:701 (April 2023).

James J. Donelon
Commissioner

2304#003

RULE
Department of Natural Resources
Office of Conservation

License Renewal
(LAC 46:LXXXIX.501 and 509)

The Department of Natural Resources, Office of Conservation has amended LAC 46:LXXXIXI.501.E and LAC 46:LXXXIXI.501.F, and added LAC 46:LXXXIXI.509.B in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the power delegated under the laws of the state of Louisiana. The changes incorporate specifications for continuing education hours required of Louisiana-licensed water well drillers for annual license renewal, as provided for by R.S. 38:3098(B). This Rule is hereby adopted on the day of promulgation.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS

Part LXXXIX. Water Well Contractors (Drillers)
Chapter 5. Procedures for Obtaining and
Maintaining a License

§501. License Application

A. - D. ...

E. License Renewal. All licenses issued by the department shall expire on June 30 of each year and shall be renewable annually, without qualifying examination, upon submission of a completed license renewal application (see §1111), using form provided by the department, upon payment of the required license renewal fee (see §503), and upon certification by the department of qualified continuing education hours (see §509). Renewal applications, together with the required license renewal fees, must be received by the department no later than June 30 of each year. Such application shall have the effect of extending the validity of the current license until the renewal certificate or the new license is received, or the applicant is notified in writing by the department that the renewal of license has been refused.

F. Contractors (drillers) who fail or refuse to submit their license renewal applications, documentation of required continuing education hours, and the applicable annual renewal fees to the department by June 30 of each year or

submit their applications with N.S.F. or account closed checks, will be considered delinquent and they will be dropped from the roster of licensed drillers. Thereafter, the license may be renewed only upon receipt of the completed renewal application, documentation of required continuing education hours, and payment of the applicable renewal fee, plus a penalty of \$5 for each month that the contractor (driller) was delinquent.

G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3098.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Public Works, Water Resources Section, LR 9:248 (April 1983), amended LR 11:967 (October 1985), LR 49:701 (April 2023).

§509. Requirements for Maintaining a License

A. ...

B. Continuing Education. Six hours of continuing education are required for maintenance and renewal of a license annually. Five hours shall consist of continuing education in generalized water well drilling principles; drilling or reworking of water wells; drilling monitoring wells, heat pump wells or holes; geotechnical boreholes; plugging and abandoning wells or holes; safety in drilling operations, including utility notifications and equipment transport; well construction/pumps; geology and hydrogeology; new technologies; and/or other relevant topics approved by the department. One hour shall consist of training provided and/or approved by the department on relevant state law, rules, and regulations governing the above, or relevant compliance and enforcement matters. The license holder must attest to the department personal attendance for each required continuing education hour. The department will review the submitted continuing education documentation and provide notice of certification or rejection of all or some of the hours. Rejected hours must be completed within 60 days of notice from the department, subject to penalty found in §503.F and §503.G. The department may consider requests for, and act upon, exceptions to the above requirements on an individual, case-by-case basis resulting from reasonable extenuating circumstances and/or hardships.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3098.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Public Works, Water Resources Section, LR 9:249 (April 1983), amended LR 11:968 (October 1985), LR 49:701 (April 2023).

Richard P. Ieyoub
Commissioner

2304#024

RULE

Department of Revenue
Policy Services Division

Income Tax Return Filing Extensions
(LAC 61:III.2501, 2503, 2505, and 2507)

Under the authority of R.S. 47:103(D), 287.614(D), 612, 1511, and in accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, has

amended LAC 61:III.2501, 2503, 2505, and 2507 relative to income and franchise taxes filing extensions.

Act 410 of the 2022 Regular Legislative Session authorizes an automatic six-month filing extension for individual income, fiduciary income and partnership taxpayers unable to file their income tax return by the original due date of the return. The Act also authorizes a six-month extension for corporation income tax if the taxpayer timely requested an extension for federal income tax purposes. The primary purpose of these amendments is to provide guidance to taxpayers seeking an extension for filing income and franchise tax returns. This Rule is hereby adopted on the day of promulgation.

Title 61

REVENUE AND TAXATION

Part III. Administrative and Miscellaneous Provisions

Chapter 25. Returns

§2501. Individual Income Tax Filing Extensions

A. Pursuant to R.S. 47:103(D), the secretary may grant a reasonable extension of time to file a state income tax return, not to exceed six months from the date the return is due.

1. To obtain a filing extension, the taxpayer must make the request on or before the tax return's due date.

2. A taxpayer may request a state filing extension by submitting one of the following:

- a. a paper Louisiana Department of Revenue form requesting a filing extension;
- b. a paper copy of the taxpayer's Internal Revenue Service form requesting an extension to file a federal income tax return for the same taxable period; or
- c. an electronic application.

3. An electronic application may be submitted by:

- a. the Department of Revenue's web site;
- b. tax preparation software; or
- c. any other electronic method authorized by the secretary.

B. For taxable periods beginning on or after January 1, 2022, the secretary shall grant an automatic extension of time to file a state income tax return, not to exceed six months from the date the return is due, with no extension request required.

C. Filing Extension Does Not Extend Time to Pay Tax

1. A filing extension granted by the secretary only allows for an extension of time to file the tax return. The extension does not allow an extension of time to pay the tax due.

2. To avoid interest and penalty assessments, estimated taxes due must be paid on or before the original due date.

D. For taxable periods prior to January 1, 2022 a tax preparer subject to the electronic filing mandate under LAC 61:III.1501.B must file an electronic application for a state filing extension for individual income taxes.

E. Failure to file the return by the extended due date shall result in the extension being null and void and shall result in delinquent filing penalties being assessed from the original due date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47: 103(D) and 1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 35:1137 (June 2009), amended LR 36:73 (January 2010), LR 39:103 (January 2013), LR 45:1809 (December 2019), amended LR 49:702 (April 2023).

§2503. Corporation Income and Franchise Tax Filing Extensions

A. *Louisiana Revised Statute* Title 47, Section 287.614(D) provides that the secretary may grant an extension of time to file a state corporation income and franchise tax return, not to exceed seven months, from the date the return is due.

1. To obtain a filing extension, the taxpayer must make the request on or before the tax return's due date.

2. A taxpayer must request a state filing extension by submitting an electronic application.

3. An electronic application may be submitted via:

- a. the Department of Revenue's web site at www.revenue.louisiana.gov/extensions;
- b. tax preparation software; or
- c. any other electronic method authorized by the secretary.

B. For taxable periods beginning on or after January 1, 2022 the secretary shall grant a reasonable extension of time to file a state corporation income and franchise tax return for the same extended period of time as the taxpayer's federal extension, or six-months, whichever is later, with no state extension request required.

1. A taxpayer who files a corporation franchise tax return without a corporate income tax return is ineligible for a filing extension pursuant to R.S. 47:612.

2. A taxpayer must mark the box on the CIFT-620, *Louisiana Corporation Income and Franchise Tax Return*, noting that they have timely applied for a federal extension for the same taxable period.

a. If approved for a federal extension, a taxpayer should retain a copy of their approval determination letter Federal Form 6513, *Extension of Time to File*, or other material evidencing that their federal extension has been approved.

b. Failure to obtain an approved federal extension shall result in the Louisiana extension being null and void and shall result in delinquent filing penalties being assessed from the original due date.

i. If a taxpayer requested reconsideration of a denied federal extension and the extension is subsequently approved, the taxpayer must attach all documents required by the IRS for approving the reconsideration request to their return in addition to a statement from the IRS or the taxpayer that the reconsidered extension request has been approved.

ii. If a taxpayer requested reconsideration of a denied federal extension and the extension request remains denied, the taxpayer must file their return without further delay and attach the IRS statement informing the taxpayer that their reconsidered extension request remains denied.

C. Filing Extension Does Not Extend Time to Pay Tax

1. A filing extension granted by the secretary only allows for an extension of time to file the tax return. The extension does not allow an extension of time to pay the tax due.

2. To avoid interest and penalty assessments, income and franchise taxes due must be prepaid on or before the original due date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:287.614(D), 612 and 1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 36:552 (March 2010),

amended LR 39:99 (January 2013), amended LR 49:702 (April 2023).

§2505. Filing Extensions for Partnerships

A. Revised Statute Title 47, Section 1514 provides that the secretary may grant a reasonable extension to file any tax return due under this subtitle, not to exceed six months, from the date the return is due.

1. To obtain a filing extension for filing a partnership/partnership composite return, partnerships must make the request on or before the tax return's due date.

2. A partnership must request a state filing extension by submitting an electronic application.

3. An electronic application may be submitted via:
a. the Department of Revenue's web site at www.revenue.louisiana.gov/extensions;
b. tax preparation software; or
c. any other electronic method authorized by the secretary.

B. For taxable periods beginning on or after January 1, 2022, the secretary shall grant an automatic extension of time to file a state income tax return, not to exceed six months from the date the return is due, with no extension request required.

C. Filing extension does not extend time to pay tax.

1. A filing extension granted by the secretary only allows for an extension of time to file the tax return. The extension does not allow an extension of time to pay the tax due.

2. To avoid interest and penalty assessments, income taxes due must be prepaid on or before the original due date.

D. Failure to file by the extended due date shall result in the extension being null and void and shall result in delinquent filing penalties assessed from the original due date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:103(D), 1511 and 47:1514.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 40:801 (April 2014), LR 48:1106 (April 2022), amended LR 49:703 (April 2023).

§2507. Fiduciary Income Tax Filing Extensions

A. Pursuant to R.S. 47:103(D), the secretary may grant a reasonable extension of time to file a state income tax return, not to exceed six months from the date the return is due.

1. To obtain a filing extension for filing a fiduciary return, estates and trusts must make the request on or before the due date of the tax return.

2. For taxable periods beginning on or after January 1, 2019, an estate or trust must request a state filing extension by submitting an electronic application.

3. An electronic application may be submitted via:
a. the Department of Revenue's web site;
b. tax preparation software; or
c. any other electronic method authorized by the secretary.

B. For taxable periods beginning on or after January 1, 2022, the secretary shall grant an automatic extension of time to file a state income tax return, not to exceed six months from the date the return is due, with no extension request required.

C. Filing extension does not extend time to pay tax.

1. A filing extension granted by the secretary only allows for an extension of time to file the tax return. The

extension does not allow an extension of time to pay the tax due.

2. To avoid interest and penalty assessments, income taxes due must be prepaid on or before the original due date.

D. Failure to file by the extended due date shall result in the extension being null and void and shall result in delinquent filing penalties assessed from the original due date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:103(D) and 1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 45:1810 (December 2019), amended LR 49:703 (April 2023).

Kevin J. Richard, CPA
Secretary

2304#029

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Daily Take and Possession Limits of King and Spanish Mackerel and Cobia (LAC 76:VII.327)

The Wildlife and Fisheries Commission has amended a Rule (LAC 76:VII.327) by modifying the daily bag and possession limit for recreationally and commercially harvested cobia from two fish per person to one fish per person per day. Further modifications to the Rule also establish a recreational and commercial vessel limit of no more than two cobia per day. The changes are a result of recent changes made by NOAA Fisheries, through the Gulf of Mexico Fishery Management Council, to establish a vessel limit and modify the possession limits for recreationally and commercially harvested cobia in the federal waters of the Gulf of Mexico. The authority for amendment of this Rule is included in the Administrative Procedure Act, R.S. 49:961 et seq., and through the authority granted in R.S. 56:6(25)(a), R.S. 56:325.1, and 56:326.3 to the Wildlife and Fisheries Commission. 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 §327. Daily Take and Possession Limits of King and Spanish Mackerel and Cobia

A. - C.2. ...

D. The recreational and commercial bag limit for possession of cobia (*Rachycentron canadum*) whether caught within or without the territorial waters of Louisiana shall be one fish per person per day with a vessel limit not to exceed two fish per vessel per day, regardless of the number of trips or persons on the vessel.

E. - E.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25)(a), R.S. 56:325.1, and R.S. 56:326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 15:868 (October 1989), amended LR 17:207 (February 1991), LR

19:513 (April 1993), LR 26:2633 (November 2000), LR 26:2833 (December 2000), LR 43:2194 (November 2017), LR 49:703 (April 2023).

Jack Montoucet
Secretary

2304#035

RULE

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

**Statewide Online Special Certificate Agent for Motorboat
Registration and Titling
(LAC 76:I.328)**

The Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission has adopted rules providing for electronic vessel and motor registration and titling. This Rule is promulgated in accordance with R.S. 34:851.37, R.S. 56:6(21), and the provisions of the Administrative Procedure Act, R.S. 49:950, et seq.

The commission, through its secretary, has authority to designate and consign to special licensing or certificate agents, the issuance of recreational licenses, permits, motorboat registration certificates, and the collection of fees therefor. R.S. 34:851.37 specifically authorizes the Department of Wildlife and Fisheries to establish a system of special certificate agents to receive and process applications related to registration and titling of vessels and outboard motors, collect associated fees and taxes, and issue registration certificates and decals. The law also provides for special certificate agents to contract with the department for the administration of an electronic system to permit the recording of vessel and outboard motor registration information.

This Rule authorizes the department to enter into contracts with an electronic special certificate agent to perform online motorboat registration and titling functions and authorizes the special certificate agent to collect and retain convenience fees on a transactional basis. This Rule is hereby adopted on the day of promulgation.

Title 76

WILDLIFE AND FISHERIES

**Part I. Wildlife and Fisheries Commission and Agencies
Thereunder**

Chapter 3. Special Powers and Duties

Subchapter H. Electronic Licenses Issuance

**§328. Electronic Vessel and Motor Registration and
Titling**

A. The secretary shall have authority to enter into contracts to acquire electronic methods to register and title

vessels and outboard motors within the state purchasing regulations.

B. Such functions may be included as a component of the recreational hunting and fishing license point of sale system and performed by the same vendor, or may be contracted as an electronic certificate system specific for vessels and outboard motors separate from the recreational licensing platform.

C. The electronic collection of vessel or outboard motor certificate applications and fees collected pursuant thereto shall be in addition to the ability to apply for such certificates in person at the Baton Rouge headquarters, or via U.S. mail. In addition to any electronic special certificate agent contract, the secretary may contract with other special certificate agent brick-and-mortar facilities throughout the state, as he deems necessary to perform registration and titling for vessels and outboard motors.

D. The secretary may authorize, by contract, a transactional convenience fee for each online certificate transaction conducted by the electronic special certificate agent to be retained by the electronic special certificate agent. Such fee shall not exceed \$12 per certificate. The convenience fee shall be in addition to any registration or title certificate fees collected and shall be retained by the electronic special certificate agent.

E. Prior to collection of any applications for registration or title and any associated fees, the electronic special certificate agent shall execute and furnish to the department a good and sufficient surety bond with a surety company qualified to do business as a surety in Louisiana. The sum of the bond shall be determined by the secretary, but shall be not less than \$10,000, but shall not exceed \$100,000. The bond shall be in the name of the Department of Wildlife and Fisheries as obligee and remain in full force and effect for the entire term of the contract. If the electronic special certificate agent timely files all applications delivered to such certificate agent for filing and remits all fees and taxes collected, then the obligation of the surety shall be void. Should the electronic special certificate agent fail to timely file certificate applications, remit fees or taxes collected, or otherwise fail to meet the conditions of the contract, the department may file a claim against the bond for all costs associated with the claim, including any actual investigatory costs or attorney fees incurred.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:851.37 and R.S. 56:6(21).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 49:704 (April 2023).

Jack Montoucet
Secretary

2304#019

Notices of Intent

NOTICE OF INTENT

Department of Civil Service Board of Ethics

Food and Drink Limit (LAC 52:I.1703)

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 initiated rulemaking procedures to make amendments to the rules for the Board of Ethics to bring the rules into compliance with current statutory provisions and Section 1115.1C of the Code of Governmental Ethics.

Title 52 ETHICS

Part 1. Board of Ethics

Chapter 17. Code of Governmental Ethics

§1703. Food and Drink Limit

A. In accordance with R.S. 42:1115.1(C), beginning on July 1, 2022, the limit for food, drink or refreshments provided in R.S. 42:1115.1A and B is \$77.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1115.1.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 36:304 (February 2010), amended LR 36:1466 (July 2010), LR 38:1951 (August 2012), LR 39:3062 (November 2013) LR 40:1678 (September 2014), LR 41:1262 (July 2015), LR 44:1237 (July 2018), LR 49:

Family Impact Statement

The proposed Rule changes have no known impact on family formation, stability or autonomy, as described in R.S. 49:972.

Poverty Impact Statement

The proposed Rule changes have no known impact on poverty, as described in R.S. 49:973.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session.

Small Business Analysis

The proposed Rule should not have any known or adverse impact on small business as described in R.S. 49:956.6.

Public Comments

Interested persons may direct their comments to Kathleen M. Allen, Louisiana Board of Ethics, P.O. Box 4368, Baton Rouge, LA 70821, telephone (225) 219-5600, until 4:45 p.m. on May 10, 2023.

Kathleen M. Allen
Ethics Administrator

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Food and Drink Limit

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

The estimated cost to implement the proposed Rule change is \$320 in FY 22-23, which accounts for the cost to publish the Notice of Intent and the Rule in the State Register. The proposed Rule will create no other estimated implementation costs or savings to state or local governmental units. The proposed Rule provides for raising the monetary limit on the receipt of food and drink by a public employee and public servant from seventy (\$70) dollars to seventy-seven (\$77) dollars pursuant to Section 1115.1C of the Code of Governmental Ethics.

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

The proposed Rule will have 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)

The proposed action will affect all public employees and public servants by setting a standard monetary limit on the receipt of food and drink.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed Rule change will have no anticipated effect on competition and employment.

Kristy Gary
Deputy Administrator
2304#065

Evan Brousseau
Interim Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Biocontaminants, Hazardous Materials,
and Procedural Requirements for Documentation
(LAC 28:CLXI.103 and 1901;
CLXV.103, 309, 311, and 313)

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:CLXI in *Bulletin 137—Louisiana Early Learning Center Licensing Regulations* and LAC 28:CLXV in *Bulletin 139—Louisiana Child Care and Development Fund Programs*. The proposed Rule revisions provide a definition of biocontaminants and set forth safety requirements regarding biocontaminants and hazardous materials to be followed by family child care

providers, in-home child care providers, public schools, and BESE-approved nonpublic school child care centers. Additionally, the proposed revisions provide the required information that must be maintained in a cumulative file. Finally, the aforementioned revisions set forth policy and procedural requirements regarding shaken baby syndrome, abusive head trauma, and child maltreatment.

**Title 28
EDUCATION**

**Part CLXI. Bulletin 137—Louisiana Early Learning
Center Licensing Regulations**

Chapter 1. General Provisions

§103. Definitions

* * *

Behavior Management—the ongoing positive process of helping children develop inner control so that they can manage their own behavior in an appropriate and acceptable manner by using corrective action to change the inappropriate behavior.

Biocontaminants—any biological contaminant that includes blood and any bodily fluids, excretions, or waste that may spread infectious disease.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.31 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:616 (April 2015), effective July 1, 2015, amended LR 41:2103 (October 2015), LR 43:638 (April 2017), LR 44:247 (February 2018), effective March 1, 2018, LR 44:1858 (October 2018), LR 47:1274 (September 2021), LR 49:

**Chapter 19. Minimum Health, Safety, and
Environment Requirements and
Standards**

§1901. General Safety Requirements

A. - R. ...

S. Biocontaminants. Staff shall properly dispose of all biocontaminants to safeguard against the spread of infectious disease.

1. Discard disposable rubber gloves that come into contact with a biocontaminant after each use.

2. Discard tissues, paper towels, disposable wipes, and similar products that come into contact with a biocontaminant after each use.

3. Place soiled disposable diapers in a closed container that is lined with a leak-proof or impervious lining, remove the soiled disposable diapers from the facility, and place them in a closed garbage receptacle outside the building on a daily basis.

4. Place soiled non-disposable diapers in a sealed plastic container that has been labeled with the child's name and return the diapers to the child's parent at the end of the day.

5. Place soiled clothes in a sealed plastic container that has been labeled with the child's name and return the clothes to the child's parent at the end of each day or launder the clothes at the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.40(A)(1).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:636 (April 2015), effective July 1, 2015, amended LR 42:555 (April 2016), LR 44:1867 (October 2018), LR 47:1278 (September 2021), LR 49:

**Part CLXV. Bulletin 139—Louisiana Child Care and
Development Fund Programs**

Chapter 1. Child Care Assistance Program

§103. Definitions

* * *

BESE Bulletin 137—Louisiana Early Learning Center Licensing Regulations.

Biocontaminants—any biological contaminant that includes blood and any bodily fluids, excretions, or waste that may spread infectious disease.

* * *

AUTHORITY NOTE: Promulgated in accordance with 45 CFR part 98 and R.S. 17:407.28.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2109 (October 2015), amended LR 42:42 (January 2016), LR 42:1870 (November 2016), LR 43:1279 (July 2017), LR 44:257 (February 2018), effective March 1, 2018, LR 44:800 (April 2018), LR 47:1279 (September 2021), LR 48:30 (January 2022), LR 48:1006 (April 2022), LR 49:

Chapter 3. CCAP Provider Certification

§309. Specific Certification and Registration

Requirements for Family Child Care Providers

A. - A.16.b. ...

17. Hazardous Materials and Other Items that Can Be Harmful to Children. Items such as medications, poisons, cleaning supplies and chemicals, equipment, tools, knives and other potentially dangerous utensils that can be harmful to children shall be kept in a locked cabinet or other secure place that ensures items are inaccessible to children.

18. - 28.k. ...

29. Biocontaminants. Staff shall properly dispose of all biocontaminants to safeguard against the spread of infectious disease.

a. Discard disposable rubber gloves that come into contact with a biocontaminant after each use.

b. Discard tissues, paper towels, disposable wipes, and similar products that come into contact with a biocontaminant after each use.

c. Place soiled disposable diapers in a closed container that is lined with a leak-proof or impervious lining, remove the soiled disposable diapers from the facility, and place them in a closed garbage receptacle outside the building on a daily basis.

d. Place soiled non-disposable diapers in a sealed plastic container that has been labeled with the child's name and return the diapers to the child's parent at the end of the day.

e. Place soiled clothes in a sealed plastic container that has been labeled with the child's name and return the clothes to the child's parent at the end of the day or launder the clothes at the facility.

f. Sheets and coverings shall be changed immediately when soiled or wet.

30. Cumulative File. A cumulative file that shall include an information form, written authorization for emergency medical treatment, individuals to whom the child may be released, and special dietary requirements shall be maintained on each child.

a. The information form shall be signed and dated by the parent and updated as changes occur. The form shall contain the name of the child, date of birth, sex, date of admission, the name of parents, the home address of both child and parents, the phone numbers where parents may be

reached while the child is in care, the name and phone number of the person to contact in an emergency if parents cannot be located promptly, any special concerns, including but not limited to allergies, chronic illnesses, and any special needs of the child, if applicable, and any special dietary needs, restrictions or food allergies, or intolerances, if applicable.

b. Emergency medical treatment written authorization shall be signed and dated by the parent to secure emergency medical treatment.

c. Written authorization for child release shall be signed and dated by the parent noting the first and last names of individuals to whom the child may be released other than the parents, and any person or persons who may remove the child from the home.

i. The parent may further authorize additional individuals via a text message, fax, or email to the provider in unplanned situations and follow it with written authorization.

ii. A child shall never be released to anyone unless authorized in writing by the parent.

iii. Any additions and deletions to the list of authorized individuals shall be signed and dated by the parent.

iv. The provider shall verify the identity of the authorized person prior to releasing the child.

d. Special Diets

i. A parent may request in writing special diet adjustments (i.e. no milk on a particular day).

ii. If a center is on the Child and Adult Care Food Program (CACFP), a written statement from a health care provider and the parent is required when the child requires a special diet for medical reasons if the meal is to be reimbursed by CACFP.

iii. Information regarding food allergies and special diets of children shall be posted in the food preparation area with special care taken to ensure that individual names of children are not in public view. If a parent chooses to allow the provider to post the child's name and allergy information in public view, a signed and dated authorization from the parent shall be obtained.

31. Shaken Baby Syndrome, Abusive Head Trauma, and Child Maltreatment. The provider shall maintain policy and procedures to identify, prevent, and respond to shaken baby syndrome, abusive head trauma, and child maltreatment.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98.43, R.S. 15:587.1, and R.S. 17:407.71.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2111 (October 2015), amended LR 42:2173 (December 2016), LR 43:1279 (July 2017), LR 44:258 (February 2018), effective March 1, 2018, LR 47:1280 (September 2021), LR 49:

§311. Specific Certification Requirements for In-Home Child Care Providers

A. - A.15.b. ...

16. Hazardous Materials and Other Items Harmful to Children. Items such as medications, poisons, cleaning supplies and chemicals, equipment, tools, knives, and other potentially dangerous utensils that can be harmful to children shall be kept in a locked cabinet or other secure place that ensures items are inaccessible to children.

17. - 27.k. ...

28. Biocontaminants. Staff shall properly dispose of all biocontaminants to safeguard against the spread of infectious disease.

a. Discard disposable rubber gloves that come into contact with a biocontaminant after each use.

b. Discard tissues, paper towels, disposable wipes, and similar products that come into contact with a biocontaminant after each use.

c. Place soiled disposable diapers in a closed container that is lined with a leak-proof or impervious lining, remove the soiled disposable diapers from the facility, and place them in a closed garbage receptacle outside the building on a daily basis.

d. Place soiled non-disposable diapers in a sealed plastic container that has been labeled with the child's name and return these diapers to the child's parent at the end of the day.

e. Place soiled clothes in a sealed plastic container that has been labeled with the child's name and return the clothes to the child's parent at the end of the day or launder the clothes at the facility.

f. Sheets and coverings shall be changed immediately when soiled or wet.

29. Cumulative File. A cumulative file that shall include an information form, written authorization for emergency medical treatment, individuals to whom the child may be released, and special dietary requirements shall be maintained on each child.

a. The information form shall be signed and dated by the parent and updated as changes occur. The form shall contain the name of the child, date of birth, sex, date of admission, the name of parents, the home address of both child and parents, the phone numbers where parents may be reached while the child is in care, the name and phone number of the person to contact in an emergency if parents cannot be located promptly, any special concerns, including but not limited to allergies, chronic illnesses, and any special needs of the child, if applicable, and any special dietary needs, restrictions or food allergies, or intolerances, if applicable.

b. Emergency medical treatment written authorization shall be signed and dated by the parent to secure emergency medical treatment.

c. Written authorization for child release shall be signed and dated by the parent noting the first and last names of individuals to whom the child may be released other than the parents, and any person or persons who may remove the child from the home.

i. The parent may further authorize additional individuals via a text message, fax, or email to the provider in unplanned situations and follow it with written authorization.

ii. A child shall never be released to anyone unless authorized in writing by the parent.

iii. Any additions and deletions to the list of authorized individuals shall be signed and dated by the parent.

iv. The provider shall verify the identity of the authorized person prior to releasing the child.

d. Special Diets

i. A parent may request in writing special diet adjustments (i.e. no milk on a particular day).

ii. If a center is on the Child and Adult Care Food Program (CACFP), a written statement from a health care provider and the parent is required when the child requires a special diet for medical reasons if the meal is to be reimbursed by CACFP.

iii. Information regarding food allergies and special diets of children shall be posted in the food preparation area with special care taken to ensure that individual names of children are not in public view. If a parent chooses to allow the provider to post the child's name and allergy information in public view, a signed and dated authorization from the parent shall be obtained.

30. Shaken Baby Syndrome, Abusive Head Trauma, and Child Maltreatment. The provider shall maintain policy and procedure to identify, prevent, and respond to shaken baby syndrome, abusive head trauma, and child maltreatment.

B. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98.43, R.S. 15:587.1, and R.S. 17:407.71.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2112 (October 2015), amended LR 42:2174 (December 2016), LR 43:1280 (July 2017), LR 44:260 (February 2018), effective March 1, 2018, amended LR 47:1282 (September 2021), LR 49:

§313. Specific Certification Requirements for Public School and BESE-Approved Nonpublic School Child Care Centers

A. - A.12.b. ...

13. Hazardous Materials and Other Items Harmful to Children. Items such as medications, poisons, cleaning supplies and chemicals, equipment, tools, knives, and other potentially dangerous utensils that can be harmful to children shall be kept in a locked cabinet or other secure place that ensures items are inaccessible to children.

14. - 22.k. ...

23. Biocontaminants. Staff shall properly dispose of all biocontaminants to safeguard against the spread of infectious disease.

a. Discard disposable rubber gloves that come into contact with a biocontaminant after each use.

b. Discard tissues, paper towels, disposable wipes, and similar products that come into contact with a biocontaminant after each use.

c. Place soiled disposable diapers in a closed container that is lined with a leak-proof or impervious lining, remove the soiled disposable diapers from the facility, and place them in a closed garbage receptacle outside the building on a daily basis.

d. Place soiled non-disposable diapers in a sealed plastic container that has been labeled with the child's name and return these diapers to the child's parent at the end of the day.

e. Place soiled clothes in a sealed plastic container that has been labeled with the child's name and return the clothes to the child's parent at the end of the day or launder the clothes at the facility.

f. Sheets and coverings shall be changed immediately when soiled or wet.

24. - 25. ...

26. Cumulative File. A cumulative file that shall include an information form, written authorization for emergency medical treatment, individuals to whom the child may be released, and special dietary requirements shall be maintained on each child.

a. The information form shall be signed and dated by the parent and updated as changes occur. The form shall contain the name of the child, date of birth, sex, date of admission, the name of parents, the home address of both child and parents, the phone numbers where parents may be reached while the child is in care, the name and phone number of the person to contact in an emergency if parents cannot be located promptly, any special concerns, including but not limited to allergies, chronic illnesses, and any special needs of the child, if applicable, and any special dietary needs, restrictions or food allergies, or intolerances, if applicable.

b. Emergency medical treatment written authorization shall be signed and dated by the parent to secure emergency medical treatment.

c. Written authorization for child release shall be signed and dated by the parent noting the first and last names of individuals to whom the child may be released other than the parents, and any person or persons who may remove the child from the home.

i. The parent may further authorize additional individuals via a text message, fax, or email to the provider in unplanned situations and follow it with written authorization.

ii. A child shall never be released to anyone unless authorized in writing by the parent.

iii. Any additions and deletions to the list of authorized individuals shall be signed and dated by the parent.

iv. The provider shall verify the identity of the authorized person prior to releasing the child.

d. Special Diets

i. A parent may request in writing special diet adjustments (i.e. no milk on a particular day).

ii. If a center is on the Child and Adult Care Food Program (CACFP), a written statement from a health care provider and the parent is required when the child requires a special diet for medical reasons if the meal is to be reimbursed by CACFP.

iii. Information regarding food allergies and special diets of children shall be posted in the food preparation area with special care taken to ensure that individual names of children are not in public view. If a parent chooses to allow the provider to post the child's name and allergy information in public view, a signed and dated authorization from the parent shall be obtained.

27. Shaken Baby Syndrome, Abusive Head Trauma, and Child Maltreatment. The provider shall maintain policy and procedures to identify, prevent, and respond to shaken baby syndrome, abusive head trauma, and child maltreatment.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S. 17:407.26.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2113 (October 2015),

amended LR 42:2174 (December 2016), LR 44:261 (February 2018), effective March 1, 2018, amended LR47:1284 (September 2021), LR 49:

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 effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments via the U.S. Mail until noon, May 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: Biocontaminants, Hazardous Materials, and Procedural Requirements for Documentation

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

There are no anticipated implementation costs to state or local governmental units due to the proposed rule revisions. The revisions provide a definition of biocontaminants and set forth safety requirements regarding biocontaminants and hazardous materials to be followed by family child care providers, in-home child care providers, and public school and BESE-approved nonpublic school child care centers. The revisions also provide for the specific information family child care providers, in-home childcare providers, and public school and BESE approved non-public school child care centers must maintain in a cumulative file on each child. This includes an information form, written authorization for emergency medical treatment, a list of individuals to whom the child may be released, and special dietary requirements. Finally, the revisions require that family child care providers, in-home childcare providers, and public school and BESE approved non-public school child care centers maintain policies and procedures relative to shaken baby syndrome, abusive head trauma, and child maltreatment. Federal guidelines governing these facilities already require such practices, and the revisions codify them at the state level. As a result, the Department of Education anticipates there will be no additional costs to state or local governmental units.

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

The proposed rule revisions 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 revisions will not result in costs and/or economic benefits to directly affected persons, small businesses, or non-governmental groups. The practices included in these revisions are included in federal requirements and should already be followed by family child care providers, in-home childcare providers, and public school and BESE approved non-public school child care centers.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)

There is no anticipated effect on competition and employment as a result of the proposed rule revisions.

Beth Scioneaux
Deputy Superintendent
2304#040

Alan Boxberger
Interim Deputy Fiscal Officer
Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1508—Pupil Appraisal Handbook
Interventions and Screenings
(LAC 28:CI.305, 703, and 725)

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:CI in *Bulletin 1508—Pupil Appraisal Handbook*. The proposed revisions provide additional screening requirements for certain students and modify vision impairment eligibility in alignment with legislation of the Louisiana 2022 Regular Legislative Session and federal guidelines.

**Title 28
EDUCATION**

**Part CI. Bulletin 1508—Pupil Appraisal Handbook
Chapter 3. Interventions and Screenings**

§305. Screening Activities

A. - B.2.c. ...

d. If the student's medical history indicates a neurological insult or neurological impairment, the student must be screened for Cerebral/Cortical Visual Impairment.

B.3. - C.2. ...

3. A review of developmental and medical/health history for evidence of premature birth, history of extended stay in NICU following birth, history of prenatal, natal, or postnatal neurologic insult, and/or history of genetic assessment for syndromic diagnosis.

D. - J.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 35:898 (May 2009), effective July 1, 2009, amended LR 42:400 (March 2016); LR 49:

Chapter 7. Disabilities

§703. Deaf-Blindness

A. - A.1. ...

B. Criteria for Eligibility. Evidence of criteria listed in Paragraphs 1, 2, and 3 are required.

1. Vision impairment in accordance with §725 of this Chapter.

2. Deaf and/or hard of hearing in accordance with §709 of this Chapter.

B.3. - D.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 35:905 (May 2009), effective July 1, 2009, amended LR 43:2493 (December 2017), LR 49:

§725. Visual Impairment

A. - A.1. ...

B. Criteria for Eligibility. Evidence of 1 of the criterion listed below must be met:

1. visual impairment or loss of vision identified by a functional vision assessment which adversely interferes with the ability to perform academically and which requires the use of specialized textbooks, techniques, materials, or equipment; or

2. - 4. ...

5. other blindness resulting from a medically documented condition that could include bilateral dysfunction of the optic radiations, the visual cortex, or both, and may coexist with ocular and ocular motor disorders and may include, but not be limited to, the result of trauma or perinatal brain dysfunction.

C. - E.1. ...

2. the educational assessment shall include:

a. a braille skills inventory, commensurate with grade level literacy and math standards in accordance with R.S. 17:24.4(A)(4) including a functional vision assessment of the degree to which the student utilizes vision to operate within the educational environment performed by a certified teacher of the blind or visually impaired or an orientation and mobility specialist;

b. a research-based learning media assessment to determine the student's needs in appropriate reading and writing media including an assessment of the student's future needs for instruction in Braille or the use of Braille and a statement of the student's strengths and needs. For the student who is a non-reader, learning medium assessment would involve systematic examination of how he/she obtains information through visual, tactile, or auditory methods;

3. - 5. ...

6. If necessary, a low vision assessment centered on how the student uses vision on a daily basis to determine if the student would benefit from optical devices, such as monocular telescopes or magnifiers. As appropriate, visual acuity, visual fields, and color vision shall be assessed.

F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 35:914 (May 2009), effective July 1, 2009, amended LR 43:2493 (December 2017), LR 49:

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 effect on the staffing level requirements or qualifications required to provide the same level of service;

2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or

3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments via the U.S. Mail until noon, May 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: Bulletin 1508—Pupil Appraisal Handbook—Interventions and Screenings

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

There are no anticipated implementation costs or savings to state or local governmental units due to the proposed rule revisions. The revisions provide for additional screening requirements for certain students and modify vision impairment eligibility. The screenings are free, with the exception of the functional vision assessment kits. These kits can be acquired at no cost for temporary use from the Louisiana Accessible Educational Materials center.

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

The proposed rule revisions 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)

There is no anticipated impact to small businesses or non-governmental groups as a result of the proposed rule revisions. Students experiencing vision impairment may receive additional supports as a result of this measure, and school or system-level personnel may experience additional workload related to conducting screenings and participating in training. This impact is indeterminable but likely to be minimal.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule revisions will not have an effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
2304#041

Alan Boxberger
Interim Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality Office of the Secretary Legal Affairs and Criminal Investigations Division

Voluntary Environmental Self-Audit Regulations (LAC 33:I.Chapter 70) (OS100)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Office of the Secretary regulations, LAC 33:I.Chapter 70 (OS100).

The proposed Rule will establish regulations for the voluntary environmental self-audit program in accordance with R.S. 30:2044. On August 1, 2021, R.S. 30:2044 became effective mandating the department to promulgate regulations establishing a program for voluntary

environmental self-audits. The regulations shall provide procedures for the establishment of the program, identification of violations not eligible for relief under the program, a fee for reviewing the environmental self-audits and corrective actions submitted to the department, and suspension of prescription upon participation in the program. The basis and rationale for the proposed Rule are to establish an environmental self-audit program as required by R.S. 30:2044. The Rule is based upon the United States Environmental Protection Agency's audit policy. The voluntary environmental self-audit program has the potential to increase environmental compliance at facilities and enhance the protection of human health and the environment. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:963.(B)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

**Title 33
ENVIRONMENTAL QUALITY**

Part I. Office of the Secretary

**Subpart 5. Voluntary Environmental Self-Audit
Program**

**Chapter 70. Voluntary Environmental Self-Audit
Regulations**

§7001. Authority

A. Regulations for establishing a program for voluntary environmental self-audits are hereby established by the Louisiana Department of Environmental Quality by order of the administrative authority and in accordance with R.S. 30:2025(J), 30:2060(H), 30:2076(D), 30:2183(I), and 30:2044(A).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2044(A).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 49:

§7003. Purpose

A. The purpose of this Chapter is to establish regulations for the voluntary environmental self-audit program. This Chapter:

1. identifies violations that are not eligible for relief under this program;
2. establishes procedures for conducting voluntary environmental self-audits;
3. establishes fees associated with this program; and
4. addresses prescription for violation(s) subject to this program.

B. The regulations established in this Chapter shall apply to environmental self-audits conducted on or after {promulgation date}.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2044(A).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 49:

§7005. Definitions

A. The following terms used in this Chapter shall have the meanings listed below, unless the context otherwise requires, or unless specifically redefined in a particular Section.

Audit or Environmental Audit—a systematic voluntary evaluation, review, or assessment of compliance with environmental statutes, regulations, permits, and/or permit requirements.

Audit Report or Environmental Audit Report—the documented analyses, conclusions, and recommendations resulting from an environmental audit.

Department—the Louisiana Department of Environmental Quality.

EPA—the United States Environmental Protection Agency.

Owner or Operator—any person(s) who owns, leases, operates, controls, or supervises a facility, building, structure, or installation.

Person—any individual, municipality, public or private corporation, partnership, firm, the United States government and any agent or subdivision thereof, or any other juridical person, which shall include, but not be limited to, trusts, joint stock companies, associations, the state of Louisiana, political subdivisions of the state of Louisiana, commissions, and interstate bodies.

Regulated Entity—any entity, including a federal, state, or municipal agency or facility, regulated under federal and/or state environmental laws.

Subtitle—the Louisiana Environmental Quality Act.

Violation—noncompliance with a requirement of a statute, regulation, permit, judicial or administrative order, or consent agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2044(A).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 49:

§7007. Exclusions

A. Violations that are not eligible for relief under this program shall include, but not limited to violations:

1. that result in serious actual harm to the environment;
2. that may present an imminent or substantial endangerment to the environment or public health;
3. discovered by the department or EPA prior to written disclosure of the violation to the department;
4. detected through monitoring, sampling, or auditing procedures that are required by statute, regulation, permit, judicial or administrative order, or consent agreement;
5. subject to the chemical accident prevention provisions of 40 CFR Part 68 and LAC 33:III.5901;
6. that are deliberate or intentional; or
7. that are the same or closely related at the same facility within the past three years.

B. An employee of the department shall not request, review, or otherwise use an environmental audit report during a department inspection of a facility.

C. The department reserves the right to take enforcement action with respect to a violation that:

1. is excluded under LAC 33:I.7007.A; or
2. is not properly or adequately disclosed and/or corrected in accordance with this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2044(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 49:

§7009. Program Scope

A. Procedures for Conducting Voluntary Environmental Self-Audits

1. Notice of Audit

a. The owner or operator shall notify the department prior to initiating a voluntary environmental audit in order to qualify for penalty mitigation.

b. The owner or operator shall use the department's most current version of the approved notice of audit form located on the department's public website.

c. A notice of audit shall be submitted in writing by certified mail or other means approved by the department.

d. The department shall acknowledge receipt of the notice of audit in writing.

2. Disclosure of Violation(s)

a. Disclosure of violation(s) shall be made by the owner or operator upon discovery of a violation as a result of the voluntary environmental audit. The violation(s) shall be properly disclosed and reported to the department by certified mail, or other means approved by the department, in order to qualify for penalty mitigation.

b. The owner or operator shall use the department's most current version of the approved disclosure of violation(s) form located on the department's public website.

c. The disclosure of violation shall include corrective actions, if applicable.

d. The department shall acknowledge receipt of the disclosure of violation in writing. The acknowledgement shall include a concurrence or rejection of the proposed corrective actions.

3. An environmental audit shall be completed within a reasonable time, not to exceed six months after the date the audit was initiated, unless the department grants an extension of time.

B. Requests for Extension of Time

1. Requirements for Requests for Extension of Time

a. If an audit cannot be completed within six months after the date of initiation, a request for extension of time shall be submitted in writing at least 30 calendar days prior to the expiration of the audit period with sufficient information to justify an extension. Justification for an extension of time shall be limited to factors beyond the control of the owner or operator. A request without sufficient information shall result in a denial.

C. Corrective Actions

1. Corrective actions must be completed within 90 calendar days from the date of discovery of the violation unless a specific period is required by statute, regulation, or permit requirement.

a. Corrective actions must include detailed actions implemented, or to be implemented, to prevent recurrence of the violation and a scheduled date of completion.

b. Corrective actions that will take longer than 90 calendar days to complete must be submitted in writing and receive written approval from the department.

c. After completion of all corrective actions, a final written report shall be submitted to the department. The final written report shall include:

- i. notice of audit;
- ii. disclosure of violation(s); and

iii. certification of completion of all corrective actions.

d. Failure to notify, implement, and/or complete all proposed corrective actions shall be considered a violation and subject to the appropriate enforcement action.

D. Environmental Audit Report

1. The full environmental audit report should not be submitted to the department unless specifically requested by the department in writing.

E. Penalty Mitigation

1. The following nine conditions shall be met to be eligible for a 100 percent reduction in penalties.

a. The violation was systematically discovered through an environmental audit.

b. The violation was voluntarily disclosed. The violation was not discovered through a federal, state, or local requirement prescribed by statute, regulation, permit, judicial or administrative order, or a consent agreement.

c. The violation was disclosed in writing within 45 calendar days after discovery, unless an existing law or regulation required disclosure in fewer than 45 calendar days.

d. The violation was independently discovered and identified before the department would have identified the problem either through its investigation or through information from a third party. Discovery and disclosure will not be considered independent if:

i. prompted by the initiation of a department or EPA investigation, or information request;

ii. a notice of a citizen suit filed under federal or state law prior to the notice of an environmental audit;

iii. a third party complaint has been filed;

iv. or a whistleblower has reported the potential violation to the department.

e. The violation was corrected as expeditiously as possible, but no later than 90 calendar days from the date of discovery, unless an extension of time or compliance schedule was approved by the department.

f. The appropriate measure(s) to prevent a recurrence of the violation was implemented after the violation was disclosed.

g. The same or closely related violation has not occurred at the same facility within the past three years.

h. The violation is excluded as listed in LAC 33:I.7007.A.

i. The owner or operator has cooperated by providing information as required by the department to determine eligibility.

2. If all of the conditions in LAC 33:I.7009.E.1 are met except systematic discovery, there will be a 75 percent reduction.

3. Failure to meet the required conditions will result in ineligibility for penalty reduction.

4. The department reserves the right to collect any monetary benefits realized through noncompliance.

F. Confidentiality

1. Information contained in a voluntary environmental self-audit authorized by R.S. 30:2044 shall be held confidential by the department and be withheld from public disclosure until a final decision is made, or a period not to exceed two years, whichever occurs first. Any final decision made by the department shall be public and published on the

department's website. However, nothing in this Paragraph shall prohibit a request for confidentiality pursuant to R.S. 30:2030(1)(b). Information that is required to be reported to a state or federal agency by statute, regulation, or permit, including but not limited to, notifications required by R.S. 30:2025(J), 30:2060(H), 30:2076(D), 30:2183(I), and 30:2204(A) shall not be held confidential.

2. All requests for confidentiality shall be submitted in accordance with LAC 33:I.Chapter 5.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2044(C).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 49:

§7011. New Owner

A. Definitions

1. The following terms used in this Chapter shall have the meanings listed below, unless the context otherwise requires, or unless specifically redefined in a particular Section.

Acquisition Closing Date—the date on which ownership of, or a direct or indirect majority interest in the ownership of a regulated facility or operation is acquired in an asset purchase, equity purchase, merger, or similar transaction.

New Owner—any person not responsible for environmental compliance at the facility that is the subject of the environmental audit, did not cause the violation being disclosed, and could not have prevented the occurrence.

B. The new owner shall comply with all requirements listed in LAC 33:I.7009 except as listed below.

1. The new owner shall notify the department in writing of the intention to continue an audit that was initiated by the previous owner.

2. An audit must be completed within six months after the acquisition closing date, if the new owner continues the audit.

3. Failure to request and receive written approval from the department for an extension of time to complete an audit may forfeit any penalty mitigation.

4. The new owner making the disclosure must certify in the disclosure that all of the following conditions were true before the acquisition closing date.

a. The new owner was not responsible for the environmental compliance at the facility or the operation that is subject to the audit.

b. The new owner did not have the largest ownership share of the seller.

c. The seller did not have the largest ownership share of the new owner.

d. The new owner and seller did not have a common corporate parent or a common majority interest owner.

5. A new owner is eligible for penalty mitigation if the following are met within nine months of the acquisition closing date:

a. prompt disclosure of the violations to the department; and

b. the conditions outlined in LAC 33:I.7011.B.4 are met.

6. The following nine conditions shall be met to be eligible for a 100 percent reduction in penalties.

a. The violation was systematically discovered through an environmental audit.

b. The violation was voluntarily disclosed. The violation was not discovered through a federal, state, or local requirement prescribed by statute, regulation, permit, judicial or administrative order, or a consent agreement.

c. The violation was disclosed to the department in writing within 45 calendar days after discovery, unless an existing law or regulation required disclosure in fewer than 45 calendar days.

d. The violation was independently discovered and identified before the department would have identified the problem either through its investigation or through information from a third party. Discovery and disclosure will not be considered independent if:

i. prompted by the initiation of a department or EPA investigation or request for information;

ii. a notice of a citizen suit filed under federal or state law prior to the notice of an environmental audit;

iii. a third party complaint has been filed; or

iv. a whistleblower has reported the potential violation to the department.

e. The violation was corrected as expeditiously as possible, but no later than 90 calendar days from the date of discovery, unless an extension of time or compliance schedule was approved by the department.

f. The appropriate measures to prevent a recurrence of the violation were implemented after the violation was disclosed to the department.

g. The same or closely related violation has not occurred at the same facility within the past three years.

h. The violation is excluded as listed in LAC 33:I.7007.A.

i. The owner or operator has cooperated by providing information as necessary and required by the department to determine eligibility.

7. Penalty mitigation will not apply if any of the following are met.

a. The new owner who made the disclosure willingly or knowingly committed the violation or was responsible for the commission of the violation.

b. The new owner who made the disclosure recklessly committed the violation or was responsible for the commission of the disclosed violation and the violation resulted in substantial injury or harm to one or more persons, property, or the environment on-site or off-site.

c. The violation was committed willfully or knowingly by a member of the new owner's management, or an agent of the new owner, and the new owner's policies or lack of prevention systems contributed materially to the occurrence of the violation.

d. The violation was recklessly committed by a member of the new owner's management, by an agent of the new owner, or if the new owner's policies or lack of prevention systems contributed materially to the occurrence of the violation resulting in substantial injury or harm to one

or more persons, property, or the environment on-site or off-site.

e. The violation has resulted in a substantial economic benefit that gives the new owner a clear advantage over its business competitors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2044(C).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 49:

§7013. Fees

A. Determination of Fee

1. All requests for reviewing environmental self-audits and corrective actions by the department shall be accompanied by an initial \$1,500 minimum fee.

2. The administrative authority shall keep an account of time spent by the department's civil service employee processing the review request. Every hour, or portion thereof, that the department's civil service employee works processing the request shall be multiplied by the maximum per-hour overtime salary of the department's civil service employee who performed the work, plus reasonable indirect costs calculated as a percentage of the hourly fee. Such percentage shall be determined annually by agreement between the department and the United States Environmental Protection Agency for use on grants and contracts. If this amount exceeds the initial minimum fee charge pursuant to R.S. 30:2044, an additional fee shall be charged for the amount exceeding the initial minimum fee.

3. Invoices for any additional fee amount may be issued periodically while the audit and corrective actions are being conducted and/or implemented and a final invoice shall be issued once the review is complete.

B. Refunds

1. The fees in this Section are nontransferable and nonrefundable.

C. Failure to pay the additional fee by the due date specified on the invoice will constitute a violation of these regulations and shall subject the person requesting the review to relevant enforcement action under the subtitle.

D. Methods of Payment

1. All payments made by check, draft, or money order shall be made payable to the Louisiana Department of Environmental Quality, and mailed to the department with a copy of the notice of audit. The original notice of audit shall be submitted as directed on the form.

2. Electronic Methods of Payment

a. Persons wishing to make payments using electronic pay method should access the department's website and follow the instructions provided on the website.

b. Persons wishing to make payments using the electronic funds transfer (EFT) method shall contact the Office of Management and Finance for further instructions.

E. Late Payment

1. Payments not received within 15 days of the due date will be charged a late fee.

2. Any late payment fee shall be calculated from the due date indicated on the invoice.

3. Payments not received by the department within:

a. fifteen days from the due date will be assessed a five percent late payment fee on the original assessed fee;

b. thirty days from the due date will be assessed an additional 5 percent late payment fee on the original assessed fee; and

c. 60 days from the due date will be assessed an additional five percent late payment fee on the original assessed fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2044(C).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 49:

§7015. Prescription

A. Prescription shall be suspended for all claims with violations under the subtitle or the regulations promulgated pursuant to this subtitle upon participation in the voluntary self-audit program. Suspension of prescription commences upon the department's receipt of the owner or operator's disclosure of violation(s) in accordance with LAC 33:I.7009.A.2. The suspension of prescription shall terminate upon a final decision under R.S. 30:2030(A)(2) or after a period of two years, whichever occurs first.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2030(A) and 30:2044(D).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 49:

Family Impact Statement

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Poverty Impact Statement

This Rule has no known impact on poverty as described in R.S. 49:973.

Small Business Analysis

This Rule has no known impact on small 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 OS100. Such comments must be received no later than June 1, 2023, at 4:30 p.m., and should be sent to William Little, Attorney Supervisor, Office of the Secretary, Legal Affairs Division, P.O. Box 4302, Baton Rouge, LA 70821-4302, by fax (225) 219-4068, or by E-mail to DEQ.Reg.Dev.Comments@la.gov. Copies of this proposed regulation can be purchased by contacting the LDEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of OS100. This proposed regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

Public Hearing

A public hearing will be held via Zoom on May 25, 2023, at 1:30 p.m. Interested persons are invited to attend and submit oral comments via PC, Mac, Linux, iOS, or Android at <https://deqlouisiana.zoom.us/j/89588076475?pwd=S2JpWXVvYUVVVFN2c2VLeEdQUHI4Zz09>, password 535200, or by telephone at (636) 651-3182 using the conference code 725573. Should individuals with a disability need an accommodation in order to participate,

contact William Little at the address given below or at (225) 219-3985.

This proposed regulation is available for inspection at the following LDEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

Courtney J. Burdette
Executive Counsel

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Voluntary Environmental Self-Audit
Regulations**

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

The proposed rule changes establish regulations for the voluntary environmental self-audit program in accordance with R.S. 30:2044. The Department of Environmental Quality (DEQ) anticipates an increase in costs to implement the self-audit program. Annual costs are estimated to be \$610,008 during the first year and \$1,256,616 during the second year of the program. The department plans to charge a fee to recoup any costs associated with the program. The costs will ultimately be determined by the number of facilities that participate in the program, along with the scope and scale of the audits performed and submitted for DEQ's oversight and review.

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

This proposed rule allows the department to charge a fee for reviewing environmental self-audits. All revenue generated will be used to compensate the employee for the services performed plus reasonable indirect costs. There will be no net increase in revenues in excess of expenditures associated with the proposed action. Annual costs are estimated to be \$610,008 in FY 24 and increase to \$1,256,616 in FY 25.

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

Participation in the environmental self-audit program is voluntary. The applicant must complete a request and pay a minimum fee of \$1,500. The total fee will be based on the actual costs necessary to review the self-audit, which will be highly dependent on the size and complexity of the audit.

The environmental self-audit program allows the regulated community to identify and correct compliance issues. This type of program offers incentives such as mitigated penalties for eligible participants.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There may be impacts in employment in public or private sectors to the extent changes in employment are necessary to absorb the costs associated with participation in this program. However, these fees have been discussed with industry participants and the department does not anticipate any significant impact on public or private sector employment.

Courtney J. Burdette
Executive Counsel
2304#026

Evan Brasseaux
Interim Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Division of Administration
Office of Group Benefits**

Bariatric Surgery Services
(LAC 32:III.107; V.205, 305, and 505)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., as authorized pursuant to R.S. 42:801 and 42:802, the Office of the Governor, Division of Administration, Office of Group Benefits, proposes to amend Chapter 1 of LAC 32:III, Primary Plan of Benefits, and Chapters 2, 3, and 5 of LAC 32:V, Additional Plans and Operations. The Rule is revised to amend the schedule of benefits. The schedule of benefits is amended to provide for bariatric surgery services.

Title 32

EMPLOYEE BENEFITS

Part III. Primary Plan of Benefits

Chapter 1. Operation of Primary Plan

§107. Schedule of Benefits

A. Benefits, Copayments, and Coinsurance

	Copayments and Coinsurance	
	Network Providers	Non-Network Providers
Physician Office Visits including surgery performed in an office setting: <ul style="list-style-type: none"> • General Practice • Family Practice • Internal Medicine • OB/GYN • Pediatrics 	\$25 Copayment per Visit	No Coverage
Allied Health/Other Professional Visits: <ul style="list-style-type: none"> • Chiropractors • Federally Funded Qualified Rural Health Clinics • Nurse Practitioners • Retail Health Clinics • Physician Assistants 	\$25 Copayment per Visit	No Coverage
Specialist Office Visits including surgery performed in an office setting: <ul style="list-style-type: none"> • Physician • Podiatrist • Optometrist • Midwife • Audiologist • Registered Dietician • Sleep Disorder Clinic 	\$50 Copayment per Visit	No Coverage
Ambulance Services - Ground <i>(for Emergency Medical Transportation only)</i>	\$50 Copayment	\$50 Copayment
Ambulance Services - Air <i>(for Emergency Medical Transportation only)</i> Non-Emergency requires prior authorization ²	\$250 Copayment	No Coverage
Ambulatory Surgical Center and Outpatient Surgical Facility	\$100 Copayment	No Coverage
Bariatric Surgery Services – Facility Services ⁴	\$2,500.00 Copayment ^{2,3}	No Coverage
Bariatric Surgery Services – Professional Services ⁴	90% - 10% ^{2,3}	No Coverage
Bariatric Surgery Services – Preoperative and Postoperative Medical Services ⁴	80% - 20% ^{2,3}	No Coverage

	Copayments and Coinsurance	
	Network Providers	Non-Network Providers
Birth Control Devices – Insertion and Removal (<i>as listed in the Preventive and Wellness Article in the Benefit Plan</i>)	100% - 0%	No Coverage
Cardiac Rehabilitation (<i>limit of 36 visits per Plan Year</i>)	\$25/\$50 Copayment per day depending on Provider Type ² \$50 Copayment - Outpatient Facility ²	No Coverage
Chemotherapy/Radiation Therapy (<i>Authorization not required when performed in Physician's office</i>)	Office - \$25 Copayment per Visit Outpatient Facility 100% - 0% ^{1,2}	No Coverage
Diabetes Treatment	80% - 20% ¹	No Coverage
Diabetic/Nutritional Counseling - Clinics and Outpatient Facilities	\$25 Copayment	No Coverage
Dialysis	100% - 0% ¹	No Coverage
Durable Medical Equipment (DME), Prosthetic Appliances and Orthotic Devices	80% - 20% ^{1,2} of first \$5,000 Allowable per Plan Year; 100% - 0% of Allowable in Excess of \$5,000 per Plan Year	No Coverage
Emergency Room (<i>Facility Charge</i>)	\$200 Copayment; Waived if admitted to the same facility	
Emergency Medical Services (<i>Non-Facility Charges</i>)	100% - 0% ¹	100% - 0% ¹
Eyeglass Frames and One Pair of Eyeglass Lenses or One Pair of Contact Lenses (<i>purchased within six months following cataract surgery</i>)	Eyeglass Frames – Limited to a Maximum Benefit of \$50 ¹	No Coverage
Flu shots and H1N1 vaccines (<i>administered at Network Providers, Non-Network Providers, Pharmacy, Job Site or Health Fair</i>)	100% - 0%	No Coverage
Hearing Aids (<i>Hearing Aids are not covered for individuals age eighteen (18) and older.</i>)	80% - 20% ^{1,3}	No Coverage
Hearing Impaired Interpreter Expense	100% - 0%	No Coverage
High-Tech Imaging - Outpatient <ul style="list-style-type: none"> CT Scans MRA/MRI Nuclear Cardiology PET Scans 	\$50 Copayment ²	No Coverage
Home Health Care (<i>limit of 60 Visits per Plan Year</i>)	100% - 0% ^{1,2}	No Coverage
Hospice Care (<i>limit of 180 Days per Plan Year</i>)	100% - 0% ^{1,2}	No Coverage
Injections Received in a Physician's Office (<i>when no other health service is received</i>)	100% - 0% ¹	No Coverage
Inpatient Hospital Admission, All Inpatient Hospital Services Included	\$100 Copayment per day ² , maximum of \$300 per Admission	No Coverage

	Copayments and Coinsurance	
	Network Providers	Non-Network Providers
Inpatient and Outpatient Professional Services for Which a Copayment Is Not Applicable	100% - 0% ¹	No Coverage
Mastectomy Bras - Ortho-Mammary Surgical (<i>limited to three (3) per Plan Year</i>)	80% - 20% ¹ of first \$5,000 Allowable per Plan Year; 100% - 0% of Allowable in Excess of \$5,000 per Plan Year	No Coverage
Mental Health/Substance Abuse - Inpatient Treatment and Intensive Outpatient Programs	\$100 Copayment per day ² , maximum of \$300 per Admission	No Coverage
Mental Health/Substance Abuse - Office Visit and Outpatient Treatment (Other than Intensive Outpatient Programs)	\$25 Copayment per Visit	No Coverage
Newborn - Sick, Services excluding Facility	100% - 0% ¹	No Coverage
Newborn - Sick, Facility	\$100 Copayment per day ² , maximum of \$300 per Admission	No Coverage
Oral Surgery	100% - 0% ^{1,2}	No Coverage
Pregnancy Care - Physician Services	\$90 Copayment per pregnancy	No Coverage
Preventive Care - Services include screening to detect illness or health risks during a Physician office visit. The Covered Services are based on prevailing medical standards and may vary according to age and family history. (<i>For a complete list of benefits, refer to the Preventive and Wellness Article in the Benefit Plan.</i>)	100% - 0% ³	No Coverage
Rehabilitation Services - Outpatient: <ul style="list-style-type: none"> Speech Physical/Occupational (<i>Limited to 50 Visits combined PT/OT per Plan Year. Authorization required for visits over the combined limit of 50.</i>) (<i>Visit limits do not apply when services are provided for Autism Spectrum Disorders.</i>) 	\$25 Copayment per Visit	No Coverage
Skilled Nursing Facility (<i>limit of 90 days per Plan Year</i>)	\$100 Copayment per day ² , maximum of \$300 per Admission	No Coverage
Sonograms and Ultrasounds (<i>Outpatient</i>)	\$50 Copayment	No Coverage
Urgent Care Center	\$50 Copayment	No Coverage

	Copayments and Coinsurance	
	Network Providers	Non-Network Providers
Vision Care (Non-Routine) Exam	\$25/\$50 Copayment depending on Provider Type	No Coverage
X-ray and Laboratory Services (low-tech imaging)	Hospital Facility 100%-0% ¹ Office or Independent Lab 100%-0%	No Coverage

¹Subject to Plan Year Deductible, if applicable
²Pre-Authorization Required, if applicable. Not applicable for Medicare primary.
³Age and/or Time Restrictions Apply
⁴No Benefits will be payable unless Prior Authorization is obtained, including Plan Participants with Medicare as the Primary Plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 41:350 (February 2015), effective March 1, 2015, amended LR 43:2153 (November 2017), effective January 1, 2018, LR 49:

Part V. Additional Plans and Operations

Chapter 2. PPO Plan Structure—Magnolia Open Access Plan

§205. Schedule of Benefits

A. Benefits and Coinsurance

	Coinsurance		
	Active Employees/ Non-Medicare Retirees (regardless of retire date)		Retirees with Medicare (regardless of retire date)
	Network Providers	Non- Network Providers	Network and Non-Network Providers
Ambulance Services - Ground (for Emergency Medical Transportation only)	90% - 10% ¹	70% - 30% ¹	80% - 20% ¹
Ambulance Services - Air (for Emergency Medical Transportation only) Non-emergency requires prior authorization ²	90% - 10% ¹	70% - 30% ¹	80% - 20% ¹
Ambulatory Surgical Center and Outpatient Surgical Facility	90% - 10% ¹	70% - 30% ¹	80% - 20% ¹
Bariatric Surgery Services – Facility Services ⁴	\$2,500.00 Copayment ^{2,3}	Not Covered	Network Providers \$2,500.00 Copayment ^{2,3} Non-Network Providers Not Covered
Bariatric Surgery Services – Professional Services ⁴	90% - 10% ^{2,3}	Not Covered	Network Providers 90% - 10% ^{2,3} Non-Network Providers Not Covered
Bariatric Surgery Services – Preoperative and Postoperative Medical Services ⁴	80% - 20% ^{2,3}	Not Covered	Network Providers 80% - 20% ^{2,3} Non-Network Providers Not Covered
Birth Control Devices - Insertion and Removal (as listed in the Preventive and Wellness Care Article in the Benefit Plan)	100% - 0%	70% - 30% ¹	Network Providers 100% - 0% Non-Network Providers 80% - 20% ¹
Cardiac Rehabilitation (limit of 36 visits per Plan Year)	90% - 10% ^{1,2}	70% - 30% ^{1,2}	80% - 20% ^{1,2}
Chemotherapy/Radiation Therapy (Authorization not required when performed in Physician’s office)	90% - 10% ^{1,2}	70% - 30% ^{1,2}	80% - 20% ^{1,2}
Diabetes Treatment	90% - 10% ¹	70% - 30% ¹	80% - 20% ¹
Diabetic/Nutritional Counseling - Clinics and Outpatient Facilities	90% - 10% ¹	Not Covered	80% - 20% ¹
Dialysis	90% - 10% ¹	70% - 30% ¹	80% - 20% ¹
Durable Medical Equipment (DME), Prosthetic Appliances and Orthotic Devices	90% - 10% ^{1,2}	70% - 30% ^{1,2}	80% - 20% ^{1,2}
Emergency Room (Facility Charge)	\$200 Copayment ¹ ; Waived if admitted to the same facility		
Emergency Medical Services (Non-Facility Charges)	90% - 10% ¹	90% - 10% ¹	80% - 20% ¹
Eyeglass Frames and One Pair of Eyeglass Lenses or One Pair of Contact Lenses (purchased within six months following cataract surgery)	Eyeglass Frames - Limited to a Maximum Benefit of \$50 ¹		

	Coinsurance		
	Active Employees/ Non-Medicare Retirees (regardless of retire date)		Retirees with Medicare (regardless of retire date)
	Network Providers	Non- Network Providers	Network and Non-Network Providers
Physician Office Visits including surgery performed in an office setting: <ul style="list-style-type: none"> • General Practice • Family Practice • Internal Medicine • OB/GYN • Pediatrics 	90% - 10% ¹	70% - 30% ¹	80% - 20% ¹
Allied Health/Other Professional Visits: <ul style="list-style-type: none"> • Chiropractors • Federally Funded Qualified Rural Health Clinics • Nurse Practitioners • Retail Health Clinics • Physician Assistants 	90% - 10% ¹	70% - 30% ¹	80% - 20% ¹
Specialist (Physician) Office Visits including surgery performed in an office setting: <ul style="list-style-type: none"> • Physician • Podiatrist • Optometrist • Midwife • Audiologist • Registered Dietician • Sleep Disorder Clinic 	90% - 10% ¹	70% - 30% ¹	80% - 20% ¹

	Coinsurance		
	Active Employees/ Non-Medicare Retirees (regardless of retire date)		Retirees with Medicare (regardless of retire date)
	Network Providers	Non- Network Providers	Network and Non-Network Providers
Flu shots and H1N1 vaccines (administered at Network Providers, Non-Network Providers, Pharmacy, Job Site or Health Fair)	100% - 0%	100% - 0%	100% - 0%
Hearing Aids (Hearing Aids are not covered for individuals age eighteen (18) and older)	90% - 10% ^{1,3}	70% - 30% ^{1,3}	80% - 20% ^{1,3}
Hearing Impaired Interpreter Expense	100% - 0%	100% - 0%	100% - 0%
High-Tech Imaging – Outpatient • CT Scans • MRA/MRI • Nuclear Cardiology • PET Scans	90% - 10% ^{1,2}	70% - 30% ^{1,2}	80% - 20% ^{1,2}
Home Health Care (limit of 60 Visits per Plan Year)	90% - 10% ^{1,2}	70% - 30% ^{1,2}	Not Covered
Hospice Care (limit of 180 Days per Plan Year)	80% - 20% ^{1,2}	70% - 30% ^{1,2}	Not Covered
Injections Received in a Physician’s Office (when no other health service is received)	90% - 10% ¹	70% - 30% ¹	80% - 20% ¹
Inpatient Hospital Admission, All Inpatient Hospital Services Included Per Day Copayment Day Maximum Coinsurance	\$0 Not Applicable 90% - 10% ^{1,2}	\$50 5 Days 70% - 30% ^{1,2}	\$0 Not Applicable 80% - 20% ^{1,2}
Inpatient and Outpatient Professional Services	90% - 10% ¹	70% - 30% ¹	80% - 20% ¹
Mastectomy Bras - Ortho-Mammary Surgical (limit of three (3) per Plan Year)	90% - 10% ¹	70% - 30% ¹	80% - 20% ¹
Mental Health/Substance Abuse - Inpatient Treatment and Intensive Outpatient Programs Per Day Copayment Day Maximum Coinsurance	\$0 Not Applicable 90% - 10% ^{1,2}	\$50 5 Days 70% - 30% ^{1,2}	\$0 Not Applicable 80% - 20% ^{1,2}
Mental Health/Substance Abuse – Office Visit and Outpatient Treatment (Other than Intensive Outpatient Programs)	90% - 10% ¹	70% - 30% ¹	80% - 20% ¹
Newborn - Sick, Services Excluding Facility	90% - 10% ¹	70% - 30% ¹	80% - 20% ¹
Newborn - Sick, Facility Per Day Copayment Day Maximum Coinsurance	\$0 Not Applicable 90% - 10% ^{1,2}	\$50 5 Days 70% - 30% ^{1,2}	\$0 Not Applicable 80% - 20% ^{1,2}

	Coinsurance		
	Active Employees/ Non-Medicare Retirees (regardless of retire date)		Retirees with Medicare (regardless of retire date)
	Network Providers	Non- Network Providers	Network and Non-Network Providers
Oral Surgery for Impacted Teeth	90% - 10% ^{1,2}	70% - 30% ^{1,2}	80% - 20% ^{1,2}
Pregnancy Care - Physician Services	90% - 10% ¹	70% - 30% ¹	80% - 20% ¹
Preventive Care - Services include screening to detect illness or health risks during a Physician office visit. The Covered Services are based on prevailing medical standards and may vary according to age and family history. (For a complete list of benefits, refer to the Preventive and Wellness Care Article in the Benefit Plan.)	100% - 0% ³	70% - 30% ^{1,3}	Network 100% - 0% ³ Non-Network 80% - 20% ^{1,3}
Rehabilitation Services - Outpatient: • Speech • Physical/ Occupational (Limited to 50 Visits combined PT/OT per Plan Year. Authorization required for visits over the combined limit of 50.) (Visit limits do not apply when services are provided for Autism Spectrum Disorders)	90% - 10% ¹	70% - 30% ¹	80% - 20% ¹
Skilled Nursing Facility (limit 90 days per Plan Year)	90% - 10% ^{1,2}	70% - 30% ^{1,2}	80% - 20% ^{1,2}
Sonograms and Ultrasounds (Outpatient)	90% - 10% ¹	70% - 30% ¹	80% - 20% ¹
Urgent Care Center	90% - 10% ¹	70% - 30% ¹	80% - 20% ¹
Vision Care (Non-Routine) Exam	90% - 10% ¹	70% - 30% ¹	80% - 20% ¹
X-ray and Laboratory Services (low-tech imaging)	90% - 10% ¹	70% - 30% ¹	80% - 20% ¹
¹ Subject to Plan Year Deductible, if applicable			
² Pre-Authorization Required, if applicable. Not applicable for Medicare primary.			
³ Age and/or Time Restrictions Apply			
⁴ No Benefits will be payable unless Prior Authorization is obtained, including Plan Participants with Medicare as the Primary Plan.			

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 41:356 (February 2015), effective March 1, 2015, amended LR 43:2155 (November 2017), effective January 1, 2018, LR 48:2769 (November 2022), LR 49:

Chapter 3. Narrow Network HMO Plan Structure—Magnolia Local Plan (in certain geographical areas)

§305. Schedule of Benefits

A. Benefits, Copayments, and Coinsurance

	Copayments and Coinsurance	
	Network Providers	Non-Network Providers
Physician Office Visits including surgery performed in an office setting: <ul style="list-style-type: none"> • General Practice • Family Practice • Internal Medicine • OB/GYN • Pediatrics 	\$25 Copayment per Visit	No Coverage
Allied Health/Other Professional Visits: <ul style="list-style-type: none"> • Chiropractors • Federally Funded Qualified Rural • Health Clinics • Nurse Practitioners • Retail Health Clinics • Physician Assistants 	\$25 Copayment per Visit	No Coverage
Specialist Office Visits including surgery performed in an office setting: <ul style="list-style-type: none"> • Physician • Podiatrist • Optometrist • Midwife • Audiologist • Registered Dietician • Sleep Disorder Clinic 	\$50 Copayment per Visit	No Coverage
Ambulance Services - Ground (for Emergency Medical Transportation only)	\$50 Copayment	\$50 Copayment
Ambulance Services - Air (for Emergency Medical Transportation only) Non-emergency requires prior authorization ²	\$250 Copayment	No Coverage
Ambulatory Surgical Center and Outpatient Surgical Facility	\$100 Copayment	No Coverage
Bariatric Surgery Services – Facility Services ⁴	\$2,500.00 Copayment ^{2,3}	No Coverage
Bariatric Surgery Services – Professional Services ⁴	90% - 10% ^{2,3}	No Coverage
Bariatric Surgery Services – Preoperative and Postoperative Medical Services ⁴	80% - 20% ^{2,3}	No Coverage
Birth Control Devices - Insertion and Removal (as listed in the Preventive and Wellness Article in the Benefit Plan.)	100% - 0%	No Coverage
Cardiac Rehabilitation (limit of 36 visits per Plan Year)	\$25/\$50 Copayment per day depending on Provider Type ² \$50 Copayment-Outpatient Facility ²	No Coverage

	Copayments and Coinsurance	
	Network Providers	Non-Network Providers
Chemotherapy/Radiation Therapy (Authorization not required when performed in Physician's office)	Office – \$25 Copayment per Visit Outpatient Facility 100% - 0% ^{1,2}	No Coverage
Diabetes Treatment	80% - 20% ¹	No Coverage
Diabetic/Nutritional Counseling - Clinics and Outpatient Facilities	\$25 Copayment	No Coverage
Dialysis	100% - 0% ¹	No Coverage
Durable Medical Equipment (DME), Prosthetic Appliances and Orthotic Devices	80% - 20% ^{1,2} of first \$5,000 Allowable per Plan Year; 100% - 0% of Allowable in Excess of \$5,000 per Plan Year	No Coverage
Emergency Room (Facility Charge)	\$200 Copayment; Waived if admitted to the same facility	
Emergency Medical Services (Non-Facility Charges)	100% - 0% ¹	100% - 0% ¹
Eyeglass Frames and One Pair of Eyeglass Lenses or One Pair of Contact Lenses (purchased within six months following cataract surgery)	Eyeglass Frames – Limited to a Maximum Benefit of \$50 ¹	No Coverage
Flu shots and H1N1 vaccines (administered at Network Providers, Non-Network Providers, Pharmacy, Job Site or Health Fair)	100% - 0%	No Coverage
Hearing Aids (Hearing Aids are not covered for individuals age eighteen (18) and older.)	80% - 20% ^{1,3}	No Coverage
Hearing Impaired Interpreter Expense	100% - 0%	No Coverage
High-Tech Imaging - Outpatient <ul style="list-style-type: none"> • CT Scans • MRA/MRI • Nuclear Cardiology • PET Scans 	\$50 Copayment ²	No Coverage
Home Health Care (limit of 60 Visits per Plan Year)	100% - 0% ^{1,2}	No Coverage
Hospice Care (limit of 180 Days per Plan Year)	100% - 0% ^{1,2}	No Coverage
Injections Received in a Physician's Office (when no other health service is received)	100% - 0% ¹	No Coverage
Inpatient Hospital Admission, All Inpatient Hospital Services Included	\$100 Copayment per day ² , maximum of \$300 per Admission	No Coverage
Inpatient and Outpatient Professional Services for which a Copayment is Not Applicable	100% - 0% ¹	No Coverage
Mastectomy Bras (limited to three (3) per Plan Year)	80% - 20% ¹ of first \$5,000 Allowable per Plan Year; 100% - 0% of Allowable in Excess of \$5,000 per Plan Year	No Coverage

Chapter 5. PPO/Consumer-Driven Health Plan Structure—Pelican HRA 1000 Plan

§505. Schedule of Benefits

A. Benefits and Coinsurance

	Copayments and Coinsurance	
	Network Providers	Non-Network Providers
Mental Health/Substance Abuse - Inpatient Treatment and Intensive Outpatient Programs	\$100 Copayment per day ² , maximum of \$300 per Admission	No Coverage
Mental Health/Substance Abuse – Office Visit and Outpatient Treatment (Other than Intensive Outpatient Programs)	\$25 Copayment per Visit	No Coverage
Newborn - Sick, Services excluding Facility	100% - 0% ¹	No Coverage
Newborn - Sick, Facility	\$100 Copayment per day ² , maximum of \$300 per Admission	No Coverage
Oral Surgery	100% - 0% ^{1,2}	No Coverage
Pregnancy Care - Physician Services	\$90 Copayment per pregnancy	No Coverage
Preventive Care - Services include screening to detect illness or health risks during a Physician office visit. The Covered Services are based on prevailing medical standards and may vary according to age and family history. (For a complete list of benefits, refer to the Preventive and Wellness Article in the Benefit Plan.)	100% - 0% ³	No Coverage
Rehabilitation Services - Outpatient: • Speech • Physical/Occupational (Limited to 50 Visits combined PT/OT per Plan Year. Authorization required for visits over the combined limit of 50.) (Visit limits do not apply when services are provided for Autism Spectrum Disorders.)	\$25 Copayment per Visit	No Coverage
Skilled Nursing Facility (limit of 90 days per Plan Year)	\$100 Copayment per day ² , maximum of \$300 per Admission	No Coverage
Sonograms and Ultrasounds (Outpatient)	\$50 Copayment	No Coverage
Urgent Care Center	\$50 Copayment	No Coverage
Vision Care (Non-Routine) Exam	\$25/\$50 Copayment depending on Provider Type	No Coverage
X-ray and Laboratory Services (low-tech imaging)	Hospital Facility 100% - 0% ¹ Office or Independent Lab 100% - 0%	No Coverage

¹Subject to Plan Year Deductible, if applicable
²Pre-Authorization Required, if applicable. Not applicable for Medicare primary.
³Age and/or Time Restrictions Apply
⁴No Benefits will be payable unless Prior Authorization is obtained, including Plan Participants with Medicare as the Primary Plan.

	Coinsurance	
	Network Providers	Non-Network Providers
Physician's Office Visits including surgery performed in an office setting: • General Practice • Family Practice • Internal Medicine • OB/GYN • Pediatrics	80% - 20% ¹	60% - 40% ¹
Allied Health/Other Office Visits: • Chiropractors • Federally Funded Qualified Rural Health Clinics • Retail Health Clinics • Nurse Practitioners • Physician's Assistants	80% - 20% ¹	60% - 40% ¹
Specialist Office Visits including surgery performed in an office setting: • Physician • Podiatrist • Optometrist • Midwife • Audiologist • Registered Dietician • Sleep Disorder Clinic	80% - 20% ¹	60% - 40% ¹
Ambulance Services - Ground (for Emergency Medical Transportation Only)	80% - 20% ¹	80% - 20% ¹
Ambulance Services – Air (for Emergency Medical Transportation only) Non-emergency requires prior authorization ²	80% - 20% ¹	80% - 20% ¹
Ambulatory Surgical Center and Outpatient Surgical Facility	80% - 20% ¹	60% - 40% ¹
Bariatric Surgery Services – Facility Services ⁴	\$2,500.00 Copayment ^{2,3}	No Coverage
Bariatric Surgery Services – Professional Services ⁴	90% - 10% ^{2,3}	No Coverage
Bariatric Surgery Services – Preoperative and Postoperative Medical Services ⁴	80% - 20% ^{2,3}	No Coverage
Birth Control Devices - Insertion and Removal (as listed in the Preventive and Wellness Article in the Benefit Plan)	100% - 0%	60% - 40% ¹
Cardiac Rehabilitation (limited to 36 visits per Plan Year)	80% - 20% ^{1,2}	60% - 40% ^{1,2}
Chemotherapy/Radiation Therapy (Authorization not required when performed in Physician's office)	80% - 20% ^{1,2}	60% - 40% ^{1,2}
Diabetes Treatment	80% - 20% ¹	60% - 40% ¹
Diabetic/Nutritional Counseling – Clinics and Outpatient Facilities	80% - 20% ¹	Not Covered
Dialysis	80% - 20% ¹	60% - 40% ¹
Durable Medical Equipment (DME), Prosthetic Appliances and Orthotic Devices	80% - 20% ^{1,2}	60% - 40% ^{1,2}
Emergency Room (Facility Charge)	80% - 20% ¹	80% - 20% ¹
Emergency Medical Services (Non-Facility Charge)	80% - 20% ¹	80% - 20% ¹

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 41:359 (February 2015), effective March 1, 2015, amended LR 43:2157 (November 2017), effective January 1, 2018, LR 48:2770 (November 2022), LR 49:

	Coinsurance	
	Network Providers	Non-Network Providers
Eye-glass Frames and One Pair of Eye-glass Lenses or One Pair of Contact Lenses (<i>purchased within six months following cataract surgery</i>)	Eye-glass Frames – Limited to a Maximum Benefit of \$50 ¹	No Coverage
Flu Shots and H1N1 vaccines (<i>administered at Network Providers, Non-Network Providers, Pharmacy, Job Site or Health Fair</i>)	100% - 0%	100% - 0%
Hearing Aids (<i>Hearing Aids are not covered for individuals age eighteen (18) and older</i>)	80% - 20% ^{1,3}	Not Covered
Hearing Impaired Interpreter Expense	100%-0%	100%-0%
High-Tech Imaging - Outpatient <ul style="list-style-type: none"> • CT Scans • MRA/MRI • Nuclear Cardiology • PET Scans 	80% - 20% ^{1,2}	60% - 40% ^{1,2}
Home Health Care (<i>limit of 60 Visits per Plan Year</i>)	80% - 20% ^{1,2}	60% - 40% ^{1,2}
Hospice Care (<i>limit of 180 Days per Plan Year</i>)	80% - 20% ^{1,2}	60% - 40% ^{1,2}
Injections Received in a Physician's Office (<i>when no other health service is received</i>)	80% - 20% ¹	60% - 40% ¹
Inpatient Hospital Admission (<i>all Inpatient Hospital services included</i>)	80% - 20% ^{1,2}	60% - 40% ^{1,2}
Inpatient and Outpatient Professional Services	80% - 20% ¹	60% - 40% ¹
Mastectomy Bras (<i>limited to three (3) per Plan Year</i>)	80% - 20% ¹	60% - 40% ¹
Mental Health/Substance Abuse - Inpatient Treatment and Intensive Outpatient Programs	80% - 20% ^{1,2}	60% - 40% ^{1,2}
Mental Health/Substance Abuse – Office Visit and Outpatient Treatment (Other than Intensive Outpatient Programs)	80% - 20% ¹	60% - 40% ¹
Newborn - Sick, Services excluding Facility	80% - 20% ¹	60% - 40% ¹
Newborn - Sick, Facility	80% - 20% ^{1,2}	60% - 40% ^{1,2}
Oral Surgery	80% - 20% ^{1,2}	60% - 40% ^{1,2}
Pregnancy Care - Physician Services	80% - 20% ¹	60% - 40% ¹
Preventive Care - Services include screening to detect illness or health risks during a Physician office visit. The Covered Services are based on prevailing medical standards and may vary according to age and family history. (<i>For a complete list of benefits, refer to the Preventive and Wellness/Routine Care Article in the Benefit Plan.</i>)	100% - 0% ³	100% - 0% ³
Rehabilitation Services - Outpatient: <ul style="list-style-type: none"> • Speech • Physical/Occupational (<i>Limited to 50 Visits combined PT/OT per Plan Year. Authorization required for visits over the combined limit of 50.</i>) • (<i>Visit limits do not apply when services are provided for Autism Spectrum Disorders.</i>) 	80% - 20% ¹	60% - 40% ¹
Skilled Nursing Facility (<i>limit 90 Days per Plan Year</i>)	80% - 20% ^{1,2}	60% - 40% ^{1,2}
Sonograms and Ultrasounds - Outpatient	80% - 20% ¹	60% - 40% ¹

	Coinsurance	
	Network Providers	Non-Network Providers
Urgent Care Center	80% - 20% ¹	60% - 40% ¹
Vision Care (Non-Routine) Exam	80% - 20% ¹	60% - 40% ¹
X-Ray and Laboratory Services (<i>low-tech imaging</i>)	80% - 20% ¹	60% - 40% ¹
¹ Subject to Plan Year Deductible, if applicable		
² Pre-Authorization Required, if applicable. Not applicable for Medicare primary.		
³ Age and/or Time Restrictions Apply		
⁴ No Benefits will be payable unless Prior Authorization is obtained, including Plan Participants with Medicare as the Primary Plan.		

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 41:364 (February 2015), effective March 1, 2015, amended LR 43:2160 (November 2017), effective January 1, 2018, LR 49:

Family Impact Statement

The proposed repeal of this Rule is not anticipated to have an impact on family formation, functioning, stability, or autonomy, as described in R.S. 49:972.

Poverty Impact Statement

The proposed repeal of this Rule is not anticipated to have an impact on poverty, as described in R.S. 49:973.

Small Business Analysis

The proposed repeal of this Rule is not anticipated to have an adverse effect or economic impact on small businesses in accordance with the Regulatory Flexibility Act.

Provider Impact Statement

The proposed repeal of this 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

Interested persons may submit written comments about the proposed Rules to the Office of Group Benefits, Attn.: Bill Guerra, P.O. Box 44036, Baton Rouge, LA 70804. The deadline for receipt of written comments is Wednesday, May 10, 2023 by 4:30 PM.

Public Hearing

A public hearing on the proposed repeal of this Rule may be held on Thursday, May 25, 2023, beginning at 10:00 AM, in the Louisiana Purchase Room (Room 1-100) on the first floor of the Claiborne Building, located at 1201 North Third Street, Baton Rouge, LA 70802, if such a hearing is requested by Wednesday, May 10, 2023 by 4:30 PM. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at the hearing. Individuals with disabilities who require special services or accommodations should contact Bill Guerra by phone at 225-342-9637 or by email at bill.guerra@la.gov at least seven working days in advance of the hearing. For assistance in determining if a hearing will be held, please call OGB Customer Service at 225-925-6625, or at 1-800-272-8451.

David W. Couvillon
Chief Executive Officer

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

RULE TITLE: Bariatric Surgery Services

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

The proposed amendments to LAC 32:III.107 – *Schedule of Benefits*, LAC 32:V.205 – *Schedule of Benefits*, LAC 32:V.305 – *Schedule of Benefits*, and LAC 32:V.505 – *Schedule of Benefits* will not have an impact on the expenditures of the Office of Group Benefits ("OGB") or local governments. The proposed amendments update the schedules of benefits for the Magnolia Local Plus, Magnolia Open Access, Magnolia Local, and Pelican HRA1000 plans to codify existing benefits for bariatric surgery services.

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

The proposed amendments to LAC 32:III.107 – *Schedule of Benefits*, LAC 32:V.205 – *Schedule of Benefits*, LAC 32:V.305 – *Schedule of Benefits*, and LAC 32:V.505 – *Schedule of Benefits* will not have an impact on the revenues of OGB or local governmental units.

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

There will be no additional costs or economic benefits to the existing or future OGB health plan members of OGB or agencies participating in OGB programs as a result of the proposed amendments to LAC 32:III.107 – *Schedule of Benefits*, LAC 32:V.205 – *Schedule of Benefits*, LAC 32:V.305 – *Schedule of Benefits*, and LAC 32:V.505 – *Schedule of Benefits*.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed amendments to LAC 32:III.107 – *Schedule of Benefits*, LAC 32:V.205 – *Schedule of Benefits*, LAC 32:V.305 – *Schedule of Benefits*, and LAC 32:V.505 – *Schedule of Benefits* will not have an effect on competition and employment.

David W. Couvillion
Chief Executive Officer
2304#033

Evan Brasseaux
Interim Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Motor Vehicle Commission**

**Availability of Vehicles
(LAC 46:V.709)**

Notice is hereby given in accordance with the Administrative Procedure Act, R.S.49:950 et seq. that pursuant to the authority granted by R.S. 32:1253(E) the Louisiana Motor Vehicle Commission (hereinafter "Agency") intends to amend LAC 46:V.709 to expand the opportunity of a new motor vehicle dealer to advertise used motor vehicle by: also allowing a new motor vehicle dealer to advertise a used motor vehicle in the possession of its franchised manufacturer, franchised distributor, or that manufacturer's or distributor's affiliated financial institution at the time of the placement of the advertising, and by also allowing a new motor vehicle dealer to advertise a used motor vehicle that is in the possession of another new motor vehicle dealership for which the advertising new motor vehicle dealer is a majority owner.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part V. Automotive Industry

Subpart 1. Motor Vehicle Commission

Chapter 7. Advertising

§709. Availability of Vehicles

A. Motor vehicle dealers and recreational products dealers may advertise a specific new motor vehicle or new recreational product or line-make which they are licensed to sell if:

1. the specific vehicle or line is in their possession at the time the advertisement is placed, or the vehicle may be obtained from the manufacturer or distributor, and this information is clearly and conspicuously disclosed in the advertisement; and

2. the price advertisement sets forth the number of vehicles available at the time the advertisement is placed or a dealer can show he has available a reasonable expectable public demand based on prior experience. In addition, if an advertisement pertains to only one specific vehicle, then the advertisement must also disclose the vehicle's stock number or vehicle identification number.

B. Dealers may advertise a specific used vehicle for sale only if the specific used vehicle is in the possession of the dealer at the time the advertisement is placed and the title certificate to the used vehicle has been assigned to the dealer, except as provided in Paragraphs 1 and 2, below.

1. A motor vehicle dealer may advertise a used motor vehicle for sale when that used motor vehicle is in the possession of the manufacturer, distributor, or manufacturer's or distributor's affiliated financial institution. That advertisement must clearly and conspicuously disclose that the used motor vehicle is in the possession of the manufacturer, distributor, or manufacturer's or distributor's affiliated financial institution and that the used motor vehicle is available to be shipped to the advertising motor vehicle dealer from the manufacturer, distributor, or manufacturer's or distributor's affiliated financial institution within a reasonable period of time, not to exceed 10 business days.

2. A dealer may advertise a used vehicle for sale when that used vehicle is in the possession of a different dealership(s) under majority common ownership. That advertisement must clearly and conspicuously disclose that the used vehicle is in the possession of an affiliate dealership and state the specific location of the used vehicle, and that the used vehicle is available to be shipped to the dealer within a reasonable period of time, not to exceed 10 business days.

C. This Section does not prohibit general advertising of vehicles by a manufacturer, dealer advertising association, or distributor and the inclusion of the names and addresses of the dealers selling such vehicles in the particular area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253.E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 34:76 (January 2008), amended LR 36:1549 (July 2010), LR 49:

Family Impact Statement

In compliance with Act No. 1183 of the 1999 Regular Session of the Louisiana Legislature (R.S. 49:972), the impact of proposed amended LAC 46:V.709 on the family

formation, stability, and autonomy has been considered. This proposed amended LAC 46:V.709 regarding the advertising of a used motor vehicle by new motor vehicle dealers does not have: 1) a known or foreseeable effect on the stability of the family; 2) a known or foreseeable effect on the authority and rights of parents regarding the education and supervision of their children; 3) a known or foreseeable effect on the functioning of the family; 4) a known or foreseeable effect on family earnings and family budget; 5) a known or foreseeable effect on the behavior and personal responsibility of children; and 6) any requirement of a family or a local government to perform any function to be undertaken under proposed amended LAC 46:V. 709.

Poverty Impact Statement

In compliance with Act No. 854 of the 2012 Regular Session of the Louisiana Legislature (R.S. 49:973), the impact of proposed amended LAC 46:V.709 on a child, individual, or family poverty in relation to individual or community asset development has been considered. This proposed amended LAC 46:V.709 does not have an impact upon: 1) household income, assets, and financial security; 2) early childhood development and preschool through post-secondary education development; 3) employment and workforce development; 4) taxes and tax credits; and 5) child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

In compliance with Act No. 204 of the 2019 Regular Session of the Louisiana Legislature (R.S. 49:953.A(1)(a)(x)), methods for reduction of the impact on small business have been considered when creating this proposed rule. The proposed amendments to LAC 46:V.709 does not have a known or foreseeable adverse impact on small businesses, and as such a Small Business Economic Impact Statement has not been prepared.

Provider Impact Statement

As House Concurrent Resolution No. 170 of the 2014 Regular Legislative Session defines "provider" to be an organization that provides services for individuals with developmental disabilities and as proposed amended LAC 46:V.709 does not concern and does not have an effect upon "provider(s)," this agency does not submit a provider impact statement.

Public Comments

The public may submit comment concerning the proposed amendment of LAC 46:V.709 to Lessie A. House, Executive Director, Louisiana Motor Vehicle Commission, 3017 Kingman Street, Metairie, Louisiana 70006. The deadline date for the receipt and acceptance of public comment is May 24, 2023 at 4:30 p.m.

Public Hearing

Members of the public may request a public hearing concerning the proposed amendment of LAC 46:V. 709 during the period from April 21, 2023 through May 10, 2023. Should there be a timely request for a public hearing, that hearing will be scheduled on a date and time to be scheduled at the office of the Louisiana Motor Vehicle Commission, 3017 Kingman Street, Metairie, Louisiana 70006 at a date and time to be scheduled during the period from May 25, 2023 through May 30, 2023.

Lessie A. House
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Availability of Vehicles

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

The proposed rule change will have no effect on expenses of state or local governmental units.

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

To the extent that an increase in vehicle sales results from the proposed rule change, an indeterminable increase in sales tax may accrue to the state.

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

The proposed rule change would increase the pool of used vehicles that a vehicle dealer may advertise for sale. This creates the possibility of additional sales and profits to the dealer and increases the number of used motor vehicles available to the consumer at any dealer by allowing the dealers to take full advantage of the emerging online retail marketplace.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change allows Louisiana vehicle dealers to compete on an equal basis with dealers in other states in the advertising of used cars available for sale at a particular dealer of the consumer's choice. The increased availability of vehicles should provide the opportunity for positive impacts on competition and employment.

Lessie House
Executive Director
2304#042

Evan Brasseaux
Interim Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Board of Pharmacy

DATA-Waiver Registration Elimination (LAC 46:LIII.2745)

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 §2745 of its rules relative to prescriptions. The proposed Rule change eliminates certain requirements concerning prescriptions of Schedule III, IV, or V controlled substances for detoxification or maintenance treatment. Previously, practitioners were required under federal law to obtain a special identification number from the DEA prior to prescribing or dispensing these drugs, or were required to submit a written notice of intent to obtain such a number. LBP rules currently require that such prescriptions be accompanied by this identification number or written notice. The proposed Rule change eliminates this requirement because federal law no longer requires practitioners to obtain this identification number. The proposed Rule change also corrects the Code of Federal Regulations (CFR) reference for exemption of registration for certain military personnel engaged in certain controlled substance activities.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS

Part LIII. Pharmacists

Chapter 27. Controlled Dangerous Substances
Subchapter F. Production, Distribution, and Utilization
§2745. Prescriptions

A. - B.3. ...

C. Manner of Issuance

1. - 2.e. ...

3. Repealed.

4. - 5. ...

6. An official exempted from registration under 21 CFR §1301.23 shall include on all prescriptions issued by him his branch of service or agency and his service identification number, in lieu of the registration number of the practitioner required by this Section. Each such prescription shall have the name of the officer stamped, typed, or hand printed on it, as well as the signature of the officer.

C.7. - E.3. ...

4. A practitioner may prescribe, administer or provide directly any narcotic drug listed in schedule III, IV, or V approved by the FDA specifically for use in maintenance or detoxification treatment to a narcotic dependent person if the practitioner complies with the requirements of 21 CFR.

F. - G.3.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 34:2149 (October 2008), amended LR 41:685 (April 2015), amended by the Department of Health, Board of Pharmacy, LR 42:1090 (July 2016), amended LR 47:1645 (November 2021), amended LR 49:

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 amendments. The deadline for the receipt of all written comments is 12 p.m. on Friday, May 26, 2023.

Public Hearing

A public hearing to solicit comments and testimony on the proposed Rule changes is scheduled for 9:00 a.m. on Friday, May 26, 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: DATA-Waiver Registration Elimination

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL 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 printing expenses of \$750 in FY 2023 and \$750 in FY 2024. There will be no additional expenditures or cost savings for LBP or other state governmental units.

The proposed rule change eliminates certain requirements concerning prescriptions of Schedule III, IV, or V controlled substances for detoxification or maintenance treatment. Previously, practitioners were required under federal law to obtain a special identification number from the DEA prior to prescribing or dispensing these drugs, or were required to submit a written notice of intent to obtain such a number.

LBP rules currently require that such prescriptions be accompanied by this identification number or written notice. The proposed rule change eliminates this requirement because federal law no longer requires practitioners to obtain this identification number.

The proposed rule change also corrects the Code of Federal Regulations (CFR) reference for exemption of registration for certain military personnel engaged in certain controlled substance activities.

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 increasing access to medication approved for detoxification treatment or maintenance treatment for those in need. The proposed rule change will benefit prescribers and pharmacies by reducing the documentation required on prescriptions for those drugs.

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
2304#023

Evan Brasseaux
Interim Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Board of Pharmacy

Marijuana Pharmacy (LAC 46:LIII.Chapter 24)

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 Chapter 24, Subchapter E of its rules relative to marijuana pharmacies in response to Acts 444 and 491 of the 2022 regular session and in an effort to reduce the number of regulations. The proposal repeals §§2440, 2449, 2453, 2459 as well as the definitions of advertisement, approved safe, approved vault, LDAF, and physician. The proposed Rule changes replace references to the Department of Agriculture and Forestry (LDAF) with the Department of Health (LDH) and references to physicians with authorized clinicians. The proposed Rule changes shift the responsibility of product requirements from the producers which supply the product to the pharmacies which receive and dispense the product.

The proposed Rule changes remove requirements for producer testing, packaging, labeling, and distribution; duplication listing bulk raw product in allowed dosage form list; the restriction to ten active marijuana permits at a time, including the description of the 9 LDH regions; the requirement to include a blueprint of the proposed marijuana pharmacy and documentation of the applicant's financial capacity to operate a marijuana pharmacy with the initial application for a permit; the description of the manner in which the board may verify information contained in each application; the issuance of duplicate permits; the requirement to develop a written alcohol-free, drug-free, and smoke-free workplace policy; the requirement for product to be immediately placed in a safe or vault upon delivery; the inclusion of "federal" in the list of officials that may enter any area of the marijuana pharmacy; the requirement to

notify LBP of certain security related events; and the reference to security requirements identified elsewhere in the Subchapter.

The proposed Rule changes add the definition of authorized clinician; a requirement for the pharmacy to have access to laboratory tests from the producer; a requirement for each marijuana pharmacy to offer home delivery to patients in each zip code within its region at least once per month; and an allowance for, and requirements related to dispensing marijuana products to visiting qualifying patients.

The proposed Rule changes amend the reference to rules and statutes which authorize fees to be collected by the board.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS

Part LIII. Pharmacists

Chapter 24. Limited Service Providers

Subchapter E. Marijuana Pharmacy

§2440. Preamble; Warning; Consultation Suggested

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 43:1538 (August 2017), amended LR 48:1902 (July 2022), repealed LR 49:

§2441. Definitions

A. As used in this Subchapter, the following terms shall have the meaning ascribed to them in this Section:

* * *

Advertisement—Repealed.

* * *

Approved Safe—Repealed.

a. - c. Repealed.

Approved Vault—Repealed.

a. - b.vi.(d). Repealed.

Authorized Clinician—licensed health professionals authorized pursuant to R.S. 40:1046.

* * *

LDAF—Repealed.

* * *

Pharmaceutical Grade Marijuana—marijuana or marijuana products that are not adulterated and are:

a. - b. ...

c. where each step of the production, cultivating, trimming, curing, manufacturing, processing, and packaging method has been documented by using standard operation procedures verified by the Louisiana Department of Health.

* * *

Physician—Repealed.

* * *

Producer—a person licensed by the Louisiana Department of Health to cultivate marijuana for therapeutic use.

* * *

Production Facility—a secure facility where the production of marijuana occurs and that is operated by a person to whom the Louisiana Department of Health has issued a producer license.

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 43:1538 (August 2017), amended LR 45:1473 (October 2019), LR 46:1227 (September 2020), amended LR 49:

§2443. Marijuana Products

A. Exclusive Source

1. The exclusive source of marijuana products shall be the producers licensed for that activity by LDH.

2. Repealed.

3. Marijuana products from any other source shall be deemed misbranded and/or adulterated and shall not be received by any marijuana pharmacy, nor may such misbranded and/or adulterated products be dispensed by any marijuana pharmacy.

B. Laboratory Testing

1. - 7. Repealed.

8. The marijuana pharmacy shall have access to the laboratory test results from the producer for each final product acquired by the marijuana pharmacy. The pharmacy shall make such testing results available upon request to their patients, caregivers, and authorized clinicians who recommended such marijuana products dispensed to their patients.

C. Product Dosage Forms

1. The marijuana pharmacy shall limit their dispensing of pharmaceutical grade marijuana products to the following dosage forms:

a. - h. ...

i. Repealed.

2. The marijuana pharmacy may dispense other products from raw or crude marijuana, including dried flower, buds, and other plant material, intended for the following methods of administration:

a. - b. ...

3. No marijuana product shall:

a. - b.iv. ...

c. have had pesticide chemicals or organic solvents used during the production or manufacturing process other than those which may be approved for use by LDH.

4. ...

D. - E.4.f. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 43:1540 (August 2017), amended LR 45:1473 (October 2019), amended LR 46:568 (April 2020), LR 46:1227 (September 2020), LR 47:590 (May 2021), LR 48:1902 (July 2022), amended LR 49:

§2445. Marijuana Pharmacy Permit

A. - D. ...

E. A marijuana pharmacy permit is non-transferable from one owner to another owner, and moreover, in the event the ownership of the organization that acquired the permit changes by 50 percent or more, then the ownership will be deemed sufficiently different as to require a new marijuana pharmacy permit. A marijuana pharmacy permit owner continuing to operate a marijuana pharmacy after its ownership has changed by 50 percent or more without obtaining a new marijuana pharmacy permit shall be subject to disciplinary review by the board.

F. ...

G. - H. Repealed.

I. - L. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 43:1543 (August 2017), amended LR 49:

§2447. Licensing Procedures

A. - A.6.d. ...

e. - e.xi. Repealed.

A.6.f. - A.9. ...

10. - 10.c. Repealed.

11. ...

12. - 12.e. Repealed.

13. The application shall be accompanied by payment of the permit fees and administrative hearing fee authorized by LAC 46:LIII.115 and R.S. 40:1013.

14. - 20. ...

B. - B.1. ...

2. The owner's managing officer and pharmacist-in-charge of the marijuana pharmacy permit shall complete, sign and date a permit renewal application form supplied by the board, and further, shall include all information requested on the form and attach the pharmacy permit renewal fee and state controlled dangerous substance license renewal fee authorized in LAC 46:LIII.115 and the prescription monitoring program fee authorized in R.S. 40:1013, and further, shall submit the renewal application package to the board office prior to the expiration date of the pharmacy permit.

3. - 4. ...

5. An application for the late renewal of an expired (lapsed) marijuana pharmacy permit that is received in the board office no later than 30 days after the expiration date of the permit may be processed by the board staff, provided the appropriate delinquent fee authorized in LAC 46:LIII.115 is included with the application.

6. - 7. ...

C. Application for Reinstatement of Terminated, Suspended, or Revoked Marijuana Pharmacy Permits

1. The applicant shall complete an application form for this specific purpose supplied by the board; the application shall require the inclusion of the annual renewal fee, the delinquent fee, the administrative hearing fee, and the reinstatement fees authorized in LAC 46:LIII.115 and the program fee authorized in R.S. 40:1013.

2. ...

D. - D.1. ...

2. Repealed.

3. - 4. ...

5. Prior to any change in the location of a marijuana pharmacy, the owner of the permit shall submit an application form for that purpose supplied by the board and pay the appropriate fee authorized in LAC 46:LIII.115. The board may require an inspection of the new location prior to the issuance of the permit for the new location. No marijuana pharmacy shall commence operation in a new location until approved by the board.

6. - 8. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 43:1544 (August 2017), amended LR 46:577 (April 2020), LR 48:2102 (August 2022), amended LR 49:

§2449. Marijuana Pharmacy Personnel

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 43:1546 (August 2017), amended LR 48:2103 (August 2022), repealed LR 49:

§2451. Operation of Marijuana Pharmacy

A. - K.5. ...

L. Repealed.

M. The receipt of all deliveries from producers shall be carried out under the direct supervision of a pharmacist who shall be present to accept the delivery.

N. - O. ...

P. No person associated with a marijuana pharmacy shall enter into any agreement with an authorized clinician or health care facility concerning the provision of services or equipment that may adversely affect any person's freedom to choose the marijuana pharmacy at which the patient or caregiver will purchase marijuana.

Q. Delivery of Dispensed Marijuana Products

1. A marijuana pharmacy shall dispense a marijuana product to a patient or his caregiver in the marijuana pharmacy. At the patient's request, the caregiver may deliver a dispensed marijuana product to the patient's location.

2. Each marijuana pharmacy shall offer home delivery to patients in each zip code within its region at least once per month.

3. At the patient or caregiver's request, the marijuana pharmacy may deliver or facilitate the delivery of a dispensed marijuana product to the patient's location.

4. The delivery of a dispensed marijuana product is subject to the following requirements:

a. The marijuana pharmacy shall not deliver or facilitate the delivery of a marijuana product to a location outside the state.

b. The marijuana pharmacy shall ensure the physical integrity and security of the marijuana product while in transit.

c. In the event the delivery of the marijuana product is not completed, the marijuana product shall be returned to the marijuana pharmacy from which it was dispensed.

d. In the event the pharmacist-in-charge of the marijuana pharmacy cannot assure the integrity and security of a returned marijuana product, the pharmacy shall dispose of the marijuana product.

R. ...

S. Board representatives, local law enforcement or other state or local government officials may enter any area of a marijuana pharmacy if necessary to perform their governmental duties.

T. - U. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 43:1547 (August 2017), amended

LR 46:1227 (September 2020), amended LR 47:590 (May 2021), LR 48:2103 (August 2022), amended LR 49:

§2453. Security Requirements for Marijuana Pharmacies

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 43:1548 (August 2017), amended LR 48:1903 (July 2022), repealed LR 49:

§2455. Reportable Security Events

A. - B. ...

C. - D. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 43:1550 (August 2017), amended LR 49:

§2457. Standards of Practice

A. Environmental Standards

1. The prescription department shall be of sufficient size commensurate with the nature and scope of practice. The space occupied by the prescription department shall be restricted to authorized personnel only, as determined by the pharmacist-in-charge, and shall not be accessible to the general public. A marijuana pharmacy shall not permit any person less than eighteen years of age to enter the prescription department, with the exception of patients being counseled by the pharmacist.

2. - 4. ...

5. The prescription department shall be secured by one or more physical barriers with suitable locks and a monitored alarm system capable of detecting unauthorized entry.

A.6. - B.4. ...

5. No person shall be employed by, or affiliated with, a marijuana pharmacy prior to their eighteenth birthday.

C. - C.2.a. ...

D. Recordkeeping Requirements

1. When the pharmacy receives a request for marijuana from a recommending authorized clinician in written form, the pharmacist shall cause the form to be scanned and filed using an electronic imaging system in compliance with §1123 of this Part.

2. - 5. ...

E. Professional Practice Standards

1. Recommendation / opinion (hereinafter, "request") for Therapeutic Marijuana

a. The pharmacist may accept any request for a marijuana product which has been:

i. issued by an authorized clinician in possession of a current and unrestricted license to practice in this state as well as a current and unrestricted state controlled substance license with therapeutic marijuana privileges from the board; and

ii. received directly from the authorized clinician and not from the patient or any third party other than the entity transmitting the request, either by electronic means conforming with the provisions of 21 CFR 1311 or its successor, or in the alternative, by facsimile bearing a handwritten or digital signature of the authorized clinician.

b. The request shall disclose the following information at a minimum:

i. name, address, telephone number, and national provider identifier (NPI) number of the authorized clinician issuing the request;

ii. - v. ...

vi. self-certification the authorized clinician holds a current and unrestricted license to practice in this state; and
vii. signature of the authorized clinician issuing the recommendation, excluding any proxy or agent.

c. Requests for marijuana products shall expire one year after the date of issue, unless a shorter period of time is indicated by the authorized clinician. A pharmacist shall not dispense marijuana product pursuant to an expired request.

d. - e. ...

2. ...

3. Dispensing Marijuana Products

a. Prior to dispensing any marijuana product to a patient, the pharmacist shall review the patient's records in the state prescription monitoring program. The pharmacist shall resolve any concerns identified in that review by consultation with the recommending authorized clinician.

b. - b.i. ...

ii. Subject to the above limitation on dispensing raw or crude marijuana products, a pharmacist may dispense marijuana products on multiple occasions as indicated by the authorized clinician and needed by the patient until the request expires; however, the pharmacist shall not dispense more than a 90-day supply of marijuana product at one time nor more than a one-year supply pursuant to a single request.

c. Dispensing Marijuana Products to Visiting Qualifying Patients.

i. A visiting qualifying patient may obtain medical marijuana from a marijuana pharmacy, subject to the dispensing limitations of Subparagraph 3.b of this Subsection, upon producing evidence of his valid medical marijuana registry identification card, or its equivalent, which has been issued under the medical marijuana laws of another state, district, territory, commonwealth, or insular possession of the United States and in compliance with R.S. 40:1046.1.

ii. A pharmacist may dispense medical marijuana to a visiting qualifying patient, subject to the dispensing limitations of Subparagraph 3.b of this Subsection, upon obtaining evidence of his valid medical marijuana registry identification card, or its equivalent, which has been issued under the medical marijuana laws of another state, district, territory, commonwealth, or insular possession of the United States and in compliance with R.S. 40:1046.1.

4. Labeling of Marijuana Product Dispensed

a. The pharmacist shall not dispense any marijuana product that does not bear the producer label required by LDH, and further, the pharmacy dispensing label shall not overlay or obscure the producer label in any way.

b. The pharmacy's dispensing label shall contain, at a minimum, the following data elements:

i. - ii. ...

iii. name of the recommending authorized clinician;

4.iv. - 7.e.iv. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 43:1550 (August 2017), amended

LR 45:1473 (October 2019), LR 47:246 (February 2021), LR 47:1111 (August 2021), LR 48:1903 (July 2022), LR 48:2103 (August 2022), amended LR 49:

§2459. Advertising

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 43:1552 (August 2017), repealed LR 49:

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 changes 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 changes 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 changes will have no effect on the functioning of the family.

4. The Effect on Family Earnings and Family Budget. The proposed rule changes will have no effect on family earnings and family budget.

5. The Effect on the Behavior and Personal Responsibility of Children. The proposed rule changes 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 changes 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 changes 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 changes 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 changes will have no effect on employment and workforce development.

4. The Effect on Taxes and Tax Credits. The proposed rule changes 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 changes 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 changes will have no effect on compliance or reporting requirements for small businesses.

2. The Establishment of Less Stringent Schedules or Deadlines for Compliance or Reporting Requirements for Small Businesses. The proposed rule changes 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 changes 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 changes 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 changes.

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:

The effect on the staffing level requirements or qualifications required to provide the same level of service. The proposed rule changes 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 changes 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 changes 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 amendments. The deadline for the receipt of all written comments is 12 p.m. on Friday, May 26, 2023.

Public Hearing

A public hearing to solicit comments and testimony on the proposed Rule changes is scheduled for 9 a.m. on Friday, May 26, 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: Marijuana Pharmacy

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

The proposed rule changes will require the Louisiana Board of Pharmacy (LBP) to publish the proposed and final rules in the state register, resulting in printing expenses of \$2,000 in FY 2023 and \$2,000 in FY 2024.

There may be additional costs associated with inspections of additional pharmacies due to the elimination of the ten permit limit. The maximum number of marijuana pharmacies including satellite locations authorized by RS 40:1046 is thirty, though the actual number of marijuana pharmacies that will be in operation at any given time is indeterminable. Compliance inspections cost approximately \$300 and are conducted approximately every 18 months. The annual cost of inspections will depend upon the number of marijuana pharmacies in operation and is indeterminable. These costs will be funded through self-generated revenues from application fees.

The proposed rule changes in Chapter 24, Subchapter E are in response to Acts 444 and 491 of the 2022 regular session and an effort by LBP to reduce the number of regulations on marijuana pharmacies. The proposal repeals §§ 2440, 2449, 2453, 2459 as well as the definitions of advertisement, approved safe, approved vault, LDAF, and physician.

The proposed rule changes replace references to the Department of Agriculture and Forestry (LDAF) with Department of Health (LDH) and references to physicians with authorized clinicians licensed to practice in this state. The proposed rule changes shift the responsibility of product requirements from the producers which supply the product to the pharmacies which receive and dispense the product.

The proposed rule changes remove requirements for producer testing, packaging, labeling, and distribution; duplication listing bulk raw product in allowed dosage form list; the restriction to ten active marijuana pharmacy permits at a time, including the description of the 9 LDH regions; the requirement to include a blueprint of the proposed marijuana pharmacy and documentation of the applicant's financial capacity to operate a marijuana pharmacy with the initial application for a permit; the description of the manner in which the Board may verify information contained in each application; the issuance of duplicate permits; the requirement to develop a written alcohol-free, drug-free, and smoke-free workplace policy; the requirement for product to be immediately placed in a safe or vault upon delivery; the inclusion of "federal" in the list of officials that may enter any area of the marijuana pharmacy; the requirement to notify LBP of certain security related events; and the reference to security requirements identified elsewhere in the Subchapter.

The proposed rule changes add the definition of authorized clinician; a requirement for the pharmacy to have access to laboratory tests from the producer; a requirement for each marijuana pharmacy to offer home delivery to patients in each zip code within its region at least once per month; and an allowance for, and requirements related to dispensing marijuana products to visiting qualifying patients.

The proposed rule changes amend the reference to rules and statutes which authorize fees to be collected by LBP.

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

LBP may realize additional revenues through pharmacy permit application fees associated with the elimination of the ten permit limit. The maximum number of marijuana pharmacies authorized by RS 40:1046 is thirty, though the actual number of marijuana pharmacies that will be in operation at any given time is indeterminable. The application fees total \$550 (\$500 for the application plus the annual \$25 Controlled Dangerous Substance license fee and the annual \$25 Prescription Monitoring Program fee), and annual fees total \$250. The annual revenues realized will depend upon the number of marijuana pharmacies in operation and is indeterminable.

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

The proposed rule change in Section 2451, which was a result of Act 491 (2022RS), will benefit consumers by requiring home delivery to patients in each zip code at least once per month, resulting in increased access to care. There will be a cost to marijuana pharmacies to provide delivery services, the amount of which is indeterminable.

The proposed rule changes benefit marijuana pharmacies by reducing the number of regulations to align with ordinary community pharmacy permit requirements more closely. The reduction in regulations, specifically security requirements, should provide an economic benefit for marijuana pharmacies, particularly for new permits.

The proposed rule changes also address recent legislative changes, including changing the licensing of contractors who cultivate, extract, process, produce, and transport therapeutic marijuana to LDH.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed changes eliminate the rule which limits the number of marijuana pharmacy permits to ten. Under current law, the maximum number of allowed marijuana pharmacies in the state is thirty. The opening of additional marijuana pharmacies will increase employment and competition.

M. Joseph Fontenot Jr.
Executive Director
2304#022

Evan Brasseaux
Interim Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Board of Pharmacy

Pharmacy Change of Ownership (LAC 46:LIII.1135)

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 §1135 of its rules relative to pharmacy change of ownership procedures. The proposed Rule changes limit the circumstances under which

pharmacy owners must obtain a new permit when ownership of the pharmacy is transferred by requiring that an application for a new pharmacy permit is to be filed and a new permit obtained only when there is a change in the identity of the natural person, partnership, or business entity which directly holds the permit or when there is a change in the person or entity's Federal Employer Identification Number (FEIN). The proposed Rule changes require a new application to be filed at least 15 days before closing the transfer of ownership interests, require the application to include the direct and first indirect level of ownership information, and require any change in the first indirect level of ownership of 20 percent or more to be reported to the board within 30 days of the change. The proposed Rule changes clarify that nothing prohibits an entity from applying for a new pharmacy permit in order to separate itself from actions of the previous ownership. The changes also clarify that operation of a permit subsequent to a change of ownership without submission of a new permit application may violate R.S. 37:1221.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LIII. Pharmacists

Chapter 11. Pharmacies

Subchapter C. Pharmacy Opening, Closing, Change of Ownership, and Change of Location

§1135. Pharmacy Change of Ownership Procedures

A. A pharmacy permit is not transferable.

B. A new application shall be filed and a new permit obtained when a change in the identity of the natural person, partnership, or business entity which directly holds the permit has occurred or there is a change in the person or entity's Federal Employer Identification Number (FEIN).

C. The new owner shall submit an application to the board office at least 15 days before closing the transfer of ownership interests of said business.

D. An application for a new pharmacy permit shall include the direct and first indirect level of ownership information. Any change in the first indirect level of ownership of 20 percent or more must be reported to the board within 30 days of the change.

E. Nothing in this section shall prohibit an entity from applying for a new pharmacy permit in order to separate itself from actions which may have been committed by the previous ownership under the existing pharmacy permit.

F. The continued operation of a pharmacy permit subsequent to a change of ownership, without submission of an application to the board office, may substantiate a violation of R.S. 37:1221.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 29:2092 (October 2003), effective January 1, 2004, amended LR 33:1131 (June 2007), amended LR 49:

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 changes 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 changes 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 changes will have no effect on the functioning of the family.

4. The Effect on Family Earnings and Family Budget. The proposed rule changes will have no effect on family earnings and family budget.

5. The Effect on the Behavior and Personal Responsibility of Children. The proposed rule changes 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 changes 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 changes 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 changes 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 changes will have no effect on employment and workforce development.

4. The Effect on Taxes and Tax Credits. The proposed rule changes 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 changes 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 changes will lessen the requirement to apply for a new pharmacy permit. It will however, require an application for a new pharmacy permit to be submitted at least 15 days before closing the transfer of ownership interests of a pharmacy and will require any change in the first indirect

level of ownership of 20 percent or more to be reported to the Board within 30 days of the change

2. The Establishment of Less Stringent Schedules or Deadlines for Compliance or Reporting Requirements for Small Businesses. The proposed rule changes will not establish less stringent schedules or deadlines for compliance or reporting requirements for small business. The proposed rule changes will require an application for a new pharmacy permit to be submitted at least 15 days before closing the transfer of ownership interests of a pharmacy and will require any change in the first indirect level of ownership of 20 percent or more to be reported to the Board within 30 days of the change.

3. The Consolidation or Simplification of Compliance or Reporting Requirements for Small Businesses. The proposed rule changes 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 changes 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 changes.

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 changes 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 changes 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 changes 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 amendments. The deadline for the receipt of all written comments is 12 p.m. on Friday, May 26, 2023.

Public Hearing

A public hearing to solicit comments and testimony on the proposed Rule changes is scheduled for 9 a.m. on Friday, May 26, 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: Pharmacy Change of Ownership

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

The proposed rule changes will require the Louisiana Board of Pharmacy (LBP) to publish the proposed and final rules in the state register, resulting in printing expenses of \$750 in FY 2023 and \$750 in FY 2024. There will be no additional expenditures or cost savings to state or local governmental units.

The proposed rule changes limit the circumstances under which pharmacy owners must obtain a new permit when ownership of the pharmacy is transferred by requiring that an application for a new pharmacy permit is to be filed and a new permit obtained only when there is a change in the identity of the natural person, partnership, or business entity which directly holds the permit or when there is a change in the person or entity's Federal Employer Identification Number (FEIN).

The proposed rule changes require a new application to be filed at least 15 days before closing the transfer of ownership interests, require the application to include the direct and first indirect level of ownership information, and require any change in the first indirect level of ownership of 20 percent or more to be reported to the board within 30 days of the change. The proposed rule changes clarify that nothing prohibits an entity from applying for a new pharmacy permit in order to separate itself from actions of the previous ownership. The changes also clarify that operation of a permit subsequent to a change of ownership without submission of a new permit application may violate R.S. 37:1221.

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

The proposed rule changes will result in a reduction in revenue collections for the Board of Pharmacy. While the amount of the reduction is indeterminable, it is anticipated to be approximately \$33,000 per year.

The proposed rule will eliminate the need for the vast majority of pharmacy permit applications due to a change of ownership. The application fee for a pharmacy permit is \$500. In addition to the application fee, the applicant must also pay a \$25 controlled substance license fee and a \$25 Prescription Monitoring Program fee, for a total of \$550. Based on historical data, LBP estimates that the proposed rule change will eliminate the need for approximately 60 such applications per year, leading to an expected \$33,000 annual decrease in revenue, though the actual amount will vary depending on the number of applications which are no longer necessary under the proposed rule.

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

The proposed rule changes to §1135 will benefit pharmacies undergoing a change in ownership by eliminating the need for a new pharmacy permit in most circumstances.

Eliminating the need to apply for a permit due to a change of ownership will save the pharmacy \$550 in application fees.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes will have no effect on competition or employment.

M. Joseph Fontenot Jr.
Executive Director
2304#021

Evan Brasseaux
Interim Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health
Board of Pharmacy**

Staffing Ratios (LAC 46:LIII.709 and 907)

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 §709 relative to pharmacy interns and §907 relative to pharmacy technicians. The proposed Rule changes in §709 and §907 provide that the ratio of pharmacy interns, certified pharmacy technicians, and pharmacy technician candidates to pharmacists on duty shall not exceed four to one in any staff mixture at any given time. Of these four, no more than two may be pharmacy technician candidates. In addition to these four, the ratio of pharmacy interns on rotation with a board approved college of pharmacy to pharmacists on duty shall be no more than three to one.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LIII. Pharmacists

Chapter 7. Pharmacy Interns

§709. Scope of Practice

A. ...

B. The ratio of pharmacy interns, certified pharmacy technicians, and pharmacy technician candidates to pharmacists on duty shall not exceed four to one in any variable at any given time, of which the ratio of pharmacy technician candidates to pharmacists shall be no more than two to one. In addition, the ratio of pharmacy interns on rotation with a board approved college of pharmacy to pharmacists shall be no more than three to one.

C. - C.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 36:755 (April 2010), amended by the Department of Health, Board of Pharmacy, LR 48:495 (March 2022), amended LR 49:

Chapter 9. Pharmacy Technicians

§907. Scope of Practice

A. Pharmacy technician candidates and pharmacy technicians may assist the pharmacist by performing those duties and functions assigned by the pharmacist while under his direct and immediate supervision.

1. The ratio of pharmacy technician candidates, certified pharmacy technicians, and pharmacy interns to pharmacists on duty shall not exceed four to one in any

variable at any given time, of which the ratio of pharmacy technician candidates to pharmacists shall be no more than two to one.

B. - C.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1212.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 30:2486 (November 2004), effective January 1, 2005, amended LR 32:1049 (June 2006), amended by the Department of Health, Board of Pharmacy, LR 43:2498 (December 2017), effective January 1, 2018, amended LR 48:496 (March 2022), amended LR 49:

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 changes 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 changes 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 changes will have no effect on the functioning of the family.

4. The Effect on Family Earnings and Family Budget. The proposed rule changes will have no effect on family earnings and family budget.

5. The Effect on the Behavior and Personal Responsibility of Children. The proposed rule changes 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 changes 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 changes 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 changes 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 changes may increase employment opportunities for pharmacy technicians. Under the current rules, only one pharmacy technician candidate per pharmacist may be on duty at any given time. The proposed rules allow for two candidates per pharmacist. In addition, the current rules would prohibit an on-duty staff mix of four technicians, or of three technicians and one

technician candidate. The proposed rules would allow for these staffing combinations.

4. The Effect on Taxes and Tax Credits. The proposed rule changes 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 changes benefit the public, pharmacies, and pharmacy personnel by allowing flexible staffing of pharmacy interns, certified pharmacy technicians, and pharmacy technician candidates which could result in better staffing of pharmacies, a higher level of care for patients, and a better work environment for pharmacy staff.

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 changes do not establish less stringent compliance requirements for small business.

2. The Establishment of Less Stringent Schedules or Deadlines for Compliance or Reporting Requirements for Small Businesses. The proposed rule changes do not establish less stringent 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 changes 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 changes 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 changes.

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 changes will have no effect on the staffing level requirements or the qualifications for that staff 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 changes 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 changes 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 amendments. The deadline for the receipt of all written comments is 12 p.m. on Friday, May 26, 2023.

Public Hearing

A public hearing to solicit comments and testimony on the proposed Rule changes is scheduled for 9 a.m. on Friday, May 26, 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: Staffing Ratios

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

The proposed rule changes will require the Louisiana Board of Pharmacy (LBP) to publish the proposed and final rules in the state register, resulting in printing expenses of \$750 in FY 2023 and \$750 in FY 2024. There will be no additional expenditures or cost savings for LBP or other state or local governmental units.

The proposed rule changes amend §709 relative to pharmacy interns and §907 relative to pharmacy technicians. The proposed rule changes in §709 and §907 provide that the ratio of pharmacy interns, certified pharmacy technicians, and pharmacy technician candidates to pharmacists on duty shall not exceed four to one in any staff mixture at any given time. Of these four, no more than two may be pharmacy technician candidates. In addition to these four, the ratio of pharmacy interns on rotation with a board approved college of pharmacy to pharmacists on duty shall be no more than three to one.

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

The proposed rule changes 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 changes benefit the public, pharmacies, and pharmacy personnel by allowing flexible staffing of pharmacy interns, certified pharmacy technicians, and pharmacy technician candidates which could result in better staffing of pharmacies, a higher level of care for patients, and a better work environment for pharmacy staff.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes may increase employment opportunities for pharmacy technicians. Under the current rules, only one pharmacy technician candidate per pharmacist may be on duty at any given time. The proposed rules allow for two candidates per pharmacist. In addition, the current rules would prohibit an on-duty staff mix of four technicians, or of three technicians and one technician candidate. The proposed rules would allow for these staffing combinations.

M. Joseph Fontenot Jr.
Executive Director
2304#020

Evan Brasseaux
Interim Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health
Bureau of Health Services Financing**

Adult Dentures Program
Reimbursement
(LAC 50:XXV.701)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:XXV.701 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.

Louisiana Medicaid currently utilizes the Full Medicaid Pricing program in order to establish dental rates and provide additional funds to dental providers. The U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) has ended this program, resulting in a potential loss of reimbursement to dental providers. In compliance with CMS requirements, the Department of Health, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing adult denture services to align the reimbursement rates to the Louisiana Medicaid fee schedule in order to maintain or enhance funding to dental providers (*Louisiana Register*, Volume 49, Number 4). This proposed Rule continues the provisions of the March 10, 2023 Emergency Rule.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXV. Adult Dentures

Chapter 7. Reimbursement

§701. Fees

A. - D.1....

E. Effective for dates of service on or after July 1, 2023, the reimbursement rates for adult denture services shall be reimbursed based on the Louisiana Medicaid fee schedule. All rates in the fee schedule are published on the Medicaid provider website at www.lamedicaid.com.

1. Implementation of these rates is subject to approval by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health

Services Financing, LR 31:81 (January 2005), repromulgated LR 31:1589 (July 2005), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:316 (February 2013), LR 40:1006 (May 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 49:

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 a positive impact on small businesses by ensuring that providers continue to receive Medicaid reimbursement for the provision of adult denture services.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, but may reduce the total direct and indirect cost to the provider to provide the same level of service, and may enhance the provider's ability to provide the same level of service as described in HCR 170 since this proposed Rule increases payments to providers for the services they already render.

Public Comments

Interested persons may submit written comments to Tara A. LeBlanc, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. LeBlanc is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on May 30, 2023.

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 May 10, 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 May 25, 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 May 10, 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 (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
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Adult Dentures Program
Reimbursement**

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

It is anticipated that implementation of this proposed rule will increase state costs by approximately \$270 for FY 22-23, \$2,530,476 for FY 23-24 and \$2,530,476 for FY 24-25. It is anticipated that \$540 (\$270 SGF and \$270 FED) will be expended in FY 22-23 for the state's administrative expense for promulgation of this proposed rule and the final rule.

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

It is anticipated that implementation of this proposed rule will increase revenue collections from interagency transfer of funds from Louisiana State University by approximately \$67,463 for FY 23-24 and \$67,463 for FY 24-25. In addition, this proposed rule will increase federal revenue collections by approximately \$270 for SFY 22-23, \$6,272,681 for FY 23-24, and \$6,272,681 for FY 24-25. It is anticipated that \$270 will be collected in FY 22-23 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 March 10, 2023 Emergency Rule, which amended the provisions governing adult denture services to align the reimbursement rates to the Louisiana Medicaid fee schedule in order to maintain or enhance funding to dental providers. Louisiana Medicaid currently utilizes the Full Medicaid Pricing program in order to establish dental rates and provide additional funds to dental providers. The U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) has ended this program, resulting in a potential loss of reimbursement to dental providers. Providers will benefit from this proposed rule since they will continue to receive Medicaid reimbursement for the provision of adult denture services. This proposed rule will ensure that Medicaid beneficiaries continue to have access to adult denture services. It is anticipated that this proposed rule will increase expenditures in the Medicaid program by approximately \$8,870,620 for FY 23-24 and \$8,870,620 for FY 24-25.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Tara A. LeBlanc
Medicaid Executive Director
2304#044

Evan Brasseaux
Interim Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health
Bureau of Health Services Financing**

Early and Periodic Screening, Diagnosis and Treatment
Dental Services
(LAC 50:XV.6905)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:XV.6905 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.

Louisiana Medicaid currently utilizes the Full Medicaid Pricing program in order to establish dental rates and provide additional funds to dental providers. The U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) has ended this program, resulting in a potential loss of reimbursement to dental providers. In compliance with CMS requirements, the Department of Health, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing dental services in the Early and Periodic Screening, Diagnosis and Treatment Program to align the reimbursement rates to the Louisiana Medicaid fee schedule in order to maintain or enhance funding to dental providers (*Louisiana Register*, Volume 49, Number 4). This proposed Rule continues the provisions of the March 10, 2023 Emergency Rule.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 5. Early and Periodic Screening, Diagnosis and Treatments

Chapter 69. Direct Dental Services

§6905. Reimbursement

A. - K.1.b. ...

L. Effective for dates of service on or after July 1, 2023, the reimbursement rates for EPSDT dental services shall be reimbursed based on the Louisiana Medicaid fee schedule. All rates in the fee schedule are published on the Medicaid provider website at www.lamedicaid.com.

1. Implementation of these rates is subject to approval by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:81 (January 2005), repromulgated LR 31:1589 (July 2005), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:316 (February 2013), LR 40:1006 (May 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 49:

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 a positive impact on small businesses by ensuring that providers continue to receive Medicaid reimbursement for the provision of EPSDT dental services.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, but may reduce the total direct and indirect cost to the provider to provide the same level of service, and may enhance the provider's ability to provide the same level of service as described in HCR 170 since this proposed Rule increases payments to providers for the services they already render.

Public Comments

Interested persons may submit written comments to Tara A. LeBlanc, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. LeBlanc is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on May 30, 2023.

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 May 10, 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 May 25, 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 May 10, 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
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: **Early and Periodic Screening, Diagnosis and Treatment—Dental Services**

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

It is anticipated that implementation of this proposed rule will increase state costs by approximately \$270 for FY 22-23, \$13,459,488 for FY 23-24 and \$13,459,488 for FY 24-25. It is anticipated that \$540 (\$270 SGF and \$270 FED) will be expended in FY 22-23 for the state's administrative expense for promulgation of this proposed rule and the final rule.

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

It is anticipated that implementation of this proposed rule will increase revenue collections from interagency transfer of funds from Louisiana State University by approximately \$358,832 for FY 23-24 and \$358,832 for FY 24-25. In addition, this proposed rule will increase federal revenue collections by approximately \$270 for SFY 22-23, \$33,364,116 for FY 23-24, and \$33,364,116 for FY 24-25. It is anticipated that \$270 will be collected in FY 22-23 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 March 10, 2023 Emergency Rule, which amended the provisions governing dental services in the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program to align the reimbursement rates to the Louisiana Medicaid fee schedule in order to maintain or enhance funding to dental providers. Louisiana Medicaid currently utilizes the Full Medicaid Pricing program in order to establish dental rates and provide additional funds to dental providers. The U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) has ended this program, resulting in a potential loss of reimbursement to dental providers. Providers will benefit from this proposed rule since they will continue to receive Medicaid reimbursement for the provision of EPSDT dental services. This proposed rule will ensure that Medicaid beneficiaries continue to have access to EPSDT dental services. It is anticipated that this proposed rule will increase expenditures in the Medicaid program by approximately \$47,182,437 for FY 23-24 and \$47,182,437 for FY 24-25.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Tara A. LeBlanc
Medicaid Executive Director
2304#045

Evan Brasseaux
Interim Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Federally Qualified Health Centers
Alternative Payment Methodology
(LAC 50:XI.10703)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:XI.10703 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This 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 provides reimbursement for services rendered by federally qualified health centers (FQHCs) on a per visit basis under a prospective payment system (PPS) methodology. The department proposes to amend the provisions governing reimbursement for FQHCs in order to establish an alternative payment methodology to pay an add-on amount of \$30 per encounter in addition to the PPS rate on file for the date of service.

Title 50

PUBLIC HEALTH-MEDICAL ASSISTANCE

Part XI. Clinic Services

Subpart 13. Federally-Qualified Health Centers

Chapter 107. Reimbursement Methodology

§10703. Alternate Payment Methodology

A. - I. ...

J. Effective for dates of service on or after July 20, 2023, Medicaid will increase FQHC payments by \$30 per encounter. This payment shall be reimbursed through an alternative payment methodology when these services are provided on the same date as a medical/dental/behavioral health visit that includes an evaluation and management procedure code as one of the detailed lines on the claim. The APM will pay FQHCs an add-on amount of \$30 in addition to the PPS rate on file for the date of service. The APM must be agreed to by the department and the FQHC and must result in a payment to the FQHC, which is at least the PPS rate on file for the date of service.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1033 (June 2008), amended by the Department of Health, Bureau of Health Services Financing, LR 44:1894 (October 2018), LR 44:2162 (December 2018), LR 45:434 (March 2019), 46:182 (February 2020), LR 47:1528 (October 2021), LR 47:1875 (December 2021), LR 49:

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 a positive impact on small businesses as it will increase reimbursement to providers for the services they already render.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, but may reduce the total direct and indirect cost to the provider to provide the same level of service, and may enhance the provider's ability to provide the same level of service as described in HCR 170 since this proposed Rule increases payments to providers for the services they already render.

Public Comments

Interested persons may submit written comments to Tara A. LeBlanc, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821—9030. Ms. LeBlanc is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on May 30, 2023.

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 May 10, 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 May 25, 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 May 10, 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
Secretary

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

**RULE TITLE: Federally Qualified Health Centers
Alternative Payment Methodology**

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

It is anticipated that implementation of this proposed rule will result in increased state costs of approximately \$270 for FY 22-23, \$3,711,523 for FY 23-24, and \$4,989,739 for FY 24-25. It is anticipated that \$540 (\$270 SGF and \$270 FED) will be expended in FY 22-23 for the state's administrative expense for promulgation of this proposed rule and the final rule.

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

It is anticipated that implementation of this proposed rule will increase statutory dedicated revenue collections from the Medical Assistance Trust Fund by approximately \$1,551,472 for FY 23-24 and \$1,585,354 for FY 24-25. In addition, this proposed rule will increase federal revenue collections by approximately \$270 for FY 22-23 and \$20,828,635 for FY 23-24 and \$25,342,147 FY 24-25. It is anticipated that \$270 will be collected in FY 22-23 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 reimbursement for federally qualified health centers (FQHCs) in order to establish an alternative payment methodology to pay an add-on amount of \$30 per encounter in addition to the prospective payment system (PPS) rate on file for the date of service. This proposed rule will ensure that Medicaid beneficiaries will continue to have access to FQHC services. FQHCs will benefit from implementation of this proposed rule as it is anticipated to increase payments to these providers by approximately \$26,091,630 for FY 23-24 and \$31,917,240 for FY 24-25.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Tara A. LeBlanc
Medicaid Executive Director
2304#046

Evan Brasseaux
Interim Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health
Bureau of Health Services Financing**

**Healthcare Facility Sanctions
(LAC 48:I.Chapter 46)**

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 48:I.Chapter 46 as authorized by R.S. 36:254, 40:2009.11, 40:2009.23, 40:2199, and 40:2199.1. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Act 461 of the 2022 Regular Session of the Louisiana Legislature requires Department of Health to promulgate rules for licensed healthcare facilities to establish duties and requirements addressing and preventing workplace violence. The Department of Health, Bureau of Health Services

Financing promulgated a Notice of Intent which amended LAC 48:I.Chapter 46 governing healthcare facility sanctions in order to comply with the requirements of Act 461 and to add and update definitions (*Louisiana Register*, Volume 48, Number 11). As a result of additional communication with stakeholders, the department determined it was necessary to abandon the November 20, 2022 Notice of Intent.

In compliance with Act 461, the department now proposes to amend the provisions governing healthcare facility sanctions in order to establish duties and requirements addressing workplace violence and to add and update definitions.

Title 48

PUBLIC HEALTH-MEDICAL ASSISTANCE

Part I. Administration

Subpart 3. Licensing and Certification

Chapter 46. Healthcare Facility Sanctions

Subchapter A. General Provisions

§4601. Introduction

A. The purpose of this Chapter is to:

1. provide for the development, establishment, and enforcement of statewide standards for the imposition of sanctions pursuant to state statutes against healthcare facilities in the state of Louisiana that have violations of federal or state law or statutes, licensure standards and requirements, certification requirements, or Medicaid requirements;

2. - 6. ...

B. This Chapter shall not apply to any individual healthcare provider who is licensed or certified by one of the boards under LDH. These boards include, but are not limited to:

1. - 6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.11, 40:2009.23, 40:2199 and 40:2199.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:3077 (November 2013), LR 49:

§4603. Definitions

Administrative Reconsideration—for purposes of this Chapter, also known as an informal reconsideration.

Class A Violation—a violation of a rule or regulation that creates a condition or occurrence relating to the maintenance and/or operation of a facility which results in death or serious harm to the resident(s), patient(s), or client(s). Examples of class A violations include, but are not limited to:

1. acts or omissions by an employee or employees of a facility that either knowingly or negligently resulted in the death of the resident(s), patient(s), or client(s); or

2. acts or omissions by an employee or employees of a facility that either knowingly or negligently resulted in serious harm to the resident(s), patient(s), or client(s).

Class B Violation—a violation of a rule or regulation in which a condition or occurrence relating to the maintenance and/or operation of a facility is created which results in the substantial probability of death or serious physical or mental harm to the resident(s), patient(s), or client(s). Examples of class B violations include, but are not limited to:

1. - 3 ...

4. failure to employ a sufficient number of adequately trained staff to care for resident(s), patient(s), or client(s); or

5. ...

Class C Violation—a violation of a rule or regulation in which a condition or occurrence relating to the maintenance and/or operation of a facility creates a potential for harm by directly threatening the health, safety, or welfare of the resident(s), patient(s) or client(s). Examples of class C violations include, but are not limited to:

1. - 5 ...
6. lack of adequately trained staff necessary to meet the resident(s), patient(s), or client(s)' needs;
7. failure of a regulated entity to display on its premises at least one sign, which is at least 18 inches tall by 18 inches wide and written in the English language with letters that are not less than one-square-inch in size, in a conspicuous location in a publically-accessible area;
8. failure by a regulated entity to develop a workplace violence prevention plan that includes, as a minimum, all of the following resources:
 - a. resources for ongoing education on the issue of workplace violence;
 - b. resources for prevention of workplace violence; and
 - c. resources on responding to incidents of workplace violence and debriefing with respect to such incidents and responses thereto;
9. failure by a regulated entity to have a healthcare workplace violence prevention plan that addresses and encompasses all of the following:
 - a. personnel education and policies requiring all healthcare workers who provide direct care to resident(s), patient(s), or client(s) to receive, at least annually, education and training in a format that provides an opportunity for interactive questions and answers with a person knowledgeable about the workplace violence prevention plan. The education and training delivered pursuant to a workplace violence prevention plan that covers topics including but not limited to all of the following:
 - i. how to recognize the potential for violence to occur;
 - ii. when and how to seek assistance to prevent or respond to violence;
 - iii. how to report violent incidents to law enforcement; and
 - iv. resources available to employee or employees for coping with incidents of workplace violence.
 - b. a system for responding to and investigating violent incidents and situations involving violence; and
 - c. a system for regularly, and not less than annually, assessing and improving upon factors that may contribute to or help in preventing workplace violence. The system must address, without limitation, all of the following aspects of the workplace:
 - i. staffing, including staffing patterns that may contribute to, or be insufficient to address, the risk of violence;
 - ii. sufficiency of security systems including alarms, emergency response systems, and availability of security personnel;
 - iii. job design, equipment, and facilities; and
 - iv. security risks associated with particular units of the workplace, areas of the regulated entity's facility with uncontrolled access, late night, or early morning shifts, and

areas surrounding the facility such as employee or employees' parking areas;

10. failure by a regulated entity to orient all permanent and temporary employee or employees of the entity's workplace violence prevention plan;
11. failure by a regulated entity to maintain its workplace violence prevention plan in effect at all times; or
12. failure by a regulated entity to protect resident(s), patient(s), or client(s) from personal exploitation including, but not limited to, sexual conduct involving facility staff and the resident(s), patient(s), or client(s).

Class D Violation—a violation of a rule or regulation related to administrative and reporting requirements that do not directly threaten the health, safety, or welfare of the resident(s), patient(s), or client(s), or the safety of its employee or employees through workplace violence. Examples of *class D violations* include, but are not limited to:

1. - 2. ...
3. falsification of a record;
4. failure to maintain the resident(s), patient(s), or client(s)' financial records as required by rules and regulations;
5. failure by a regulated entity to maintain and make available to its employee or employees, a written safety and security plan; or
6. a regulated entity taking retaliatory action against a person who, in good faith:
 - a. reports an allegation or instance of workplace violence;
 - b. seeks assistance and intervention from local emergency services or law enforcement when a violent incident occurs; or
 - c. reports to law enforcement a crime or allegation involving workplace violence at the regulated entity's facility.

Department or LDH—the Louisiana Department of Health.

Employee—for purposes of this Chapter, a person who performs a job or task for the healthcare provider. An employed person may be permanent, temporary, or contracted.

Healthcare Facility or Facility—any healthcare provider or entity licensed or certified by LDH, including all regulated entities, as defined by R.S. 40:2199.12, under the regulatory jurisdiction of LDH. In other laws, statutes and regulations, this entity may be referred to as a provider, agency, clinic, residential unit, or home. A healthcare facility shall include, but not be limited to a/an:

1. - 11. ...
12. free-standing birth center;
13. supplier of portable x-ray services;
14. home and community-based services (HCBS) provider;
15. home health agency;
16. hospice agency;
17. hospital;
18. intermediate care facility for persons with developmental disabilities (ICF-DD);

19. mental health clinic;
20. mental health center;
21. mental health rehabilitation agency;
22. non-emergency medical transportation agency;
23. nursing facility;
24. nurse staffing agency;
25. rural health clinic;
26. pain management clinic;
27. pediatric day healthcare (PDHC) facility;
28. psychiatric residential treatment facility (PRTF);
29. substance use/addiction treatment facility;
30. therapeutic group home (TGH); and
31. any other program licensed or certified by LDH.

HSS—the LDH Health Standards Section.

* * *

Regulated Entity—any licensed healthcare facility as defined by R.S. 40:2199.12.

Secretary—the secretary of LDH or his/her designee.

Workplace Violence—violent acts, including battery or the intentional placing of another person in reasonable apprehension of sustaining battery, directed toward persons at work or on duty with their employment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.11, 40:2009.23, 40:2199 and 40:2199.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:3077 (November 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 49:

Subchapter B. Sanctions and Standards for the Imposition of Sanctions

§4611. General Provisions

A. - B.12.c. ...

C. Considerations. When determining whether to impose a sanction, the department may consider some or all of the following factors:

1. whether the violations pose an immediate threat to the health, safety, or welfare of the resident(s), patient(s), or client(s);

C.2. - E ...

F. Any facility sanctioned under this Rule and found to have a violation that poses a threat to the health, safety, or welfare of the resident(s), patient(s), or client(s) may have additional actions, such as criminal charges, brought against it under another applicable law, statute or regulation.

G. Unless otherwise provided for in state law or statute, if the secretary determines that the violations committed by the facility pose an imminent or immediate threat to the health, safety, or welfare of any resident(s), patient(s), or client(s) receiving services, the imposition of the sanction may be immediate and may be enforced during the pendency of the administrative appeal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.11, 40:2009.23, 40:2199 and 40:2199.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:3078 (November 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 49:

§4613. Civil Fines

A. - B.2. ...

C. Class C Violations

1. ...

2. A facility may elect to pay 50 percent of the civil fine imposed for a class C violation in exchange for waiving its right to an administrative reconsideration and appeal if it submits, and HSS receives, the following within 30 days of the facility's receipt of the civil fine notice:

a. ...

b. the facility's written waiver of the right to an administrative reconsideration and appeal on the form provided by LDH.

D. - E.1. ...

F. Determination of the Amount of Civil Fines

1. In establishing the amount of civil fines to be imposed against the provider, the department may consider:

a. all relevant aggravating circumstances, including, but not limited to:

i. - iii. ...

iv. the extent of actual or potential harm to resident(s), patient(s), or client(s); and

b. - F.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.11, 40:2009.23, 40:2199 and 40:2199.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:3079 (November 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 49:

§4619. Removal from the Freedom of Choice List

A. The department may impose the sanction of removal from the freedom of choice list to a facility placed on a freedom of choice list. LDH may impose this sanction for any violation including, but not limited to:

A.1. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.11, 40:2009.23, 40:2199 and 40:2199.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:3080 (November 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 49:

§4621. Transfer of Resident(s), Patient(s), or Client(s) Receiving Services

A. The department may impose the sanction of transfer of resident(s), patient(s), or client(s) receiving services provided by a facility. This sanction may be imposed for any violation of statute, rule or regulation including but not limited to:

A.1. - F.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.11, 40:2009.23, 40:2199 and 40:2199.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:3080 (November 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 49:

§4623. License Suspension

A. Unless otherwise provided by federal or state law, the department may impose a suspension of a license if the department determines that the violations committed by the facility pose an imminent or immediate threat to the health, welfare or safety of its resident(s), patient(s), or client(s).

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.11, 40:2009.23, 40:2199 and 40:2199.1.

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

39:3081 (November 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 49:

§4627. Special Staffing Requirements

A. - B.5. ...

C. The department may impose the sanction of special staffing for any violation of statute, rule or regulation including, but not limited to:

1. a violation of a rule or regulation that creates a condition or occurrence relating to the maintenance and/or operation of a facility which results in death or serious harm to the resident(s), patient(s), or client(s);

2. a violation of a rule or regulation in which a condition or occurrence relating to the maintenance and/or operation of a facility is created and results in the substantial probability of death or serious physical or mental harm to the resident(s), patient(s) or client(s) will result from the violation;

3. a repeat violation of a rule or regulation in which a condition or occurrence relating to the maintenance and/or operation of a facility creates a potential for harm by directly threatening the health, safety, or welfare of the resident(s), patient(s), or client(s);

4. ...

5. when there is an imminent threat to the health, safety, or welfare of the facility's resident(s), patient(s), or client(s).

D. - E.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.11, 40:2009.23, 40:2199 and 40:2199.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:3081 (November 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 49:

§4629. Temporary Management

A. The department may require the immediate appointment of a temporary manager, at the facility's expense, to:

1. ...

2. ensure the health, safety, and welfare of the facility's resident(s), patient(s), or client(s).

B. Temporary management may be imposed for any violation of statute, rule or regulation including, but not limited to:

1. a violation of a rule or regulation that creates a condition or occurrence relating to the maintenance and/or operation of a facility which results in death or serious harm to the resident(s), patient(s) or client(s);

2. a violation of a rule or regulation in which a condition or occurrence relating to the maintenance and/or operation of a facility is created and results in the substantial probability of death, serious physical harm or mental harm to the resident(s), patient(s) or client(s);

3. a repeat violation of a rule or regulation in which a condition or occurrence relating to the maintenance and/or operation of a facility creates a potential for harm by directly threatening the health, safety, or welfare of the resident(s), patient(s), or client(s);

B.4. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.11, 40:2009.23, 40:2199 and 40:2199.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:3082 (November 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 49:

Subchapter C. Notice and Appeals

§4643. Administrative Appeal Process

A. - C.5. ...

D. Hearings

1. - 2.b.v. ...

c. The administrative law judge (ALJ) may question any party or witness and may admit any relevant and material evidence.

2.d. - 7....

8. The ALJ does not have the authority to:

a. rescind or amend any violation of federal law, statute, or regulation found by LDH on behalf of CMS; or

D.8.b. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.11, 40:2009.23, 40:2199 and 40:2199.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:3083 (November 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 49:

Subchapter D. Enforcement of Sanctions

§4651. Enforcement of Sanctions/Collection of Fines

A. - D.2....

E. The facility is prohibited from:

1. ...

2. increasing charges to resident(s), patient(s), or client(s) as a result of civil fines and/or interest imposed by LDH.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.11, 40:2009.23, 40:2199 and 40:2199.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:3085 (November 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 49:

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 have an indeterminable impact on small businesses that fail to comply with the requirements for addressing workplace violence and may be sanctioned.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's

ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to 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 May 30, 2023.

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 May 10, 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 May 25, 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 May 10, 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
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Healthcare Facility Sanctions**

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 22-23. It is anticipated that \$2,268 will be expended in FY 22-23 for the state's administrative expense for promulgation of this proposed rule and the final rule.

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

The effect on revenue collections as a result of implementation of this proposed rule is indeterminable, because it is not possible to know how many healthcare facilities may fail to comply with the requirements for addressing workplace violence and the amount of any sanctions that may be imposed as a result of this non-compliance.

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

This proposed rule amends the provisions governing healthcare facility sanctions in order to establish duties and requirements addressing workplace violence, in compliance with Act 461 of the 2022 Regular Session of the Louisiana Legislature, and to add and update definitions. Employees of healthcare facilities will benefit from the protection against

workplace violence resulting from this proposed rule. It is anticipated that implementation of this proposed rule may result in costs to healthcare facilities in FY 22-23, FY 23-24, and FY 24-25, if they are sanctioned due to non-compliance with the regulations; however, there is no way to determine the number of facilities that may be impacted nor the potential costs to them.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Tasheka Dukes, RN
Deputy Assistant Secretary
2304#047

Evan Brasseaux
Interim Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health
Bureau of Health Services Financing
and
Office of Behavioral Health**

Healthy Louisiana and Coordinated System of Care Waiver
Behavioral Health Directed Payments
(LAC 50:XXXIII.503 and 703)

The Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health propose to adopt LAC 50:XXXIII.503 and 703 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 Behavioral Health propose to adopt provisions in the Healthy Louisiana and Coordinated System of Care Waiver governing directed payments for fee schedule and value-based payment arrangement for providers of behavioral health and home and community-based services and the grievance and appeal process for these providers.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXXIII. Behavioral Health Services

Subpart 1. Healthy Louisiana and Coordinated System of Care Waiver

Chapter 5. Reimbursement

§503. Directed Payments

A. Provider Directed Payments

1. Subject to written approval by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), the Department of Health (hereafter referred to as “the department” and/or “LDH”) shall provide directed payments to qualifying providers that participate in the Healthy Louisiana Medicaid managed care program or Coordinated System of Care (CSoc) waiver, in accordance with the applicable section 438.6(c) preprint(s) approved by CMS, federal regulations, and departmental requirements. Each CMS approved directed payment arrangement is effective for one Healthy Louisiana Medicaid managed care or CSoc contract rating period, unless otherwise approved by CMS.

2. Qualifying Provider

a. High fidelity wraparound agencies (WAA) and wraparound facilitators (WF), WF supervisors, WAA coaches, and WAA administrators that meet the criteria specified in the applicable section 438.6(c) preprint approved by CMS and departmental requirements; or

b. Peer support specialists, supervisors, trainers, and administrators employed by the family support organization (FSO) that meet the criteria specified in the applicable section 438.6(c) preprint approved by CMS and departmental requirements; or

c. Licensed mental health practitioners (LMHPs) and psychiatrists that provide behavioral health outpatient services and that meet the criteria specified in the applicable section 438.6(c) preprint approved by CMS and departmental requirements.

3. The Healthy Louisiana Medicaid managed care organization (MCO) and CSoC contractor shall assign qualifying providers to provider classes based upon criteria specified in the applicable section 438.6(c) preprint(s) approved by CMS, in accordance with departmental requirements.

a. Qualifying providers shall have no right to an administrative appeal regarding the qualifying provider criteria or determination of which providers meet the qualifying provider criteria.

4. The MCO and CSoC contractor shall utilize a payment process, whereby directed payments will be calculated and paid out based on the data and methodology specified in the applicable section 438.6(c) preprint(s) approved by CMS, in accordance with departmental requirements.

a. Qualifying providers shall have no right to an administrative appeal regarding calculation of directed payments or measurement rates.

5. Based upon the methodology specified in the applicable section 438.6(c) preprint(s) approved by CMS, in accordance with departmental requirements, the department shall cause directed payments to be paid in a single upfront lump sum payment to the MCOs; and payments shall be paid to the CSoC contractor within 30 days of receipt of invoice(s), on a retrospective basis.

a. Funding for the directed payments is only available during the time period in the applicable section 438.6(c) preprint(s) approved by CMS or until payments are exhausted, whichever comes first.

6. In accordance with the applicable section 438.6(c) preprint(s) approved by CMS and departmental requirements, directed payments must be based on actual utilization and delivery of services during the applicable contract period.

a. Within six months of the end of the rating period, the MCOs and CSoC contractor shall perform a reconciliation as specified in the applicable section 438.6(c) preprint approved by CMS or as otherwise dictated in accordance with departmental requirements.

i. Qualifying providers shall have no right to an administrative appeal regarding any issue related to reconciliation, including, but not limited to, the timing, amount of the reconciliation, and process.

7. If a qualifying provider is subject to a reconciliation, the qualified provider shall pay all amounts owed to the MCO or CSoC contractor, in accordance with departmental requirements.

a. In addition to all other available remedies, the MCO and the CSoC contractor has the authority to offset all amounts owed by a qualifying provider due to a reconciliation against any payment owed to the qualifying provider, including, but not limited to, any payment owed by the MCOs or CSoC contractor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:245 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 Behavioral Health, LR 49:

Chapter 7. Grievance and Appeals Process

§703. Provider Grievance and Appeal Process

A. If the provider is filing a grievance or appeal on behalf of the member, the provider shall adhere to the provisions outlined in §701 of this Chapter.

B. The MCO and CSoC contractor must have a grievance and appeals process for claims, medical necessity, and contract disputes for providers in accordance with the contract and department issued guidance.

1. The MCO and CSoC contractor shall establish and maintain a procedure for the receipt and prompt internal resolution of all provider initiated grievances and appeals as specified in the contract and department issued guidance.

2. The grievance and appeals procedures, and any changes thereto, must be approved in writing by the department prior to their implementation.

3. Notwithstanding any MCO, CSoC contractor, or department grievance and appeal process, nothing contained in any document, including, but not limited to Rule or contract, shall preclude a provider's right to pursue relief through a court of appropriate jurisdiction.

4. The MCO and CSoC contractor shall report on a monthly basis all grievance and appeals filed and resolutions in accordance with the terms of the contract and department issued guidance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:245 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 Behavioral Health, LR 49:

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 a positive impact on small businesses by providing state directed payments to qualifying providers.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, but may reduce the total direct and indirect cost to the provider to provide the same level of service, and may enhance the provider's ability to provide the same level of service as described in HCR 170 since this proposed Rule increases payments to providers for the services they already render.

Public Comments

Interested persons may submit written comments to Tara A. LeBlanc, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. LeBlanc is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on May 30, 2023.

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 May 10, 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 May 25, 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 May 10, 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
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Healthy Louisiana and Coordinated System of Care Waiver Behavioral Health Directed Payments

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

It is anticipated that implementation of this proposed rule will increase state costs by approximately \$942 for FY 22-23 and \$9,114,700 for FY 23-24. It is anticipated that \$942 (\$486 SGF and \$486 FED) will be expended in FY 22-23 for the state's administrative expense for promulgation of this proposed rule and the final rule.

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

It is anticipated that implementation of this proposed rule will increase revenue collections by approximately \$486 for FY 22-23 and \$19,885,300 for FY 23-24. It is anticipated that \$486 will be collected in FY 22-23 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 adopts provisions in the Healthy Louisiana and Coordinated System of Care Waiver governing directed payments for fee schedule and value-based payment arrangement for providers of behavioral health and home and community-based services (HCBS) and the grievance and appeal process for these providers. Implementation of this proposed rule will benefit qualifying behavioral health and HCBS providers, as it is anticipated to increase payments for these services by approximately \$29,000,000 for FY 23-24. Since the directed payment models must be approved by CMS every year, at this time, the Department is only authorized to make these payments through June 2024.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Tara A. LeBlanc
Medicaid Executive Director
2304#048

Evan Brasseaux
Interim Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Hospice Services
Payment Methodology
(LAC 50:XV.4305 and 4309)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:XV.4305 and §4309 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 U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) directed the Department of Health, Bureau of Health Services Financing to update the level of detail provided in the Medicaid State Plan for the hospice payment methodology. The department proposes to amend the provisions governing reimbursement for hospice services in order to ensure that the current payment methodology is accurately reflected in the *Louisiana Administrative Code* and aligns with the CMS-required State Plan changes.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 3. Hospice

Chapter 43. Reimbursement

§4305. Payment Methodology

A. Reimbursement for hospice services is made to a designated hospice provider based on the Medicaid rates published annually in a memorandum issued by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), Center for Medicaid and CHIP Services. These rates are effective from October 1 of each year through September 30 of the following year.

1. Payment for hospice care will be made at predetermined rates for each day in which a beneficiary is under the care of the hospice provider. The daily rate is applicable to the type and intensity of services furnished to the beneficiary for that day.

a. - b. Repealed.

2. For routine home care, continuous home care, and inpatient respite care, only one rate is applicable for each day. For continuous home care, the amount of payment is determined based on the number of hours of continuous care furnished to the recipient on that day.

a. - d.ii. Repealed.

B. A service intensity add-on (SIA) payment will be reimbursable for a visit by a registered nurse or a social worker, when provided during routine home care in the last seven days of a patient's life. The SIA payment is made in addition to the routine home care rate.

1. The hospice provider shall submit claims for payment for hospice care only on the basis of the geographic location at which the services are furnished.

a. The nursing facility shall be considered an individual's home if the individual usually lives in the nursing facility.

2. Payment for Physician Services. The four basic payment rates for hospice care are designed to reimburse the hospice for the costs of all covered services related to the treatment of the recipient's terminal illness. This includes the administrative and general supervisory activities performed by physicians who are employees of or working under arrangements made with the hospice. These activities are generally performed by the physician serving as the medical director and the physician member of the hospice interdisciplinary group. Group activities include participation in the establishment of plans of care, supervision of care and services, periodic review and updating of plans of care, and establishment of governing

policies. The costs for these services are included in the reimbursement rates for routine home care, continuous home care, and inpatient respite care.

a. The hospice is paid for other physicians' services, such as direct patient care services, furnished to individual patients by hospice employees and for physician services furnished under arrangements made by the hospice unless the patient care services were furnished on a volunteer basis. The physician visit for the face-to-face encounter will not be reimbursed by the Medicaid Program.

b. The hospice is reimbursed in accordance with the usual Medicaid reimbursement policy for physicians' services. This reimbursement is in addition to the daily rates.

c. Physicians who are designated by recipients as the attending physician and who also volunteer services to the hospice are, as a result of their volunteer status, considered employees of the hospice in accordance with the 42 CFR 418.3. All direct patient care services rendered by these physicians to hospice patients are hospice physician services, and are reimbursed in accordance with the procedures outlined in §4305.B.1. Physician services furnished on a volunteer basis are excluded from Medicaid reimbursement. The hospice may be reimbursed on behalf of a volunteer physician for specific services rendered which are not furnished on a volunteer basis (a physician may seek reimbursement for some services while furnishing other services on a volunteer basis). The hospice must have a liability to reimburse the physician for those physician services rendered. In determining which services are furnished on a volunteer basis and which services are not, a physician must treat Medicaid patients on the same basis as other patients in the hospice.

d. An independent attending physician is reimbursed in accordance with the usual Medicaid reimbursement methodology for physician services.

i. The only services billed by the attending physician are the physician's personal professional services. Costs for services such as lab or x-rays are not included on the attending physician's bill.

ii. Services provided by an independent attending physician must be coordinated with any direct care services provided by hospice physicians.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1470 (June 2002), amended LR 34:441 (March 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:132 (January 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 49:

§4309. Limitation on Payments for Inpatient Care

A. Payments to a hospice for inpatient care are limited according to the number of days of inpatient care furnished to Medicaid patients.

1. A hospice cap period is a 12-month period beginning November 1 of each year and ending October 31 of the following year.

2. - 2.b....

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1472 (June 2002), amended by the

Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:132 (January 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 48:2294 (September 2022), LR 49:

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 or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Tara A. LeBlanc, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. LeBlanc is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on May 30, 2023.

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 May 10, 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 May 25, 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 May 10, 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
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Hospice Services Payment Methodology

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 22-23. It is anticipated that \$864 (\$432 SGF and \$432 FED) will be expended in FY 22-23 for the state's administrative expense for promulgation of this proposed rule and the final rule.

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

It is anticipated that implementation of this proposed Rule will have no impact on federal revenue collections for FY 22-23. It is anticipated that \$432 will be collected in FY 22-23 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 reimbursement for hospice services in order to comply with the directive from the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) that requires the Department to update the level of detail provided in the Medicaid State Plan for the hospice payment methodology. This proposed rule ensures that the current payment methodology is accurately reflected in the Louisiana Administrative Code and aligns with the CMS-required State Plan changes. Implementation of this proposed rule is not anticipated to have any costs to hospice providers for FY 22-23, FY 23-24, and FY 24-25.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Tara A. LeBlanc
Medicaid Executive Director
2304#049

Evan Brasseaux
Interim Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Hospital Licensing Standards
Rural Emergency Hospitals
(LAC 48:I.Chapter 93)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 48:I.Chapter 93 as authorized by R.S. 36:254 and 40:2100-2115. 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 published an Emergency Rule which amended the provisions governing the licensing of hospitals to add an exemption to the primarily engaged requirements for rural emergency hospitals and adopt provisions for their designation and certification in order to allow rural hospitals with less than 50 beds to temporarily convert to rural emergency hospitals (*Louisiana Register*, Volume 49, Number 3). This proposed Rule is being promulgated to continue the provisions of the March 7, 2023 Emergency Rule.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 93. Hospitals

Subchapter A. General Provisions

§9301. Purpose

A. - B. ...

C. Primarily Engaged

1. - 1.b....

2. Exemptions. The following licensed hospitals are not subject to the primarily engaged provisions/requirements of this Chapter:

a. ...

b. a licensed hospital designated as a rural hospital as defined by R.S. 40:1189.3;

c. a licensed hospital currently certified and enrolled as a Medicare/Medicaid certified hospital which has not been determined out of compliance with the federal definition of primarily engaged; if a hospital is currently Medicare/Medicaid certified, and has been determined to be currently meeting the federal definition of primarily engaged, it shall be exempt from compliance with the following provisions in this section regarding primarily engaged; and

d. a licensed hospital designated as a rural emergency hospital, as established in Section 125 of the Consolidated Appropriations Act of 2021 and defined by the Code of Federal Regulations at 42 CFR 485.500 et seq., or its successor provisions, provided that such facility is in compliance with the provisions of Section 9310 of this Chapter.

C.3. - E.9. ...

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 Human Resources, Office of the Secretary, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:177 (February 1995), LR 29:2399 (November 2003), amended by the Department of Health, Bureau of Health Services Financing, LR 45:1474 (October 2019), LR 46:1682 (December 2020), LR 49:

§9303. Definitions

A. The following definitions of selected terminology are used in connection with Chapter 93 through Chapter 96.

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:

§9310. Rural Emergency Hospitals

A. A rural emergency hospital (REH) is a hospital facility that converts from either a critical access hospital (CAH) or a rural hospital with less than 50 beds, as established in Section 125 of the Consolidated Appropriations Act of 2021. Only a CAH or rural hospital with less than 50 beds that was licensed by the department as of December 27, 2020 may convert to a REH.

B. A REH shall be in compliance with the federal regulations for REHs, namely 42 CFR 485.500 et seq., or successor regulations.

C. Pursuant to the federal requirements, the REH shall provide emergency department services and observation care, but shall not provide acute inpatient services except for the optional service of post-hospital extended care services furnished in a unit of the facility that is a distinct part skilled nursing unit.

1. The CAH or rural hospital that is converting to a REH shall contact the licensing section of the department to temporarily inactivate its licensed acute care hospital beds while it is designated and certified as a REH by the Medicare program.

2. If the facility loses its designation or certification as a REH or begins operating again as a CAH or rural hospital, the facility shall contact the licensing section of the department to immediately re-activate its licensed acute care hospital beds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 49:

§9311. Enforcement

A. The department shall have the authority to interpret and enforce Chapter 93 through Chapter 96 as authorized by and in accordance with the Health Care Facilities and Services Enforcement Act, R.S. 40:2199.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 13:246 (April 1987), amended by the Department of Health and Hospitals,

Office of the Secretary, Bureau of Health Services Financing, LR 21:177 (February 1995), amended by the Department of Health, Bureau of Health Services Financing, LR 29:2404 (November 2003), LR 49:

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 or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to 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 May 30, 2023.

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 May 10, 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 May 25, 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 May 10, 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
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Hospital Licensing Standards Rural Emergency 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 22-23. It is anticipated that \$864 will be expended in FY 22-23 for the state's administrative expense for promulgation of this proposed rule and the final rule.

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

It is anticipated that the implementation of this proposed rule will not affect federal revenue collections 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 continues the provisions of the March 7, 2023 Emergency Rule, which amended the provisions governing the licensing of hospitals in order to add an exemption to the primarily engaged requirements for rural emergency hospitals and adopt provisions for their designation and certification in order to allow rural hospitals with less than 50 beds to temporarily convert to rural emergency hospitals. It is anticipated that implementation of this proposed rule will result in a cost of \$25 to any hospital that converts to a rural emergency hospital, however, conversion will benefit the hospital by making it eligible for enhanced Medicare reimbursement. There is no enhanced Medicaid reimbursement as a result of this proposed rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Tasheka Dukes, RN
Deputy Assistant Secretary
2304#050

Evan Brasseaux
Interim Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Inpatient Hospital Services
Medicare Part A Claims for Medicaid Eligible Beneficiaries
(LAC 50:V.Chapter 23)

The Department of Health, Bureau of Health Services Financing proposes to repeal the following uncodified rules and adopt LAC 50:V.Chapter 23 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act:

Register Date	Title	Register Volume, Number	Page Number
November 20, 2000	Inpatient Hospital Services—Medicare Part A Claims	Vol 26 No 11	2621
November 20, 2000	Inpatient Psychiatric Services—Medicare Part A Claims	Vol 26 No 11	2621
February 20, 2002	Inpatient Hospital Services Medicare Part A	Vol 28 No 2	308

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 repeal the above listed rules governing Medicare Part A claims for inpatient hospital services and to adopt LAC 50:V.Chapter 23 in order to ensure that these provisions are appropriately promulgated in a codified format for inclusion in the *Louisiana Administrative Code*.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 1. Inpatient Hospital Services

Chapter 23. Medicare Part A Claims for Medicaid Eligible Beneficiaries

§2301. Reimbursement Methodology

A. To determine the amount that Medicaid will reimburse on a claim for a Medicaid beneficiary who is also eligible for Medicare Part A, the Medicare claim payment is compared to the Medicaid payment rate on file for the inpatient service multiplied by the inpatient covered days. If the Medicare payment exceeds the Medicaid rate that would have been paid, the claim is adjudicated as a paid claim with a zero payment. If the Medicaid rate that would have been paid exceeds the Medicare payment, the claim is reimbursed at the lesser of the co-insurance and deductible or up to the Medicaid maximum payment. If the Medicaid payment is reduced or eliminated as a result of the Medicare/Medicaid payment comparison, the amount of the Medicare payment plus the amount of the Medicaid payment, if any, shall be considered to be payment in full for the service.

B. Medicare Part A claims for small rural hospitals, as defined in R.S. 40:1300, are exempt from the Medicaid maximum payment limitation.

C. The beneficiary does not have any legal liability to make payment for the service.

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:

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 staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Tara A. LeBlanc, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. LeBlanc is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on May 30, 2023.

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 May 10, 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 May 25, 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 May 10, 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
Secretary

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

**RULE TITLE: Inpatient Hospital Services
Medicare Part A Claims for
Medicaid Eligible Beneficiaries**

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

It is anticipated that this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 22-23. It is anticipated that \$540 (\$270 SGF and \$270 FED) will be expended in FY 22-23 for the state's administrative expense for promulgation of this proposed rule and the final rule.

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

It is anticipated that the implementation of this proposed rule will have no effect on revenue collections other than the federal share of the promulgation costs for FY 22-23. It is anticipated that \$270 will be collected in FY 22-23 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 repeals inpatient hospital services rules, which were promulgated prior to implementation of the Louisiana Administrative Code codification system, in order to codify the provisions governing reimbursement for Medicare Part A claims for inpatient hospital services. It is anticipated that implementation of this proposed rule will not result in costs to Medicaid providers in FY 22-23, FY 23-24, and FY 24-25, but will be beneficial by ensuring these provisions are appropriately promulgated in a codified format in the Louisiana Administrative Code.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Tara A. LeBlanc
Medicaid Executive Director
23044#051

Evan Brasseaux
Interim Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health
Bureau of Health Services Financing
and
Office for Citizens with Developmental Disabilities**

Medicaid Eligibility
Act 421 Children's Medicaid Option
(LAC 50:III.2331)

The Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities propose to amend LAC 50:III.2331 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 421 of the 2019 Regular Session of the Louisiana Legislature directed the Department of Health to establish the Tax Equity and Fiscal Responsibility Act of 1982

(TEFRA) option within the Medical Assistance Program through which children with disabilities can access Medicaid-funded services regardless of their parents' income. In compliance with Act 421, the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities adopted provisions that established the Act 421 Children's Medicaid Option (TEFRA). The department now proposes to amend the provisions governing Medicaid eligibility groups and programs in order to remove the requirement that an applicant be ineligible for other Medicaid services before being considered for the Act 421 Children's Medicaid Option and to revise language regarding level of care.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part III. Eligibility

Subpart 3. Eligibility Groups and Factors

Chapter 23. Eligibility Groups and Medicaid Programs

§2331. Act 421 Children's Medicaid Option (Act 421-CMO/TEFRA)

A. Pursuant to section 1902(e)(3) of the Social Security Act the state may extend Medicaid eligibility to certain children living in the community, who require the level of care provided in an institution, and who would be eligible for Medicaid if living in an institution.

1. - 2. Repealed.

B. Effective January 1, 2022, the department implemented the Act 421 Children's Medicaid Option (Act 421-CMO) program to provide Medicaid State Plan services to children with disabilities who, despite parental or household income and resources, meet the eligibility criteria set forth in this Section.

1. - 2.b.iii.(c). Repealed.

C. Eligibility Criteria. In order to qualify for the 421-CMO program, an applicant/Act 421-CMO beneficiary must meet all of the following criteria:

1. is 18 years of age or younger (under 19 years of age);

a. - b. Repealed.

2. is a U.S. citizen or qualified non-citizen;

3. is a Louisiana resident;

4. has countable resources that are equal to or less than the resource limits for the Supplemental Security Income (SSI) program;

5. has countable income equal to or less than the special income level for long-term care services (nursing facility, ICF/IID, and home and community-based services);

6. qualifies as a disabled individual under section 1614(a) of the Social Security Act;

7. must meet a level of care, assessed on an annual basis, provided in an intermediate care facility for individuals with intellectual disabilities (ICF/IID), a nursing facility, or a hospital; and

8. care needs are being safely met at home at a lower cost than the cost of services provided in an institutional setting.

D. Act 421 Children's Medicaid Option (Act 421-CMO/TEFRA) Levels of Care

1. The individual meets Act 421-CMO ICF/IID level of care when demonstrating both of the following:

a. has obtained a statement of approval from the Office for Citizens with Developmental Disabilities, or its designee, or EarlySteps eligibility (depending on age) confirming that he/she has a developmental disability as defined in R.S. 28:451.2; and

b. meets the requirements for active treatment of a developmental disability under the supervision of a qualified developmental disability professional, as prescribed on the Request for Medical Eligibility Determination, Form 90-L.

2. The individual meets Act 421-CMO nursing facility level of care when demonstrating both of the following, assessed in accordance with the Act 421 Children's Medicaid Option assessment tool:

a. has a diagnosis of a medical/physical condition resulting in needs requiring long term care services of at least six months; and

b. requires skilled nursing interventions and/or has substantial functional limitations (SFLs) requiring hands-on assistance from others throughout the day.

3. The individual meets hospital level of care when demonstrating all of the following, assessed in accordance with the Act 421 Children's Medicaid Option assessment tool:

a. the need for frequent medical care that requires the use of equipment to prevent life-threatening situations, with skilled medical care required more than once during each 24-hour period;

b. the need for skilled medical interventions that are expected to persist for at least six months; and

c. an overall health condition that is unstable, presenting the constant potential for complications or rapid deterioration, such that he/she requires monitoring by professional nurses, parents, or other properly instructed individuals, in order to detect unstable and life-threatening conditions and respond promptly with appropriate care.

E. Cost Effectiveness

1. On an annual basis, each 421-CMO beneficiary's expenditures will be measured against the average cost of care in an institution that corresponds to his/her level of care (i.e. hospital, ICF/IID, nursing facility) to ensure that home and community-based care is more cost effective than institutional care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, 46:977.21-977.25, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 47:1872 (December 2021), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 49:

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 a positive impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973, since applicants will not be required to be considered for buy-in programs prior to consideration for Act 421-CMO.

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 or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Tara A. LeBlanc, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. LeBlanc is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on May 30, 2023.

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 May 10, 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 May 25, 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 May 10, 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
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Medicaid Eligibility
Act 421 Children's Medicaid Option**

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

It is anticipated that implementation of this proposed rule will result in an indeterminable cost to the state for FY 22-23, FY 23-24, and FY 24-25, since there is no way to determine how many individuals, if any, will qualify under different Medicaid programs under the proposed changes. It is anticipated that \$864 (\$432 SGF and \$432 FED) will be expended in FY 22-23 for the state's administrative expense for promulgation of this proposed rule and the final rule.

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

It is anticipated that the implementation of this proposed rule will have an indeterminable impact on revenue collections for FY 22-23, FY 23-24, and FY 24-25, since there is no way to determine how many individuals, if any, will qualify under different Medicaid programs under the proposed changes. It is anticipated that \$432 will be collected in FY 22-23 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 Medicaid eligibility groups and programs in order to remove the requirement that an applicant be ineligible for other Medicaid services before being considered for the Act 421 Children's Medicaid Option and to revise language regarding level of care. This proposed rule will ensure that Medicaid applicants do not have to be considered for a buy-in program prior to consideration for Act 421 Children's Medicaid Option. It is anticipated that implementation of this proposed rule will not result in costs or benefits to Medicaid providers or small businesses. It is anticipated that this proposed rule will result in an indeterminable cost to the Medicaid program in FY 22-23, FY 23-24, and FY 24-25, since there is no way to determine how many individuals, if any, will qualify under different Medicaid programs under the proposed changes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Tara A. LeBlanc
Medicaid Executive Director
2304#052

Evan Brasseaux
Interim Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health
Bureau of Health Services Financing**

Medicaid Eligibility
Disregard of Accumulated Resources
(LAC 50:III.10705)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:III.10703 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.

In response to the Coronavirus Disease 2019 (COVID-19) public health emergency, the Families First Coronavirus Response Act of 2020, section 6008, allowed for continuous enrollment of individuals in the Medical Assistance Program (Medicaid). The Department of Health, Bureau of Health Services Financing proposes to amend the provisions governing financial eligibility for Medicaid in order to disregard resources accumulated from March 18, 2020 through March 31, 2023 that would otherwise have been paid toward the cost of a beneficiary's home and community-based services waiver or institutional services. These resources will continue to be disregarded through the twelfth month following the first full redetermination of the beneficiary's eligibility conducted after March 31, 2023.

Title 50

PUBLIC HEALTH—GENERAL

Part III. Eligibility

Subpart 5. Financial Eligibility

Chapter 107. Resources

§10705. Resource Disregards

A. - D. ...

E. Resources accumulated from March 18, 2020 through March 31, 2023, that, but for the continuous enrollment provision at section 6008(b)(3) of the Families First Coronavirus Response Act, would have been paid toward the cost of a beneficiary's home and community-based services waiver or institutional services based on the application of post-eligibility treatment of income, will be disregarded through the twelfth month following the first full redetermination of the beneficiary's eligibility conducted after March 31, 2023.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 35:1899 (September 2009), amended LR 36:2867 (December 2010), LR 41:949 (May 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 45:1772 (December 2019), LR 46:1393 (October 2020), LR 49:

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 a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 by providing time for the beneficiary to reduce accumulated resources and maintain Medicaid eligibility.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have a positive impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 by enabling families to use resources accumulated during the continuous coverage period on necessities other than healthcare.

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 or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Tara A. LeBlanc, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. LeBlanc is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on May 30, 2023.

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 May 10, 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 May 25, 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 May 10, 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
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Medicaid Eligibility Disregard of Accumulated Resources

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

Implementation of this proposed rule will result in an indeterminable cost to the state for FY 22-23, FY 23-24, and FY 24-25 by applying a disregard for certain accumulated resources for a twelve month period following the first redetermination conducted after the end of the public health emergency. It is anticipated that \$540 (\$270 SGF and \$270 FED) will be expended in FY 22-23 for the state's

administrative expense for promulgation of this proposed rule and the final rule.

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

Implementation of this proposed rule will result in an indeterminable impact on revenue collections for FY 22-23, FY 23-24, and FY 24-25 by applying a disregard for certain accumulated resources for a twelve month period following the first redetermination conducted after the end of the public health emergency. It is anticipated that \$270 will be collected in FY 22-23 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 financial eligibility for the Medical Assistance Program (Medicaid) in order to disregard resources accumulated by beneficiaries from March 18, 2020 through March 31, 2023 that, but for the continuous enrollment provision at Section 60008(b)(3) of the Families First Coronavirus Act, would have been paid toward the cost of a beneficiary's home and community-based services waiver or institutional services. These resources will continue to be disregarded through the twelfth month following the first full redetermination of the beneficiary's eligibility conducted after March 31, 2023. Implementation of this proposed rule will allow these beneficiaries time to reduce resources accumulated during the continuous coverage period and maintain Medicaid eligibility. Providers will benefit from implementation of this proposed rule because they will continue to receive Medicaid reimbursement for services provided to individuals that would no longer be eligible if these resources were considered. This proposed rule will result in an indeterminable cost to the Medicaid program for FY 22-23, FY 23-24, and FY 24-25.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Tara A. LeBlanc
Medicaid Executive Director
2304#053

Evan Brasseaux
Interim Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT Department of Health Office of Public Health Bureau of Emergency Medical Services

Emergency Medical Services Professionals
(LAC 46:XXXVIII.Chapters 1-5)

The Louisiana Department of Health, Office of Public Health, Bureau of Emergency Medical Services (LDH-OPH-Bureau of EMS) and the Louisiana Emergency Medical Services Certification Commission (EMSCC) proposed to amend LAC 46:XXXVIII.Chapters 1-5 regarding emergency medical services professionals as authorized by R.S. 40:1131-1133.16 and R.S. 40:1141. This proposed rule is promulgated in accordance with the provisions of the Administrative Procedure Act, 4.2. 49:950, et seq.

In compliance with Act 31 of the 2020 2nd Extraordinary Session of the Louisiana Legislature, the LDH-OPH-BEMS and the EMSCC propose to amend the regulations governing the professional and occupational standards for emergency medical services professionals in order to: 1) clarify and

align these provisions with the corresponding legislative authorities governing emergency medical services; 2) ensure that the provisions are consistent with the standard language used in other healthcare licensing regulations; and, 3) promulgate the provisions clearly and concisely in the Louisiana Administrative Code.

Part XXXVIII is proposed to be substantively rearranged as regards to the location of the bulk of the text content which exists in some particular Sections of the current rule housed within Title 46 of the Louisiana Administrative Code (LAC) but which is now proposed to be moved into another Section of the proposed rule. The text content of each Section which has been moved does contain one or more amendments within the proposed new location. In addition, currently existing headings labeled as a particular Subpart, a particular Chapter and a particular Subchapter are proposed to be repealed. For this reason, the table below summarizes the proposed rearrangement of the text content and which specific items are proposed to be repealed.

This proposed Rule shall be effective upon publication as a Final Rule.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS
Part XXXVIII. Emergency Medical Services
Professionals

Subpart 1. Rules of Procedure

Chapter 1. General

§101. Statement of Purpose/General Definitions

A. Purpose. The Louisiana Emergency Medical Services Certification Commission is a legally created administrative commission acting within the governmental structure of the state and possessing legal power. To safeguard life and health of the citizens of Louisiana, the law governing the practice of Nationally Certified and State Licensed Emergency Medical Services professionals, Louisiana Revised Statutes of 1950, R.S. 40:1131 et seq., as re-enacted and amended, delegates to this commission the responsibility to establish and publish standards of out-of-hospital practice; to regulate the scope of practice of Emergency Medical Services practitioners, to discipline and regulate the practice of Emergency Medical Services professionals and to establish standards for educational programs preparing individuals for out of hospital practice.

B. General Definitions. The following words and terms shall have general applicability to their usage within the entirety of this Part.

Bureau—unless otherwise specified, the Bureau of Emergency medical Services within the Office of Public Health of the Louisiana Department of Health.

Bureau Director—the duly appointed administrator who oversees the Bureau.

Certified Ambulance Operator—an individual who is certified by the Bureau of EMS as a certified ambulance operator. Documentation and requirements outlined in statute must be submitted and approved before certification is received.

Chair—the chairperson of the Louisiana Emergency Medical Services Certification Commission.

Commission—the Louisiana Emergency Medical Services Certification Commission as created under the Louisiana Department of Health pursuant to R.S. 40:1133.3.

Emergency Medical Services—a system that represents the combined efforts of various professionals and agencies to provide out-of-hospital emergency care to the sick and injured.

EMS Medical Director—a physician (MD or DO) licensed by the Louisiana State Board of Medical Examiners who has responsibility and authority to ensure the quality of care and provide guidance for all out-of-hospital medical care provided by EMS ambulance services and EMS Practitioners.

EMS Practitioner—an individual who is a licensed emergency medical responder, licensed emergency medical technician, licensed advanced emergency medical technician or a licensed paramedic.

EMS—emergency medical services.

Public Safety Agency—a functional division of a public or private agency which provides firefighting, police, medical, or other emergency services.

Public Safety Telecommunicator—an individual answering 911 emergency medical condition calls on behalf of a public safety agency who has authority, based on a protocol adopted by the agency, to provide T-CPR instructions to a caller before arrival or medical assistance by an individual with CPR training.

T-CPR—telephone cardiopulmonary resuscitation

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1133.1 (A), R.S. 40:1133.4(A)(8), R.S. 40:1133.5.(9)(10) and R.S. 40:2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Medical Services Certification Commission, LR 29:1821 (September 2003), amended by the Louisiana Department of Health, Office of Public Health, Bureau of Emergency Medical Services LR 49:

§103. Duties of EMS Practitioners

A. A licensed emergency medical services practitioner may perform any of the following functions while caring for a patient at the scene of a medical or other emergency, or during the transport of a patient where voice contact is established with a physician and under the physician's order, or under the protocol that has been approved by the local parish medical society or the emergency medical services practitioner's medical director:

1. services, treatment, and procedures consistent with the national EMS education standards that have been approved and adopted by the bureau, to the extent that he or she has been trained to perform such services, treatment or procedures.

2. administration of other drugs or procedures for which the licensed emergency medical services practitioner has received training, license, and approval by the commission and which may be considered necessary by the ordering physician.

3. determine, based on approved protocols, whether it is appropriate for a person to be transported by ground ambulance to an alternative destination when the individual condition does not meet the definition of emergency medical conditions, however:

a. no person shall be transported to an alternative destination unless he or she consents to being transported to that destination; and

b. no emergency medical services practitioner shall transport a person to an alternative destination in which the

practitioner or practitioner's employer has a financial interest.

B. An emergency medical services practitioner student, while he or she is enrolled in good standing in a state-approved educational program, and under the direct supervision of a physician, registered nurse, paramedic or other preceptor recognized by the bureau, may:

1. perform services, treatments, and procedures consistent with national EMS education standards that have been approved and adopted by the bureau, and to the extent that he or she has been trained to perform such services, treatment, and procedures.

C. In case of a life-threatening situation as determined by a licensed emergency medical services practitioner, when voice contact with a physician is delayed, not possible, or when the delay in treatment could endanger the life of the patient, the emergency medical services practitioner may provide treatment to the patient in accordance with:

1. a protocol approved by the EMS medical director who is a board-certified or a board-eligible emergency medicine physician; or

2. a protocol established by the emergency medical services committee or the executive committee of the parish or component medical society or its designee.

a. In the event that there is no organized or functional local medical society within a parish of the state at the time that an EMS practitioner responds to a life-threatening situation therein under the conditions outlined in Subsection C of this Section, the protocol established by the EMS medical director may be applied.

AUTHORITY NOTE: Promulgated in accordance with R.S. 1133.5(9), and R.S. 40:2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, Bureau of Emergency Medical Services, LR 49:

§105. Public Safety Telecommunicator

A. No person shall act as a public safety telecommunicator unless he has received a certificate of completion of an approved training course in T-CPR conducted by an entity or individual approved by the Bureau to conduct such T-CPR course. A public safety telecommunicator must possess and maintain a current certificate of completion of the T-CPR training required under this Section.

B. The bureau shall give approval to a T-CPR training course if the course and the entity or individual proposing it meets the minimum standards for course approval set by the bureau, including standards concerning instruction, training and examination. Such standards shall mandate training every two years that meets or exceed nationally recognized emergency cardiovascular care guidelines adopted by the bureau and shall incorporate recognition protocols for out-of-hospital cardiac arrest and compression-only CPR instructions for callers. An approved entity or individual shall comply with the course approval criteria set by the bureau, and may be removed by the bureau from the roster of approved T-CPR trainers for failure to comply.

C. Each public safety agency employing public safety telecommunicators shall, for each individual so employed, upload the certificate of completion of the T-CPR training required by this Section, and any renewals thereof, to the Bureau's Information Management System (IMS). This requirement shall not apply with respect to any individual so

employed who has already uploaded such certificates to the IMS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1131.1(E), R.S. 40:1133.1(A), R.S. 40:1133.5(9), R.S. 40:1133.16(D), and R.S. 40:2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, Bureau of Emergency Medical Services, LR 49:

Chapter 3. Licensure and Certification

§301. State Licensure and National Certification

A. State licensure by the bureau of emergency medical services is mandatory for practicing as a licensed emergency medical responder.

B. National certification and state licensure are mandatory for practicing as a licensed emergency medical technician, advanced emergency medical technician, and paramedic.

C. State licensure as a licensed Emergency Medical Services practitioner shall be issued only to an applicant who qualifies by examination or endorsement in accordance with R.S. 40:1131.1, et seq. All applicants shall meet the same standards.

D. The commission shall render an opinion to the Bureau of Emergency Medical Services on whether the applicant meets the requirements of certification in all questionable cases.

E. Reciprocity shall be granted to an applicant who submits evidence of licensing or certification in good standing from another state, territory, or country or has received military training and certification or licensure as an emergency medical services practitioner as defined in §101.B of this Part, and meets all other applicable requirements set forth in this Part.

1. The Recognition of Emergency Medical Services Personnel Licensure Interstate Compact (REPLICA) has been enacted into state law under Act 31 of the 2020 2nd Extraordinary Session of the Louisiana Legislature and may be found under R.S. 40:1141.

F. A Louisiana EMS Practitioner license must be renewed every two years, and shall be if the licensee/applicant completes the appropriate renewal application and meets the requirements for renewal set forth in this part and R.S. 40:1133.1 et seq. prior to the expiration date on his or her current license.

1. An individual whose license expires by his or her failure to timely renew may be reinstated within 30 days of expiration provided the applicant submits a completed application and meets any additional requirements established by the bureau.

G. The commission shall render an opinion to the bureau on whether the applicant meets the requirements of licensure in all questionable cases.

H. Each license holder and each applicant for licensure must provide both a valid current mailing and email address at which the licensee or applicant can receive correspondence and official notices from the bureau. A licensee or applicant shall update either such address via the EMS information management system portal within five calendar days of any change thereto.

I. Whenever any provision of law or of this Part requires or authorizes service or delivery of a letter, notice, order, summons, or other document to be made upon a licensee or applicant, then, in addition to any other method

authorized by law or this Part for such service or delivery, the following shall constitute good and valid service or delivery for all purposes related to this Part:

1. service made in any manner authorized by the Louisiana Code of Civil Procedure or the Louisiana Revised Statutes of 1950;

2. service made by U.S. Postal Service certified mail, return receipt requested, addressed to the mailing address provided to the bureau in accordance with Subsection F of this Section; or

3. service by email sent to the email address provided to the department in accordance with Subsection F of this Section, even if returned as undeliverable. A document served by email must be in printable document format (PDF) and may be either attached, in which case the entire email with the attachment cannot exceed 20 megabytes (MB), or linked within the body of the email to a file sharing or similar site from which it can be viewed or downloaded.

J. Whenever service or delivery by certified mail is authorized by this Section or any other provision of law or this Part, if a certified mail receipt shows that service has been refused or unclaimed, then service shall nevertheless be deemed complete and valid.

K. A certified mailing sent in accordance with this Section shall be deemed good and valid service if a signed receipt is returned to the bureau, regardless of whether the licensee/applicant to whom the mailing was addressed personally signed the return receipt.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1131.2(E), R.S. 40:1131.1(A), R.S. 40:1133.5(9), R.S. 40:1133.6, R.S. 40:1141, R.S. 40:2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Medical Services Certification Commission, LR 29:1821 (September 2003), amended by the Department of Health, Office of Public Health, Bureau of Emergency Medical Services, LR 49:

§303. Denial of Licensure, Reinstatement, or the Right to Practice EMS as a Student

A. Applicants for licensure, reinstatement, or the right to practice as an EMS student may be denied approval for licensure, reinstatement, receipt of a temporary permit, eligibility to continue in or enter into an education program (didactic, clinical, or field internship aspects) if the applicant:

1. knowingly falsifies any documents submitted to the bureau, commission or the EMS educational facility;

2. is unfit or incompetent by reason of negligence, habit, or other cause;

3. has pled guilty, nolo contendere, or been convicted of, or any crime that directly related to the EMS profession generally or the specific type of EMS license type, permit, or eligibility sought.

B. For purposes of this Section, a pardon, suspension of imposition of sentence, expungement, or pretrial diversion or similar programs shall not negate or diminish the requirements of this Section.

C. Applicants who are denied licensure, reinstatement, or the right to practice EMS as a student shall not be eligible to submit a new application, until a combination of the following conditions are met:

1. a minimum of two years has passed since the denial was issued; or

2. the applicant presents evidence that the cause for the denial no longer exists; and

3. a hearing or conference is held before the commission to review the evidence, to afford the applicant the opportunity to prove that the cause for the denial no longer exists, and to provide an opportunity for the commission to evaluate changes in the person or conditions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1131.1(E), R.S. 40:1133.1(A)and(E), R.S. 40:1133.5(9), R.S. 40:1133.7(1)and(2), R.S. 40:1133.4, and 40:2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Medical Services Certification Commission, LR 29:1821 (September 2003), amended by the Department of Health, Office of Public Health, Bureau of Emergency Medical Services, LR 49:

§305. Delay of Licensure, Reinstatement, or the Right to Practice EMS as a Student

A. Applicants for licensure, reinstatement, and for practice as a EMS student shall have approval delayed for licensure, for reinstatement, to receive a temporary working permit, to be eligible for the national registry exam, or to enter or progress into any clinical EMS course, if the applicant:

1. has any pending disciplinary action or any restrictions of any form by any licensing/certifying entity in any state; or

2. has a pending criminal charge for any crime that directly related to the EMS profession generally or the specific type of EMS license type, permit, or eligibility sought; or

3. has pled guilty, nolo contendere, been convicted of or committed a crime that directly related to the EMS profession generally or the specific type of EMS license type, permit, or eligibility sought, and the conditions of the court have not been met, or is currently serving a court ordered probation or parole.

B. For purposes of this Section, a pardon, suspension of imposition of sentence, expungement, or pretrial diversion or similar programs shall not negate or diminish the requirements of this Section.

C. Applicants who are delayed licensure, reinstatement, or the right to practice EMS, as a student shall not be eligible to submit a new application until the following conditions are met:

1. the applicant presents sufficient evidence that the cause for the delay no longer exists; and

2. a hearing or conference is held before the commission to review the evidence, to afford the applicant the opportunity to prove that the cause for the delay no longer exists, and to provide an opportunity for the commission to evaluate changes in the person or conditions.

AUTHORITY NOTE: Promulgated in accordance with 40:1131.1(E), R.S. 40:1133.2(A) and (E), R.S. 40:1133.5(9), R.S. 40:1133.7(1)and(2), and R.S. 40:2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Medical Services Certification Commission, LR 29:1822 (September 2003) amended by the Department of Health, Office of Public Health, Bureau of Emergency Medical Services, LR 49:

§306. Pre-Application Eligibility Determination

A. An individual convicted of a crime may request at any time, including before obtaining any required education or training, a determination as to whether the individual's criminal conviction(s) disqualify the individual from licensure or certification by the bureau.

1. The individual making the request shall provide to the bureau all pertinent information and documents pertaining to the conviction(s), including any information relevant to the factors provided in R.S. 37:2950. Any such request shall list and include all of the individual's convictions, regardless of jurisdiction and regardless of subsequent pardon or expungement, through the date of the request. After initial receipt of the request, the bureau may require that the individual submit additional pertinent information or documents.

2. The process for submitting the request and associated documents is posted on the bureau's website (URL: <https://ldh.la.gov/subhome/28>). Alternatively, the request may be made in writing and mailed to the Bureau at 7273 Florida Blvd., Baton Rouge, LA 70806.

3. The individual making the request shall also provide to the bureau the individual's pertinent identifying information, including date of birth, social security number, and driver's license number.

4. The individual making the request shall provide a valid email address to which the bureau may send correspondence related to the request, including the determination as to whether the individual is disqualified.

5. Within 45 days after receipt of the request and all pertinent information and documents, including additional information or documents requested by the bureau pursuant to A.1. of this Section, or within 45 days of receipt by the bureau of any criminal background check provided or requested by the individual, whichever is later, the bureau shall send notification to the individual concerning whether, based on the criminal information submitted, the individual is disqualified from receiving or possessing a license from the bureau. This determination, which may be disseminated to the requesting individual by email, shall be one of the following:

a. The conviction(s) do not make the individual ineligible to be licensed ("not ineligible"). Such determinations include instances where licensing may be necessarily accompanied by concurrent initial probation, per the Commission's Deferred Decision Matrix or Commission Review Panel, unless a requested hearing before the commission determines otherwise.

b. The conviction(s) make the individual presumptively ineligible to be licensed, in which case the following information shall be provided to the individual:

- i. specific conviction(s) that constitute the basis for the presumptive ineligibility;
- ii. reasons the conviction(s) are directly related to the license, using the factors set forth in La. R.S. 37:2950;
- iii. right to submit within 60 days additional documentation or evidence relevant to each of the factors listed in R.S. 37:2950 concerning the conviction(s) upon which the presumptive ineligibility is based; and
- iv. date of eligibility to apply or reapply for a license.

5. An individual who is informed that the conviction(s) at issue make him presumptively ineligible is entitled to a hearing ("appeal") before the commission concerning such determination.

a. Such individual shall be placed on the agenda for a formal hearing at the next regularly scheduled meeting of the commission, but may decline such a hearing if s/he does not wish to proceed. If the 60 day period for providing additional documentation or evidence, as provided in Subsection A.4.b.iii of this Section, expires after the next scheduled meeting, the individual may request that the hearing be postponed until the subsequent regularly scheduled meeting.

6. A determination of "not ineligible" made pursuant to this Section is binding upon the Bureau unless the individual is convicted of a subsequent crime between the inquiry period and the time of license application, or has undisclosed criminal convictions not revealed at the time of inquiry.

B. The following information can be found on the bureau website and/or on the EMS license application:

1. the process by which the bureau investigates affirmative criminal background disclosures.
2. the deferred decision matrix used by the bureau regarding the criminal history of applicants.
3. additional details regarding the process by which potential applicants may obtain a determination regarding their license eligibility as it relates to criminal convictions.

C. When determining whether a conviction directly relates to the EMS profession, the commission shall consider:

1. the nature and seriousness of the offense;
2. the nature of the specific duties and responsibilities of licensed EMTs, Advanced EMTs, paramedics, and emergency medical responders.
3. the amount of time since the conviction;
4. facts relevant to the circumstances of the underlying offense, including any aggravating or mitigating circumstances, or social conditions surrounding the commission of the offense; and
5. evidence of rehabilitation or treatment undertaken by the applicant since the conviction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1131.1(E), R.S. 40:1133.1(A), R.S. 40:1133.5(9), R.S. 40:1133.16(D), and R.S. 40:2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, Bureau of Emergency Medical Services, LR 49:

§307. Application Eligibility Determination; Criminal Convictions; Right to hearing

A. When determining whether an applicant's criminal conviction directly relates to the EMS profession generally or the specific type of EMS license type, permit, or eligibility sought, the commission shall consider the factors set forth in §306.C of this Part.

B. The bureau may utilize any "deferred decision matrix" or similar document setting forth guidelines approved by the commission in making an initial presumptive determination concerning whether an applicant's criminal conviction directly relates to the EMS

profession generally or the specific type of EMS license type, permit, or eligibility sought.

C. Any applicant who is determined by the bureau to be presumptively ineligible, based upon the bureau's application of a deferred decision matrix (or similar guidance document approved by the commission) or otherwise, shall be entitled to a hearing ("appeal") before the commission concerning such determination, at which the applicant may present testimony, documentation, or evidence relevant to each of the factors set forth in §306.C of this Part concerning the conviction upon which the presumptive ineligibility is based.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1131.1(E), R.S. 40:1133.1(A), R.S. 40:1133.5(9), R.S. 40:1133.16(D), and R.S. 40:2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, Bureau of Emergency Medical Services, LR 49:

§308. Criminal History Record and Identification

A. The bureau is entitled to and shall require submission of the criminal history record and identification files of the Louisiana Bureau of Criminal Identification and Information, located within the Louisiana Department of Public Safety and Corrections, of any person who is seeking an initial license as an emergency medical technician, advanced emergency medical technician or paramedic; and any person who answers affirmatively to any of the criminal background questions on a license renewal application. In such situations, fingerprints and other identifying information of the applicant shall be required and submitted to the Louisiana Bureau of Criminal Identification and Information for qualification and registry.

1. The criminal history records must be not more than two years old.

B. The Louisiana Bureau of Criminal Identification and Information shall, after receipt of such fingerprint card and other identifying information from the applicant, make available to the bureau all arrest and conviction information contained in the Louisiana Bureau of Criminal Identification and Information's criminal history record and identification files which pertain to the applicant for licensure. In addition, the fingerprints shall be forwarded by the Louisiana Bureau of Criminal Identification and Information to the Federal Bureau of Investigation for a national criminal history record check.

C. The applicant shall pay the appropriate fees to the Louisiana Bureau of Criminal Identification and Information for furnishing information contained in the Louisiana Bureau of Criminal Identification and Information's criminal history record and identification files, including any additional cost of providing the national criminal history records check, which pertains to the applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1131.1(E), R.S. 40:1133.(A)and(C), R.S. 40:1133.5(9), R.S.40:1133.7(1)and(2), and R.S. 40:2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health, Emergency Medical Services Certification Commission, LR 29:1821 (September 2003), amended by the Department of Health, Office of Public Health, Bureau of Emergency Medical Services, LR 49:

Chapter 5. Disciplinary Proceedings; Alternative to Disciplinary Proceedings

§501. Definition of Terms Applying to EMS Practice as Used in This Chapter

A. As they apply to EMS practice and/or to the exercise of the commission's disciplinary authority, the following words and terms are hereby defined as used within this Chapter.

Accountability—being answerable for one's actions or inactions. The licensed EMS practitioner answers to self, patient, agency, medical director, profession and society for the effectiveness and quality of EMS care rendered. It is the personal responsibility for each individual to maintain competency in practice. If the assigned EMS practitioner does not possess the specialized EMS knowledge, skills and abilities required to provide the required care, said professional shall notify the appropriate supervisory EMS personnel.

Additional Acts—activities beyond those taught in state approved EMS education programs. Additional acts are authorized by the commission through rules and regulations or declaratory statements interpreting the legal definition of EMS. Licensed EMS practitioner are accountable for attaining and maintaining competency when performing approved additional acts.

Aiding and Abetting—to intentionally assist anyone by condoning, or to apply positive or negative force to assist anyone in violating Parts I-III of Chapter 5-C of Title 40 of the Revised Statutes or the rules and regulations of the commission or bureau

Assessment—identifying human responses, which indicate existing, or potential abnormal condition through the patient history, physical examination or observation, in accordance with the standards of EMS practice.

Assignment—designating EMS activities to be performed by an individual consistent with his or her scope of practice.

Carrying Out the Medical Orders of a Physician Licensed in Louisiana—

a. licensed EMS practitioners may, based on their individual judgment of each situation, accept verbal orders initiated by a licensed physician, provided the order is related to the said practitioner's scope of practice;

b. licensed EMS practitioners may execute standing orders of a licensed physician.

Collaborating – a process involving two or more health care professionals working together, though not necessarily in each other's presence, each contributing one's respective area of expertise to provide more comprehensive care than one alone can offer.

Delegating EMS Interventions—committing or entrusting the performance of selected EMS tasks by the licensed EMS practitioner to other competent EMS personnel in selected situations. The licensed EMS practitioner retains the accountability for the total EMS care of the individual.

Deny—to refuse for cause

EMS Services—activities designed to resolve, diminish, or prevent the needs that are inferred from the individual’s problem; includes the planning, implementation and evaluation of said activities in accordance with the standards of EMS practice.

Expanded Scope of Practice—those functions, procedures and activities which are currently not part of the approved National EMS curriculum, but have been approved by the EMS Certification Commission as appropriate for the various levels of EMS practitioners.

Field Diagnosis—out-of-hospital evaluation of the patient’s condition and its causes.

Habit—a mode of behavior, which an individual acquires over a period of time.

Limit—to confine within certain bounds

Maintaining EMS Care Rendered Directly or Indirectly—preserving the continuity of safe and effective EMS care, including the delegated EMS activities.

Managing and Supervising the Practice of EMS—those activities which serve to fulfill the accountability of the licensed EMS practitioner for the total EMS care of the individual when tasks in the EMS care are delegated to other EMS personnel. These activities include:

- a. judging the priority of EMS needs of the individual(s);
- b. determining actions required to meet the needs;
- c. assigning personnel, including self, qualified to implement the prescribed EMS care components of that care;
- d. providing information needed by personnel for the implementation of the assigned EMS care and ascertaining the assimilation of same information;
- e. directing the EMS care and evaluating the outcomes of the care; and
- f. determining and initiating changes in EMS care or in assignment of EMS personnel.

Medical Diagnosis— the conclusion reached in identification of the patient’s disease, especially the art of distinguishing among several possibilities with the intent of prescribing relevant treatment.

Medical Interventions—all functions, activities, medications and medical treatments of therapeutic or corrective nature approved by the Bureau of EMS and the EMS Certification Commission.

Mentally Incompetent—a court judgment of legal insanity or incompetence or a medical diagnosis indicating insanity or incompetence.

Moral Turpitude—an act of baseness, vileness, or depravity in the duties which one person owes to another, or to society in general, which is contrary to the usual, accepted, and customary rule of right and duty which a person should follow.

Negligence—a breach of duty of care owed to an individual.

Other Causes—includes, but is not limited to:

- a. failure to practice EMS in accordance with the standards of EMS practice
- b. possessing a physical impairment or mental impairment, which interferes with the judgment, skills or abilities required for the practice of EMS;
- c. failure to utilize appropriate judgment;

d. failure to exercise technical competence in carrying out EMS care;

e. violating the confidentiality of information or knowledge concerning the patient;

f. performing procedures beyond the authorized scope of EMS or any specialty thereof;

g. performing duties and assuming responsibilities within the scope of the definition of EMS practice when competency has not been achieved or maintained, or where competency has not been achieved or maintained in a particular specialty;

h. improper use of drugs, medical supplies or equipment, patient’s records, or other items;

i. misappropriating items of an individual, agency or entity;

j. falsifying records or documents, including patient records or any records or documents provided to the commission, the bureau, or any other any governmental or regulatory agency;

k. failure to act, or negligently or willfully committing any act that adversely affects the physical or psychosocial welfare of the patient;

l. delegating or assigning EMS care, functions, tasks, or responsibilities to others contrary to regulations or failing to adequately supervise EMS tasks assigned to others during the course of providing EMS care;

m. leaving a EMS assignment where there was a duty to act without properly notifying appropriate personnel;

n. failing to report, or self-report, to the Bureau, through the proper channels, facts known regarding the incompetent, unethical, or illegal practice or conduct, including criminal conduct, arrest, or conviction, of any EMS practitioner, including any practice or conduct that violates any provision, requirements, or prohibition contained in this Part or R.S. 40:1131-1141;

o. has violated a rule or an order adopted by the commission or the bureau, or a state or federal law relating to the practice of professional EMS, or a state or federal narcotics or controlled substance law;

p. inappropriate, incomplete, or improper documentation;

q. use of or being under the influence of alcoholic beverages, illegal drugs, or drugs which impair judgement while on duty;

r. failure to cooperate with the commission or bureau by:

i. not furnishing in writing a full and complete explanation covering a matter requested in writing by the commission or bureau; or

ii. not responding to subpoenas issued by the commission in connection with any investigation or hearing;

s. exceeds professional boundaries, including but not limited to sexual misconduct; and

t. use of any advertisement or solicitation which is false, misleading, or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed.

Preventive Instruction—those EMS measures that provide health information and explanation to the public to reduce the incident of death and injury.

Probate—to stay a sentence of certification suspension during good behavior and placing under supervision of Bureau of a period of time. License is marked “probated” and specific requirements are identified.

Professional Boundaries—the limits of the professional relationship that allow for a safe therapeutic connection between the practitioner and the patient.

Reasonable Skill and Safety—practicing EMS in accordance with the standards of EMS practice.

Reprimand—written communication to the individual stating the commission’s concerns, and public notification of the individual’s name and reasons for the reprimand.

Restrict—to limit or restrain EMS practice by settings, types of patients, or other means.

Revoke—to annul or make void by calling back. Revocation of certification or licensure shall be indefinite as to the practice of EMS in Louisiana.

Scope of Practice—the range of duties and skill EMS professionals are expected to perform.

Sexual Misconduct—an extreme boundary violation which involves the use of power, influence and/or knowledge inherent in one’s profession in order to obtain sexual gratification, romantic partners and/or sexual deviant outlet. Any behavior that is seductive, sexually demeaning, harassing or reasonable interpreted by a patient as sexually inappropriate, is a violation of the EMS professional’s fiduciary responsibility to the patient.

Specialized Knowledge and Skills—required for the practice of EMS means the current theory and practice taught in state approved EMS education programs preparing persons for EMS practitioner licensure as well as information in the biological, physical and behavior sciences.

Specialty Care Transport Paramedic—those individuals who have met the requirements as approved by the EMS Certification Commission

Student EMS Practitioner—a person who is engaged in learning experiences in a program of study leading to the candidacy for licensure to practice as a licensed EMS practitioners. The term applied only when the person is participating in an integral part of the program of study.

Suspend—to hold certification to practice as a certified EMS professional in abeyance for a definite or an indefinite period of time.

Teaching of EMS—instructing EMS practitioner student and providing continuing EMS education to licensed EMS practitioners.

Unfit or Incompetent—unsuitable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1133.4(A)(8) and R.S. 1133.5(9) and R.S. 40:2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Services Certification Commission, LR 29:1822 (September 2003), amended by the Department of Health, Office of Public Health, Emergency Medical Services Certification Commission and the Bureau of Emergency Medical Services, LR 49:

§503. Disciplinary Proceedings before the Commission

A. The commission has the responsibility to consider and determine the action necessary upon all charges of conduct that allegedly fails to conform to R.S. 40:1131.1, et seq., as re-enacted and amended, or to the requirements and provision of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1133.4(A)(8) and R.S. 40:2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Medical Services Certification Commission, LR 29:1822 (September 2003), amended by the Department of Health, Office of Public Health, Emergency Medical Services Certification Commission, LR 49:

§505. Proceedings against Licensed EMS Practitioner, Certification Ambulance Operators, Certification EMS Practitioner Applicants or Ambulance Operator Applicants

A. The commission may direct the bureau to deny, revoke, suspend, probate, limit, reprimand, fine or restrict any certification or license to practice as a licensed EMS practitioner or certified ambulance operator; or otherwise discipline an individual in accordance with R.S. 40:1133.7 and R.S. 40:1133.18.

1. In accordance with R.S. 40:1133.9, the commission, through the bureau, may obtain an injunction without bond forbidding any person from violating or continuing to violate any of the applicable provisions of Part II of Chapter 5-C of Title 40 of the Revised Statutes. This injunction shall not be subject to release upon bond.

B. Every individual subjected to disciplinary proceedings shall be afforded an opportunity for a hearing before the commission or its duly appointed hearing officer or committee.

C. A complaint that an individual has engaged in, or is engaging in, any conduct proscribed by R.S. 40:1133.7, 40:1133.10, 40:1133.18, or this Part, may be made by any person, staff, agency or the commission. Such complaints shall be in writing, and on a form prescribed by the commission or affixed to the form prescribed by the commission. However, nothing shall prohibit the bureau or commission from acting upon an allegation or licenses wrongdoing learned of or submitted by other means.

D. Grounds for disciplinary proceedings against a person, individual or licensed EMS practitioner, as applicable, are specified in R.S. 40:1133.7 including, but not limited to, the following:

1. selling or attempting to sell, falsely obtain or furnish a person a licensed EMS practitioner document;
2. providing emergency medical services without due regard for the health and safety of clients or patients;
3. has pled guilty, nolo contendere, been convicted of or committed a crime that directly relates to the EMS profession generally or the specific type of EMS license type, permit, or eligibility sought
4. exhibiting incompetency or unfitness by reason of negligence, habit or other cause;
5. exhibiting habitual intemperance in the use of or abuses alcohol or habit-forming drugs
6. aiding or abetting another person in the violation of this Part;
7. exhibiting mental incompetence;
8. deceiving or defrauding the public;
9. exhibiting professional or medical incompetence;
10. exhibiting unprofessional conduct;
11. continuing or recurring practices which fail to meet the standards of EMS care in this state;
12. abandoning a patient;

13. has had a certification or license to practice as an emergency medical services practitioner or to practice as another health care provider denied, revoked, suspended or otherwise restricted;

14. being guilty of moral turpitude;

15. violating or failing to conform to any requirement or provision of this Part; or

16. intentionally falsifying any document related to license, emergency medical services education, or related to the care of the patient

17. aiding or abetting another person in the violation of any conduct proscribed under Paragraphs 1, 2, 3, 4, or 5 of this Subsection.

E. Grounds for disciplinary proceedings against a certified ambulance driver are specified in R.S. 40:1133.18 including, but not limited to, the following:

1. fraud or any misstatement of fact in the procurement of any certification or in any other statement or representation to the bureau or its representatives;

2. has pled guilty, nolo contendere, been convicted of or committed a crime that directly relates to the EMS profession generally or the specific type of EMS license type, permit, or eligibility sought;

3. is unfit or incompetent by reason of negligence, habit, or other cause;

4. is mentally incompetent;

5. is habitually intemperate in the use of or abuses alcohol or habit-forming drugs;

6. is guilty of aiding or abetting another person in violating any provision of this Part;

7. continuing or recurring practices which fail to meet the standards of ambulance operators in this state;

8. endeavors to deceive or defraud the public;

9. is guilty of moral turpitude;

10. has violated any rules and regulations of the commission or the bureau or any provision of this Part;

11. intentional falsification of any document related to the procurement of any certification or license;

12. operating any vehicle in violation of state or local traffic laws;

13. revocation, suspension, or any restriction of the ambulance operator's driver's license;

14. failure to maintain all current ambulance operator training standards as required by the bureau; or

15. has had a certification or license to practice as an ambulance operator denied, revoked, suspended, or otherwise restricted in Louisiana or any other state or territory of the United States.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1133.4(A)(8), R.S. 40:1133.5(9), R.S. 40:1133.9, R.S. 40:1133.10, and R.S. 40:2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Medical Services Certification Commission, LR 29:1823 (September 2003), amended by the Department of Health, Office of Public Health, Emergency Medical Services Certification Commission, LR 49:

§507. Proceedings Involving Students Enrolled in EMS Education Programs

A. The commission may direct the bureau to deny, revoke, suspend, probate, limit, reprimand, fine, or restrict any student enrolled in EMS education programs, or otherwise discipline a student enrolled in EMS education programs or attempting to enroll in EMS education

programs as part of its duties and responsibilities in regulating the practice of EMS in Louisiana and in overseeing the administration of the curriculum and operation of EMS education programs in the state of Louisiana.

B. Every student enrolled or attempting to enroll in EMS education programs subjected to the proceedings set forth in this Section, shall be afforded an opportunity for a hearing before the commission or its duly appointed hearing officer or committee.

C. Information obtained by the commission that an EMS student enrolled or attempting to enroll in EMS education programs is or has engaged in any conduct prescribed by R.S. 40:1133.7, shall be received in a form prescribed by the commission. However, nothing shall prohibit the bureau or commission from acting upon an allegation of wrongdoing learned of or submitted by other means. This information may be furnished by any person, staff, agency, or by the commission.

D. Grounds for proceedings against a student enrolled or attempting to enroll in EMS education programs are:

1. all of the grounds for disciplinary proceedings against a person, individual or licensed EMS practitioner, as applicable, listed in Subsection D of § 505 of this Chapter; or

2. has been denied a request to enroll in EMS education programs or has been denied a license to practice in any healthcare field or had such privileges revoked, suspended, or otherwise restricted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1133.4(A)(8), R.S. 40:1133.5(9), R.S. 37:33, and R.S. 40:2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Medical Services Certification Commission, LR 29:1823 (September 2003), amended by the Department of Health, Office of Public Health, Emergency Medical Services Certification Commission, LR 49:

§509. Disciplinary Process and Procedures

A. The provisions of the Administrative Procedure Act shall govern proceedings on questions of violation of R.S. 40:1131.1 et seq., as re-enacted and amended.

1. A disciplinary proceeding, including the formal hearing, is less formal than a judicial proceeding. It is not subject to strict rules and technicalities, but must be conducted in accordance with considerations of fair play and constitutional requirements of due process.

2. The purpose of a disciplinary proceeding is to determine contested issues of law and fact; whether the individual did certain acts and, if he or she did, whether those acts violated the provisions or requirements of this Part; and to determine the appropriate disciplinary action.

3. Any disciplinary action shall also be forwarded to all applicable licensing agencies and/or required reporting entities.

B. Investigation

1. The process of a disciplinary proceeding shall include certain steps and may include other steps as follows.

a. The bureau or commission receives information alleging that an individual has acted in violation of the provisions or requirements of this Part. Communications from the informant shall be privileged and shall not be revealed to any person unless such documents will be offered for evidence in a disciplinary review panel,

settlement, informal or formal hearing, or unless those documents are subpoenaed by a court, or requested by other regulatory or law enforcement agencies.

b. The information is investigated by the bureau's staff to determine if there is sufficient evidence to warrant disciplinary proceedings. The commission chair or designee may issue a subpoena prior to the filing of charges if, in the opinion of the chair, such a subpoena is necessary to investigate any potential violation or lack of compliance with the provisions or requirements of this Part. The subpoena may be to compel the attendance of any person to appear for the purposes of giving sworn testimony and/or to compel the production of books, records, papers, or other objects.

2. An agreement worked out between the complainant and the individual does not preclude disciplinary action by the commission. The nature of the offense alleged and the evidence before the commission must be considered.

C. Informal Disposition of with No Disciplinary Action

1. Some allegations may be settled informally by the commission and the individual, without formal disciplinary action. The following types of informal dispositions may be utilized.

a. Disposition by Correspondence

i. For less serious allegations, the chair, or a designee of the commission, may write to the individual explaining the nature of the information received. The individual's subsequent response may satisfactorily explain that no violation of the provisions or requirements of this Part occurred, or that the matter does not rise to the level requiring formal disposition at this time, and the matter may be dropped. If the situation is not satisfactorily explained, it shall be investigated and disposed of through another informal means or brought before the commission for a formal hearing.

b. Informal Conference

i. The chair, or a designee of the chair, and another member of the commission may hold a conference with the individual, in lieu of, or in addition to correspondence, in cases of less serious allegations. If the respondent can satisfactorily explain that no violation of the provisions or requirements of this Part occurred, or that the matter does not rise to the level requiring formal disposition at this time, then the matter may be dismissed.

ii. The individual shall be given adequate notice of the fact that information brought out at the conference may later be used in a formal hearing.

iii. Referral to an alternative to the disciplinary process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1133.4(A)(8), R.S. 40:1133.5(9), and R.S. 40:2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Medical Services Certification Commission, LR 29:1824 (September 2003) amended by the Department of Health, Office of Public Health, Emergency Medical Services Certification Commission, LR 49:

§510. Disciplinary Process and Procedure Limitations on Disciplinary Proceedings by the Commission

A. Unless a special law is applicable, no disciplinary proceeding of any kind may be initiated by the bureau or commission as follows.

1. If the nature of the complaint is based on negligence or gross negligence, no proceeding may be

initiated after two years from discovery by the complainant. However, under no circumstances shall such a proceeding be initiated more than five years from the date of the act of omission.

2. If the nature of the complaint is based on an intentional act or omission, no proceeding may be initiated after two years from discovery by the complainant. However, under no circumstances shall such a proceeding be initiated more than five years from the date of the act or omission.

3. If the nature of the complaint is based on fraud, no proceeding may be initiated after two years from discovery by the complainant.

4. If the nature of the complaint is based on a license or rules violation, no proceeding may be initiated after five years from the date of the act or omission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:21(A)and(C).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Medical Services Certification Commission, LR 29:1824 (September 2003) amended by the Department of Health, Office of Public Health, Emergency Medical Services Certification Commission, LR 49:

§511. Formal Disciplinary Action

A. A decision to initiate formal disciplinary proceedings is made if one or more of the following conditions exist:

1. the complaint is sufficiently serious;

2. the individual fails to respond to the commission's correspondence concerning the complaint;

3. the individual's response to the commission's letter or investigative demand is not convincing that no action is necessary;

4. an informal approach is used, but fails to resolve all of the issues.

B. Informal Procedures

1. The matter may be resolved without a formal administrative hearing by either a voluntary surrender of license, consent order, or settlement order. These actions shall constitute disciplinary action and shall be a public record of the commission. The commission shall publish the individual's name, a brief description of the violation, and the disciplinary action.

C. Voluntary Surrender of License. An individual who is under investigation for violation of the provisions or requirements of the Part may voluntarily surrender his or her license or certification to the bureau. The voluntary surrender invalidates the license or certification at the time of its relinquishment. An individual practicing as a licensed EMS practitioner or a surrender is considered an illegal practitioner and is subject to the penalties provided by this chapter and RS 40:1131 et seq.

1. Any license surrender shall not be deemed to be an admission of the alleged facts of any pending investigation or complaint. The fact of license surrender shall be deemed a disciplinary action and shall be reported and distributed in the same manner as final decisions of the commission.

2. Surrender or non-renewal of license shall not preclude the commission from investigating or completing a disciplinary proceeding based upon the individual's conduct prior to or subsequent to the surrender of license.

3. Individuals who surrender their license are not eligible for a reinstatement of their license for a minimum of two years following such surrender and, in addition, not until

meeting the requirements for reinstatement of license as described in this Chapter.

D. Consent Order

1. An order involving some type of disciplinary action may be made by the commission with the consent of the individual.

2. The chair is authorized to offer the individual the choice of a consent order in lieu of an administrative hearing.

3. A consent order signed by an individual is an irrevocable offer by the individual until approved, or rejected, by the commission chair or designee.

4. A consent order requires formal approval of a quorum of the commission. All actions of the bureau shall be reported to the commission at its next regularly scheduled meeting.

5. A consent order is not the result of the commission's deliberation; it is the commission's formal approval of an agreement reached between the commission and the individual. The order is issued by the commission to carry out the parties' agreement.

a. Should the commission require evidence before arriving at a decision, the individual shall be notified and given an opportunity for a hearing.

b. Should the commission revise the terms of the agreement, said revised agreement shall be presented for the individual's acceptance. The commission may formulate its order contingent upon the individual's acceptance.

c. The commission shall have the right to refer any case directly to an administrative hearing without first offering a consent agreement.

E. Settlement Order

1. Disciplinary settlement committee, consisting of the chair, or a designee of the chair, and another member of the commission, is delegated the authority to render a final decision regarding settlement of a contested administrative matter by offering a settlement order in lieu of an administrative hearing. The settlement order shall be deemed an order of the commission, effective immediately upon signature of all parties to the agreement.

a. The disciplinary settlement shall be submitted to the commission for review at the next regularly scheduled disciplinary hearing.

b. Should the disciplinary settlement committee be unable to successfully resolve a case, or should the committee believe that the public would be better protected by a decision rendered by the entire commission, the matter will be forwarded to the commission for a formal hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1133.4(A)(8), R.S. 40:1133.5(9), and R.S. 40:2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Medical Services Certification Commission, LR 29:1825 (September 2003), amended by the Department of Health, Office of Public Health, Emergency Medical Services Certification Commission, LR 49:

§513. Formal Hearing

A. The commission has the authority, granted by R.S. 40:1133.4, to bring administrative proceedings against licensed EMS practitioners, applicants for licensure, individuals seeking enrollment or progression in an approved EMS education program, certified ambulance operators and individuals practicing EMS without licensure or certification. The commission and the individual are the

parties to the proceeding. The individual has the right to appear and be heard, either in person or by counsel; the right of notice, a statement of what accusations have been made; the right to present evidence and to cross-examine; and the right to have witnesses subpoenaed.

B. Notice and Service

1. The chair or a designee fixes a time and place for a hearing.

2. At least 30 days prior to the date set for the hearing, a copy of the charges and a notice of the time and place of the hearing, shall be sent to the individual respondent by any means authorized for such purpose by this Part.

3. At least 20 working days prior to the scheduled hearing date, the individual shall respond in writing as to his or her intention to appear or not appear at the scheduled hearing. At least 20 working days prior to the scheduled hearing date, the individual shall also file with the commission a written response to the specific allegations contained in the notice of charges. Allegations not specifically answered shall be deemed admitted.

4. If the individual does not appear, in person or through counsel, after proper notice has been given, the individual has waived these rights and the commission may proceed with the hearing without the presence of the individual.

5. An individual who fails without a valid continuance to appear at two consecutive meetings after being validly served with a notice to appear, as set forth in Subsection B of this Section, at each may be summarily suspended for such reason. Any such suspension shall continue until the individual appears for a hearing before the commission, opportunity for which shall be afforded at the next regularly scheduled meeting thereof.

C. Motions for Continuance

1. The commission shall not postpone cases that have been scheduled for hearing absent good cause. A written motion by a licensed EMS practitioner, applicant, or student for a continuance shall be filed with the commission five working days prior to the time set for the hearing, except for extreme emergencies. The motion shall contain the reason for the request, which reason must be based upon good cause and have relevance for due process. Requests for continuances may be approved or denied by the chair or designee. No more than three requests for continuance shall be granted.

D. Subpoenas

1. The chair, or a designee of the commission, issues subpoenas for the commission for disciplinary proceedings, and when requested to do so, may issue subpoenas for the other party. Subpoenas include:

a. a subpoena requiring a person to appear and give testimony;

b. a subpoena duces tecum, which requires that a person produce books, records, correspondence, or other materials over which he has control.

E. Hearing

1. The hearing is held, at which time the commission's primary role is to hear evidence and argument, and to reach a decision. Any commission member, who because of bias or interest is unable to assure a fair hearing, shall be recused from that particular proceeding. The reasons for the recusal are made part of the record. Should the majority of the

commission members be recused for a particular proceeding, the governor shall be requested to appoint a sufficient number of pro tem members to obtain a quorum for the proceeding.

2. The commission shall be represented by a Louisiana Department of Health's attorney. Evidence is presented that disciplinary action should be taken against the individual. The individual may present evidence personally or through an attorney, and witnesses may testify on behalf of the individual.

3. Evidence includes the following:

a. oral testimony given by witnesses at the hearing, except that, for good cause, testimony may be taken by deposition (cost of the deposition is borne by requesting party) and/or by sworn affidavits;

b. documentary evidence, i.e., written or printed materials including public, business or institutional records, books and reports; such documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference, if the incorporated materials are available for examination by the parties before being received into evidence;

c. visual, physical and illustrative evidence;

d. admissions, which are written or oral statements of a party made either before or during the hearing;

e. facts officially noted into the record, usually readily determined facts making proof of such unnecessary;

f. all testimony is given under oath. If the witness objects to swearing, the word "affirm" may be substituted.

4. The chair of the commission presides and the customary order of proceedings at a hearing is as follows.

a. The director of the Bureau of EMS or their designee, or an attorney therefore, presents the case against the individual.

b. The individual, or his attorney, makes an opening statement, explaining why he believes that the charges against him are not legally founded.

c. The individual commission members ask relevant questions.

d. The individual, or his attorney, may make any statements.

e. The director of the Bureau of EMS or their designee or an attorney therefore, makes the final statement.

f. The commission may impose reasonable time limits on all sides in a hearing, provided that limits will not unduly prejudice the rights of the parties.

g. The commission may exclude incompetent, irrelevant, immaterial, or unduly repetitious evidence. Objections to evidentiary offers may be made and shall be noted in the record.

h. When a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written form.

i. Motions may be made before, during, or after a hearing. All motions shall be made at an appropriate time, according to the nature of the request. Motions made before or after the hearing shall be in writing. Those made during the course of the hearing may be made orally since they become part of the transcript of the proceeding.

5. The records of the hearing shall include:

a. all papers filed and served in the proceeding;

b. all documents and other materials accepted as evidence at the hearing;

c. statements of matters officially noticed;

d. notices required by the statutes or rules, including notice of the hearing;

e. affidavits of service or receipts for mailing or process or other evidence of service;

f. stipulations, settlement agreements or consent orders, if any;

g. records of matters agreed upon at a pre-hearing conference;

h. orders of the commission and its final decision;

i. actions taken subsequent to the decision, including requests for reconsideration and rehearing;

j. a transcript of the proceedings, if one has been made, or a tape recording or stenographic record;

k. the record of the proceeding shall be retained until the time for any appeal has expired, or until the appeal has been concluded. The record is not transcribed unless a party to the proceeding so requests, and the requesting party pays for the cost of the transcript. A party who appeals a decision of the commission shall pay all of the costs incurred by the Louisiana Department of Health for preparation of the original and any certified copy of the record of the proceeding that is required to be transmitted to the reviewing court.

6. The decision of the commission shall be reached according to the following process:

a. determine the facts in the issue on the basis of the evidence submitted at the hearing;

b. determine whether the facts in the case support the charges brought against the individual;

c. determine whether charges brought are a violation of the provisions or requirements of this Part.

7. The vote of the commission shall be recorded. Minority views may be made part of the record.

8. Sanctions against the individual who is party to the proceeding are based upon the findings of fact and conclusions of law determined by the hearing. The party is notified by certified mail of the decision of the commission.

F. Disciplinary Sanctions

1. The type of disciplinary sanctions and length of time specified for the sanctions shall be determined on an individual basis, considering all facts pertinent to the case.

2. The commission may set forth guidelines with ranges of disciplinary sanctions from which disciplinary penalties may be imposed. These guidelines are intended to serve only as a guide for staff and commission members when considering penalties, which could be imposed for specific violations of the provisions or requirements of this Part. Guidelines are in no way binding on the commission when dealing with disciplinary matters. The commission may order license certification sanctions.

3. The disciplinary guidelines are based upon a single count violation. Multiple counts of violations of the same action, or other unrelated violations contained in the same complaint will be grounds for enhancement of penalties.

Each day of a continuum of violations may be treated as a separate violation.

4. In determining sanctions, consideration may be given to aggravating or mitigating circumstances identified by the commission in addition to any other factors. The list of aggravating and mitigating circumstances in the guidelines is not to be considered an exclusive list of circumstances.

a. Aggravating circumstances may result in the commission issuing maximum sanctions, or they may justify enhancement of a penalty beyond the maximum guidelines.

b. Mitigating or extenuating circumstances may justify lessening of the sanctions below the minimum guidelines. License suspensions may be stayed with stipulated probations in some extenuating circumstances.

5. The order may stipulate remedial education, specific evaluation and therapy, and other sanctions as deemed necessary and appropriate to the case.

G. Reconsideration or Rehearing

1. The commission shall reconsider a matter when ordered to do so by a higher administrative authority or when the case is remanded for reconsideration or rehearing by a court to which the commission's decision has been appealed.

2. The commission may reconsider a matter which it has decided. This may involve rehearing the case, or it may involve reconsidering the case on the basis of the record. Such reconsideration may occur when a party files a petition requesting that the decision be reconsidered by the commission and specifies the particular grounds therefore.

3. A petition by a party for reconsideration or rehearing must be in proper form and filed within 20 days from the date of entry of the decision. A decision is deemed to be entered when it is signed by the chair or designee and sent by certified mail to the individual's address of record. The petition shall set forth the grounds for the rehearing, which include one or more of the following:

a. the commission's decision is clearly contrary to the law and the evidence;

b. there is newly discovered evidence, which was not available to the individual at the time of the hearing and which may be sufficient to reverse the commission's action;

c. previously considered ought to be examined in order to dispose of the case properly;

d. it would be in the public interest to further consider the issues and the evidence;

e. upon the commission's receipt of a petition for rehearing or reconsideration, the commission may affirm or modify the decision or grant a rehearing to all or any of the parties and on all or part of the issues for any of the above stated reasons. An order granting a rehearing shall specify with particularity the ground or grounds on which the rehearing is granted, and the rehearing shall cover only those matters so specified.

H. Emergency Action

1. If the commission finds that public health, safety, and welfare requires emergency action and a finding to that effect is incorporated in its order, summary suspension of a license or certification may be ordered by the chair or designee pending proceedings for revocation or other action. Such proceedings shall be promptly instituted and

determined at the next regularly scheduled commission meeting.

I. Disciplinary Proceedings in another Licensing Jurisdiction

1. When a licensed EMS practitioner has his or her license revoked, suspended, denied or sanctioned in other ways for disciplinary reasons by the original certification/licensing jurisdiction or by a subsequent certification/licensing authority, that licensed or certified EMS practitioner shall be notified that his or her Louisiana license or certification is automatically suspended, except for the following:

a. nonpayment of fees;

b. a person in a recovery program for chemical dependency receives permission of the state of origin to transfer to another state;

c. the licensed EMS practitioner is issued a reprimand and the licensed EMS practitioner agrees to having his or her Louisiana License reprimanded identically to, or in excess of, the said jurisdiction's reprimand; or

d. the license is encumbered with a reprimand with stipulations and the licensed EMS practitioner agrees to having his or her Louisiana license probated with stipulations that are identical to, or exceed, the stipulations in said jurisdiction.

2. The licensed EMS practitioner may have his or her license reinstated provided that the licensed EMS practitioner:

a. provides evidence of an unencumbered license by the involved certification/licensing authority and

b. meets requirements for reinstatement of license as described in this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 1133.4(A)(8), R.S. 40:1133.5(9), and R.S. 40:2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Medical Services Certification Commission, LR 29:1825 (September 2003), amended by the Department of Health, Office of Public Health, Emergency Medical Services Certification Commission, LR 49:

§515. Appeal from Commission Decision

A. Any person whose license has been revoked, suspended, denied, or otherwise disciplined by the commission shall have the right to have the proceedings of the commission reviewed by the court having jurisdiction over the commission, provided that such appeal is made within 30 days after the date indicated on the registered mail receipt of the written notice of the commission's decision. The commission's decision is enforceable in the interim unless the court orders a stay.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1133.4(A)(8), R.S. 40:1133.5(9), and R.S. 40:2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Medical Services Certification Commission, LR 29:1827 (September 2003), amended by the Department of Health, Office of Public Health, Bureau of Emergency Medical Services, LR 49:

§517. Reinstatement of License

A. Application for reinstatement of a suspended or surrendered license shall be in writing.

B. The application for reinstatement of a suspended license certification does not require the satisfaction of all of the requirements for initial licensure. However, the

requirements of this Part, as determined by the commission or bureau shall be met.

C. Prior to reinstatement of a license previously suspended (except for nonpayment of fees), a hearing or conference is held before the commission to afford the applicant with the opportunity to present evidence that the cause for the revocation or suspension no longer exists and to provide an opportunity for the commission to evaluate changes in the person or conditions. In certain situations, the license may be reinstated by consent order or settlement order. The burden of proof is on the applicant to prove that conditions that led to the suspension no longer exist and/or no longer affect the applicant's ability to practice safely. If reinstatement is granted, a period of probation with stipulations may be imposed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1133.4(A)(8), R.S. 40:1133.5(9), and R.S. 40:2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Medical Services Certification Commission, LR 29:1828 (September 2003), amended by the Department of Health, Office of Public Health, Emergency Medical Services Commission, LR 49:

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

In accordance with Sections 978.1 through 978.8 of the Small Business Protection Act of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a regulatory flexibility analysis/small business analysis on the rule proposed for adoption, amendment or repeal.

The impact of the proposed rule on small businesses as defined in the Small Business Protection Act has been considered. The Office of Public Health's Bureau of Emergency Medical Services and the Louisiana Emergency

Medical Services Certification Commission do not expect that adoption of the proposed amendments will have an adverse economic impact on small businesses.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 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 Wednesday, May 10, 2023 at COB, 4:30 p.m., and should be addressed to Susan Bailey, Director of the Bureau of Emergency Medical Services, 7273 Florida Blvd., Baton Rouge, LA 70806.

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 Wednesday, May 10, 2023. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 2:00 p.m. on Thursday, May 25, 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 Wednesday, May 10, 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 the Bienville Building's front security desk.

Steve Russo
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Emergency Medical Services Professionals

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

The proposed rule change is anticipated to increase LDH expenditures by approximately \$40,000 in federal funds in FY 23 and \$12,000 each year thereafter associated with updates to

and maintenance fees for the Bureau of EMS Information Management System.

In compliance with Act 31 of the 2020 2nd Extraordinary Session of the Louisiana Legislature, the LDH proposes to amend LAC 46:XXXVIII Chapters 1-5 regarding emergency medical services professionals. Specifically, the rule defines "Certified Ambulance Operator;" outlines the duties of an EMS Practitioner; replaces the term "certified" with "licensed" to align with statute; defines "reciprocity;" provides terms for Recognition of Emergency Medical Services Personnel Licensure Interstate Compact (REPLICA); outlines pre-application eligibility determination; clarifies the process to obtain a criminal history record and identification for REPLICA; provides definitions of terms applying to EMS practice; outlines the authority of the EMS Certification Commission; outlines disciplinary processes; and procedure limitations on disciplinary proceedings by the Commission.

The department indicates any workload increases related to Certified Ambulance Operator eligibility determinations and disciplinary proceedings will be absorbed with existing resources.

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

This rule creates a new class of EMS professionals called Ambulance Operators, which requires certification. The cost is \$10 per certification. Depending on the number of ambulance operator applications, there be will an increase in self-generated revenue for the department. LDH anticipates there will be less than 100 applications per year, for a maximum of \$1,000 in increased revenue collections.

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

Individuals seeking to become a certified ambulance operator will incur a fee of \$10 associated with the certification.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule creates a new class of EMS practitioners, Certified Ambulance Operators, which may result in more employment opportunities and competition in the EMS field.

Doris Gray, Brown
Assistant Secretary
2304#066

Evan Braseaux
Interim Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Office of Motor Vehicles**

**Auto Title Companies
(LAC 55:III.Chapter 15)**

Under the authority of R.S. 32:735 et seq., 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 15, regarding auto title companies. The new and amended sections will address the qualifications of applicants, the application process including background checks, office locations, performance audits, grounds to suspend or revoke a contract, advertising, surety bonds, dishonored or denied payments, and administrative actions for failing to comply with all requirements in statute, this Rule, and the contract. This Notice of Intent shall become effective upon the promulgation of the final Rule in the *Louisiana Register*.

Title 55

PUBLIC SAFETY

Part III. Motor Vehicles

Chapter 15. Services Provided by Persons and Business Entities

Subchapter A. Auto Title Companies

§1503. Requirement of Contract

A. Any person who is engaged primarily in the transfer and recordation of sales, leases, or mortgages of vehicles including, but not limited to, mobile homes, trailers, and motor vehicles shall contract with the Department of Public Safety and Corrections, Office of Motor Vehicles prior to conducting any business as an auto title company.

B. A person shall not be required to obtain a contract as an auto title company if the person is an insurance company transferring titles to wrecked vehicles, a licensed motor vehicle dealer, a lending institution, or a financial institution regulated by state or federal authorities. Additionally, a notary, attorney, or individual shall not be required to obtain a contract as an auto title company unless the person is doing business as an auto title company.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:735(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:345 (February 1998), amended LR 49:

§1505. Application Requirements

A. The application for an auto title company shall be on a form approved by the department, and shall require the applicant to provide the following information:

1. the full legal name of the applicant, including any trade names or aliases;
2. the complete physical and mailing addresses for the applicant's principal place of business, as well as for any location from which the applicant intends to conduct business as an auto title company;
3. the telephone number, including area code, for each place of business or location listed on the application;
4. if the applicant is not a natural person, the full name, complete physical and mailing addresses, and telephone number of a contact person;
5. if the applicant is not a natural person, the full name, complete physical and mailing addresses, and telephone number of all officers, directors, and managers of the applicant;
6. a signed and dated statement by each natural person listed in the application, stating that they are submitting themselves for review by the department to determine if they are persons of good moral character, and that they authorize the department to check their criminal history; and
7. the auto title company owner(s) must be citizen(s) of the United States or be lawfully present in the United States in a status that allows the person to own and operate a business;
8. the auto title company owner(s) must have earned at least a high school diploma, GED or its equivalent;
9. the auto title company must have a business location within the state of Louisiana where the auto title company office will operate;
10. proof of registration with the secretary of state to do business in the state of Louisiana;
11. possess any required business license;

12. such other information or documentation that the department may require in order to determine the eligibility of the applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:735(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:345 (February 1998); amended LR 49:

§1507. Application Fee

A. The applicant shall pay a biennial annual contract application fee of \$400 for one business location. An annual fee of \$100 will be required for each additional business location. The contract fee shall be paid by cash, money order, or check, made payable to the Department of Public Safety and Corrections. If payment is made with a check, the check must be written on an account in the same name as the business name.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:735(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:346 (February 1998), amended LR 49:

§1509. Renewal Application

A. Every contract issued shall expire on May 31 following the year in which such license was issued. The contract shall be renewed bi-annually at least 60 days in advance of the expiration date of the license by submitting to the Office of Motor Vehicles an application for renewal, together with the license renewal fee and the surety bond continuation certificate for the renewal period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:735(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:346 (February 1998); amended LR 49:

§1511. Change of Location or Information

A. In the event a licensed auto title company changes its business location, or any information provided on the original application or subsequent renewal application changes, the company shall submit an updated application (DPSMV 1968), an original bond change rider, and the current original auto title company license.

B. Application for change of location must be approved prior to the auto title company conducting business in the new location.

C. An \$8 handling fee shall be assessed when a Public Tag Agent relocates and a new certificate is issued or if a duplicate certificate is required.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:735(B) and R.S. 32:412.1(C).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:346 (February 1998), amended LR 49:

§1515. Inspections and Audits

A. As part of its application for a contract, an auto title company shall agree, in writing, to the audit and inspection requirements of §1515.

B. During the normal working hours of the department, or at any other time the licensee is open for business, employees or agents of the department or of the Department of Revenue shall have the right to inspect and audit any and all records or reports of the auto title company. The records and reports shall be made available immediately on request, unless the records or reports are currently in use, but no later

than by the close of business following the day the request for the records was made. In lieu of submitting the original records and reports, the auto title company may submit copies to the person requesting the records and reports, at the auto title company's cost, if the person requesting the records and reports is satisfied with the accuracy of the copies.

C. During the normal working hours of the department, or at any other time the licensee is open for business, employees or agents of the department or of the Department of Revenue shall have the right to inspect the premises of any office of the licensee where auto title business is conducted or where the records and reports of the auto title company are kept.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:735(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:346 (February 1998), amended LR 49:

§1517. Contract Suspension, Revocation, Cancellation, Nonissuance, or Restrictions

A. The following actions by a contractor or applicant or any of the contractor's or applicant's employees, managers, agents, representatives, officers, directors or owners may subject the contractor or applicant to suspension, revocation, or cancellation of the contract by the department or the imposition of restrictions by the department. Additionally, the department may deny an application and refuse to issue a contract for any of the following actions by a contractor or applicant or any of the contractor's or applicant's employees, managers, agents, representatives, officers, directors or owners:

1. failure to remit taxes and fees collected from applicants for title transfers;
2. repeated late filings;
3. operating as an auto title company without a license for each location, with an expired license, or without a valid surety bond on file with the Office of Motor Vehicles;
- 4.a. the issuance of more than one temporary registration (T-marker) to a title applicant; or
b. the issuing of a T-marker without first collecting all taxes and fees and requiring the title applicant to show proof of compliance with the compulsory insurance law;
5. operating from an unlicensed location;
6. changing the ownership of the auto title company and not reporting, in writing, to the Office of Motor Vehicles within 30 days from the date of such change;
7. changing the officers or directors of the auto title company and not reporting, in writing, to the Office of Motor Vehicles within 30 days from the date of such change;
8. being a principal or accessory to the alteration of documents relevant to a registration or titling transaction that results in material injury to the public records or a shortfall in the collection of taxes owed;
9. the forwarding to the Office of Motor Vehicles by an auto title company of a document relevant to a registration or titling transaction that results in a material injury to the public records, or a shortfall in the collection of taxes owed when the auto title company had knowledge of facts causing such injury or shortfall, and failed to disclose the same to the Office of Motor Vehicles;
10. conviction of, or an entry plea of guilty or nolo contendere to any felony; or conviction of, or an entry plea

of guilty or nolo contendere to any criminal charge, an element of which is fraud;

11. fraud, deceit, or perjury in obtaining any license issued under this Chapter;

12. failure to maintain, at all times during the existence of the license, all qualifications required for issuance or renewal of a license;

13. any material misstatement of fact, or omission of fact, in any application for the issuance or renewal of a license for an auto title company;

14. the repeated submission of checks which have been dishonored by the bank on which the check was drawn;

15. failure to provide requested documents in a manner set forth in §1515.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:735(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:346 (February 1998), amended LR 25:2414 (December 1999); amended LR 49:

§1521. Insufficient Funds Checks

A. Any auto title company which has submitted more than one payment, whether in the form of an electronic ACH, debit, paper draft, or check to the department which have been returned because of insufficient funds in the account shall be required to use a cashier's check, certified check, or money order to pay taxes and fees when submitting any transaction to the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:735(B) and R.S. 49:962.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:347 (February 1998), amended LR 49:

§1527. Name, Trade Name, Advertisements, and Other Signage of Auto Title Companies

A. Since auto title companies may charge convenience fees and may offer services not available at an Office of Motor Vehicles field office, no auto title companies shall display any sign which may mislead the public into believing that the auto title company's office or business establishment is a field office of the Office of Motor Vehicles.

B. No auto title company shall display any sign, logo, business name, or trade name, or cause to be advertised any sign, logo, business name, or trade name which includes the words "office of motor vehicles," "motor vehicle office," or "motor vehicles office," or any similar phrases, unless the sign, logo, business name, trade name, or advertisement clearly and prominently includes a statement indicating the business's status as an auto title company.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:735(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 25:2415 (December 1999); amended LR 49:

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 May 25, 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 May 26, 2023, 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: Auto Title Companies

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

The proposed amendment will not result in any costs or savings to state or local governmental units. The proposed amendment updates the rule to reflect current practices.

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

The proposed amendment will have no impact on state or local governmental revenues. The proposed amendment update the rule to reflect current practices and does not establish new fees or impact collections of any fees currently authorized by law.

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

The proposed amendment does not have any effect on the estimated costs and/or economic benefit of affected persons or non-governmental groups. The proposed amendment reflects current practices.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated or foreseen impact on competition and employment.

Karen St.Germain
Commissioner
2304#067

Evan Brasseaux
Interim Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Transportation and Development Office of Multimodal Commerce

Intermodal Transportation (LAC 70:IX.Chapters 1-7)

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:961 et seq., and through the authority granted in Title 2 of the Revised Statutes, that the Department of Transportation and Development, Office of Multimodal Commerce, Aviation Section, proposes to amend Title 70, Part IX, Chapter 1. "Aeronautics in Louisiana", and Chapter 3. "Airport Construction and Development Priority Program Process" and proposes to adopt Title 70, Part IX, Chapter 5. "Airport Project and Grant Management Procedures", and Chapter 7. "Unmanned Aircraft Systems (UAS) Program", to update technical wording, applications, procedures, and processes for compliance with the Federal Aviation Administration, to allow airports to update their project applications in the state Airport Construction and Development Priority Program, and to manage the Unmanned Aerial Systems (UAS) Program for the Department of Transportation and Development, to foster UAS operational safety, protect the citizens of Louisiana, and those engaged in UAS operations.

Title 70

TRANSPORTATION

Part IX. Intermodal Transportation

Subpart A. Intermodal

Chapter 1. Aeronautics in Louisiana

§101. General

A. Pursuant to Title 2 of the Revised Statutes, the Louisiana Department of Transportation and Development regulates aeronautics in Louisiana.

1. R.S. 2:6 provides, in part, that the department may prescribe such reasonable rules and regulations as it deems necessary and advisable for the public safety and for the promotion of aeronautics governing the designing, laying out, location, building, equipping, operation, and use of all airports, landing fields, or landing strips, and for the safety of those engaged in aeronautics. It is for that purpose this rule is promulgated.

2. Definitions. As used in this chapter or subsequent chapters pertaining to the DOTD Aviation Program, unless the context clearly indicates otherwise, the following definitions shall apply.

Air Carrier Airport—airports that are required by the Federal Aviation Administration to meet all standards as set forth in Part 139 of the Federal Aviation Regulations (FAR) and have scheduled air passenger service.

AIP—Airport Improvement Program: provides Federal Aviation Administration grants to public agencies for the planning and development of public-use airports for safety and efficiency.

Airport Sponsor—any state agency, city, town, parish, airport authority, airport commission, airport district, or other political subdivision, which owns, operates, leases, or controls any public-use airport or landing area.

Basic (Airport) Maintenance—the responsibility of each airport sponsor to maintain the airport in an efficient and safe manner. Maintenance includes any regular or recurring work necessary to preserve existing airport facilities in good operating condition. Basic maintenance items for runway, taxiway, apron, lighting, and navigational aid include: routine cleaning, filling, and/or sealing of longitudinal and traverse cracks; grading pavement edges; maintaining drainage systems; patching pavement; remarking pavement areas; replacing airfield lights or fixtures; replacing sensors or equipment; sweeping airfield pavement; operability of backup emergency generators for airfield equipment; and re-topping/removing trees for approach protection (if this work was previously completed in an AIP or DOTD funded project).

DOTD—Aviation Division of the Louisiana Department of Transportation and Development.

FAA—Federal Aviation Administration

FAR—Federal Aviation Regulations: rules prescribed by the Federal Aviation Administration, governing all aviation activities in the United States.

LAS—Louisiana Airport System

LASP—Louisiana Aviation System Plan

NPAIS—National Plan of Integrated Airport Systems

Public and/or Public-Use Airport—an airport that is publicly owned, which is open for use by the public.

Rural Airport—any airport categorized as a Non-NPIAS in the LASP or a NPIAS airport that is unclassified.

B. Landing Area Registration Procedures. Pursuant to statutory provisions, all landing area proponents shall provide DOTD with the following information for the Louisiana Aviation Program, prior to operational use of the area for aircraft operations. The registration application shall be submitted electronically through DOTD's website, and the information submitted shall adhere to federal airport master records, aeronautical data and airspace determinations for consideration in the Louisiana Aviation Program.

C. At a minimum, the following are required to be submitted to DOTD.

1. Completed Landing Area Information Application. The applicant shall include their first and last name; email address; telephone number; landing area name; notification of local/building permitting authority; date and time of requested inspection; and notification of FAA landing area proposal.

2. Completed Landing Area Location Map. This reflects the relationship of the proposed site to other prominent centers of activity within an area of five miles.

3. Completed Landing Area Immediate Vicinity Map. This reflects the relationship of the proposed site to structures within the immediate vicinity. This shall also include the distance of the proposed landing area as it relates to the nearest active airport or heliport. Proponent will

include safety considerations for joint use airspace, if applicable.

4. A location drawing of the proposed landing area on the United States Geological Survey topographic quadrangle series map covering landing area proponent's location, or a Geographic Information System (GIS) map with Global Positioning System (GPS) coordinates. These can be obtained at blueprint supply companies, or one can be sent by DOTD, upon request, if none are available from commercial sources.

5. Confirmation that the landing area proposal notification was submitted to the FAA.

6. Confirmation of the FAA's airspace determination findings.

7. The drive time of the proposed landing area as it relates to the nearest public-use airport.

8. Proponents requesting new private landing area registrations shall follow the landing area design standards from the FAA Advisory Circulars, pertaining to airports and heliport design standards.

9. Airports or heliports that are designated as public-owned/public-use or private-owned/public-use shall adhere to airport state design standards.

D. Applications for a registration certificate shall not be accepted unless accompanied by all documentation showing that the applicant has met all the requirements as determined by the Louisiana Aviation Program, airspace determinations, land-use compatibility, FAA advisory circulars, and engineering briefs.

E. A renewal registration certificate is required for all hospital heliports, emergency service heliports, and any frequently used registered heliport, regardless of changes to the heliport every five years. DOTD may initiate the renewal registration process with the heliport owner. Renewal dates shall be included on the registration operating certificate.

1. Airport data shall be collected every three years through onsite inspections at all emergency service, hospital, and special use heliports.

2. Airport data shall be collected once every five years through onsite inspections at all private-use airports.

F. Classifications of Louisiana Airports, Seaplane Bases and Heliports.

1. Airports. The airports in the LASP are classified according to a simplified version of the FAA's NPIAS classification system. This involves identifying the airport with the type of aircraft it will principally serve. Although the LASP classification is less complicated than that of the FAA's NPIAS, there is no conflict between the NPIAS classification of an airport and the LASP classification. The state classification of each publicly owned airport is in LASP.

2. Seaplane Bases. These facilities can be either natural waterways, or man-made seaways used on a regular basis for take-off and landing of amphibious aircraft.

3. Heliport. Any area of land, water, or structure used or intended to be used for the landing and takeoff of helicopters, which has been specifically prepared for use by helicopters; any area for use by helicopters which is open to the public; or any area—other than those used for agricultural operations—which may have three or more takeoffs or landings in a thirty-day period. All heliports must be registered with the state in accordance with this chapter.

G. Aviation Safety Program. The following standards will be utilized by DOTD when reviewing airport safety data and airport inspection information. The Aviation Safety Program promotes and encourages airport operational safety through direct contact with airport sponsors and airport management through the application of methods, techniques, and standards to improve and enhance safety conditions at general aviation public airports. Inspections are to assess and report conditions within the system of general aviation public airports; to inform and provide guidance to airport sponsors on correcting safety; and other operational related deficiencies. It ensures the data is promulgated with a degree of accuracy and consistent with the exercise of FAA responsibilities. It will also provide for the production of recurring and one-time special inspection reports for management guidance, sponsor programming, and statistical analysis.

1. Inspections-Generally.

a. LAP provides that the inspections detailed in this Chapter be completed by DOTD, and details the facilities required to be inspected by the state. The purpose of an annual airport inspection is to work closely with airport sponsors and airport management to ensure that they are conducting daily inspections of their airports, and ensuring proper documentation to maintain a safe and secure facility for aviation operations.

b. Day and/or night inspections shall be conducted annually by DOTD. Supplemental or special airport inspections may also be conducted by DOTD to ensure the airport sponsor is correcting any discrepancies or deficiencies within the airport operating environment.

c. Airport data shall be annually collected through onsite inspections at all nonprimary, general aviation, and public-use airports/heliports.

2. Inspection Scheduling. DOTD shall establish control procedures to ensure ultimate accuracy of all reported data and adherence to schedules for inspections and reporting. Inspections will be scheduled by DOTD and written notice provided to the airport sponsor and airport management a minimum of ten working days prior to the actual onsite inspection. For those inspections performed under the Airport Certification Program, written notice from DOTD shall be provided to the airport sponsor and airport management a minimum of thirty working days prior to the actual onsite inspection.

3. Public-Use Airport Inspections (State Non-Certificated General Aviation Airports)

a. This section pertains only to those general aviation airports that are state non-certificated.

b. DOTD shall conduct all airport inspections. DOTD inspectors will assess and report all items that may be hazardous or be defined as a deficiency, pursuant to FAA or state standards. A representative of the airport sponsor and airport management familiar with the operations of the airport should be available to discuss inspection criteria. Inspectors will notate non-standard airport conditions relative to airport pavements, obstructions, hazardous materials, wildlife hazards, navigational aids, lighting, signage, fuel system deficiencies, navigable airspace issues, and any other issues related to the FAA requirements.

c. The most recent Airport Master Record shall be used by the airport inspector in conducting the inspection of

an airport. During the inspector's visit to the airport, the inspector shall verify or correct each data element for the DOTD inspection criteria, except those assigned to a specific office. DOTD inspectors may use any official documents available, i.e., Airport Master Plan, Airport Layout Plan, airport specific operations manuals, and other airport public documents to ensure the airport master record information is accurate as possible.

d. The measurements and computations shall be in accordance with sound engineering practices. Engineering instruments such as hand levels, altimeters, inclinometers, distance measuring wheels/tapes, rangefinders, and similar tools shall be used to obtain the necessary data. Measurements obtained by "pacing" distances, "eyeballing" heights of structures, using a vehicle's odometer, and other similar estimating practices are not acceptable. The use of more sophisticated engineering equipment such as a transit, rods, chains, and surveyor's stakes may be appropriate if, in the judgment of the inspector, such equipment is necessary to obtain the required data. Airport data will be collected at:

1. public-use general aviation airports every year;
2. emergency service, hospital, and special use heliports every three years;
3. private-use airport landing areas other than emergency service facilities every five years; and
4. supplemental inspections to ensure airport sponsor compliance with correcting any safety discrepancies within the aeronautical operating area for the Louisiana Aviation Program.

e. DOTD shall assess and report all items that may be hazardous or defined as a deficiency by the FAA or the state. The airport manager shall be available to discuss inspection criteria. The latest airport master record shall be used by the airport inspector for conducting the inspection of an airport. Each data element on the master record shall be verified during the inspection.

f. The inspection criteria that shall be used to assess general aviation non-certificated airports shall include: all items that may be hazardous or be defined as a deficiency pursuant to FAA or state standards; non-standard airport conditions; airport pavements; obstructions; hazardous materials; wildlife hazards; navigational aids; airfield lighting; airfield signage; fuel systems; perimeter/security fencing & access gates; backup generators; navigable airspace issues; notice to airman; airport self-inspections; and any noteworthy issues pertaining to aeronautical safety.

g. The inspection criteria used to assess general aviation *certificated* airports shall include the above referenced criteria and the following: the Airport Pavement Management Program; airport specific operation procedures; airport emergency documented procedures; airport minimum standards; airport rates and charges; and documented airport maintenance program.

4. Public-Use Airport Inspections.

a. This section pertains only to those general aviation airports participating in the General Aviation Airport Certification Pilot Program (GAAC).

b. DOTD will conduct all airport inspections professionally and accurately utilizing a predetermined airport environment checklist of items to ensure a complete and thorough inspection. DOTD inspectors will assess and

report all items that may be hazardous or defined as a deficiency from FAA or state standards. A representative of the airport sponsor and airport management familiar with the operations of the airport should be available to discuss inspection criteria.

c. Inspectors will notate unsafe airport conditions with airport pavements, obstructions, hazardous materials, wildlife hazards, navigational aids, lighting, signage, fuel system deficiencies, navigable airspace issues, and any other noteworthy issues in accordance with the FAA 5010 Master Record and the inspection criteria listed on DOTD's website.

d. The latest airport master record shall be used by the inspector for conducting the inspection. During the inspector's visit to the airport, the inspector shall verify or correct each element for the DOTD inspection criteria, except those assigned to a specific office. DOTD inspectors may use any official documents available, i.e., the Airport Master Plan, the Airport Layout Plan, airport specific operations manuals, and other airport public documents, to ensure the airport master record information is as accurate as possible.

5. Post Inspection Procedures. Once the inspection is complete, the DOTD Inspector may review any discrepancies or safety issues with the airport sponsor and airport management before departing the airport. Additionally, the DOTD Inspector may discuss airport management's responsibility in promptly notifying airmen through the local Flight Service Station (FSS) of any condition affecting future aeronautical use of the airport by the issuance of a Notice to Airmen (NOTAM). Where feasible, airport inspection results shall be uploaded to the Aeronautical Data Information Portal within five business days of the inspection. Additionally, the report shall be transmitted to the airport sponsor and airport management within ten business days of the inspection. The inspection reports shall include, at a minimum, the identification of the airport inspected; any discrepancies or safety related issues noted during the inspection; notable airport master record revisions needed; basic maintenance items noted; and a suspense date for basic maintenance items to be corrected by the airport sponsor. Deficiencies needing correction shall be noted by DOTD and provided to the airport sponsor in writing, following the inspection, within ten business days. Airports shall be given a time period of not less than 30 days, but not more than 90 days, to correct any basic maintenance or safety deficiencies. A follow up supplemental inspection of the correctable deficiencies may be scheduled by the DOTD inspector to confirm the noted deficiencies have been addressed.

6. Airport Compliance. The maintenance and repair of discrepancies after an annual safety inspection shall be completed within a period specified by DOTD. If the airport sponsor fails to correct the discrepancies, this will be annotated on the inspection report log at DOTD. DOTD may schedule and conduct any supplemental or special airport inspections as needed to ensure the safety of aircraft and aeronautical operations at any public-use airport in the LAS without notice.

7. DOTD Inspectors. DOTD inspectors shall have training on airport, aerodrome, and aviation operational environments to ensure safety of aeronautical operations

with the Louisiana Aviation Program. Training may be completed through an FAA training program or certified aviation stakeholder industry training programs.

H. Review of Landing Area Proposals. Upon receipt of the FAA determination, and following a reasonable period for review, DOTD will provide the proponents with a statement of its findings and issue a notice of no objection to the establishment and use of the proposed landing area, if such is appropriate. The review may include the following.

1. Review of site in comparison with FAA and/or state minimum safety standards, as appropriate.
2. The solicitation of comments by the local governing bodies and local residents.
3. Review of the application submitted to ensure accuracy of information submitted.
4. Site inspections.
5. Potential impacts to the LAS, including current landing areas that are within a thirty-minute drive time of the proposed landing area.
6. The solicitation of any approval documentation from local municipality zoning boards or commissions, construction approval agencies, or public laws/ordinances.
7. Any other lawful means of gathering needed information.

I. Administrative Remedy for Rejection of Application. R.S. 2:13 provides, in pertinent part, that where the department rejects an application for permission to operate or establish an airport, landing field, air school, flying club, air beacon, air navigation facility, or in any case where the department shall issue any order requiring certain things to be done, it shall set forth its reasons and shall state the requirements to be met before such approval will be given or the order modified or changed. In any case where the department may deem it necessary, it may order the closing of the items detailed above until it complies with the requirements of the department. The secretary of DOTD and/or any person designated by him and any officers, state, parish, or municipal, charged with the duty of enforcing this Chapter, may inspect and examine at reasonable hours any premises, buildings and other structures thereon, where the items detailed above are operated. Any order made by the department shall be served upon the interested person by registered mail or in person before such order shall become effective.

J. Failure to Comply. Failure to comply with appropriate directives of DOTD may result in penalties. R.S. 2:12 provides that the department, its members and employees, and every state, parish, and municipal officer charged with the enforcement of state and municipal laws, shall enforce and assist in the enforcement. The department is also authorized to enforce the provisions by injunction in the district courts of this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:5 through R.S. 2:17.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 6:163 (May 1980), amended LR 6:559 (September 1980), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:510 (March 2007), amended by the Department of Transportation and Development, Intermodal Transportation Division, Aviation Section, LR 42:757 (May 2016), amended by the Department of Transportation and Development, Division of Aviation, LR 49:

Chapter 3. Airport Construction and Development Priority Program Process

§301. Introduction

A. DOTD is responsible for developing public aviation facilities in the state, fostering air commerce, promoting aeronautics statewide, and protecting the health and safety of those engaged in aeronautics. Assistance with the planning, design, construction, and inspection of facilities is provided to local governments whom own the public airports. In addition, state funding is used in many cases to provide all or a portion of the local match requirement, as requested by the airport sponsor, when the improvement is federally funded, received 90 percent or more of project funds from sources other than state funds, or if most or all of the total funding is previously approved by the Legislature.

AUTHORITY NOTE: Promulgated in accordance with SCR No. 67 (1997), R.S. 2:6, R.S. 2:7, and R.S. 2:803(B).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1504 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:519 (March 2007), amended by the Department of Transportation and Development, Aviation Section, LR 39:104 (January 2013), amended by the Department of Transportation and Development, Intermodal Transportation Division, Aviation Section, LR 42:757 (May 2016), amended by the Department of Transportation and Development, Division of Aviation, LR 49:

§303. Federal Aviation Administration (FAA) Airport Improvement Program (AIP) Grants

A. Federal funding for projects is received through grants from the FAA directly to the recipient airport sponsor. Under the Airport Improvement Program (AIP) a minimum of 90 percent of project funds are federal. Occasionally, the FAA may offer a grant requiring a local match of more than 10 percent. When the airport sponsor requests state funding assistance for the local share, the project is evaluated through the priority system because of the use of state dollars. The airport sponsor must coordinate the development of the project with DOTD and the FAA, in order to receive the matching funds through the priority system. When the required match to the federal grant is greater than 10 percent, the state will participate in no more than 10 percent of the project cost, while the local sponsor must provide the remaining amount necessary to match the federal grant. The FAA provides the AIP grants directly to the airport sponsor who is responsible for administering the grant. DOTD may participate in additional funding contributions toward the FAA funded project through the Airport Construction and Development Program.

AUTHORITY NOTE: Promulgated in accordance with USC 49:47101 through 49:47112, SCR No. 67 (1997), R.S. 2:6, and R.S. 2:803(B).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1504 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:519 (March 2007), repromulgated by the Department of Transportation and Development, Aviation Section, LR 39:104 (January 2013), amended by the Department of Transportation and Development, Intermodal Transportation Division, Aviation Section, LR 42:758 (May 2016), amended by the Department of Transportation and Development, Division of Aviation, LR 49:

§305. Project Identification and Development

A. The primary objective of the priority system is to prioritize airport improvement projects. Nonprioritized projects are not included in the priority system as individual projects, but are funded through approved amounts for each category of project. Differences in the criteria for assessing these types of projects and the relatively small amount of state funding available make them impractical to include in the same process with airport improvement projects.

B. Potential projects for inclusion in the priority system are initiated by the airport sponsor or by DOTD. The need for the project may be identified in a master plan, airport action plan, airport layout plan, system planning document, or as a result of a change in conditions or facilities at the airport which is supported through appropriate and sufficient documentation and justification.

C. Only airport development projects are subject to prioritization. Airport administration and operations are not included since they are the responsibility of the airport owner and are not within the purview of the prioritization process.

D. An airport shall not receive state funding from DOTD if affirmed to be in noncompliance with federal and/or state laws, regulations, rules, policies by the FAA, the Louisiana Legislative Auditor, or DOTD. Written notification may be provided to the airport sponsor by DOTD.

AUTHORITY NOTE: Promulgated in accordance with USC 49:47101 through 49:47107, USC 49:48103, SCR 67 (1997) and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1505 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:519 (March 2007), repromulgated by the Department of Transportation and Development, Aviation Section, LR 39:105 (January 2013), amended by the Department of Transportation and Development, Division of Aviation, LR 49:

§307. Project Prioritization Process

A. The prioritization of a project is a two-step process. The first step is to determine whether the project should be included in the priority process. The second step is to determine whether the information necessary for prioritization is available.

1. Project Pre-Applications. Pre-applications may be submitted annually to DOTD by close of business on September 1. DOTD may provide a cursory review of the airport sponsor's pre-application. Further, DOTD may discuss and provide comments relative to the project application, pertaining to any insufficient information or requirement for any additional documentation needed to ensure an efficient and successful prioritization of the requested project. Projects with insufficient information may be returned to the airport sponsor until required information is provided.

2. Project Applications. Project application documentation shall include the following.

a. Project resolution from the airport sponsor requesting state assistance for the project and documenting any commitment from the airport sponsor to participate in the cost of the project financially (if applicable).

b. Project scope, estimated cost, justification, and description of project area.

c. Environmental clearance documentation or viable commerce benefits (if applicable).

d. Any additional information from the airport sponsor necessary for prioritization of the project.

e. Verification/documentation that the airport sponsor has a consultant/engineer under a professional service agreement to conduct the applied for work.

3. The airport sponsor shall hold a current agreement with an engineer or consultant to perform the work for the project(s) identified in the project application. If the airport sponsor does not hold a professional service agreement with an engineer or consultant to perform the work by November 1 of the application year, the project will not be prioritized for funding. Additionally, if the airport sponsor does not hold a professional service agreement with an engineer or consultant to perform the work by November 1 of the application year, the project may not be prioritized in the subsequent unfunded year. If additional information is required, DOTD may provide written notification to the airport sponsor. Additional information and official project applications shall be submitted to DOTD no later than close of business on November 1. If all of the necessary documents are not received by DOTD on November 1, the proposed project shall not be prioritized for funding consideration within the Airport Construction and Development Priority Program. For any project or projects that are not allowed to compete for funding based on the above criteria, those projects will need to be reapplied for during the next fiscal year program.

B. Once it has been determined that the project is eligible for state funding and all documentation has been provided, the next step is the assignment of point values to determine their relative priority. When point values are finalized, the project is placed into the priority system where it is ranked in relation to all other projects in the system.

C. The project components are also reviewed to determine if the project can be prioritized as one project or requires restructuring into more than one project. The project will be restructured into usable units if necessary. An example would be a request to lengthen a runway and extend the corresponding taxiway. The runway can be lengthened and is usable without the extension of the taxiway, so these may be considered as two projects in the priority system. An alternate example would be the extension of the runway's lighting system. This would be included with the runway extension as one project because the additional runway length cannot be used at night without the extended lighting.

D. The structure of the priority rating system is based on an evaluation of four categories:

1. Category I—project type;
2. Category II—facility usage;
3. Category III—sponsor compliance;
4. Category IV—special considerations.

E. Points are awarded to a project based on evaluation criteria in each category. The total evaluation score for the project is the sum of points in each category. Based on priority ratings of projects, a prioritized program of projects is developed by DOTD and submitted to the Joint Legislative Committee for Transportation, Highways and Public Works. This committee approves the program of projects, which becomes the capital improvement projects

that will be implemented by DOTD in the next fiscal year. A project submitted after this approval, with a ranking high enough to place the project on the program of projects, cannot be added until a new program of projects is submitted to the committee the following year. A project submitted after this approval shall follow the project prioritization process for the following fiscal year. However, a project receiving “other than” state funds may receive a state match in accordance with R.S. 2:803(B), if funds are available as determined by DOTD. If DOTD determines that funds are not available, but all required documentation for this project are complete, the project can be placed on the following fiscal year priority program for funding.

F. Legislation requires a priority system to prioritize projects in a logical order for addressing documented needs in the state's public airport system. The priority system is a process that has been developed to allocate state aviation funding to address these needs. The system reflects the state's development policy for the airport system, assigning higher values to projects, which are consistent with the policy.

G. Prioritized projects which have been approved for state funding but due to lack of federal matching funds or other reasons, do not have an executed sponsor-state agreement within six months, beginning July 1 of the fiscal year in which the project was approved by the legislature, shall be canceled from the funded program. The project shall be resubmitted under the project prioritization application process to compete for funding in subsequent years. Funds which had been approved for a canceled project will be reallocated to any other prioritized project the legislature has approved as needed. Such funds may be used to cover project overruns. Project overrun funding eligibility shall not exceed fifteen percent of the total construction portion of the grant for construction related overages or exceed fifteen percent of the total engineering portion of the grant for engineering and consultant related overages. The airport sponsor does not have to obtain prior DOTD concurrence for contract changes, but if an airport sponsor proceeds with a contract change it will be at the airport sponsor's own risk. However, if the airport sponsor requests prior DOTD concurrence, this shall not indicate any commitment or guarantee of funding reimbursement, nor shall it delay or affect any contractual workday obligations during DOTD's review of the proposed contract changes. Further, a subsequent review by DOTD of the contract changes completed by the airport sponsor may be necessary and may lead to the determination that the costs in the contract change cannot be funded under a state grant. Airport sponsors have the option to request DOTD review and concurrence of any contract changes; however, any funding determinations and grant amendments may not be processed until the end of the state fiscal year.

H. Funds recovered may also be used to fund the next-in-line or appropriate project on the subsequent fiscal year prioritized unfunded list and the three-year unfunded portion of the priority list, if that project has received funding or for projects funded by other than state funds not covered by the future FAA obligations funds. As a general rule, funds originally allocated to commercial service airports will, whenever practical, be used to fund projects on the commercial service airport unfunded list. Funds allocated to

general aviation airports will likewise be used to fund projects on the general aviation airport unfunded list.

I. Airport sponsors shall carry insurance on all airport facilities and equipment for which the state provides funding assistance. The insurance coverage shall provide for replacement value, if applicable. If a sponsor is applying for funding to rebuild or repair airport facilities or equipment covered by insurance, insurance proceeds should be used against the costs first, and the state's participation may be no more than eighty percent of the remaining eligible project costs. For terminal buildings, the state's participation is based on the public-use space ratio. If only a portion of the terminal building is involved, the state's participation is based on the public-use ratio. When requesting funding related to an insured facility or equipment, airport sponsors shall provide DOTD with supporting documentation that shall include a written response from the airport sponsor detailing what work and/or equipment are covered, or if the insurer declines a sponsor's request, a copy of said declination.

J. State Fiscal Year Important Milestones. The following is a listing of important deadlines and milestones utilized by DOTD for program planning purposes.

1. July 1—Planning and Development Program Begins.

2. September 1—Project Pre-Application Deadline.

3. November 1—Project Application Deadline.

4. November to February—Program Development.

5. February to April—Program Submittal to Legislature.

6. June 30—Capital Improvement Plan (CIP) Submittal Deadline or as established by DOTD.

AUTHORITY NOTE: Promulgated in accordance with USC 49:47101 through 49:47107, USC 49:48103, SCR 67 (1997), R.S. 2:6 and R.S. 2:803(B).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1505 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:520 (March 2007), repromulgated by the Department of Transportation and Development, Aviation Section, LR 39:105 (January 2013), amended by the Department of Transportation and Development, Intermodal Transportation Division, Aviation Section, LR 42:758 (May 2016), amended by the Department of Transportation and Development, Division of Aviation, LR 49:

§309. Nonprioritized Programs

A. Through the legislative approval process for the Priority Program, DOTD may specify nonprioritized programs as needed on the Priority Program.

1. Such statewide programs may include, but are not limited to: planning, navigational aids, discretionary projects, maintenance reimbursement, obstruction removal safety programs, future FAA obligations, the Statewide Marking Program, the Statewide Pavement Surface Treatment Program, the General Aviation Enhancement Program, and the Rural Airport Program.

2. Projects cannot reach the facility improvement stage without going through the planning phase. The following programs are an integral element of the state's aviation program.

a. Navigational aid projects enhance use of the overall state system by providing an increased level of safety.

b. Discretionary projects provide the Aviation Section with the latitude to fund emergency or safety related projects on a real-time basis and to undertake projects which are too small to be eligible for funding through the priority program. The state's airport system would be stagnated without these types of projects.

c. The Maintenance Reimbursement Program assists the general aviation and commercial service airports in the high cost of maintaining an airport, and allows the airport to maintain a safe and operational status.

d. The Obstruction Removal Safety Program is needed to keep the state's airports safe from obstructions that penetrate the airports approach slopes, runway protection zones, and FAR Part 77 surfaces.

e. The future FAA obligations are needed to meet the funding requirements for projects the FAA has funded after the priority program has been approved. This is caused by the state's fiscal year being out of synchronization with the federal fiscal year by approximately three months. This special program precludes the loss of federal funds and improves the state's timely response.

f. The Statewide Marking Program assists airports in maintaining a safe visual marking aid environment on the airfield.

g. The Statewide Pavement Surface Treatment Program and pavement condition index study assists airports in maintaining their pavement in good condition.

AUTHORITY NOTE; Promulgated in accordance with USC 49:47101 through 49:47107, USC 49:48103, SCR 67 (1997) and R.S. 2:6.

HISTORICAL NOTE; Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1505 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:521 (March 2007), repromulgated by the Department of Transportation and Development, Aviation Section, LR 39:106 (January 2013), amended by the Department of Transportation and Development, Intermodal Transportation Division, Aviation Section, LR 42:759 (May 2016), amended by the Department of Transportation and Development, Division of Aviation, LR 49:

§311. Air Carrier Airports versus General Aviation Airports

A. One of the basic objectives of a priority process is to identify projects that benefit the highest number of aviation system users; however, it primarily identifies projects that have the greater need, even if the airport serves less users than another airport. When airports are compared based on persons served, airports offering scheduled or unscheduled passenger airline service to the public serve more persons than airports that support general aviation activity. Differences in the size, revenue generation capability, and usage of commercial service air carrier airports—those airports that enplane 2,500 or more passengers annually—as compared to general aviation airports make it difficult to compare the need for projects between the commercial service air carrier and general aviation airports.

B. Due to aircraft size, weight, speed, operational characteristics, and FAA design standards, facilities at air carrier airports have more demanding requirements, resulting in costlier engineering and construction. Because of the significant differences between air carrier and general aviation airports project standards, each group's projects are prioritized separately.

C. The air carrier airports priority projects must have an established funding level, just as the general aviation priority projects must have an established funding level. To accomplish this, the total funds available for airport improvement projects in a given year are allocated between air carrier and general aviation airport projects in a ratio of 65 percent for air carrier airports and 35 percent for general aviation airports. This balance is adjusted if there are insufficient projects in either category to fully utilize available funding. This 65 percent/35 percent allocation is based on past experiences in the state's aviation program and the levels of state funding allocated to each type of airport. It also reflects the fact that air carrier airports have a greater capability of generating revenue through means unavailable to general aviation airports such as: concessions, vendor leases, landing fees, airline contracts, passenger facility charges, rental car lease agreements, and consolidated rental car facility charges. Passenger facility charges (PFC) are charges passed on to a commercial service passenger, which can be collected by the airport to fund projects not otherwise funded. These projects are eligible to be approved by the FAA for 100 percent funding through the PFC collection. Therefore, those portions of projects using PFC funds are not eligible to receive matching funds from the state.

D. The division of projects by air carrier or general aviation airport categories results in two project priority lists, one for each of the two types of airports.

E. LAS has air carrier airports that are FAR Part 139 certificated. Due to this federal certification standard, these airports are required by the FAA to meet all standards set forth in FAR Part 139. Therefore, each of these airport's projects will be prioritized in accordance with the Air Carrier Enhancement Program. Programmed projects shall receive a calculated percentage of the Airport Construction and Development Priority Program for Air Carrier Airports each year based on the annual aviation appropriation approved by the Louisiana State Legislature. The percentage shall be reviewed and recalculated/revised every two years by DOTD in accordance with the Air Carrier Enhancement Program. The projects included in the Air Carrier Airport Construction Program may be prioritized and selected utilizing a process based system. That system includes, but may not be limited to, objective analysis and public data that considers, at a minimum, aviation factors relative to project eligibility for funding within the air carrier airport construction program, hub classification status, economic analysis, studies by DOTD, FAA data for enplanements, operations, historical funding, and financial/grant management practices.

1. Air Carrier Enhancement Pilot Program (ACE Program). The ACE Program is designed to allow maximum flexibility in construction and development project requests while retaining the need and integrity of continuing the process to compile and develop a prioritized list of projects to be complete at air carrier airports. The program shall foster operational safety and provide for the optimal use and efficiency of existing transportation facilities and funding strategies. Further, it may support resiliency in the transportation system and promote diverse economic development, job growth, commerce, and tourism. It shall encourage innovation, support environmental practices, and improve the quality of life for Louisiana citizens. The primary objective of the ACE Program is to prioritize airport

improvement and development projects in accordance with the air carrier airport sponsor capital improvement plans (CIP), and the desired necessity to adapt to air carrier airport operational requirements. Percentage formulas derived through the program process shall include, but may not be limited to, FAA hub classification, enplanements, and operations in accordance with the air carrier entitlement program. Projects shall be included in the priority system evaluation as individual projects, but shall be funded through the total approved percentage amounts for each airport the category of projects requested. Differences in the criteria for assessing these types of projects, the costly amount of these projects, and the complex nature of the project timelines require state funding to be available to ensure practicality and inclusion in the same process with FAA and other federally funded airport improvement projects and processes. State statutes require a priority system to document and prioritize projects in logical order for addressing documented needs at the state's air carrier public airport system. The priority system is a process that has been developed to allocate planned consistent and reliable funding to air carrier airports to ensure they are able to address their critical needs and the needs of the LAS. The system reflects the state's development policy for the airport system, assigning higher values to projects which are consistent with the policy and the LASP.

a. From the estimated percentage of allocation amount, air carrier airports shall first provide funding for all match requirements to FAA grants received during each fiscal year the ACE is allocated.

b. Any remaining funds may be used for the next highest priority or appropriate project as identified by the airport sponsor through project support documentation submitted to DOTD.

c. Air Carrier airports may state their intent in writing to enhance their larger project requests by merging the previous year funded allocation amount and/or any remaining funds from previously approved projects for a legislatively approved project with their planned allocated amount and the request on file for the next fiscal year program to ensure and have the ability to fund a larger multi-year project.

d. If the air carrier airport elects to change a project that was previously prioritized or submitted as a merger project, the air carrier airport shall submit their intent to do so to DOTD in writing. The current project shall be canceled, and the new project shall be submitted in accordance with the prioritization process in the Airport Construction and Development Program. Funds, which had been approved for the canceled project will be reallocated to any other prioritized project the legislature has approved as needed in accordance with reallocation compliance procedures statutorily or by DOTD.

AUTHORITY NOTE: Promulgated in accordance with USC 49:40117, USC 49:47102, SCR 67(1997), R.S. 2:6, and R.S. 2:802.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1507 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:521 (March 2007), repromulgated by the Department of Transportation and Development, Aviation Section, LR 39:106 (January 2013), amended by the Department of

Transportation and Development, Intermodal Transportation Division, Aviation Section, LR 42:759 (May 2016), amended by the Department of Transportation and Development, Division of Aviation, LR 49:

§313. Preliminary Evaluation

A. The preliminary evaluation is used to screen potential projects and determine those that can realistically be implemented, assuming funding is available.

1. The first step is to determine whether the project should be included in the priority process. There are three basic criteria:

- a. project type;
- b. project size; and
- c. eligibility for federal matching funds.

2. The second step is to determine whether the information necessary for prioritization is available.

B. A DOTD review committee will make an initial determination of whether there is sufficient information to prioritize a project when a project request is received. Some of the information considered by the committee is required by either the Federal Regulations or Title 2 of the Louisiana Revised Statutes.

C. DOTD is responsible for assigning priority values to projects, and determining if they are consistent with development plans in the master plan, action plan, or airport layout plan for the airport. If insufficient data is sent to DOTD, correct prioritization of the project will not be possible. When insufficient data is provided, a request will be made for the additional information needed. Therefore, project pre-applications and necessary documentation should be sent to DOTD no later than September 1 to allow time for processing and possible return for additional information before the project application deadline is November 1. Any document package not meeting all requirements and/or not submitted to DOTD by November 1, shall not be prioritized or included in the upcoming fiscal year's program.

D. Project Type. Generally, only airport improvement or preservation projects are included in the priority program. Some exceptions are land acquisition for obstruction removal or airport expansion and aircraft rescue and firefighting (ARFF) vehicles and equipment.

E. Some projects may be of a type in which DOTD does not participate. For example, the construction of roads and utilities for an air industrial park development or other similar landside projects are not undertaken by the priority system and will not be funded by DOTD.

F. Project Cost. Some projects may be too costly for funding from a single year's budget without denying funding to other needed projects at other airports. Therefore, no more than \$1,000,000 in 100 percent state funding may be programmed to a single general aviation airport through the Airport Construction and Development Priority Program per fiscal year. Projects in excess of these amounts may be funded in phases of usable units over two or more fiscal years. For example, a project for a general aviation airport may have a total cost of \$3,000,000. A usable unit phase for the project may be prioritized in the upcoming budget cycle for no more than \$1,000,000, but the remaining \$2,000,000 may receive priority in the following yearly budgets to insure project completion. This does not include projects that are prioritized as an FAA AIP grant unless it is known that the FAA will use a multi-year funding approach. Regardless of the project size, if the FAA uses multi-year funding, the

state will also use a multi-year approach. Projects for general aviation airport requiring a match will be prioritized in addition to any 100 percent state funding request.

AUTHORITY NOTE; Promulgated in accordance with USC 49:47101 through 49:47107, USC 49:48103, SCR 67 (1997), R.S. 2:6, and R.S. 2:802.

HISTORICAL NOTE; Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1507 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:522 (March 2007), amended by the Department of Transportation and Development, Aviation Section, LR 39:107 (January 2013), amended by the Department of Transportation and Development, Intermodal Transportation Division, Aviation Section, LR 42:759 (May 2016), amended by the Department of Transportation and Development, Division of Aviation, LR 49:

§315. Project Support Documentation

A. Once it has been determined that a project is of the type and cost to be considered in the priority system, an evaluation of required supporting documentation will be made. The project application support documentation is a combination of documents and information necessary for DOTD to determine if the project is developed sufficiently for inclusion in the priority listing. Documentation shall include the following items:

1. **Project Resolution.** The initial document DOTD needs for consideration of any project is a resolution from the public body operating the airport requesting assistance in the development of the project. Generally, the assistance requested would be for both funding and technical assistance. Any commitment from the airport sponsor to participate in the cost of the project is also documented in the resolution. The resolution from the airport sponsor of the airport initiates an agreement between the two parties for joint sponsorship of the project and authorizes state participation in a local project pursuant to applicable provisions of state law. It is also considered a written commitment of support for the project by the airport sponsor. DOTD requires a resolution from the airport sponsor or owner before a project can receive state funds.

2. **Funding Sources.** Since available state funding historically falls far short of the requested airport needs, it is especially important to use every opportunity to take advantage of the FAA/AIP program, which provides funding grants for eligible projects at eligible airports. A request for 100 percent state funding may be processed for a project that is eligible for AIP funding. Those projects that are requested as FAA/state matching funds will remain on the program as FAA/state matching funds until the airport sponsor requests the project be converted or the airport sponsor submits a new project request with resolution prior to November 1 of each year to have the project prioritized as a 100 percent state funded project. An airport sponsor may request in writing to DOTD to have the project converted from an FAA matching funds project to a 100 percent state funded project.

B. **Project Components.** In the priority system, projects are prioritized on a generic basis. For example, projects that affect the primary runway are all considered under the heading "primary runway." This could include lengthening, widening, lighting, grooving, resurfacing, rehabilitating, or reconstruction of the primary runway. Projects are defined on a usable basis or unit. This means that if a runway is widened, the relocation of runway lighting and striping are

all included in the project. Another example is a request to lengthen a runway and to extend the corresponding taxiway. The runway can be lengthened and usable without the extension of the taxiway, so these may be considered as two projects in the priority system. Development of projects as a usable unit prevents projects of a lower priority being tagged onto a high priority project and resulting in a higher rank. This focuses the priority system on those projects with the highest priority ranking, maximizing the effectiveness of aviation program funds. However, it is sometimes advantageous in terms of safety, operational effectiveness, and fiscal responsibility to include lower ranking projects and otherwise unrelated higher projects. For instance, if there is a high priority project to overlay a runway, it may be appropriate to include a stub taxiway leading from the runway to a parking apron, or the apron itself, if it is in poor condition. This can prevent damage to aircrafts, provide a safe operational area for the necessary movement of aircrafts, and provide significant cost reductions for the lesser priority projects. This blending of otherwise nonrelated projects, is an exception which will be authorized only in exceptional cases. The aviation director is responsible for the organization of projects into usable units when projects are developed, and for determining if special circumstances exist which would warrant combining unrelated projects.

C. **Planning Data.** The priority process depends heavily on planning data to evaluate the relative merits of a project. Usually the justification for a project is in the master plan or airport layout plan for the airport but there are exceptions. Engineering inspections may identify the need for reconstruction of a runway or a 5010 inspection may reveal a safety problem. Regardless of the means by which a project is identified, written documentation describing the need for the project and the justification for the action to be taken must be provided. The justification for the project should be brief and to the point. An airport shall have an approved airport layout plan on file with DOTD in order for projects to be eligible for funding using state aviation appropriations funding.

1. Submitting a master plan or airport layout plan document as sole justification is unacceptable. The pertinent section of the master plan or action plan should be submitted with a narrative to explain the project and demonstrate that it is consistent with the master plan or action plan recommendations.

2. The planning data for a project, at a minimum, must:

- a. document the need for the project;
- b. explain how the project meets the need;
- c. give the estimated cost; and
- d. identify the project on the airport's approved layout plan.

D. **Project Scope, Costs, and Justification.** The estimated cost and justification for the action to be taken is necessary for proper prioritization. The documentation for the justification need not be lengthy; but, it should focus on what has generated the need. For example, if an aircraft parking apron is to be expanded, the number of existing parking spaces versus the number of aircrafts that need to be parked on the apron would be adequate documentation. In this instance, a description of the size for the proposed apron

expansion, and how many additional parking spaces the expansion would create should be submitted. The expansion should also be shown on the airport's approved layout plan to illustrate how it fits in the overall master plan or airport layout plan recommended for the airport. If the expansion of the apron is not consistent with the master plan or action plan, an explanation for the proposed deviation is necessary.

E. Environmental Requirements. Because of their potential environmental impact, some proposed projects may require environmental clearance before they can be constructed. During the preliminary evaluation of a project, there should be a determination whether or not environmental clearance is required. If the FAA Airports District Office or DOTD indicates environmental clearance is required, documents that show environmental requirements have been met should be provided. If some type of environmental document needs to be developed for the project, this should be completed before the project is placed in the priority system unless the environmental delineation and/or mitigation is part of or included in the project to be funded. Environmental clearance of projects can be a lengthy process, and allowing a project to be dormant in the priority system while waiting for clearance could preclude other projects from being implemented.

F. Two of the evaluation criteria in the "sponsor compliance" category are whether the airport sponsor has height limitation zoning and land use zoning in effect around the airport. If DOTD does not have a copy of the airport's zoning ordinances on file, the airport sponsor is required to provide this. The lack of zoning around the airport will cause a lower ranking of the proposed project.

1. The presence of zoning ordinances, an implemented pavement maintenance plan, compliance with the current airport specific operations manual, airport minimum standards, and adequate airport maintenance are evaluated in the preliminary evaluation of a project. If they are not being done at an airport, the local sponsor should be given an opportunity to rectify the situation before the project is prioritized. The airport owner will be advised of the corrective actions that can be taken to improve the project score. If the owner does not initiate and document corrective action that clearly shows action being taken to address these items and correct deficiencies in these areas, the project will not receive points in this category.

AUTHORITY NOTE; Promulgated in accordance with USC 49:47101 through 49:47107, USC 49:48103, SCR 67 (1997), R.S. 2:6, and R.S. 2:802.

HISTORICAL NOTE; Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1508 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:522 (March 2007), amended by the Department of Transportation and Development, Aviation Section, LR 39:107 (January 2013), amended by the Department of Transportation and Development, Intermodal Transportation Division, Aviation Section, LR 42:759 (May 2016), amended by the Department of Transportation and Development, Division of Aviation, LR 49:

§317. Project Priority Rating System

A. There are four categories of evaluation. The categories are as follows:

1. Category I—project type;
2. Category II—facility usage;
3. Category III—sponsor compliance;

4. Category IV—special considerations.

B. Points are awarded to a project based on evaluation criteria in each category, and the total evaluation score for the project is the sum of the points in each category. The point values are designed to award points in a weighted manner. Each area of evaluation receives points in proportion to the relative importance as determined by DOTD.

AUTHORITY NOTE; Promulgated in accordance with USC 49:47101 through 49:47107, USC 49:48103, SCR 67 (1997), R.S. 2:6, and R.S. 2:802.

HISTORICAL NOTE; Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1510 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:524 (March 2007), repromulgated by the Department of Transportation and Development, Aviation Section, LR 39:109 (January 2013), amended by the Department of Transportation and Development, Intermodal Transportation Division, Aviation Section, LR 42:760 (May 2016), amended by the Department of Transportation and Development, Division of Aviation, LR 49:

§319. Category I—Project Type (see Exhibit 1)

A. This category is designed to segregate projects by type, defined by the primary purpose of the project. To accomplish this, four subcategories have been designated for project type. These subcategories are:

1. safety;
2. airside preservation;
3. airside improvements; and
4. landside improvements.

B. The subcategories are listed in order of descending importance and point values have been assigned accordingly.

1. Development of projects directly related to safety of aircraft operations is the highest priority because of the potential for loss of life/property should safety needs not be addressed.

2. Next is preserving the existing airport system since the existing facilities represent an investment of public dollars, and there is a commitment to maintain those facilities that are in use.

3. The airside improvements reflect a policy by DOTD to develop facilities to the design standards established by DOTD and the FAA to accommodate existing aviation activity at an airport.

4. Projects for landside improvements at an airport are last in the project type priority as safety, airside preservation, and airside improvements are all types of projects that need to be addressed in order to maintain a safe and operational airport.

C. Except for the "safety" subcategory, the general approach to assigning points to projects within these subcategories is to give highest priority to addressing needs of the primary runway first and then decreasing priorities the farther the project is removed from the primary airside facilities. For example, a project on a primary runway has a higher priority than an apron project, but the apron project has a higher priority than a vehicle parking lot project. Safety projects, because of their importance, are addressed equally, regardless of what area of the airport they impact. The program safety subcategory type for primary runways at rural airports, pertains only to runway pavement projects at airports classified within the rural airport program as defined

in this part. For a rural airport to receive points in this category, the airport shall apply for funding assistance for runway pavement work before the runway pavement deteriorates below the state standard specified level for safe aeronautical operations in the airport construction and priority program.

D. Project types listed are generic. For instance, any project dealing with the primary runway that is designed to preserve its integrity falls under the "preservation of existing system" subcategory. This means that overlaying of the primary runway receives the same number of points as reconstructing the primary runway because both are designed to preserve the integrity of the runway. The subcategories in the "project type" category are displayed in Exhibit 1, including the type of project within each subcategory and its corresponding point value.

E. DOTD may participate in revenue-generating projects such as fueling systems and hangars. Such projects are usually done after all other airside projects or issues have been completed. Certain areas of terminal buildings at general aviation airports may be eligible. Areas such as the airport manager's office, flight planning area, pilot's lounge, and a small conference room would be considered eligible for funding. Areas such as a location for rental car agencies, restaurants, and fixed base operators (FBO's) would not be considered eligible for funding. The size of the terminal building eligible for funding would also be limited to the needs for the size of the airport in which it would be located.

F. Safety (see Exhibit 1.A). Projects in this subcategory are limited to those that only affect aircraft operational safety. These are projects such as obstruction removal, runway grooving, aircraft rescue and firefighting (ARFF) equipment, and lighting. For example, lengthening of a runway improves safety, but its primary purpose is to allow utilization by larger or faster aircraft. In the case of ARFF vehicles, a request for a new ARFF vehicle must have adequate justification. For example: If an airport's ARFF index requires, as part of its certification, one 1,500 gallon ARFF vehicle, and this vehicle was purchased within the last two years, the ARFF vehicle's life cycle is expected to last approximately 10-12 years. Therefore, if the sponsor requests a newer ARFF vehicle within this 10-12 year time frame, the ARFF vehicle will not be scored in the 'safety' category. Rather, the ARFF vehicle will be scored in the 'airside improvement' category due to the age of the recently purchased vehicle, if it is justified by the airport's current ARFF index. If the airport sponsor requests to continue with an application for an ARFF vehicle that exceeds the airport's index requirements, the airport sponsor may elect either of the following options:

1. Application may be submitted for 100 percent reimbursement for refurbishment of an existing ARFF vehicle; or

2. Application may be submitted for 25 percent state funding, and the airport sponsor will provide the remaining 75 percent for a new ARFF vehicle. However, after completion of either option, this ARFF vehicle will be categorized as a new vehicle and must comply with the requirements specified in this section. If the ARFF vehicle that is currently allowing the airport to meet its ARFF index requirement is expected to exceed 10-12 years of age by the time of the request, the vehicle can be scored in the 'safety'

category. Projects in the "safety" category are those developed specifically to address an unsafe condition, and receive the highest evaluation points possible. Only airports that hold current FAR Part 139 Airport Operating Certificates (AOC) with the FAA are eligible for funding in the airport construction and priority program.

G. Airside Preservation (see Exhibit 1.B). Projects that are required to maintain the functional integrity of existing facilities are evaluated in this subcategory. Reconstruction of a runway or taxiway and rehabilitation of an existing lighting system are the types of projects included under this subcategory. The point values are assigned with the highest value to projects that maintain the integrity of the primary runway and decrease in value as the facility being maintained moves from preservation of existing facilities toward making improvements to airside facilities.

H. Airside Improvements (see Exhibit 1.C). Projects evaluated in this category upgrade a facility to a design standard, based on current needs. The required design standards for facilities are determined by the role the airport plays in the state airport system, and DOTD facility development standards. The airport role and standards are found in the LASP, appropriate FAA and state airport design advisories, and engineering briefs.

I. Landside Improvements (see Exhibit 1.D). Projects in this subcategory are designed to facilitate the handling of issues dealing strictly with landside improvements. These projects receive the least amount of points in the prioritization process due to the fact that emphasis must be put on airside to maintain safe and operational airports. Projects in this subcategory may be addressed once the airside issues have been addressed and resolved.

AUTHORITY NOTE; Promulgated in accordance with USC 49:47103, SCR 67 (1997) and R.S. 2:6.

HISTORICAL NOTE; Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1510 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:524 (March 2007), repromulgated by the Department of Transportation and Development, Aviation Section, LR 39:109 (January 2013), amended by the Department of Transportation and Development, Intermodal Transportation Division, Aviation Section, LR 42:760 (May 2016), amended by the Department of Transportation and Development, Division of Aviation, LR 49:

§321. Category II—Facility Scoring (See Exhibit 2)

A. This category weighs the use of an airport relative to the use of other airports in the system. The basic objective is to support projects that serve the most aviation users. This objective has to be balanced with DOTD's goals of maintaining a viable statewide system of public use airports, and maintaining aviation and public safety. For this reason, air carrier and general aviation airports are prioritized separately.

B. Points are awarded based on the number of aircraft based at the airport and/or the number of commercial enplanements. The point values have been developed to attempt to recognize higher use of an airport while not eliminating a low use airport from consideration for projects. Exhibit 2 shows the point rating structure for this category.

C. The number of based aircraft at an airport, as indicated in the latest 5010 inspection report, or the national

based aircraft inventory, is used to determine the relative level of use at an airport. However, the number of operations for each based aircraft is not accounted for by using only the based aircraft numbers. For instance, itinerant operations are not recognized, nor are other operations by aircrafts not based on the field, such as agricultural and military aircraft. All of these factors will affect the overall number of operations at an airport, which is a more accurate measure of airport use. General Aviation airports can confirm their airport's aircraft operations through the utilization of airport operation communication devices that will collect annual data to verify their operational capacity. The airport may incentivize their project scores within the facility usage category of the project scoring criteria through participation in this data collection program.

AUTHORITY NOTE; Promulgated in accordance with USC 49:47103, SCR 67 (1997) and R.S. 2:6.

HISTORICAL NOTE; Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1511 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:525 (March 2007), repromulgated by the Department of Transportation and Development, Aviation Section, LR 39:110 (January 2013), amended by the Department of Transportation and Development, Intermodal Transportation Division, Aviation Section, LR 42:760 (May 2016), amended by the Department of Transportation and Development, Division of Aviation, LR 49:

§323. Category III—Sponsor Compliance (See Exhibit 3)

A. The "sponsor compliance" category evaluates how effectively the airport owners are operating the airport with respect to established standards and good management practices. Several areas are evaluated in this category that are critical to providing safe and efficient public services. Exhibit 3 shows the evaluation criteria and point values for this category.

B. Airports are affected by the use of the land surrounding them. Certain land uses in the vicinity of an airport can result in restrictions on use of the airport and, in extreme cases, the total closure of the airport.

1. Height Ordinances. Restrictions to prevent the penetration of tall objects into the approach surfaces for aircraft at an airport are very important. Generally referred to as "height hazard zoning," this type of zoning prevents tall objects that affect the safety of aircraft operations from being built around the airport. Tall objects can cause the displacement of thresholds and the raising of "minimums" for instrument approaches at an airport, thus decreasing the utilization of the airport. The airport represents a substantial public investment and implementation of height hazard zoning by the appropriate local governing body protects the investment by allowing the airport to be used to its full capacity. Points are awarded in this category for having height hazard zoning ordinances in effect at an airport.

2. Compatible Land-Use. Compatible land use zoning is necessary to protect the airport from restrictions placed on it when aviation uses conflict with surrounding land uses. Certain land uses around an airport are incompatible with airport operations because of safety considerations or impacts on landside activities. Noncompatible uses can create conflicts between the community and the airport

which may create pressures to restrict use of the airport. Within this category, the implementation of land use zoning is evaluated, and points are awarded for having land-use compatibility zoning in effect around an airport.

C. The final evaluation area in the "sponsor compliance" category is maintenance. The sponsors of the airport are responsible for routine maintenance, such as cutting the grass, changing light bulbs, maintaining proper drainage, sealing/filling pavement cracks, and refurbishing, marking and painting stripes. If regular maintenance is not completed, the airport will not receive full points in this category. If maintenance is cited as a problem, the airport will be notified in writing of the problem and corrective actions recommended. Current open discrepancies shall affect the prioritization of future project requests from the airport sponsor as noted in Chapter 1 of this Part. DOTD may schedule and conduct supplemental or special airport inspections, as needed to ensure the safety of aircraft operations at any public-use airport in the LAS without notice. Point values shall be assigned in accordance with the airport construction and priority program regarding the airport discrepancy corrections.

AUTHORITY NOTE; Promulgated in accordance with USC 49:47103, SCR 67 (1997) and R.S. 2:6.

HISTORICAL NOTE; Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1512 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:525 (March 2007), repromulgated by the Department of Transportation and Development, Aviation Section, LR 39:110 (January 2013), amended by the Department of Transportation and Development, Intermodal Transportation Division, Aviation Section, LR 42:760 (May 2016).

§325. Category IV—Special Considerations (see Exhibit 4)

A. The first three evaluation categories cover those evaluation areas (project type, facility use, and sponsor compliance) for which all projects prioritized will receive an evaluation score. The "special considerations" category allows projects of special significance to receive additional evaluation points when being prioritized. The items evaluated in this category bear no relationship to one another and thus each project is evaluated to determine if it should receive bonus points in its prioritization score. Exhibit 4 shows the criteria and point values for bonus point evaluation.

B. Special Programs. At times, certain improvements at an airport may be mandated by federal or state law and thus require a higher prioritization. DOTD may determine that special emphasis should be placed on a certain type of project. All projects of the designated type will receive additional bonus points under these evaluation criteria. An example would be a phased project. Additional points will be awarded to ensure that a consecutive phase of a project receives a higher priority than a project that is not phased.

C. Economic development potential is another evaluation area under the "special considerations" category. Any construction project generates economic development; however, there some projects are designed to address a specific economic need at the airport or in the community. To receive points in this area, the economic development of the project must be well documented, and clearly

demonstrate the potential economic impact of the project. An example of an economic development type of project would be facilities developed to accommodate the aviation needs of a business moving to the community. The facilities would have to constitute a major factor in the decision of a business to be located in the community. To receive bonus, an economic impact study may be required the cost of which is the responsibility of the airport sponsor. Another example would be a taxiway to an open industrial airpark access. This would get bonus points, but a taxiway to a T-Hangar area would not. A runway project to accommodate corporate aircraft would need to be thoroughly documented that it was a major factor in the location of the business.

D. Airline service to a community is an important element in the community's overall economic development. Under the "special considerations" category, projects are evaluated to determine if their primary justification is to maintain or attract airline service to the airport. For a project to receive points under this category, it must be directly responsible for effecting airline service at the airport. Documentation of the project justification is essential for prioritization rating points to be awarded under this evaluation criteria.

E. Another "special considerations" category is the provision of local matching funds contributed to the project request by the local airport sponsor. This is designed to incentivize an airport sponsor to identify and provide local financial assistance for preference to projects that are supported and highly valued by the local airport sponsor. No matching funds from other state sources will qualify for bonus points. Commitment for airport sponsor funding support shall be included in the project requesting resolution submitted by the airport sponsor requesting assistance from DOTD for the project. Airport sponsor contributions to projects will be scored using a percentage-based system, in accordance with Exhibit 4 of this Chapter. Airport sponsors shall have all airfield safety discrepancies or conditions corrected in accordance with the airport construction and development program to be eligible to compete for points in this category.

AUTHORITY NOTE; Promulgated in accordance with USC 49:47103, SCR 67 (1997) and R.S. 2:6.

HISTORICAL NOTE; Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1513 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:526 (March 2007), repromulgated by the Department of Transportation and Development, Aviation Section, LR 39:111 (January 2013), amended by the Department of Transportation and Development, Division of Aviation, LR 49:

§327. New Airports

A. An airport that is constructed on a new site presents different prioritization issues than improvements to existing airports. Generally, a new airport will fall into either of two categories.

1. First, an airport that is proposed for an area of the state not served by a public airport.

2. Second, a new airport proposed to replace an existing public airport which, for any number of reasons, is not considered a suitable public airport.

B. Prioritization of projects for the development of a new airport requires a slightly different process than that for an

existing airport. There are some special considerations that must be made in each of the four prioritization categories.

C. Initially, it must be determined if the project under consideration is for a "new" airport. For purposes of the priority process, an airport will be considered "new" until land is purchased for the airport, a primary runway is constructed, and an apron for aircraft parking is constructed. This includes clearing of runway approaches. At some point during its development, a new airport becomes an existing airport. The completion of these elements allows aircrafts to operate at the airport and, at that point, the airport is no longer considered "new". As such, future projects would be prioritized using the standard prioritization process. The land acquisition, runway, and apron construction will be prioritized using the following special considerations in each category.

D. Under the "project type" category, new airport projects will be categorized in either of two project type categories. Those new airports that are replacing an existing airport are categorized as upgrades to standards type projects. This type of new airport allows construction of an airport that meets all DOTD design standards and allows for future expansion to continue to meet these standards. It should be noted that land purchased for a new airport is often funded with state funds, but when the FAA begins funding other improvements such as the primary runway, the state is reimbursed for land acquisition costs. If this is the case, land acquisition should be treated as a federally funded project and prioritized accordingly.

E. New airports constructed in areas of the state not being served by a public airport are prioritized under the project type "airside improvements" subcategory. These airports are primarily constructed to increase the capacity of the Louisiana public airports system, and after construction will be prioritized in the "airside preservation" subcategory similar to existing airport's projects. The FAA usually reimburses land acquisition costs; thus, these projects should be prioritized accordingly. Where land acquisition is a prerequisite to construction, the Sponsor shall provide DOTD with proof of ownership, prior to starting construction. The Sponsor Certification shall be submitted to DOTD after real property is acquired/leased or a contract has been executed. The Sponsor shall assume ownership of the improvements and assume all operations and maintenance costs of the facilities for a period of not less than 20 years. Non-aeronautical activities shall require written approval from DOTD.

F. For the "facility scoring" category, the based aircraft and enplanements numbers that determine the points awarded for the new airport project will be those cited in the supporting planning document for the first planning phase. This will usually be the numbers cited for the first year of operation.

G. Under the "airport sponsor compliance" category, there are two areas that can be included in the prioritization process. The presence of height limitation zoning/ordinances and land use zoning along with subsequent local enforcement policies and procedures should be documented and points assigned accordingly.

H. In the "special considerations" category, a new airport can be assigned points in the same manner as an existing

airport. If an airport is the first public airport in an area, the airport should receive bonus points for its economic development potential. The airport represents a totally new mode to the local transportation system and should have a significant long-term economic impact on the area served. Remaining bonus point areas can be assigned in the same manner they are assigned for existing airports.

AUTHORITY NOTE: Promulgated in accordance with USC 49:47103, SCR 67 (1997) and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1513 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:526 (March 2007), repromulgated by the Department of Transportation and Development, Aviation Section, LR 39:112 (January 2013), amended by the Department of Transportation and Development, Intermodal Transportation Division, Aviation Section, LR 42:761 (May 2016), LR 49:

§329. Prioritization of Projects

A. Once a determination has been made by DOTD that a project is eligible to be included in the prioritization system, the project will be prioritized using the rating system. The preliminary evaluation of the project should provide the information necessary to complete the process. If adequate information is not available, it will be requested before the project is prioritized. Prioritizing a project without sufficient information may cause a project to receive a higher or lower ranking than it deserves.

B. Point values are assigned in each category using an electronic entry of the worksheet that is included as Exhibit 5. The entry follows the priority rating system and provides the documentation of how the total score for a project was derived. The entry with any subsequent edits is maintained with the project file so that documentation of the value assigned in each category is available.

C. As part of the evaluation of the project, the eligibility of the project for federal funding is noted on the worksheet. If federal funds are already committed, this is also included on the worksheet. When the project is entered in the automated priority system, the eligibility or commitment of federal funding for the project is noted.

D. Some projects will have equal scores after they are evaluated. If these projects fall at a point in the ranking list where a tiebreak is necessary (funded program versus four-year unfunded program), projects with the same score will be ranked based on the highest score in Category I. The project with the higher score in Category I will be ranked higher. If the projects are tied in Category I, Category III is used to break the tie and, if still tied, Category II is used. Should the projects still be tied after examining all four categories, DOTD will review all information submitted, and all future projects on the sponsor's Capital Improvement Plan (CIP) to determine which project will provide the safest and best support to the State's Aviation System.

AUTHORITY NOTE; Promulgated in accordance with SCR 67 (1997) and R.S. 2:6.

HISTORICAL NOTE; Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1514 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:527 (March 2007), repromulgated by the Department of Transportation and Development, Aviation Section, LR 39:112 (January 2013), amended by the Department of Transportation and Development, Division of Aviation, LR 49:

§331. Priority Ranking System

A. After the total evaluation score for a project is determined, it is entered into a priority ranking system and its relative ranking is determined. This system ranks projects by descending score in the commercial service airport or general aviation airport priority program, as appropriate.

AUTHORITY NOTE: Promulgated in accordance with SCR 67 (1997) and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1514 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:527 (March 2007), repromulgated by the Department of Transportation and Development, Aviation Section, LR 39:113 (January 2013), amended by the Department of Transportation and Development, Division of Aviation, LR 49:

§333. Program of Projects

A. The list of projects for air carrier and general aviation airports, prioritized by evaluation score, represent the program of projects that DOTD will implement through its development program. The actual number of projects from each list that will ultimately be constructed is dependent upon the level of funding that DOTD receives each year.

B. The priority system has been designed to allow inclusion of a cost estimate for each project. The estimate is broken down by federal share, state share, and local sponsor share. Since the system is designed to prioritize the use of state monies, the state funds required for a project are key to developing a program of projects.

C. Most projects will require more than one year to design, acquire land (if necessary), and construct. When a project that is programmed to be funded over two or more fiscal years is included in the program, the phase of work (design, construction phase I, construction phase II) will be noted along with the cost of that phase. Subsequent phases may be shown at the top of the four-year unfunded list. As projects are constructed and more funding becomes available, remaining projects with the highest scores will be placed in the construction program to the extent that funding is available. The projects for which funding is available will not be changed until more funds become available. Projects on the four year unfunded list recompile for funding each fiscal year until they are funded or canceled from the list in accordance with the Airport Construction and Development Priority Program. Due to needs, cost estimates, airport operational situations, and other regular data changes, after three years all projects which have not received an executed grant may be canceled from the program. Written notice may be provided to the airport sponsor to ensure the sponsor understands that any canceled projects will need to be reapplied for to recompile in the program for funding consideration. If projects are canceled from the program, they must be resubmitted with updated information. They will then be reviewed and reentered into the priority system.

AUTHORITY NOTE: Promulgated in accordance with SCR 67 (1997), R.S. 2:6, and R.S. 2:802.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1514 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:528 (March 2007), repromulgated by the Department of Transportation and Development, Aviation Section, LR 39:113 (January 2013), amended by the Department of Transportation and Development, Division of Aviation, LR 49:

§335. Project Available for FAA Funding

A. Special consideration for projects that will receive FAA funding is included in the priority system. The priority system is a listing of the projects in the order that the state considers implementation desirable based on the state's overall aviation development policies.

B. There are two decisions that DOTD makes when seeking FAA funding for its program. Projects planned at NPIAS airports that are types in which FAA will participate are noted in the CIP. This enables DOTD to present a proposed program of projects to the FAA that are eligible for FAA funding and that reflect state priorities. The Aviation Section then negotiates with the FAA to secure federal funding for top ranked projects. The second consideration for FAA funding is projects the FAA will fund, that do not appear in the implementation program based on priority rankings. DOTD cannot reject a project that will receive funding from the FAA. In these cases, a project that has received a commitment for federal funds is to be automatically included in the list of projects for implementation in the current year. If the current year program is already developed, the project is given top priority in the next year program or may be funded by future FAA obligation funds or funds available from cost underruns. Therefore, it is important that airports seeking federal funding for projects that are eligible for matching funds from the aviation program coordinate their application with both the FAA and DOTD.

AUTHORITY NOTE: Promulgated in accordance with USC 49:47103, USC 49:47109, SCR 67 (1997) and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1515 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:528 (March 2007), repromulgated by the Department of Transportation and Development, Aviation Section, LR 39:113 (January 2013), LR 49:

§337. General Aviation Airport Certification (GAAC) Pilot Program

A. The GAAC Pilot Program is a program designed to enhance the economic impact, development, and marketing strategies of the general aviation airports who elect and are approved to participate in the program. This shall be an opt-in program, which means the airport sponsor has the option of participating in a value adding and strategically based program. The prioritization of additional point values within this program are reflected in Exhibit 4. The state considers implementation based on the airport's overall safety strategies, airport development policies, revenue procedures, documented inspection practices, and utilization of infrastructure improvements, which are consistent with the overall development objectives of the LASP and the GAAC Program.

B. Program Application Requirements

1. Applications in writing for the GAAC shall be filed with DOTD, in accordance with this Chapter and the GAAC, prior to the beginning of participation in the program. Failure to file the application in its entirety may result in the application being delayed, suspended, or denied.

2. Once a fully executed application is received, DOTD may assign a program number to the airport sponsor/airport to complete the review and provide advance

notification to the airport sponsor confirming receipt and a qualification determination. The airport sponsor shall be notified of the program number and estimated timeframe for review of the application packet.

3. The airport sponsor shall provide all information for the GAAC Policy Program to verify the airport qualifications including, but not limited to, airport operations, safety protocols, security, revenue practices, audits, pavement management plan, airport self-inspection program, maintenance practices, minimum standards, rates/charges, wildlife mitigation plan, airport emergency operation plan, training requirements, grant management performance, and airport compliance procedures.

4. Determination. DOTD shall make an initial determination of whether the airport sponsor and airport qualify for the GAAC Pilot Program. If additional information is required after the initial review is completed, DOTD may request, in writing, additional information from the airport sponsor.

5. If the airport sponsor and airport are qualified by DOTD to participate in the GAAC Pilot Program, DOTD will provide guidance in writing to the airport sponsor regarding the next steps to proceed in the certification process of the airport sponsor and airport, in accordance with the GAAC Policy Program and the Airport Construction and Development Program.

C. Program Agreements. Upon DOTD approval of the airport sponsor and airport to participate in the program, DOTD may develop the following documents to complete the certification process. The documents may contain, but not be limited to the following.

1. DOTD and Airport Sponsor Contractual Agreement. This agreement will contain the approvals by DOTD for the airport sponsor to participate in the program. The agreement will also contain the requirements that the airport sponsor shall uphold and not deviate from during the agreement period. There may be separate and various levels of certification and agreement periods with distinctive requirements for each. DOTD may discuss these levels of certification with the airport sponsor prior to issuing a contractual agreement.

2. Airport Sponsors shall agree to participate in the program for a period of not less than one (1) year.

3. There may be a one (1) year extension granted to the airport sponsor by DOTD without further certification requirements.

4. The airport sponsor shall agree that the program will be completed in accordance with all applicable federal, state, and local laws, regulations, and policies. It is the sole responsibility of the airport sponsor to certify the appropriate development, completion, and authenticity of all work documents required from the airport sponsor throughout program participation.

5. Upon successful approval into the program, DOTD may issue a State Certification Operations Document to the airport sponsor to reflect the airport sponsor's participation in the program in accordance with this chapter, the GAAC Policy Program and the Airport Construction and Development Program.

6. DOTD reserves the right and authority to terminate the contractual agreement under any circumstances without advanced written notice to the airport sponsor.

AUTHORITY NOTE: Promulgated in accordance with SCR 67 (1997) and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 49:

§339. Exhibits

A. Exhibit 1

Exhibit 1	
Category I—Project Type	
Points	
A. Safety—Projects Directly Affecting Operational Safety	
50	Correction of runway failures severe enough to be an obvious safety problem. Runway friction surface or grooving or other action directly related to safety. Primary runway at rural airports.
49	Repair of primary runway lighting system or approach lighting system which is not functional and is deemed to be a safety hazard.
48	Obstruction removal which is requiring the displacement of the runway threshold and relocation of runway lighting.
47	Obstructions within the Runway Protection Zone (RPZ) or Penetrations to the Required FAR Part 77 20:1 Approach Slope Surface.
46	FAR Part 139 Certificated Airport ARFF vehicles and equipment required at commercial service airports or minimum safety equipment at GA airports to maintain current certificated FAA ARFF Index. Security fencing to correct a specific safety problem (does not include general perimeter fencing).
45	Safety condition identified by professional evaluation or accident statistics.
B. Airside Preservation—Preserving the Infrastructure of the Airport Dealing with Air Operations. Examples are preserving and maintaining the infrastructure of the runways, taxiways, aircraft aprons, airfield lighting, NAVAIDS, Fuel Farms, T-Hangars, Sustainability Projects.	
30	Primary runway
25	Taxiway serving primary runway
18	Apron/Navigational Aids (NAVAIDS)/Sustainability and Innovation Projects
17	Secondary runway / Wildlife/Safety Fencing*
16	Taxiway serving secondary runway
15	Stub taxiways and taxi-lanes
*Justification and supporting airport documentation of wildlife hazards and prevention plans are required to receive points in this category.	
C. Airside Improvements—Improving the Infrastructure of the Airport Dealing with Air Operations. Examples are improving and upgrading the infrastructure of the runways, taxiways, aircraft aprons, airfield lighting, NAVAIDS, Fuel Farms, T-Hangars, Approaches.	
14	Primary runway / Obstructions within the FAR Part 77 7:1 Transitional Slope Surfaces
13	Primary taxiway
12	Apron/Sustainability and Innovation Projects
11	Perimeter fencing
10	Navigational Aids (NAVAIDS)
9	Secondary runway
8	Secondary taxiway
7	Agricultural loading area
6	Noise Mitigation / Terminal Building for Air Carrier and General Aviation Airports / Hangars / Fuel Systems
5	New airport construction including runway, taxiway, and apron/Any additional ARFF vehicles or equipment beyond minimum requirements to meet current ARFF Index, Masterplans, Airport Layout Plans (ALPs), Preliminary Engineering Reports (PERs), and Action Plans.
D. Land Side Improvements—Improvements That Enhance an Airport's Infrastructure Not Related to the Air Side.	
4	Land acquisition not related to Airside Improvements for future expansion
3	Primary vehicle access road
2	Primary vehicle nonrevenue-generating parking.
1	Other Land Side Improvements

B. Exhibit 2

Exhibit 2	
Category II—Facility Scoring	
Based Aircraft*	Points
91 or More	20
81 to 90	18
71 to 80	16
61 to 70	14
51 to 60	12
41 to 50	10
31 to 40	8
21 to 30	6
11 to 20	4
1 to 10	2
Based Aircraft Type	Points
5 or more Based Jet Aircraft	10
>2 Based Jet Aircraft	7
At Least 1 Based Jet Aircraft	3
0 Based Jet Aircraft	0
Based Aircraft Type	Points
>60,000 Annual Operations	9
>25,000 but < 59,999 Annual Operations	7
>15,000 but < 24,999 Annual Operations	5
> 10,000 but < 14,999 Annual Operations	3
< 9,999 Annual Operations	1
Airport Grant Performance Management**	Points
No Grant Performance Discrepancies	10
3 or Less Grant Performance Discrepancies	5
More than 3 Grant Performance Discrepancies	0
Airport Sponsor Responsiveness Management	Points
Airport Sponsor Responsiveness (>=> 80 percent)	20
Airport Sponsor Responsiveness (>=> 50 percent but <80 percent)	10
Airport Sponsor Responsiveness (>=> 0 percent but <50 percent)	0
*Taken from latest 5010 Inspection or the national based aircraft inventory	
**Airport Grant Performance Management History will score an airport sponsor on the proper state grant management including, but not limited to—promptness, accuracy, grant activity, and compliance with state grant assurance articles. Additionally, if an airport sponsor is declared in non-compliance with federal or state laws, regulations, rules or policies by the FAA, Louisiana Legislative Auditor, or DOTD within the previous fiscal year, the airport sponsor shall not be eligible to receive points in this category. Grant discrepancies will be recorded by the Operations Program. The timeframe for review will be over the prior two years of grant performance based on the state's fiscal year.	

C. Exhibit 3

Exhibit 3	
Category III—Airport Sponsor Compliance	
	Points
Height Limitation Zoning Ordinance < 10 Years Old	10
Height Limitation Zoning Ordinance < 20 Years Old	5
Height Limitation Zoning Ordinance > 30 Years Old	1
Land Use Compatibility Zoning	5
5010 / Safety Inspection	Points
5010 Inspection-Airport Basic Maintenance Scoring	
No Basic Maintenance 5010 Repeat Discrepancies	15
2 or Less Basic Maintenance Repeat Discrepancies	7
More than 2 Basic Maintenance Repeat Discrepancies	0
5010 Inspection-Airport Self-Inspection Scoring	
Daily Pavement Inspections (Documented)	20
3 Times per week Pavement Inspections (Documented)	15
Monthly Pavement Inspections (Documented)	10
Annual Pavement Inspections (Documented)	5
No Pavement Inspections (Documented)	0

5010 Inspection-Maintenance Items Repaired Scoring	
Maintenance Discrepancy Items Repaired within required time frame	20
Maintenance Discrepancy Items Repaired outside of time frame	10
Maintenance Discrepancy Items Not Repaired	0
Louisiana Aviation System Plan Standards	Points
Improves LASP Performance Measure	10
Meets LASP Standard Performance Measure	3
Airport CIP and Planning Sustainability	Points
CIP Consistency Maintained-Airport Project Adheres to 3 Year Planning Cycle*	15
*Planning cycle shall be verified and certified by DOTD to award points in this category to an airport project application.	

D. Exhibit 4

Exhibit 4	
Category IV—Special Considerations	Points
Designated as Special Program*	15
Economic Development Potential**	10
Airport Sponsor Local Funding Contribution ***	1-59
General Aviation Airport Certification Program****	0-30
*Special Program—Certain types of projects mandated by Federal or State law or identified in a policy decision by DOTD. For example, if the EPA requires a certain kind of wash down facility, it could be given added priority with bonus points. DOTD may place emphasis on a particular type of project, e.g., hazard removal around the state, subsequent phase of a project continuation, project supported and encouraged by the Louisiana Airport System Plan, these types of projects could receive Special Program points.	
**Economic Development—Clearly demonstrated impact on economic development in an industrial airpark or around the airport locale. For example, a taxiway to open industrial airpark access would get bonus points, but a taxiway to a T-Hangar area would not. A runway project to accommodate corporate aircraft would need to be thoroughly documented that it was a major factor in the location of the business. To receive bonus points in this category an economic impact study may be required, the cost of which is the responsibility of the airport owner.	
***Airport Sponsor Local Funding Contribution- Airport Sponsors that clearly demonstrate their intention of providing local financial support for a project through documentation via a resolution shall receive incentive points toward a single project request in accordance with the following criteria: For every percent that an airport sponsor contributes to the total amount of the project (including all phases of the project) in accordance with the airport construction and development priority program, 1 point will be awarded for percentages between .02 percent - .08 percent and will be calculated as 0.2 percent = 1 point; 0.4 percent = 2 points; 0.6 percent = 3 points; 0.8 percent = 4 points; For every percentage point from 1 percent to 50 percent, beginning at 1 percent = 10 points and 1 point thereafter will be awarded for each percentage. For example—if an airport is requesting a \$500,000 total project, and contributes 0.6 percent or (\$3,000), then the project will be awarded 3 points toward the total project score. Another example is, if an airport is requesting a \$500,000 project and contributes 12 percent (\$60,000), then the project will be awarded 21 points toward the total project score.	
****Airports that elect to and are approved to participate in the GAAC Pilot Program will be eligible for points awarded under this category in accordance with the GAAC Pilot Program.	

E. Exhibit 5

Project Priority Evaluation Worksheet	
Project Number*	Date Evaluated
Airport Name	
Description of Work	
Category I: Project Type	Score
Safety	
Airside Preservation	
Airside Improvements	

Project Priority Evaluation Worksheet	
Landside Improvements	
	Total
Category II: Facility Score	
Based Aircraft	
Based Aircraft Type	
Airport Operations	
Airport Grant Performance	
Airport Sponsor Responsiveness Management	
	Total
Category III: Airport Sponsor Responsibility	
Height Limitation Zoning	
Land Use Zoning	
5010 / Safety Inspection	
Louisiana Aviation System Plan Standards	
	Total
Category IV: Special Considerations	
Special Program	
Economic Development	
Commercial Service	
Airport Sponsor Local Funding Contribution	
General Aviation Airport Certification Program	
	Total
Project Total Evaluation Score	Total

F. Exhibit 6

Louisiana Airport Construction and Development Priority Program Project Application Form		
Airport Sponsor: Airport: No. and Street/P.O. Box: City, State, Zip Code:		
Project Title/Description	Funding Year Requested:	
(As listed on CIP)	(As listed on the CIP)	
Project Scope and Justification		
(Provide detailed explanation documenting the need and how the project meets the need. (Refer to Louisiana Administrative Code Title 70, Part IX § 315.C for additional guidance.)		
Estimated Project Cost (If applicable, attach a detailed construction cost estimate)		
Classification	Estimated Cost	
Administrative Expenses	\$	
Land Acquisition Cost	\$	
Engineering Fees	\$	
Survey	\$	
Geotechnical	\$	
Estimated Construction Cost	\$	
Construction Inspection	\$	
Construction Administration Fees	\$	
Construction Testing	\$	
Equipment Purchase Cost	\$	
Other: (define)	\$	
Other: (define)	\$	
Total Estimated Project Cost	\$	
Funding Sources		
Source	percent Contribution	Funds
Federal Funds		\$
State Funds		\$
Local Contribution		\$
Other: (define)		\$
Total Estimated Project Cost		\$

Louisiana Airport Construction and Development Priority Program Project Application Form
Attach the Following: (as identified in LAC 70:IX.307 and 315)
Sketch of Project(s) on the airport's approved Airport Layout Plan Any additional information necessary for prioritization, i.e., Detailed Construction Cost Estimate, Resolution for Local Funds Contribution, Additional Documentation providing Justification for the Project, Environmental Clearance Documentation.

AUTHORITY NOTE: Promulgated in accordance with SCR 67 (1997) and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1515 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:528 (March 2007), repromulgated by the Department of Transportation and Development, Aviation Section, LR 39:113 (January 2013), amended by the Department of Transportation and Development, Intermodal Transportation Division, Aviation Section, LR 42:761 (May 2016), LR 49:

Chapter 5. Airport Project and Grant Management Procedures

§501. Introduction

A. Pursuant to Title 2 of the Louisiana Revised Statutes, the Louisiana Department of Transportation and Development, specifically the Aviation Division, hereafter DOTD, manages and administers the airport project process and grant award procedures.

AUTHORITY NOTE: Promulgated in accordance with SCR 67 (1997) and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 49:

§503. Airport Project Grant Application

A. Application Requirements. Airport sponsors shall submit an Airport Project Grant Application to DOTD for review and funding protocol, upon request, notification of Airport Construction and Development Priority Program approval, or otherwise in accordance with the Louisiana Aviation Program. The grant application shall be executed and approved by the airport sponsor or the authorized designee. The authorized designee shall not be the airport's engineer or consultant. Additionally, an airport's engineer or consultant may not execute the grant application on the airport's behalf.

AUTHORITY NOTE; Promulgated in accordance with SCR 67 (1997) and R.S. 2:6.

HISTORICAL NOTE; Promulgated by the Department of Transportation and Development, Division of Aviation, LR 49:

§505. Grant Awards

A. Upon receipt and successful review of the airport's grant application, DOTD will develop and transmit an eligible grant award through a Sponsor State Agreement to the airport sponsor for the DOTD approved funding amount for the project. The grant shall be fully executed with the airport sponsor official's authorized signature. A fully executed grant resolution passed by the airport sponsor authorizing the execution of the grant shall be attached when the grant is returned to DOTD. DOTD may furnish a grant resolution or an airport sponsor may elect to use its own grant resolution. The airport sponsor may download a grant resolution form from the DOTD website to adhere to the minimum required language. If the airport sponsor elects to use its own grant resolution, the minimum resolution language required by DOTD shall be included. An

incomplete grant resolution or incomplete grant document shall not be processed by DOTD. The grant document and/or grant resolution may be returned to the airport sponsor for correction or full execution before processing.

B. Grant resolutions executed to authorize a grant award shall be dated within one calendar year from the date of the executed grant award.

AUTHORITY NOTE; Promulgated in accordance with SCR 67 (1997) and R.S. 2:6.

HISTORICAL NOTE; Promulgated by the Department of Transportation and Development, Division of Aviation, LR 49:

§507. Project Contracts

A. Within 15 business days, the airport sponsor shall notify DOTD of any legal disputes or contract breaches on any projects that have state funds allocated to them through the Airport Construction and Development Priority Program.

B. DOTD's participation in the project shall in no way be construed to make DOTD a party to any contractual agreements between the airport sponsor and its consultants, engineers, contractors, or any other local binding agreements.

C. The sponsor is responsible for assuring all necessary surveys, engineering reports, plans, specifications and cost estimates for the project are in accordance with the applicable FAA/DOTD requirements, and the sponsor shall submit one copy of the executed engineering service agreement to DOTD along with Sponsor Certification #1.

D. It is the policy of the U.S. Department of Transportation that small business firms owned and controlled by socially and economically disadvantaged persons and other persons defined as eligible in Title 49 Code of Federal Regulations, Part 26 (49 CFR 26) shall have maximum opportunity to participate in the performance of contracts financed in whole or in part with federal funds.

AUTHORITY NOTE; Promulgated in accordance with SCR 67 (1997) and R.S. 2:6.

HISTORICAL NOTE; Promulgated by the Department of Transportation and Development, Division of Aviation, LR 48

§509. Payments and Reimbursements

A. The airport sponsor shall submit the request for reimbursement to the DOTD. The request shall only be submitted for work that has been completed and eligible expenses incurred that have been paid in full by the airport sponsor. The request for reimbursement shall not exceed one submittal per month. All payment request amounts shall be submitted to ensure all amounts and information are within the limits of the Airport Construction and Development Priority Program, as approved by the Legislature for the program.

B. The airport sponsor shall maintain invoices and copies of the checks for invoice payments for reimbursement by DOTD. Both the engineer and the airport sponsor shall certify that the completed work shown on each payment request is an accurate representation of the work accomplished during the estimated period and that the work substantially complies with the plans and specifications. All charges shall be subject to verification, adjustment, and/or settlement by DOTD. The airport sponsor shall withhold retainage in accordance with state law (e.g., 10 percent up to \$500,000 and 5 percent thereafter).

C. The airport sponsor shall reimburse all amounts cited by DOTD due to the airport sponsor's non-compliance with federal laws, state laws, regulations and policies. The cited

amounts reimbursed by the airport sponsor shall be returned to the airport sponsor upon clearance of the citation(s). No new projects will be approved until the cited amount is reimbursed to DOTD, or the citation is cleared.

AUTHORITY NOTE; Promulgated in accordance with SCR 67 (1997) and R.S. 2:6.

HISTORICAL NOTE; Promulgated by the Department of Transportation and Development, Division of Aviation, LR 49:

§511. Project Completion and Close Out

A. The airport sponsor shall submit all final billings for all phases of work within three months after the final inspection of the project, unless prior arrangements have been made with DOTD. Failure to submit these billings prior to the completion of this three-month period shall result in the project being closed on previously billed amounts, and any unbilled cost shall be the responsibility of the airport sponsor.

B. DOTD will not approve the Sponsor's request for the final reimbursement until each of the below items are received and are satisfactorily completed.

1. Within 45 days after recording the final acceptance of the project, the contractor shall submit to the sponsor a clear lien certificate from the recorder's office of the parish or parishes in which the work was performed. If the contractor is unable to obtain a clear lien certificate, the sponsor may deposit the retainage with a court of competent jurisdiction.

2. Upon successful completion of the project, the airport sponsor shall submit to DOTD the following information in Airport Construction and Development Priority Program:

- a. the airport sponsor letter of acceptance;
- b. a final reimbursement request;
- c. an updated airport layout plan (ALP), if applicable;
- d. as-built construction plans and specifications;
- e. the final quantities including any changes; and
- f. airport sponsor certifications.

3. Upon successful completion of pavements projects, the airport sponsor shall submit to DOTD close out documents, including but not limited to the title page, project overview/layout page, the quantities page (used to identify material specifications if not in the cross section information), demolition plan, the typical cross-section page, the paving/geometry page, and joint layout/details page (if applicable).

C. The sponsor and others employed by it in connection with an airport project of which DOTD funds are allocated shall maintain all books, documents, papers, accounting records and any other evidence pertaining to costs incurred relative to this project. They shall keep such material available at their respective offices at all times during the contract period and for three years from the date of final payment for the project. Additionally, all such materials shall be available for inspection by DOTD, the Legislative Auditor, the FAA, or any authorized representative of the federal government under applicable state and federal regulations, at all reasonable times during the contract period and for three years from the date of final payment.

D. The project overrun funding eligibility shall not exceed fifteen percent of the original grant amount. The airport sponsor does not have to obtain prior DOTD

concurrence for contract changes. If an airport sponsor proceeds with a contract change it is at the airport sponsor's own risk. However, if the airport sponsor has requested prior DOTD concurrence, this shall not indicate any commitment or guarantee of funding reimbursement, nor shall it delay or affect any contractual workday obligations during DOTD review of the proposed contract changes. Further, a subsequent review by DOTD of the contract changes completed by the airport sponsor may be necessary, and may result in a finding that the costs in the contract change cannot be funded under a state grant. Airport sponsors have the option to request DOTD review and concurrence of any contract changes; however, any funding determinations and grant amendments may not be processed until the end of the state fiscal year.

E. The airport sponsor may request a grant amendment in writing from DOTD. The grant amendment request shall include the following:

1. a cost analysis for all change orders and contract modifications.
2. all change orders and contract modifications;
3. justification for the change/amendment;
4. an executed change order form signed by the airport sponsor;
5. any other support documentation requested by DOTD.

F. Airport grant amendments shall be in accordance with the Airport Project and Grant Management Procedures or this section. For airport development projects, the total grant amendments shall not exceed fifteen percent of the original grant amount.

G. The airport sponsor shall assume ownership of the improvements and assume all operations and maintenance costs of the facilities or improvements for a period of not less than twenty years.

AUTHORITY NOTE; Promulgated in accordance with SCR 67 (1997) and R.S. 2:6.

HISTORICAL NOTE; Promulgated by the Department of Transportation and Development, Division of Aviation, LR 48

§513. Violation; Cancellation of Grant

A. Airport grant awards may be terminated under the following conditions:

1. by the mutual agreement and consent of DOTD and the airport sponsor.
2. by the airport sponsor, should they desire to cancel the project, up to the receipt of bids, provided that any costs incurred for the preparation of plans shall not be eligible for reimbursement by DOTD.
3. by DOTD, due to lack of available state funding for the projects.
4. by DOTD, if the airport sponsor does not transmit an executed agreement within twelve calendar months.
5. by DOTD, if the grant has no activity within 12 calendar months.
6. upon review by DOTD, if the airport is officially declared in noncompliance with federal or state laws, regulations, rules, or policies by the FAA, the Louisiana Legislative Auditor, or DOTD.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and R.S. 2:807.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 49:

Chapter 7. Unmanned Aircraft Systems (UAS) Program

§701. Introduction

A. Program Intent. The intent of the program is to manage the Unmanned Aerial Systems (UAS) Program for the Louisiana Department of Transportation and Development, and to stimulate innovation and provide efficiencies for project delivery and program development. The Louisiana Department of Transportation and Development, Aviation Division, hereinafter referred to as (DOTD), will foster UAS operational safety and protect the health and safety of persons and property of the citizens of Louisiana and those engaged in UAS operations. Further, the program will promote UAS statewide, assist with inspection of facilities, and provide guidance for operational safety protocols to local governments, which operate their own UAS equipment.

B. Definitions

Unmanned Aircraft System (UAS)—unmanned aircraft and its associated elements (including communications links and the components that control the small-unmanned aircraft) that are required for the safe and efficient operation of the unmanned aircraft in the national airspace system.

Unmanned Aircraft Vehicle (UAV)—aircraft operated without the possibility of direct human intervention from within or on the aircraft.

C. Purpose. The primary role of the UAS Program is to obtain terrestrial imagery of the state's infrastructure to inform various workflows within the Department.

D. Flight/Mission Request Procedures. A request may be submitted to the UAS Program through the online "Drone Flight Request" Form or the UAS Program GIS Portal.

1. The link to the online Drone Flight Request Form and the UAS Program GIS Portal may be found on the Drone's and Unmanned Aircraft System's (UAS) area of the DOTD Aviation Website.

2. Flight information to be submitted shall include:

- a. name;
- b. agency/section;
- c. contact information;
- d. date/time/location;
- e. expected deliverables;
- f. mission description;
- g. special areas of concern; and
- h. an area map.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:2 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 49:

Family Impact Statement

Adoption of this proposed Rule should not have any known or foreseeable adverse impact on any family as defined by R.S. 49:972(D) or on family formation, stability, and autonomy. Specifically:

1. The adoption of this proposed Rule will have no known or foreseeable effect on the stability of the family.

2. The adoption of this proposed Rule will have no known or foreseeable effect on the authority and rights of parents regarding the education and supervision of their children.

3. The adoption of this proposed Rule will have no known or foreseeable effect on the functioning of the family.

4. The adoption of this proposed Rule will have no known or foreseeable adverse effect on the family earnings and family budget.

5. The adoption of this proposed Rule will have no known or foreseeable effect on the behavior and personal responsibility of children.

6. The adoption of this proposed Rule will have no known or foreseeable effect on the ability of the family or local government to perform this function.

Poverty Impact Statement

The adoption of this proposed Rule should not have any known or foreseeable adverse impact on child, individual, or family poverty in relation to individual or community asset development as defined by R.S. 49:973. Specifically,

1. The adoption of this proposed Rule will have no known or foreseeable adverse effect on household income, assets, and financial security.

2. The adoption of this proposed Rule will have no known or foreseeable adverse effect on early childhood development and preschool through postsecondary education development.

3. The adoption of this proposed Rule will have no known or foreseeable adverse effect on employment and workforce development.

4. The adoption of this proposed Rule will have no known or foreseeable effect on taxes and tax credits.

5. The adoption of this proposed Rule will have no known or foreseeable effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

The impact of the adoption of this proposed Rule on small businesses, as defined in the Regulatory Flexibility Act, has been considered. The proposed Rule is not expected to have a significant adverse impact on small businesses. The department, 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 the proposed statutes while minimizing the adverse impact of the Rule on small businesses.

Provider Impact Statement

The adoption of this proposed rule change does not have any known or foreseeable impact on a provider as defined by House Concurrent Resolution No. 170 of the 2014 Regular Session of the Louisiana State Legislature. Specifically:

1. The adoption of this proposed Rule change does not have any known or foreseeable impact on the staffing level requirements or qualifications required to provide the same level of service.

2. The adoption of this proposed Rule change does not have any known or foreseeable impact on the total direct and indirect effect on the cost to a provider to provide the same levels of service.

3. The adoption of this proposed Rule change does not have any known or foreseeable impact on the overall effect on the ability of a provider to provide the same level of service.

Public Comments

All interested persons so desiring shall submit oral or written data, views, comments, or arguments no later than 20 days from the date of publication of this notice of intent to

Department of Transportation and Development
Office of Multimodal Commerce

Eric Kalivoda
Secretary

Louisiana Port Construction and Development
Priority Program (LAC 56:III.Chapter 21)

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Intermodal Transportation**

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

The only estimated cost for implementation is \$1,300, which accounts for the cost to publish the Notice of Intent and the Rules in the State Register. The proposed rule changes will update technical wording, airport project priority program processes and procedures, basic airport project applications and grant application procedures to more closely mirror the Federal Aviation Administration. This will allow airports to update their project applications on file with the state to ensure efficient and effective requested projects for inclusion in the Airport Construction and Development Priority Program and will ensure that the projects submitted are scored accurately by the Department. The revisions propose language and guidance for the development and implementation of new airports and documentation that the airport program will need to receive in determining and prioritizing future project applications for these public airports. The proposed revisions will continue the implementation of a prioritized project list in accordance with state statutes that will assist in maintaining, developing, and improving the Louisiana airport system to ensure a state of good repair and optimize the usage and efficiency of transportation facilities and funding. Further, the program shall foster operational safety and provide for the optimal use and efficiency of existing transportation facilities and funding strategies. Moreover, it may support resiliency in the transportation system and promote diverse economic development and job growth, commerce, and tourism. It should also encourage innovation, support environmental practices, and improve the quality of life for Louisiana citizens.

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

The proposed changes should have no impact on revenue collections for state or local government units.

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

The proposed changes should have no costs or economic benefits that will directly affect any individual, small business, or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed change of updating the project priority process, and subsequently the grant execution process for projects through the Airport Construction and Development Priority Program may result in increased economic opportunities for individuals working in fields related to the design, consulting, construction and maintenance of aviation facilities statewide.

Eric Kalivoda
Secretary
2304#018

Evan Brasseaux
Interim Deputy Fiscal Officer
Legislative Fiscal Office

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 34:3451, et seq., that the Department of Transportation and Development, Office of Multimodal Commerce, Ports and Waterways Section, proposes to amend Part III, Chapter 21, Title 56 entitled "Louisiana Port Construction and Development Priority Program", to reflect current DOTD policies, update data from the U.S. Department of Labor, and revise outdated tables and figures. There should be no significant adverse impact to the public, businesses, local or state governmental entities resulting from this amendment.

Title 56

PUBLIC WORKS

Part III. Flood Control and Water Management

Subpart 2. Port Construction and Development Priority Program

Chapter 21. Louisiana Port Construction and Development Priority Program

§2101. Definitions

[Formerly §2103]

Committee—Joint Legislative Committee on Transportation, Highways and Public Works.

Council—Legislative Audit Advisory Council.

Deep Draft Port—a port capable of accommodating vessels of at least 25 feet of draft and of engaging in foreign commerce.

Department—the Louisiana Department of Transportation and Development.

Joint Legislative Committee—see Committee.

Port—a harbor town or city where ships may take on or discharge cargo.

Port Authority—the governing body of any port area or port, harbor, and terminal district.

Procedural Manual—a manual entitled, Louisiana Port Construction and Development Priority Program Procedural Manual for Funded Projects, which is used to implement projects funded by the program.

Program—Louisiana Port Construction and Development Priority Program.

Project—that activity that derives benefits to the state after an investment of program and port funds. The port funds may include federal monies.

Project Agreement—the agreement between the department and port authority that states the authorities and responsibilities of each party in implementing a project that is funded in part by the Louisiana Port Construction and Development Program. The format is as shown in the procedural manual.

Shallow Draft Port—a port that is not capable of accommodating vessels of 25 feet of draft or is not engaged in foreign commerce.

Total Project—that activity that derives benefits to the state after an investment of program, port, and other public and private funds.

Transportation Trust Fund—a fund created by a constitutional amendment passed by the voters on October 7, 1989 which dedicated 16 cents of the gasoline/motor fuel tax to construction and maintenance of state and federal highways and bridges, statewide flood control, ports, airports, transit, state police for traffic control, and parish roads.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:3451-3463.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Flood Control and Water Management, LR 17:274 (March 1991), amended LR 18:750 (July 1992), repromulgated by the Department of Transportation and Development, Office of Public Works, LR 31:942 (April 2005), LR 34:1039 (June 2008), amended by the Department of Transportation and Development, Office of Multimodal Commerce, LR 49:

§2103. Creation of Priority Program [Formerly §2101]

A. Creation of Priority Program

1. The Louisiana Port Construction and Development Priority Program was created by Act 452 of the 1989 Regular Session. Before this program, the state funded ports projects through the Capital Outlay Program without requiring any feasibility studies. From 1977 to 1984 Louisiana expended more funds for ports than any other state in the union. For this period Louisiana spent \$25,985,000 on shallow draft ports and \$173,424,000 on deep draft ports for a total of \$199,409,000.¹

2. The creation of the Port Construction and Development Priority Program changed the method by which Louisiana participated in port improvements. The feasibility of proposed port projects must now be determined and the projects must be prioritized. The source of state funds for the Louisiana Port Construction and Development Priority Program is the Transportation Trust Fund. Revenue accrues to the Transportation Trust Fund through the collection of taxes placed on the sale of gasoline.

3. In general, the purpose of a priority program is to disburse funds to projects that have the highest prospects of success as determined by objective standards such as technical and financial feasibility and overall impacts. A priority program also defines the standards by which these projects are evaluated and provides the mechanisms to conduct the evaluation according to an accepted methodology. Moreover, a priority program's application process may serve as a means to determine whether proposed projects are even eligible for funding under the program as well as provide the basis for maintaining a current inventory of facilities that can be used for future purposes.

4. The components of a typical priority program includes legislative authorization, a set of rules and regulations governing the program's implementation, an application process, an evaluation procedure, a prioritization of projects, funding, and finally implementation.

5. With regard to Louisiana's port priority program, many of the overall requirements and procedures are similar to other priority programs. However, Louisiana's program specifically emphasizes the need of equitable rationalization

of state expenditures in order to avoid duplication of port infrastructure. In addition, because ports are dynamic economic entities, Louisiana's port priority program provides for rigorous analysis of forecasted project benefits in order to ensure the overall impact of the project on the state will be positive, providing maximum benefits for the state. Finally, because effective project implementation is as important to the success of the program as project prioritization, the Louisiana port priority program stipulates strict procedures for the planning and construction of funded projects as well as the operation of maintenance of the completed project.

B. Port Project Evaluation Methodology

1. R.S. 34:3451 et seq., requires that the Department of Transportation and Development (department) develop procedures for review and a methodology to evaluate port projects which are seeking state funds.

2. Procedures to review and evaluate port project applications for funding shall be submitted to the Joint Legislative Committee on Transportation, Highways and Public Works. Before implementing these procedures, the approval of the committee shall be obtained in accordance with the Administrative Procedure Act.

3. The department may contract with the Louisiana State University National Ports and Waterways Institute for any of the duties associated with the development of the port priority program. These activities may include but are not limited to the development, review, and evaluation of plans and specifications and the development of the port program list. However, the final determination of the port priority list shall remain with the department and the Joint Legislative Committee as provided by Act 452.

4. An inventory of ports, navigable waterways, and water transportation facilities shall be maintained. Both private and public facilities shall be included. Information such as location, capacities, and capabilities shall be included. The department shall also serve as a clearinghouse for inquiries for ports and waterways information.

5. Each year, the department shall prepare a summary report of financial requirements for expanding or renovating existing ports and waterways facilities and constructing new ones. The financial requirements shall be separated into state, federal, local and private funds required.

C. Program Procedures

1. Any port authority may submit an application for funding to the department except as provided below. Applications shall be submitted by the first of March, June, September and December of each calendar year for consideration in the following fiscal year. The application shall include a description of the project, demonstration of immediate need, preliminary design, cost estimate, and a description of the project area.

2. Except as provided herein, port authorities cannot submit an application if any of the following are true.

a. On the recommended construction program, the port authority has a balance of Louisiana's funding share equal to or more than the single project maximum legislative funding authority established by the department.

b. The application to be submitted will cause the port authority to have a balance of Louisiana's funding share greater than the single project maximum legislative funding authority established by the department.

c. The port authority has a project that may be canceled under the Section on distribution of funds.

3. If a port authority or its application meets one of the aforementioned factors, it may submit an informal application by December 1 and request that it be reviewed and evaluated in the event that the department has not received sufficient project applications to meet the estimated funding level for the fiscal year. Projects submitted under this provision will receive a lesser priority than other projects on the list. If more than one port authority submits an application under this provision, then the applications that were submitted as informal with the highest evaluation scored will be recommended in their order of score until the estimated funding level has been met. The remaining applications will not be eligible for the Recommended Construction Program.

4. The Louisiana Department of Transportation and Development shall review the applications. Applications shall not be subjected to a formal review and evaluation until the information required in the application has been submitted. Applications shall also be reviewed by any appropriate state agencies.

5. The act provides for the submittal of a list of recommended projects in prioritized order to the Joint Legislative Committee. The committee will hold public hearings to obtain public input concerning the priority list. After the hearings and before the convening of the regular session, the department shall prepare a recommended construction program for the coming fiscal year and submit it to the joint legislative committee. When the recommended construction program is presented to the legislature for funding, the legislature cannot add any projects to the program.

6. Upon funding by the legislature, the department shall enter into an agreement with the port authority to participate in the construction of the project. The port authority shall provide 10 percent local match for the cost of constructing the project, and shall furnish all lands, easements, rights-of-ways, and spoil disposal areas at no cost to the state unless said items are critical to the project. The port authority also shall operate and maintain the facility without cost to the state.

7. Port authorities domiciled in a parish with a population of 50,000 or more shall be responsible for the preparation of plans and specifications, for letting of bids for construction, and for construction observation. Port authorities domiciled in a parish with a population less than 50,000 may request the department to prepare plans and specifications, to let the project for bids, and to observe construction. The engineer that prepared the plans will inspect the work and certify that the project complies with the plans and specifications upon completion.

a. Applications/projects shall conform to all local ordinances and requirements for Disadvantaged Veteran-owned/Women-owned Business Enterprises (DBE) set forth by local, regional, and State political subdivisions.

8. All contracts for construction shall be advertised and awarded in accordance with R.S. 38:2212 et seq.

9. Projects which are funded by this program shall begin in the fiscal year that the appropriation is made. Execution of an agreement with the department and receipt of preliminary plans by the department shall indicate that the

project has begun. These preliminary construction plans differ from the plans submitted in the application in that they are more advanced.

D. Auditing Funds. Funds shall be audited biannually by legislative auditor or certified public accountant in accordance with R.S. 24:513(A) and distributed in accordance with R.S. 24:516(A). The audit shall include an investigation of any failure to comply with the recommendations of the department in planning, design, and construction of the port project. Port authorities shall certify annually that the funds made available have been expended according to law.

E. Misuse of Funds. The legislative auditor shall report any misuse of funds to the Legislative Audit Advisory Council. The council shall determine if in fact funds have been misused. If funds have been misused, the council will instruct the state treasurer to suspend the distribution of funds. The council shall also advise the local district attorney of the misuse. The district attorney will take appropriate actions.

¹Port and Waterways Institute, Louisiana Statewide Ports Assessment, 2 vols., (Baton Rouge: Louisiana State University, 1986), 11, 88.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:3451-3463.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Flood Control and Water Management, LR 17:274 (March 1991), amended LR 18:749 (July 1992), repromulgated by the Department of Transportation and Development, Office of Public Works, LR 31:942 (April 2005), LR 34:1040 (June 2008), amended by the Department of Transportation and Development, Office of Multimodal Commerce, LR 49:

§2105. Program Procedures

A. Application

1. Any Louisiana port authority may submit an application for funding to the department, except as provided below. Applications may be submitted on a quarterly basis to the department no later than the first of March, June, September and December of each calendar year for consideration of funding or funding obligation authority in the following fiscal years. The application shall include a description of the project, demonstration of immediate need, benefits to be derived, preliminary design, cost estimate, and a description of the project area.

2. Except as provided herein, port authorities cannot submit an application if any of the following are true.

a. On the recommended construction program, the port authority has a balance of Louisiana's funding share equal to or more than the single project maximum Legislative Funding Authority established by the department.

b. The application to be submitted will cause the port authority to have a balance of Louisiana's funding share greater than the single project maximum Legislative Funding Authority established by the department.

c. The port authority has a project that may be canceled under the Section on distribution of funds.

3. If a port authority or its application meets one of the aforementioned factors, it may submit an informal application by December 1 and request that it be reviewed and evaluated in the event that the department has not

received sufficient project applications to meet the estimated funding level for the fiscal year. Projects submitted under this provision will receive a lesser priority than other projects on the list. If more than one port authority submits an application under this provision, then the applications that were submitted as informal with the highest evaluation scores will be recommended in their order of score until the estimated funding level has been met. The remaining applications will not be eligible for the Recommended Construction Program.

B. Review and Evaluation of Applications. The Louisiana Department of Transportation and Development shall review the applications. Only applications which are complete, as determined by the department, shall be reviewed and evaluated. Applications shall also be reviewed by any appropriate state agencies.

C. List of Recommended Projects and Public Hearings

1. After receipt of applications by the department, the applications shall be reviewed. Only applications which are complete shall be evaluated and prioritized. Each quarter the department shall prepare furnish a prioritized list of projects, based on the applications received for that quarter, to the Joint Legislative Committee. Only projects that have met all program requirements as described herein under "Program Requirements" will be recommended. Multi-year projects that have been partially funded by the program shall receive higher priority than new projects in the next funding cycle. The Joint Legislative Committee will receive the prioritized list of projects from the department for each of the first three quarters of the year and shall call a public hearing within 30 days of receiving the list in order to receive public testimony regarding any project on the list. At such hearing, the joint committee will vote to accept, reject or modify the list. Each quarter, the department shall reprioritize the list of projects to reflect the cumulative list of projects recommended by the department.

2. After application recommendations for the last quarter are made, the department shall submit the final Port Construction and Development Priority Program to the joint committee for approval. Multi-year projects that have been funded by the program shall receive higher priority than new projects.

3. Prior to the convening of the regular session of the legislature, the Joint Legislative Committee shall hold a public hearing for the purpose of reviewing the final program for the ensuing fiscal year. Prior to such hearing, the department shall publish the appropriate official notice in the necessary journals. Projects recommended but not funded will be included in the list of recommended projects for the following year and will receive priority over newly funded projects.

D. Construction Program

1. After reviewing the public input, the Joint Legislative Committee shall recommend to the legislature a construction program prepared by the department from the list of recommended projects. Projects recommended but not funded will be included in the list of recommended projects for the following year. If a recommended project remains unfunded after four years and has not begun construction under the reimbursement provisions set forth in the Section

on "reimbursement" and the port authority still desires to proceed with the project, a new application will be required.

E. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:3451-3463.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Flood Control and Water Management, LR 16:695 (August 1990), amended LR 18:751 (July 1992), repromulgated by the Department of Transportation and Development, Office of Public Works, LR 31:942 (April 2005), amended LR 34:1041 (June 2008), amended by the Department of Transportation and Development, Office of Multimodal Commerce, LR 49:

§2107. Program Requirements

A. General Requirements. In order for the department to be able to adequately assess the merits of the proposed project, applications must be complete and verifiable. The responsibility to provide complete, accurate, and documented data on each project, as defined herein, rests solely with the port authority submitting the applications for funding.

B. Specific Requirements

1. Project and Total Project

a. For purposes of this program, a "project" is that activity that derives benefits to the state after an investment of program and port funds. "Project" refers to that portion of the total project for which the port is seeking program funds from the department. The amount of program funds required is used in calculating the cost benefit ratio which is used for ranking projects.

b. The "total project" is that activity that derives benefits to the state after an investment of program, port and other public and private funds and its cost is used to determine if the requirement for a minimum cost benefit ratio of one is met except as provided herein in references to benefit-cost ratio for projects with a private investment equal to or greater than the program share. The "total project" includes all improvements that are necessary for both the public and private sectors in order to derive the benefits identified in the application.

2. Local Match

a. Each port authority shall provide a local match of at least 10 percent of the cost of constructing the project. Funds obtained from federal or other non-state sources (i.e., private donations) may be used for the local match. State funds cannot be used as local matching funds. Prior to advertisement for bids, verifiable evidence shall be submitted indicating that all non-program funds are in hand or are readily available.

b. A port authority may provide a local match greater than 10 percent. Since the state's investment is the cost in calculating the benefit-cost ratio, the cost/benefit will be greater if the port elects to provide a larger local match. A higher cost/benefit will result in a higher evaluation score.

3. Land Acquisition

a. Land acquisition shall be eligible for funding only when in the judgment of the department it is an integral component of a project and critical to its development. Land acquisition that is not a critical component of a project or that is intended to be used for future expansion of port

facilities is not eligible for funding. An application must be developed which presents costs, benefits and other data for the total project.

4. Port-Owned or Public Land

a. Port improvements funded through the Port Construction and Development Priority Program shall be built, installed, and/or implemented only on port-owned lands or public lands. Public lands are lands owned by public organizations which are authorized by law to perform governmental functions.

b. Prior to advertisement for bids, port authorities shall submit verifiable evidence that they either own the land or they have entered into an agreement with the public body that owns the land.

5. Number of Applications. An application shall be prepared for each project. If a port authority submits more than one application in a given quarter, the port authority shall prioritize them for review purposes. The top priority project shall be labeled "Priority One" on the title sheet of the application. The next priority project shall be labeled "Priority Two", etc. Due to time constraints and available personnel to evaluate the applications, the department may restrict the evaluation to only the top two priority projects per port in a given application year.

6. Types of Projects. The types of projects that shall be funded by the program shall be limited to the construction, improvement, capital facility rehabilitation, and expansion of publicly-owned port facilities including intermodal facilities and maritime-related industrial park infrastructure development, such as wharves, cargo handling capital equipment, utilities, railroads, primary access road, and buildings which can be shown to be integral components of any port project submitted for funding.

7. Navigation Projects. Funding from the program will not be integrated with or used for the state sponsorship (state matching basis for federal appropriation) for new construction and/or maintenance dredging on federally authorized navigable waterways.

8. Project Commencement. At the application state, projects must be developed sufficiently to allow them to commence within the fiscal year that they are funded. Execution of the project agreement with the department and receipt of preliminary plans by the department shall constitute commencement. Preliminary plans at this stage must be more advanced than plans submitted with the application. Projects that do not commence within the fiscal year that they are funded will result in forfeiture of program funds.

9. Forfeiture of Program Funds

a. If a port authority does not execute the project agreement furnished by the department and return it to the department within 90 days of being mailed to the port authority, then the state funds authorized from the Port Construction and Development Priority Program may be forfeited.

b. If a project is not commenced within the fiscal year that it is funded, then the state funds authorized by the program may be forfeited. A project is considered to have commenced upon delivering the executed project agreement and the preliminary plans to the department. Preliminary plans submitted with the application shall not meet this requirement.

c. If a project is canceled due to not beginning construction within the time frames provided for under the Section on distribution of funds, program funds may be forfeited. Projects which are canceled and program funds forfeited in this manner shall be treated in accordance with the provisions of R.S. 34:3456(A).

d. Advertising a project for bids to construct the project prior to obtaining written notice from the department may result in forfeiture of program funds.

10. Selling Lands, Facilities, or Equipment. Should a port authority sell or dispose of any facilities or equipment, that have been funded in part by the Port Construction and Development Priority Program, the port authority shall reimburse the department for the percentage of project life remaining at the time of the sale. The project life shall be 20 years for structures and 10 years for equipment unless a different period of time is specified in the evaluation of the project. If the land obtained through the program funds is sold at any time DOTD shall be reimbursed at one hundred percent of the original funds dispersed for the purchase of the land including change orders unless the land is transferred to another Public Port subject to the Port Construction and Development Priority Program Rules and Regulations.

11. Maintenance. The port authority is responsible for maintenance and will structure its revenue rates to adequately fund maintenance costs. The port authority may execute an agreement with a tenant providing for maintenance of the project to be funded by the tenant. If such an agreement is executed, then the expenses used for the evaluation of the project will be reduced as explained herein in the Section entitled "Minimum Return on the State's Investment."

12. Discount Rate. The discount rate used in the evaluation process shall be based on the interest rate paid on 20-year U.S. Treasury Inflation Protected Securities (TIPS) which is currently 2.375. The rate will be evaluated every two years and may be adjusted by agreement between the department and the Ports Association of Louisiana (PAL). The adjusted rate will be available from the department upon request.

13. Minimum Return on State's Investment. The minimum rate of return for the state's investment shall be the discount rate as stated herein. This evaluation shall be based on no growth. In calculating the rate of return for this criteria, the cost shall be the total program funds invested. The benefits for this calculation shall be the port revenues less expenses associated with the proposed project. Expenses shall include maintenance and expected operational costs. Generally, the minimum allowance for expenses will be no less than the project cost divided by the project life. If the port authority executes a conditional lease with the tenant and the tenant provides all maintenance, then the minimum expense may be one-half of the project cost divided by the project life. Also, see "Private Investment." The evaluation period shall be the life of the project. If the port sells bonds in order to finance all or a portion of the private investment, only revenues in excess of debt service, operating expenses and satisfaction of bond buyer reserve accounts may be used to determine the return on the state's investment. The minimum rate of return is calculated without growth and

without additional inflation. The port should establish its fees based upon inflation and market conditions.

14. Benefit-Cost Ratio. Only projects that have a benefit-cost ratio equal to one or more shall be funded by the Port Construction and Development Priority Program. In calculating the B/C for this criteria, the cost is the total investment, both public and private, required to implement the total project and derive the benefits. For projects that have a private investment that is equal to or greater than the amount of program funds required, the project may be exempted from this requirement. If exempted the project must meet a program benefit-cost ratio equal to one or more. The cost for the program benefit-cost ratio is equal to the amount of program funds required for the project.

15. - 15.a. ...

b. Port authorities that do not comply with this provision will be ineligible to participate in the program until they are determined to be in compliance by the department. The department may audit the reports at program expense.

16. Private Investment. If the private investment exceeds the program investment, then the deduction for expenses may be reduced by the factor derived by dividing the program investment by the private investment. Also, refer to Paragraph 14 "Benefit-Cost Ratio" for possible exemptions to the benefit-cost ratio required for funding.

17. Conditional Projects

a. Projects that meet all of the following conditions may be considered conditional projects:

i. the project must have a total project cost of at least \$15 million;

ii. the private investment must meet or exceed the program share;

iii. the participation of the private sector is contingent upon the availability of program funds, and

iv. the application must demonstrate that all parties worked diligently to submit a complete proposal, but due to factors beyond their control, private sector/local share of funding is not assured.

b. A project that meets the above criteria may be evaluated as having immediate need if all other program requirements are met except the availability of the local and/or private share. If it meets all other requirements and is incorporated into the priority list recommended to the legislature, it will be designated as a conditional project. The sponsor will have 18 months from the date of the letter from the department notifying them of the project's funding to submit documentation that arrangements for the private sector and local share have been finalized. If after 18 months the documentation has not been submitted to and approved by the department, project funding will be withdrawn. If the sponsor desires to seek funding for the project, it will have to submit a new application and compete as a new project. The department may limit funding for these projects to a token amount based on availability of funding.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:3451-3463.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Flood Control and Water Management, LR 18:751 (July 1992), repromulgated by the Department of Transportation and Development, Office of Public Works, LR 31:942 (April 2005), amended LR 34:1042 (June 2008),

amended by the Department of Transportation and Development, Office of Multimodal Commerce, LR 49:

§2109. Application

A. General Instructions

1. Applications may be submitted to the department quarterly no later than the first of March, June, September and December of each calendar year for consideration for funding the following fiscal year. If said day falls on a weekend or holiday, the next working day is the deadline. Contact the Office of Multimodal Commerce for the current address. The application shall be submitted in the format as shown and as follows:

Number of copies: Original and three copies

Time: Before 4 p.m. on the 1st of March, June, September and December

B. Contents. All pages in the application shall be numbered and the application shall be bound. Applications shall be submitted in the following format.

Application Format

All applications submitted for funding through the Port Construction and Development Priority Program shall be prepared in accordance with the following format:

1. Title Page
 - a. Parish
 - b. Project Name
 - c. Priority
 - d. Application Title
 - e. Name of Port Authority
 - f. Legislative Delegation
 - g. Preparer
 - h. Date
2. Description of Proposed Project
 - a. Nature and Goals
 - b. Funds Requested
 - c. Alternatives
 - d. Adequacy of Components
3. Demonstration of Immediate Need for Project
 - a. Cargo History
 - b. Market Analyses
 - i. Extrapolation from Past Trends
 - ii. Diverted Cargo
 - iii. Generated Cargo
 - iv. Origins/Destinations
 - c. Cargo Handling Revenue
 - d. Industrial Development
 - e. Prospective Industrial Tenants
 - f. Letters of Commitment
 - g. Other Factors
4. Preliminary Design, Plans and Cost Estimate
 - a. Design Criteria
 - b. Design Calculations
 - c. Preliminary Construction Plans
 - d. Cost Estimate
 - e. Progress Schedule
5. Determination of Benefits to the State
 - a. Revenues and Expenses
 - b. Number of Jobs
 - c. Payroll Benefits
 - d. Spin-off Benefits of Payroll
 - e. Shipping Costs
 - f. Other Benefits
 - g. Benefits-Costs Tabulation
6. Description of Project Area
7. Impacts of Implementing Proposed Project
8. Master Plan for Port
9. Other Information
 - a. Funding Sources
 - b. Local Share
 - c. Multi-Year Projects
 - d. Permits

Attachments

- A. Resolution
- B. Design Criteria
- C. Design Calculations
- D. Engineering Report
- E. Layout of Existing and Proposed Facilities
- F. Preliminary Construction Plans
- G. Financial Statements
- H. Cargo Tonnage
- I. Port's Master Plan
- J. Commenting Agencies
- K. Other Attachments

1. Title Page. The title page of the application shall be as follows.

a. Parish. In the upper right hand corner of the title page indicate the name of the parish in which the project is proposed to be built.

b. Project Name. Directly below the parish name, enter the project name. The name should have some identifying characteristic of the work that is proposed and should not be an exact duplicate of a project name used in a previous year. If the application is for an extension of a previous project, then the same project name may be used if additional information is incorporated into the name such as Phase 1, Phase 11, etc.

c. Priority. If more than one application is submitted, then indicate the priority directly under the parish. The top priority project should be indicated as "Priority One".

d. Application Title. Approximately one-third from the top of the page and centered place the title, "Application to Louisiana Port Construction and Development Priority Program".

e. Name of Port Authority. In the middle of the page from the top indicate the legal name of the port authority, address, telephone and fax numbers, and authorized representative.

f. Legislative Delegation. In the lower one-third of the page, provide the names and district numbers of the senators and representatives within whose districts the project is proposed.

g. Preparer. If different from the authorized representative, provide the name, address, telephone, and fax number of the person who prepared the application.

h. Date. Centered at the bottom of the page, state the month and year in which the application was submitted.

2. Description of Proposed Project

a. Nature and Goals. Provide a narrative description of the proposed project and the total project. The descriptions are to be in sufficient detail to clearly convey the purpose, design, and major components of the project and the total project.

b. Funds Requested. Indicate the amount of funds needed for the project and the total project. Also show the expected funding sources such as programs, port authority, federal, and other. If the project will be implemented in two years, the amounts needed for each year shall be shown.

c. Alternatives. Discuss alternatives, and state the reason they were not selected. At least one alternative solution shall be discussed and developed in sufficient detail to ensure that the proposed project was selected as the result of an objective analysis. Explain why the proposed project was selected over the alternatives.

d. Adequacy of Components. New port projects often create operational bottlenecks in supporting infrastructure such as access roads, warehouses, and yard spaces. Identify all the components necessary to derive the benefits stated. Go from a logical terminus, through the port to another logical terminus. For example, the discussion of the necessary project components may begin in the gulf, go through the navigational channels to the port, unload at the port, reload at the port onto a railroad car, and from the rail spur to a main line. A trucking operation may terminate at a state highway that is capable of handling the added traffic satisfactorily. Indicate whether these components are existing or proposed. For all existing components, discuss the adequacy of the components. For all proposed components, indicate what is proposed, by whom, when, and what is the estimated cost. Verifying documentation may be included in §2109.B.

3. Demonstration of Immediate Need for Project. Provide a demonstration of the immediate need for the project and supply supporting documentation. This portion of the application is extremely important. Most of the information provided in this section are forecasts and estimates. Therefore, sufficient attention should be given to adequately communicate and document the need for the proposed port project through detailed market analyses and commitments by port users to utilize the expanded project facilities.

a. Cargo History. Indicate the total cargo and revenue cargo that was handled by the port in the last five years. List the cargo by type (bulk, break-bulk, neo-bulk, containers) and volumes. Analyze trends of cargo growth and the underlying reasons. Establish the level of utilization of existing facilities in relation to cargo volumes handles. If congestion was experienced, identify facility bottlenecks and describe how they were overcome. Also indicate the sources of all data.

i. If the project is expected to be leased to a tenant, then the cargo history is for the tenant and not the port. If the tenant has no cargo history or will only move a minimal amount of cargo, the port's history may be listed. However, information regarding both the tenant's business history and their business plan should be included to support the project.

ii. Provide a summary in this section of the application. A detailed list of cargo history shall be provided as Attachment H (see §2109.B).

b. Market Analyses. Forecast the cargo which will use the project for the next 10 years. List the type of cargo and volumes expected, along with the market analysis and estimate of the market share. Cargo forecasts and market analyses have to be complete with detailed underlying assumptions and justifications. If cargo forecasts exceed historical trends, provide justification in terms of significant economic and technological developments occurring in the ports service area. If the port facility expansion is in response to increased demand from new industries locating in the area, these location decisions have to be substantiated by comparative cost analyses. As port projects cover diverse types of investments, it is difficult to provide exact industry norms to cover all situations. Some general guidelines on cargo forecasts are provided in this section. These must be considered as general industry norms. Variation from these

norms must be analyzed and justified. If the project is expected to be leased to a tenant which does not specialize in cargo movement, then the market analyses is for the tenant's business and not the port's cargo. This also applies to the following: extrapolation from past trends, diverted cargo, generated cargo, origins and destinations, and cargo handling revenue.

i. **Extrapolation from Past Trends.** The simplest method of cargo forecasting is to extrapolate from past trends, making whatever adjustments that may be necessary to take into account change that are likely to modify these trends. The Freight Analysis Framework provides growth estimates for the movement of freight by all modes of transportation and commodity type through the year 2050. These growth estimates are to be used to forecast traffic growth unless adequate justification is provided to support any deviation. If a particular commodity is not included, then use the total waterborne commerce trend.

ii. **Diverted Cargo.** Cargo may be diverted to a port facility either from other modes of transportation or from other routes. As cargo diversion can occur due to cost differentials in competing modes or routes, comparative cost studies must be presented to justify these cargo flows. If cargo diversion occurs due to establishment of new industries at the waterfront, these location decisions have to be analyzed and justified.

iii. **Generated Cargo.** New industrial and agricultural developments in an area can increase output and these developments may translate into new traffic. In such cases, these sources must be identified and new cargo must be analyzed in terms of volumes, origins and destinations. The total traffic generated must be distributed to different transport modes based on cost considerations.

iv. **Origins/Destinations.** Identify the major origins, routes, and destinations of the forecasted cargos which will use the project. Indicate what route the goods would move if the project is not built. Would the cargo be routed to another facility at the port, via another port in Louisiana, via a port outside of Louisiana, or via a non-water transport means?

c. **Cargo Handling Revenue.** Once the new cargo has been forecast, the revenue to be derived may be estimated. Use existing port tariff rates to make these estimates.

d. **Industrial Development.** What new industrial development would result from the project; without the project, where would this development otherwise occur?

e. **Prospective Industrial Tenants.** List prospective industrial tenants, indicate if confidential. If tenants are to be located at the waterfront, sufficient reasons have to be provided that such a location is critical to their operations.

f. **Letters of Commitment.** Include letters of commitment from users, indicate if confidential. Discuss whether commitments have already been made in terms of investments and planning and what other assurances (for example, executed lease agreements) are available to the port that the commitments will be met. If the viability of the project depends on these commitments, sensitivity analyses should be conducted to analyze the alternatives available to the port in the event the commitments are not met by the port users. The inclusion of the following types of information into the letter will be useful:

- i. the amount that the user/tenant is willing to pay for use of the project;
- ii. anticipated cargo tonnages;
- iii. number of jobs created/saved by the project;
- iv. amount of investment the user is expecting to make on the project; and
- v. length of time to which the user is willing to commit.

g. **Other Factors.** Discuss other factors that may justify the proposed project.

4. **Preliminary Design, Plans and Cost Estimate.** To further describe the proposed port improvement, provide a brief discussion of the design, preliminary plans, and cost estimate. The level of detail of the design, plans, and cost estimate should be adequate to allow developing final plans in approximately six to eight months since a construction contract should be awarded within one year of project funding.

a. **Design Criteria.** The design criteria needed to obtain the stated benefits are to be submitted as Attachment B (see §2109.B).

b. **Design Calculations.** Design calculations are to be submitted as Attachment C (see §2109.B).

c. **Preliminary Construction Plans.** The plans shall be included as Attachment F (see §2109.B) The level of detail shall be sufficient to conceptually convey the project components and requirements.

d. **Cost Estimate.** The detailed cost estimate for the project shall identify construction costs, land, mitigation, engineering, legal and administration. Recurring maintenance costs shall also be estimated and included in this section. The estimate should also detail the costs of equipment and construction activities to at least the level to allow verification of the estimate. For each component, provide the description, quantity, unit of measure and unit price. Avoid the use of lump sum where possible.

i. In addition to the above, estimates of related investments made by the industrial tenants also have to be included to take into account the cost of the total project. If, for example, an industrial development is anticipated consequent to the project and benefits are claimed, associated costs should also be included as total project costs. The estimate should be of similar detail to that required for the portion of the project to be funded by the program.

e. **Progress Schedule.** Provide an anticipated progress schedule for plan preparation and construction of the project, by phases if applicable. Indicate the beginning and ending dates for both.

5. Determination of Benefits to the State

a. **General.** Benefits from the proposed project will be evaluated from the state's point of view, which includes the taxpayer's point of view and the port's point of view. All of the benefit will not be derived until the investment for the total project has been made and all of the necessary components are adequate. Estimating these benefits is a key element in the application process. Sufficient attention should be given to substantiate procedures adopted in quantifying benefits and in providing supporting documents. Overall, benefit estimates should be logical, verifiable, and based on sound judgment and acceptable industry norms. Claimed benefits will be adjusted to conform to industry

norms unless adequate justification is provided. In order to make a proper allocation of funds among the requests, it is necessary to have a clear understanding of each project's expected net benefits to the state. The term *net benefits* means the difference in the benefits to be derived "with the project" and those to be derived "without the project". For example, when port improvements are implemented, there is usually a higher level of facility costs, mostly for construction. This is offset by the benefits including a reduced level of other costs (vessel operating costs, cargo handling costs, maintenance costs, etc.). There may be an increase in economic activities, improved (or worsened) environmental consequence, etc. All of these benefits are relative, i.e., they are based on the spread between what would happen with the new project vs. what would happen without the new project. In other words, to determine the benefits, it is necessary to evaluate the cargo flow projection, transportation costs savings, impact on other Louisiana ports, etc., without the project as well as with the project. Only then can the costs and gains under both scenarios be compared. The difference is the net benefits to be derived.

b. Revenues and Expenses. Estimate the port revenues for both with and without project conditions. Also estimate the operating expenses with and without the proposed project (e.g., labor, utilities, etc.). These estimates have to be based on present and future port tariff rates to

conform to industry norms. Only projects that will realize the minimum return on the state's investment as defined herein will be funded by the program.

c. Number of Jobs. Indicate the number of permanent jobs that would be created and/or existing jobs saved from implementing the project. How many of these jobs are port related and how many are industrial jobs, what is the total payroll for each; without the project, where would these jobs otherwise be created? Do not include temporary jobs created by construction activities. The estimate of number of new jobs created shall conform to industry norms such as capital investment/worker and volume of cargo handled/worker and number of employees per firm. If jobs are displaced elsewhere in the state, these jobs shall be subtracted from the jobs created or saved by the project. Figure 1 below indicates the employment profile for major port related industries in Louisiana. The average number of employees per firm provides the typical characteristics of a firm. It should be noted that a large percentage of firms employ less than 50 workers. Therefore, employment estimates must be justified on a case-by-case basis analyzing the nature of operations of the prospective industrial tenants. In general, it is likely that ports in rural areas with less populations support smaller firms and the few large firms are supported by large metropolitan areas. There may be exceptions to this general rule.

Figure 1: Classification of Commercial Firms in Louisiana by Employment Size

Industry Category	Total Employees	Total Firms	Average per Firm	Number of Firms by Employee Size								
				1-4	5-9	10-19	20-49	50-99	100-249	250-499	500-999	1,000+
Agriculture Services, Forestry, Fishing and Hunting	3,645	534	7	299	90	29	10	0	0	0	0	0
Mining	40,123	1,310	31	591	145	144	186	57	35	3	0	5
Manufacturing	118,959	3,052	39	1,010	539	476	443	214	137	23	6	0
Transportation and Warehousing	72,521	3,701	20	1,904	575	445	378	153	78	10	4	0

Source: County Business Patterns: 2020 Louisiana – U.S. Census Bureau

d. Payroll Benefits. Standard payroll estimates provided in Figure 2 shall be used in estimating payroll benefits in order to equitably evaluate applications for funding through the program. The department will adjust the payroll and spin-off benefits for inflation using the U.S. Department of Labor's Consumer Price Index. If job benefits are assumed to continue unchanged into the future, then an implication is made that those individuals employed as a result of the project would not otherwise find employment. This is not reasonable, as employment will ebb and flow over time. As true net benefits from employment diminish over time, the payroll benefits resulting from the project have to be allowed to decay in a linear fashion annually, reaching zero at the end of the project life.

Figure 2. Average Annual Earnings by Category for Port Related Industries

Work Category	Average Annual Earnings
Transportation, Storage, and Distribution Managers (11 - 3071)	\$98,850
First-line Supervisors of Transportation and Material Moving Workers, Except Aircraft Cargo Handling Supervisors (53 -1047)	\$57,550
Structural Metal Fabricators and Fitters (51 - 2041)	\$43,840
Laborers and Freight, Stock, and Material Movers, Hand (53 - 7062)	\$30,170

Source: Louisiana - May 2021 OES State Occupational Employment and Wage Estimates – United State Department of Labor, Bureau of Labor Statistics, May 2019.
https://www.bls.gov/oes/current/oes_la.htm#53-0000
 Data released March 31, 2022

e. Spin-Off Benefits of Payroll. New payroll generated by the project results in spin-off benefits in the local economy. In order to calculate the spin-off benefits, assume that they are equal to the payroll benefits directly created or maintained by the project. If a project will have \$100,000 payroll benefits in a year, then the spin-off benefits also equal \$100,000. Spin-off benefits will also decay in a linear fashion annually, reaching zero at the end of its project life.

f. Shipping Costs. If the proposed project will alter shipping costs, identify these costs with and without the project. Cost estimates should conform to general industry norms.

g. Other Benefits. Identify any other benefits that would result from the project.

h. Benefits-Costs Tabulation. Tabulate the project's benefits and costs over the project's life. Remember that all the benefits will not be derived until all of the components that are identified in "Adequacy of Components" are implemented and are adequate.

6. Description of Project Area. Provide a narrative description of the project area. The description shall include the location of the existing port, navigable waterways to the port, rail and highway access, location of neighboring ports competing for cargo, unemployment rate, land use adjacent to the port, and soil conditions in and around the port. Identify all major commodities which are handled by competing ports.

7. Impacts of Implementing Proposed Project

a. An assessment of the impacts associated with the implementation of the proposed project shall be submitted. Usually the economic, environmental, and other impacts shall be identified. A detailed environmental assessment is not required by this program but may be required to obtain certain permits.

b. The economic impacts may be indicated by the number of permanent jobs created or saved and the annual payroll resulting from the proposed port improvement. This information is reported in §2109.B.5, "Determination of Benefits to the State."

c. The environmental impacts shall be identified as to the effects on the following:

- i. water quality;
- ii. habitat modification;
- iii. fish and wildlife resources;
- iv. cultural, historical, and archeological features.

d. Any other impact(s) shall also be identified. The impact of the proposed project on other ports in the state, (e.g., diversion of cargoes or industrial activities, etc., from other state's ports) shall be stated.

e. If the project is expected to generate over one hundred inbound and outbound trips in an hour or more than 750 trips a day, then a traffic impact study with comments from the Metropolitan Planning Organization and/or the Regional Planning Commission is required. Said study is to identify adverse impacts on the transportation network and to mitigate negative impacts.

f. The assessment is to indicate whether the impacts are short-term or long-term, direct or indirect, and adverse or beneficial. Applicants may seek comments from appropriate state and federal agencies.

8. Master Plan for Port. Discuss how the proposed project complies with the port's master plan or why it does not. Indicate when the master plan was adopted by the port authority. Copies of the master plan are to be submitted with the application as Attachment I. (Refer to Page Application 22, I. Port's Master Plan.)

9. Other Information

a. Funding Sources: Identify all sources and amounts of funding, such as port, program, federal, state, parish, private and other. Clearly indicate if any type of bonds will be sold to assist in financing the project. Indicate if an application for other funds has been submitted and if a commitment has been received. Provide a status of the port authorities' 10 percent local match.

b. Multi-Year Projects. If the project will require more than one year to complete, summarize the anticipated investment schedule required for full completion of the proposed project.

c. Permits. List all necessary permits, indicate the status of permit acquisition, and indicate project compliance with permit requirements.

C. Attachments

1. Resolution. Provide certified copies of the resolution adopted by the port authority similar to the sample resolution in the appendix indicating that the port authority is knowledgeable and is agreeable to its duties and responsibilities in participating in the Port Development and Construction Priority Program.

2. Design Criteria. Include the design criteria necessary to properly design the project.

3. Design Calculations. Include the design calculations and soil investigations; the level of detail of the design should be sufficient to allow the award of a construction contract within the year of funding.

4. Engineering Report. Provide copies of the engineering report and geotechnical report, if applicable.

5. Layout of Existing and Proposed Facilities. Submit a layout of existing and proposed facilities.

6. Preliminary Construction Plans. Enclose preliminary construction plans in sufficient detail to allow the award of a construction contract within a year of funding.

7. Financial Statements. Provide financial statements for the last five years. The financial statements shall show assets, liabilities, profit and loss and include the accountant's letter transmitting the statement to the port authority and notes of explanation.

8. Cargo Tonnage. List the total amount of cargo by commodity for the port for the same periods covered by the financial statements. The commodity classification shall be the commodity classification for domestic waterborne commerce.

9. Port's Master Plan. The port's master plan is to be submitted with the application. If the port does not have a master plan, then it should submit a layout of existing facilities and an explanation why the port does not have a master plan. If the port has submitted a current copy with an application that was recommended by the department in the last three years, the port does not have to submit a master plan.

10. Commenting Agencies. Letters of comment from appropriate state and federal agencies responding to applicant's solicitation of views, if appropriate.

11. Other Attachments. Any other attachments that may be helpful in evaluating the proposed project may be included as other attachments.

D. Information Sources. Information and data that may be useful in estimating the costs and benefits and in completing the project application is available from a number of sources. Some of these sources are local records from engineers, marketing surveys conducted by private firms, local industry performance standards, and performance records of the port. Selected references from federal, state, and local agencies are listed and described below.

1. Louisiana Labor Market Information, Louisiana Workforce Commission, Baton Rouge, Louisiana. A monthly publication providing the following labor market information by parishes and by major metropolitan statistical areas (MSA) in Louisiana:

- a. the Louisiana economic situation;
- b. non-agricultural wage and salary employment;
- c. average hours and earnings in manufacturing;
- d. consumer price index;
- e. employment and payroll trends.

2. Directory of Louisiana Manufacturers, Louisiana Department of Economic Development, Baton Rouge, Louisiana. Presents data on the following:

- a. companies located in Louisiana and products manufactured;
- b. companies employing more than 250 workers;
- c. manufacturers of specific products in Louisiana by standard industrial classification (SIC) codes;
- d. parent firms of companies.

3.a. U.S. Army Corps of Engineers, Waterborne Commerce of the United States, Part 1-5, Department of the Army, Water Resources Support Center, Fort Belvoir, Virginia. The data collected in this publication consists of vessel and cargo movement information reported to the Corps of Engineers by carriers engaged in commercial transportation of goods on the navigable waterways and international trade and also international trade data provided by the Bureau of the Census. Part 2 of this publication covers waterways and harbors in the Gulf Coast and Mississippi River System. Current issues of this publication can be obtained from the Commander, U.S. Army Engineers District, Box 60267, New Orleans, LA 70160-0267.

b. U.S. Army Corps of Engineers, Other Data Sources.

c. Public Domain Database: Contains aggregated information which depicts waterborne commodity movement between different regions and states sorted by origin, by destination, and by commodity. Special Requests for Waterborne Commerce Statistics: The Waterborne Commerce Statistics Center (WCSC) handles special requests for statistics on a case-by-case basis. These requests are characterized by the need for information not contained in the aforementioned Waterborne Commerce of the United States.

d. For more information on data sources available to the public from the U.S. Army Corps of Engineers, request a free copy of Products and Services Available to the

Public from Data Request Office, Waterborne Commerce Statistics Center, U.S. Army Corps of Engineers, Box 61280, New Orleans, LA 70161-1280.

4. Port Import/Export Reporting Services (PIERS), Journal of Commerce, Inc., New York. PIERS data services provides detailed information on foreign trade, identifying commodity descriptions, origins and destinations, consignees and shippers, and tonnage of individual shipments. This data can be selected to suit individual specifications and obtained on tape, diskette, or hard copy reports.

5. County Business Patterns, 2022 Louisiana, U.S. Department of Commerce, Bureau of Commerce, Bureau of the Census, U.S. Government Printing Office, Washington, D.C., 2022. Provides information on industrial establishments, number of employees, payrolls by major groups of industries and by individual parishes.

6. 2022 Census of Manufacturers—Geographic Area Series—Louisiana, U.S. Department of Commerce, Bureau of the Census, U.S. Government Printing Office, Washington, D.C., 2022. This publication provides the following aggregate data on commercial establishments by parishes and metropolitan areas:

- a. number of companies, employment and payroll, production worker-hours, and worker-wages;
- b. value of shipments, cost of materials, and value added;
- c. beginning and end of year inventories;
- d. expenditures, assets, rents, and purchased services.

7. Agricultural Statistics and Prices for Louisiana, Louisiana Agricultural Experiment Station, Louisiana State University Agricultural Center, Baton Rouge, Louisiana—This publication provides data on agricultural product prices, average value of farm assets, acreage, and production.

8. Other Publications

a. Moving America—New Directions, New Opportunities, a statement of National Transportation Policy Strategies for Action, U.S. Department of Transportation, Washington, D.C., February 1990.

b. National Transportation Strategic Planning Study, U.S. Department of Transportation, Washington, D.C., March 1990.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:3451-3463.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Flood Control and Water Management, LR 16:695 (August 1990), amended LR 18:752 (July 1992), repromulgated by the Department of Transportation and Development, Office of Public Works, LR 31:942 (April 2005), amended LR 34:1044 (June 2008), amended LR 34:1042 (June 2008), amended by the Department of Transportation and Development, Office of Multimodal Commerce, LR 49:

§2111. Evaluation

A. Analysis. In determining a score to prioritize the request for funds, the following factors will be considered:

1. technical feasibility;
2. economic feasibility;
3. economic impacts; and
4. port management.

a. Technical Feasibility. Indicators of technical feasibility are as follows:

- i. completeness of project design;
- ii. appropriate consideration of alternatives;
- iii. compatibility of project to port's master plan;
- iv. level of detail of preliminary plans (should be adequate to allow award of a construction contract within a year but still allow input from the department);
- v. items of work as shown in the cost estimate are at a level of detail that may be readily verified.

b. Economic Feasibility. The primary factor in determining economic feasibility is the benefit-cost ratio. For purposes of evaluation, the investment is the amount of program funds needed for the proposed port improvement project.

c. Economic Impacts. The economic impacts are to be analyzed by the number of permanent jobs created or saved by the port improvement project after construction.

d. Port Management. The primary factor in appraising the management of the port is the average return on investment for the last five years.

e. Location. The elements in assessing the port's location are as follows:

- i. adequacy of the navigable waterways;
- ii. suitable railroad access;
- iii. ample highway facilities;
- iv. location of nearest competing port.

f. Multi-Year Projects. Multi-year projects will receive priority over new projects after the initial year of funding, provided the years are consecutive and the implementation of the previous year components was in accordance with the Program Procedure Manual.

B. Methodology

1. The procedure for evaluating applications for funding is as follows.

a. Completeness. If an application is complete, then proceed, otherwise advise applicant so that he may provide missing data for funding consideration next submittal date.

b. Need. Is the need verifiable and real? If not then application will be rejected.

c. Location. The port must be located on an adequate navigable waterway, and upon completion of the proposed port improvement, have sufficient rail and/or highway access. Also, the port must be situated so that the improvement will not just shift trade from one Louisiana port to another. Noncompliance will result in rejection.

d. the minimum rate of return for the state's investment as defined herein or more shall be funded by the program.

e. Benefit-Cost Ratio. Only projects that have a benefit-cost ratio equal to one or more shall be funded by the program. In calculating the B/C for this criteria, the cost shall be the total investment, both private and public, needed to implement the total project and derive the benefits. Note that the B/C used in the economic feasibility is based on program funds in lieu of total investment.

i. For projects that have a private investment that is equal to or greater than the amount of program funds required, the project may be exempted from this requirement. If exempted, the project must meet a program

benefit-cost ratio equal to one or more. The cost for the program benefit-cost ratio is equal to the amount of program funds required for the project.

f. Technical Feasibility (60 points) To proceed, the technical feasibility score must be 40 or more.

g. Economic Feasibility (250 points) Projects with benefit-cost ratios greater than 10 are scored from 100 to 250 points with the highest of those ratios receiving 250 points. The remaining projects with benefit-cost ratios greater than 10 are pro-rated. Projects with benefit-cost ratios of 10 or less are scored from 0 to 100 points with the highest of those ratios receiving 100 points. The remaining projects with benefit-cost ratios of 10 or less are pro-rated.

h. Economic Impacts. (20 points) The project which creates or saves the most jobs per state investment receive the maximum points. The others are pro-rated.

i. Management of Port. (20 points) The port with the highest rate of return on investment for the last five years will receive 20 points. The others are pro-rated.

2. After the applications have been analyzed, they shall be graded by the department according to the point system above. The projects will then be prioritized by score.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:3451-3463.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Flood Control and Water Management, LR 18:758 (July 1992), repromulgated by the Department of Transportation and Development, Office of Public Works, LR 31:942 (April 2005), amended LR 34:1046 (June 2008), amended LR 34:1042 (June 2008), amended by the Department of Transportation and Development, Office of Multimodal Commerce, LR 49:

§2113. Distribution of Funds

A. Funding. Program funds shall be distributed in accordance with the approved construction program. The funding for any single project that is submitted to the legislature for funding may be limited to a maximum legislative funding authority of \$9 million. The department may increase the funding limit for a fiscal year based on the availability of funds. The department may consult with PAL regarding the limit; but, the final limit shall be at the sole discretion of the department.

i. The actual distribution of these funds to the ports for each approved project shall be at the sole discretion of the department. The department may consult with PAL in determining this distribution.

ii. The department may limit the funding distribution to each port authority to no more than one-third 1/3 per year of the single project maximum legislative funding authority established by the department for the fiscal year.

B. Construction. Should the funding level be insufficient to fund all the projects that have been recommended, then the unfunded projects will be included in the recommended list of projects the following year. An unfunded project may be included in the recommended list of projects up to four years without port authority re-submitting an application. If a reimbursement agreement has been executed with the department and the project has begun construction prior to the expiration of the four year period, then the project will remain on said list until all program funds have been authorized.

C. Cancellation. The department may cancel any project that is not under construction with the below mentioned time limits and any unexpected proceeds may be reallocated to another port project: (The award of a construction contract shall satisfy the requirement to be "under construction.")

1. for projects that are completely funded in one fiscal year, within 18 months of the date of notification from the secretary of the department or his designated representative, that the project has sufficient funding to be completed;

2. for projects that are completely funded over two fiscal years, within 12 months of the date of notification from the secretary of the department, or his designated representative, that the project has sufficient funding to be completed;

3. for projects that are completely funded over three or more fiscal years, within six months of the date of notification from the secretary of the department or his designated representative, that the project has sufficient funding to be completed;

4. for projects that have approval from the department to be divided into more than one construction contract, the above time frames apply to each independent contract that has sufficient funding to be completed. An independent contract shall be a contract that does not require the completion of another contract in order to be constructed. Each additional dependent contract shall be constructed within six months from completion of the contract that it is dependent upon;

5. if a port authority has a project that is eligible for cancellation under the provisions of this Section, the port shall not be eligible to submit an application for funding or to receive additional funding for previously recommended projects until the port authority officially withdraws its project, or until the project, including all approved phases, has been completed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:3451-3463.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Flood Control and Water Management, LR 18:759 (July 1992), repromulgated by the Department of Transportation and Development, Office of Public Works, LR 31:942 (April 2005), amended LR 34:1046 (June 2008), amended LR 34:1042 (June 2008), amended by the Department of Transportation and Development, Office of Multimodal Commerce, LR 49:

§2115. Reimbursement

A. - A.3.

B. If the sponsoring port authority desires to construct the project or approved phase of the project under the reimbursement option, it must submit a request to the department and execute a project agreement prior to commencement of any work. Projects or approved phases that are advertised for bids under the reimbursement option shall be completed under the reimbursement option whether or not funding or funding obligation authority has been made available by the legislature prior to the completion of the project or approved phase.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:3451-3463.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Public Works, LR 34:1047 (June 2008), amended LR 49:

Family Impact Statement

Adoption of this proposed Rule should not have any known or foreseeable adverse impact on any family as defined by R.S. 49:972(D) or on family formation, stability, and autonomy. Specifically:

1. The adoption of this proposed Rule will have no known or foreseeable effect on the stability of the family.

2. The adoption of this proposed Rule will have no known or foreseeable effect on the authority and rights of parents regarding the education and supervision of their children.

3. The adoption of this proposed Rule will have no known or foreseeable effect on the functioning of the family.

4. The adoption of this proposed Rule will have no known or foreseeable adverse effect on the family earnings and family budget.

5. The adoption of this proposed Rule will have no known or foreseeable effect on the behavior and personal responsibility of children.

6. The adoption of this proposed Rule will have no known or foreseeable effect on the ability of the family or local government to perform this function.

Poverty Impact Statement

The adoption of this proposed Rule should not have any known or foreseeable adverse impact on child, individual, or family poverty in relation to individual or community asset development as defined by R.S. 49:973. Specifically,

1. The adoption of this proposed Rule will have no known or foreseeable adverse effect on household income, assets, and financial security.

2. The adoption of this proposed Rule will have no known or foreseeable adverse effect on early childhood development and preschool through postsecondary education development

3. The adoption of this proposed Rule will have no known or foreseeable adverse effect on employment and workforce development.

4. The adoption of this proposed Rule will have no known or foreseeable effect on taxes and tax credits.

5. The adoption of this proposed Rule will have no known or foreseeable effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

The impact of the adoption of this proposed Rule on small businesses, as defined in the Regulatory Flexibility Act, has been considered. The proposed Rule is not expected to have a significant adverse impact on small businesses. The department, 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 the proposed statutes while minimizing the adverse impact of the Rule on small businesses.

Provider Impact Statement

The adoption of this proposed rule change does not have any known or foreseeable impact on a provider as defined by House Concurrent Resolution No. 170 of the 2014 Regular Session of the Louisiana State Legislature. Specifically:

1. The adoption of this proposed Rule change does not have any known or foreseeable impact on the staffing level

requirements or qualifications required to provide the same level of service.

2. The adoption of this proposed Rule change does not have any known or foreseeable impact on the total direct and indirect effect on the cost to a provider to provide the same levels of service.

3. The adoption of this proposed Rule change does not have any known or foreseeable impact on the overall effect on the ability of a provider to provide the same level of service.

Public Comments

All interested persons so desiring shall submit oral or written data, views, comments, or arguments no later than 20 days from the date of publication of this notice of intent to Molly Bourgoyne, Ports and Waterways Section, Department of Transportation and Development, P.O. Box 94245, Baton Rouge, LA 70804-9245. Telephone (225) 379-3033.

Shawn D. Wilson, Ph.D.
Secretary

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

**RULE TITLE: Louisiana Port Construction and
Development Priority Program**

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

The estimated cost to implement the proposed rule change is estimated at \$1,300, which accounts for the cost to publish the Notice of Intent and the Rules in the State Register. The proposed rule change will revise the 2008 Port Construction and Development Priority Program Rules and Regulations to reflect current DOTD policies and update data and tables.

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

The proposed rule changes should have no impact on revenue collections for state or local government units.

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

The proposed changes should have no impact on state or local government units on revenue collections. Public Ports in the State would use updated data from the U.S. Department of Labor for their applications to the Port Construction and Development Priority Program.

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

There is no direct material effect on competition and employment as a result of the proposed rule changes.

Eric Kaliugda
Secretary
2304#015

Evan Brousseau
Interim Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Transportation and Development
Office of Operations**

**Toll Exemptions—Grand Isle School System Employees
(LAC 70:XI.101)**

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:961 et seq., and through the authority granted in Title 17:426 of the Revised Statutes that the Department of Transportation and Development, Office of Operations, Tolling Section, proposes to amend §101 of Part XI of Title 70 entitled "Exempt Entities" for the purpose of allowing and including the free and unhampered passage on the Louisiana Highway 1 Bridge to Grand Isle School System Employees when traveling to and from their workplace.

Title 70

TRANSPORTATION AND DEVELOPMENT

Part XI. Louisiana Transportation Authority

Chapter 1. Toll Exemptions—LA 1

§101. Exempt Entities

A. - A.9.d. ...

10. Grand Isle School System Employees

a. The right of free passage for school employees employed by Grand Isle School System under the jurisdiction of the Jefferson Parish School Board shall be exercised only by means of automatic vehicular identification toll tags.

b. For each employee that will be utilizing an automatic vehicular identification toll tag, the appropriate school district shall submit a valid driver's license, vehicle registration certificate, and employment verification documentation.

c. Upon the submission of the requested documentation by the appropriate school district and payment of a deposit for a GeauxPass account, the department or its agents when so designated or authorized by the secretary of the department, shall issue the requested number of automatic vehicular identification toll tags for use in connection with the exemption from tolls.

d. The use of the automatic vehicular identification toll tags provided shall be limited to crossings made by school employees when traveling to and from their workplace on a scheduled work day, as prescribed by the school board, not to exceed two toll-free crossings in one day.

e. The appropriate school district shall be responsible for any crossing made using the automatic vehicular identification toll tag outside the scope of the exemption from tolls.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:426, et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Transportation Authority, LR 38:2380 (September 2012), amended by the Department of Transportation and Development, Office of Operations, LR 41:560 (March 2015), LR 44:347 (February 2018), LR 49:

Family Impact Statement

Adoption of this proposed Rule should not have any known or foreseeable adverse impact on any family as defined by R.S. 49:972(D) or on family formation, stability, and autonomy. Specifically:

1. The adoption of this proposed Rule will have no known or foreseeable effect on the stability of the family.
2. The adoption of this proposed Rule will have no known or foreseeable effect on the authority and rights of parents regarding the education and supervision of their children.
3. The adoption of this proposed Rule will have no known or foreseeable effect on the functioning of the family.
4. The adoption of this proposed Rule will have no known or foreseeable adverse effect on the family earnings and family budget.
5. The adoption of this proposed Rule will have no known or foreseeable effect on the behavior and personal responsibility of children.
6. The adoption of this proposed Rule will have no known or foreseeable effect on the ability of the family or local government to perform this function.

Poverty Impact Statement

The adoption of this proposed Rule should not have any known or foreseeable adverse impact on child, individual, or family poverty in relation to individual or community asset development as defined by R.S. 49:973. Specifically,

1. The adoption of this proposed Rule will have no known or foreseeable adverse effect on household income, assets, and financial security.
2. The adoption of this proposed Rule will have no known or foreseeable adverse effect on early childhood development and preschool through postsecondary education development.
3. The adoption of this proposed Rule will have no known or foreseeable adverse effect on employment and workforce development.
4. The adoption of this proposed Rule will have no known or foreseeable effect on taxes and tax credits.
5. The adoption of this proposed Rule will have no known or foreseeable effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

The impact of the adoption of this proposed Rule on small businesses, as defined in the Regulatory Flexibility Act, has been considered. The proposed Rule is not expected to have a significant adverse impact on small businesses. The department, 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 the proposed statutes while minimizing the adverse impact of the Rule on small businesses.

Provider Impact Statement

The adoption of this proposed rule change does not have any known or foreseeable impact on a provider as defined by House Concurrent Resolution No. 170 of the 2014 Regular Session of the Louisiana State Legislature. Specifically:

1. The adoption of this proposed Rule change does not have any known or foreseeable impact on the staffing level requirements or qualifications required to provide the same level of service.
2. The adoption of this proposed Rule change does not have any known or foreseeable impact on the total direct and indirect effect on the cost to a provider to provide the same levels of service.
3. The adoption of this proposed Rule change does not have any known or foreseeable impact on the overall effect on the ability of a provider to provide the same level of service.

Public Comments

All interested persons so desiring shall submit oral or written data, views, comments, or arguments no later than 20 days from the date of publication of this notice of intent to Scott Rundell, DOTD Program Director for the Tolling Section, Department of Transportation and Development, P.O. Box 94245, Baton Rouge, LA 70804-9245.

Eric Kalivoda
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Toll Exemptions LA 1

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
The only estimated costs for implementation are the costs to publish the Notice of Intent and the Rules in the State Register.
The proposed rule change provides for the free and unhampered passage of every teacher, school bus operator, and other school employee employed by Grand Isle School System under the jurisdiction of the Jefferson Parish School Board when crossing Louisiana Highway 1 Bridge (also known as Tomey J. Doucet Bridge), when traveling to and from their workplace on a scheduled workday, as prescribed by the school board, not to exceed two toll-free crossings in one day.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The estimated effect on revenue collections is anticipated to be a decrease of \$6,750 in FYs 2023-2027 and \$7,500 starting in FY 2028.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)
The estimated economic benefit for employees of the Grand Isle School System is anticipated to be \$225 in FYs 2023-2027 and \$250 starting in FY 2028.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There should be no direct material effect on competition and employment as a result of the proposed rule change.

Eric Kalivoda
Secretary
2304#034

Evan Brasseaux
Interim Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Transportation and Development Office of Operations

Toll Exemptions—Roads and Bridges (LAC 70:XXXI.101)

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:961 et seq., and through the authority granted in Title 17:157 of the Revised Statutes that the Department of Transportation and Development, Office of Operations, Tolling Section, proposes to adopt Part XXXI and Chapter 1 of Title 70 entitled "Toll Exemptions—Roads and Bridges" for the purpose of defining and clarifying exemptions for toll roads and toll bridges.

Title 70 TRANSPORTATION Part XXXI. Tolls

Chapter 1. Toll Exemptions—Roads and Bridges

§101. Students in School Buses

A. All students in a school bus shall have the right of free passage to and from school, during certain hours, over all toll bridges and toll roads leased out or controlled by the state, parish, or municipality. This free passage shall exclude the Greater New Orleans Expressway.

B. Free passage is offered to students in clearly marked school buses and to the school bus and driver.

C. The right of free passage for students in school buses and the bus and driver shall be exercised only by means of automatic vehicular identification toll tags.

D. The free passage provided shall be limited to school buses carrying students to and from school between the hours of 6:00 a.m. and 9:30 a.m., and between 2:30 p.m. and 9:30 p.m.

E. Upon the written request of the appropriate school district and payment of a deposit to open the account, the department or its agents when so designated or authorized by the secretary of the department, shall issue the number of automatic vehicular identification toll tags requested for use in connection with the exemption from tolls.

F. The use of the automatic vehicular identification toll tags provided shall be limited to crossings made by the students in school buses. The appropriate school district shall be responsible for any crossing made using the automatic vehicular identification toll tag outside the scope of the exemption from tolls.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:157.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Operations, LR 49:

Family Impact Statement

Adoption of this proposed Rule should not have any known or foreseeable adverse impact on any family as defined by R.S. 49:972(D) or on family formation, stability, and autonomy. Specifically:

1. The adoption of this proposed Rule will have no known or foreseeable effect on the stability of the family.

2. The adoption of this proposed Rule will have no known or foreseeable effect on the authority and rights of parents regarding the education and supervision of their children.

3. The adoption of this proposed Rule will have no known or foreseeable effect on the functioning of the family.

4. The adoption of this proposed Rule will have no known or foreseeable adverse effect on the family earnings and family budget.

5. The adoption of this proposed Rule will have no known or foreseeable effect on the behavior and personal responsibility of children.

6. The adoption of this proposed Rule will have no known or foreseeable effect on the ability of the family or local government to perform this function.

Poverty Impact Statement

The adoption of this proposed Rule should not have any known or foreseeable adverse impact on child, individual, or family poverty in relation to individual or community asset development as defined by R.S. 49:973. Specifically,

1. The adoption of this proposed Rule will have no known or foreseeable adverse effect on household income, assets, and financial security.

2. The adoption of this proposed Rule will have no known or foreseeable adverse effect on early childhood development and preschool through postsecondary education development.

3. The adoption of this proposed Rule will have no known or foreseeable adverse effect on employment and workforce development.

4. The adoption of this proposed Rule will have no known or foreseeable effect on taxes and tax credits.

5. The adoption of this proposed Rule will have no known or foreseeable effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

The impact of the adoption of this proposed Rule on small businesses, as defined in the Regulatory Flexibility Act, has been considered. The proposed Rule is not expected to have a significant adverse impact on small businesses. The department, 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 the proposed statutes while minimizing the adverse impact of the Rule on small businesses.

Provider Impact Statement

The adoption of this proposed rule change does not have any known or foreseeable impact on a provider as defined by House Concurrent Resolution No. 170 of the 2014 Regular Session of the Louisiana State Legislature. Specifically:

1. The adoption of this proposed Rule change does not have any known or foreseeable impact on the staffing level requirements or qualifications required to provide the same level of service.

2. The adoption of this proposed Rule change does not have any known or foreseeable impact on the total direct and indirect effect on the cost to a provider to provide the same levels of service.

3. The adoption of this proposed Rule change does not have any known or foreseeable impact on the overall effect on the ability of a provider to provide the same level of service.

Public Comments

All interested persons so desiring shall submit oral or written data, views, comments, or arguments no later than 20 days from the date of publication of this Notice of Intent to Scott Rundell, DOTD Program Director for the Tolling Section, Department of Transportation and Development, P.O. Box 94245, Baton Rouge, LA 70804-9245.

Eric Kalivoda
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Toll Exemptions—Roads and Bridges

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

The only estimated costs for implementation are the costs to publish the Notice of Intent and the Rules in the State Register.

The proposed rule change provides for the implementation and enforcement to allow school buses traveling to and from school, during certain hours, to have free passage over all toll bridges and toll roads leased out or controlled by the state, parish, or municipality.

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

The estimated loss of revenue is indeterminable at this time, as the department is unable to estimate the number of school buses that cross the applicable toll bridges annually.

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

The owner of the bus or schools, school districts or boards, or third parties that own and/or operate school buses for schools will be affected by the proposed action. These parties would benefit from the rule, as they would not have to pay tolls on roads and bridges when transporting students to and from school within the confines of the legislation/proposed rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no direct material effect on competition and employment as a result of the proposed rule changes.

Eric Kalivoda
Secretary
2304#017

Evan Brasseur
Interim Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Seismic Exploration (LAC 76:I.301)

The Wildlife and Fisheries Commission does hereby give notice of its intent to amend the public hearing process and permit authorization for seismic exploration.

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 I. Wildlife and Fisheries Commission and Agencies

Thereunder

Chapter 3. Special Powers and Duties

Subchapter A. Seismic Exploration

§301. Regulations

A. In order to protect, conserve, and replenish the wildlife of the state of Louisiana, including all aquatic life, and pursuant to the authority conferred by Article IX, Section 7 of the Louisiana Constitution of 1974, R.S. 30:212 et seq., and R.S. 36:609; the following rules shall form and after promulgation date, govern any exploration work involving the discharge of explosives and other energy sources in the state of Louisiana for geophysical exploration.

1. The Wildlife and Fisheries Commission, pursuant to its constitutional and statutory authority, hereby designates how geophysical exploration work shall be conducted insofar as it relates to the fish, seafood, aquatic life, oysters, wildlife and water bottoms of the state. No geophysical exploration work shall commence without the approval of the secretary of the department or his designee. The Department of Wildlife and Fisheries is hereby authorized and directed to enforce and administer these regulations with full power and authority to take all appropriate actions to ensure proper administration and compliance.

2. Application(s) for permission to operate shall be made by letter giving the names of the parishes where the geophysical exploration is to be conducted. Written permission to operate shall be valid for a period of one year from date of approval, unless otherwise specified. In order to obtain and maintain permission to operate, an applicant shall furnish the department a surety bond in the amount of no less than \$100,000 per project from a bonding company licensed to do business in the state of Louisiana and to whom A.M. Best and Company has given an "B+/7" or better rating. Bond forms may be obtained from the department. The bond shall be filed by the applicant prior to issuance of any permission to operate. Said bond shall guarantee payment of all inspector fees, all compensation for damage to public lands, and water bottoms (including, without limitation, damages for failure to remove equipment and trash), oysters, fish and other aquatic life, and/or other natural resources, man-made canals, bulkheads, rights-of-way and structures for which said applicant may be legally liable, and which may be suffered by the state of Louisiana. The bond shall also guarantee any and all fees in whole and in part for services rendered by the department and its offices in accordance with regulations of the Department of Wildlife and Fisheries or the Wildlife and Fisheries Commission and all applicable penalties, and any other liabilities to the state of Louisiana incurred by the applicant during the geophysical operations. Applicants must also supply the department with proof of general liability insurance in the amount of \$2,000,000. The policy must be issued by an insurer approved by the department, and specifically cover all damage to land, water bottoms, oysters,

fish and other aquatic life, or other natural resources, man-made canals, bulkheads, rights-of-way, and other structures for which permittee may be legally liable. In addition, permittees applying for a renewal of the letter of permission to operate must have demonstrated a record of sound business practices by making timely payments of seismic fees to the department, and by being in complete compliance with the department's regulations including those regulations requiring notifications and timely submission of seismic exploration data daily reports.

3.a. The department may, after 10 working days written notice to permittee, suspend or cancel the seismic letter of permission to operate granted pursuant hereto for failure by the permittee, to make timely payment to the department for obligations owed to the state of Louisiana for the following:

i. any compensation for damage to public lands, water bottoms, oysters, fish and other aquatic life, or other natural resources, man-made canals, bulkheads, rights-of-way and structures for which said permittee may be legally liable;

ii. any fees for services rendered by LDWF personnel in overseeing geophysical exploration; and

iii. any applicable penalties.

b. The permittee shall be entitled to a hearing upon written request, made within the 10 working day notice period, to the secretary or his designee, to review the circumstances prompting the department to suspend or cancel his letter of permission to operate. This hearing shall be held as soon as practicable.

B. Authorization, Written Comments and Public Hearing. Prior to the granting of authorization by the Department, the permittee shall:

1. submit a detailed project description along with a map of the exact project location and geographic extent (an ESRI shapefile projected in NAD 83, UTM is preferred) for comparison with department databases of threatened, endangered, or sensitive wildlife and fisheries resources and a similar map on an 8.5 inch x 11 inch page.

2. pursuant to the Administrative Procedure Act, hold not less than one public hearing in the vicinity of the seismic operation to receive comments and recommendations from government agencies, property owners, lessees, residents, and all interested parties. The permittee shall give its first notice at least 30 days prior to the hearing;

a. Maps, as provided to the department in connection with the authorization request and information designating the permittee's contact persons during the geophysical operations, shall be made available to the public for review at this meeting.

3. notices referred to in this Section will be published in the official journal of each parish in which the seismic operation is located in four separate issues. Additional notices should be posted in or on appropriate public places in the area of operations at the direction of the department;

4. the permittee shall notify each parish governing authority of the hearing by letter to its chief executive officer;

5. the permittee shall provide all interested parties and the public, the opportunity to submit written comment on the seismic operation;

6. the comment period shall begin with the first publication in any official parish journal;

7. the comment period shall end upon adjournment of the final public hearing.

C. Department shall make a decision whether to grant or deny the authorization within 30 days after the adjournment of the final hearing.

D. Denial of Authorization. The department shall deny an authorization of the seismic operation if, after a full and thorough evaluation, the department finds that the proposed or alternative use would unreasonably injure fish, seafood, aquatic life, oysters, wildlife or other living natural resources of the state, or their habitats.

E. Authorization Conditions

1. In issuing any authorization, the department may:

a. require conditions in the use and may require that appropriate steps be taken to minimize and/or offset the detrimental effects on the natural and physical features and resources as a condition to the granting of the authorization.

F. Final Decision. The final decision by the department on any seismic operations shall:

1. be in the form of a written report;

2. be part of the record of the decision;

3. include an evaluation of potential impacts; and

4. give full and meaningful consideration and appropriate weight to the comments from the state and local government authorities, interested parties and the public.

G. Modification and Revocation. The department may modify or revoke an authorization for any adjudicated violation of the authorization conditions, the statutes or these regulations or intentional misrepresentation of a material fact on the permit application or authorization request.

H. Appeals of Final Decision. Any person who is denied an authorization by the department may challenge the department's decision in an administrative hearing pursuant to the provisions of the Administrative Procedure Act.

I. Permittees shall notify the department before beginning any geophysical exploration on a "Notification of Beginning of Seismic Operations" furnished by the department. The permittee shall provide the department with the names and telephone numbers of appropriate designated contact persons. The "Notification of Beginning of Seismic Operations" shall be accompanied by a map on an 8.5 inch x 11 inch page showing the outline of the project or line. The permittee also shall furnish the department with a certified copy of the information filed with the appropriate parish clerk of court in accordance with R.S. 30:217. The permittee shall submit notification to the department of interruption or cessation of work. If a change in the prospect or line is necessary, the permittee will provide a new plat indicating the change. If a change on the prospect or line affects different properties, or leasehold interests, the permittee will provide a new plat indicating the new prospect or line, and no work will begin until this change has been furnished to the department and the department has reviewed it with regard to threatened, endangered, or sensitive wildlife and fisheries resources. The granting of permission to operate does not give the permittee the right to trespass on, or conduct activities on private properties, nor does it relieve the permittee of the responsibility for damages to private property.

J. Each geophysical exploration crew working in the state of Louisiana shall always be under the supervision of the department. A seismic inspector may be present during

the shooting operations of the permittee to which he or she is assigned.

1. The department representative shall have access to all records, including without limitation, shot point location maps, and shooters' logs and tracings, but only to the extent necessary to determine compliance with these regulations. Any and all proprietary or confidential information viewed or obtained by any department representative or seismic inspector shall be maintained in strict confidence as mandated for disclosures of seismic data under R.S. 30:215. No permittee shall be required to submit to the department any document or thing containing such confidential, proprietary information, if such document would, thereby, become a public record.

2. The party chief or party manager shall instruct the members of his party as to the requirements of these rules and regulations, and to the duty and authority of the department and the seismic inspector.

3. The party chief or party manager shall furnish the department's representative with whatever reasonable and appropriate transportation is needed to allow him to visit the working areas and shall transport the department's representative to whatever locations he or she requests. The department acknowledges that, when the permittee is providing transportation for the seismic inspector or other representative of the department under these regulations or other applicable law, that the permittee is fulfilling a state mandated function and shall not be responsible, in any way, for any decisions, instructions, actions, or omissions of such seismic inspector or other department representative.

4. The seismic inspector has the right to suspend any particular operation (e.g., surveying, drilling, shooting, or picking up equipment) or any portion of an operation, if it violates the department's rules and regulations.

a. Written notice of violations shall be provided to the permittee's designated contact person as soon as practicable. Corrective action taken by the permittee and approved by the department should dissolve the order for suspension issued by the seismic inspector.

b. The permittee may request a hearing from the secretary or his designee to review the circumstances of any suspension of geophysical survey activities. This hearing shall be convened as soon as practicable, but in any event within 10 working days after the written request for a hearing. The department shall provide the permittee with due notice and the opportunity to participate.

5. The department recognizes that conflicts may arise from time to time between parties regarding access to and use of public waters, water bottoms, public lands and natural resources. In the event that such conflicts cannot be otherwise resolved, the department may, at the discretion of the secretary or his designee, restrict, regulate, or suspend such potentially or actually conflicting activities as may be necessary to provide reasonable and safe access to said public resources. The department shall provide the permittee's designated contact person at least five working days written notice prior to any suspension, restriction, or regulation of geophysical survey operations due to user conflicts. The permittee may request a hearing from the secretary or his designee to review the circumstances of the department's restriction, regulation or suspension of geophysical activities. This hearing shall be convened as

soon as practicable, but at any event within 10 working days after written request for a hearing. The department shall provide all interested parties with due notice and opportunity to participate.

6. No seismic inspector shall have the right to release any permittee from the obligations imposed by these rules and regulations. Variances from these regulations may be granted by the department only after written application by the permittee setting forth reasons therefore. The release, signed by the secretary or his designee, will designate the particular area and rule affected, and the procedures to be followed in lieu of any established rule. The secretary or his designee may provide this information to appropriate interested parties upon request.

K. The permittee must make a separate report for each day, whether or not shooting is in progress. Daily reports must furnish complete information as indicated by the report form, and must be signed by the party chief or party manager.

L. No geophysical exploration work shall be conducted on any wildlife refuge, waterfowl refuge, Louisiana designated scenic river, game preserve, fish preserve or hatchery, or public oyster seed ground reservation without written permission from the department through the division in charge of such refuge, preserve, river, hatchery, public oyster seed ground or reservation. While operating on any wildlife refuge, waterfowl refuge, Louisiana designated scenic river, game preserve, fish preserve or hatchery or public oyster seed ground or reservation, the permittee must abide by all rules and regulations of said area, in addition to these seismic regulations to the extent they apply.

M. Boats, marsh buggies, airboats, or other types of marsh vehicles, when used, must be used so as to cause the minimum disturbance or damage to the lands, water bottoms, and wildlife and fisheries resources thereon. When working on wildlife management areas, wildlife refuges, Louisiana designated scenic rivers, fish preserves or hatcheries, or public oyster seed grounds or reservations, the permittee will coordinate with the supervisor in charge of the area as to rules of the area. Rules, regulations and fees may vary from one such area to another.

N. No marsh buggies shall have contact with any oyster reef or bed, including state-owned natural reefs, nor shall any explosives or other energy sources be discharged within 250 feet of any oyster reef or bed, including any state-owned natural reefs, without permission from the lessee of the reef or bed, and the department. The department will review all projects in designated public oyster seed grounds and reservations.

O. Geophysical permittees are required to furnish an oyster lease plat to each affected oyster lessee showing the proposed number of shot points on line and their proposed location. Geophysical permittees are required to furnish notice to oyster lease applicants of the proposed crossing of water bottoms for which said applicant has applied for an oyster lease, provided said application(s) has been plotted on the department's map(s).

P. All pipe used in geophysical operations must be removed to at least 6 feet below the surface of the ground, or 6 feet below the bottom in water areas, before finally leaving the shot point. No pipes shall be left unattended on land or in water.

Q. All parties using pipe in water areas must have clearly welded or stamped at each end of each joint the name or abbreviation of the name of the permittee using the pipe. All equipment including cables, boxes, geophones, staff poles, anchors, buoys, etc., must be permanently tagged with the name of the permittee. All 2 x 2's used for survey lines must be clearly stamped with the name of the permittee using the stakes at approximately 3-foot intervals. These stakes must be removed immediately upon completion of the project. All cane poles must be removed immediately upon completion of the project. Anchors shall be marked, stamped, or tagged to identify the permittee who deployed them, and shall be secured to an appropriately marked buoy, vessel, or float.

R. Permittees shall comply with the U.S. Coast Guard and/or the U.S. Army Corps of Engineers' rules and regulations for marking and lighting material and/or equipment in navigable waters. In addition, all survey buoys used in geophysical operations should be colored fluorescent green (or other approved color) to mark receivers, and fluorescent orange (or other approved color) to mark the source line or shot line as well as show the name of the permittee. All such floats in areas of seismic operations shall use floating line.

S. No explosives shall be discharged knowingly within 1,000 feet of a boat without notice being given to such boat so that it may move from the area.

T. Permittees shall not be assessed any special permit fees to conduct geophysical survey operations on water bottoms designated as public oyster seed grounds or reservations, but shall comply with the provisions and conditions of any applicable Coastal Use Permit issued pursuant to R.S. 49:214.30, including any requirement to perform a water bottom assessment or provide mitigation/compensation for damages to any oyster seed ground or reservation. The department may utilize a portion of the funds received from geophysical and geological survey activity occurring on state lands, including water bottoms, under the provisions of R.S. 30:212(D) and funds received under the provisions of R.S. 30:136.1(D), for purposes of planting cultch, rehabilitating areas damaged by seismic operations, and as mitigation for any other damage to the coastal area. The determination of the amount to be used shall be based upon the amount of geophysical and geological survey activity occurring on any designated oyster seed ground or reservation and the need for such restoration.

U. Persistent gas and water discharges caused by drilling or shooting operations of seismic crews will be stopped immediately by the permittee.

V. Explosive charges or multiple charges in the same shot hole in excess of 50 pounds shall not be used except pursuant to express written authorization from the secretary or his designee. Requests for the use of such charges and other variances from the charge sizes, hole depths, and/or setback requirements must be made in writing, giving the reasons why such charges are needed, the particulars of charge sizes, hole depths, patterns of deployment, and setback from potentially sensitive environments. Such requests should be addressed to the department. Variances shall not be unreasonably withheld or delayed. All documents submitted to the department in connection with

requests for variances shall be public records; therefore, any confidential proprietary information required for review of a variance request may be submitted orally or by demonstrative presentation referenced in the written application, but the underlying confidential information shall not be disclosed in the written request filed with the department. The permittee may request a hearing to review all determinations, decisions, and regulations imposed with regard to requested variances, as set forth in §301.J.4.b above. The secretary or his designee may provide this information to appropriate interested parties upon request.

W. 1. Minimum required depth of charges shall be as follows for shots detonated in holes.

Weight of Charge	Minimum Required Depth
1 pound or less	10 feet
Charges of 1 pound or less may only be used in upland areas. In addition, the hole must be tamped before shooting and the charge must be shot on the same day it is placed.	
Between 1 pound and 2 pounds	25 feet
2 pounds up to 5 pounds	40 feet
5 pounds up to 20 pounds	60 feet
20 pounds up to 30 pounds	70 feet
30 pounds up to 40 pounds	100 feet
40 pounds up to 50 pounds	120 feet
No part of the charge shall be above minimum required depth.	

2. The use of suspended charges as energy sources is prohibited unless a variance is granted by the secretary or his designee. If permitted, the secretary or his designee shall then set forth requirements to minimize the effect on wildlife and fisheries resources.

X. Detonation of seismic explosive charges will be allowed only during daylight hours. Variances to this rule may be requested as set forth in §301.V. Permittees shall notify the department of 24 hour airgun operations prior to beginning such operations. The department may, after review of the details of such night operations and areas affected thereby, impose additional restrictions, regulations or requirements upon such operations as may be reasonable and necessary for the protection of public waters, water bottoms, lands, and wildlife. No shooting will be allowed in heavy fog. The permittee may request a hearing to review all determinations, decisions, and regulations imposed with regard to night operations and weather conditions, as provided for in §301.J.4.b.

Y. In accordance with good industry practice, permittee shall, after drilling and loading shot holes, backfill holes with cuttings or another material authorized by the department, and place the shot hole plug near the surface to avoid wash-in.

Z. All equipment including boxes, cables, staff poles, poles, anchors, etc., must be cleared from project areas before the permittee leaves the area. The permittee shall confirm in writing to the department that all its equipment, materials, and refuse have been cleared from the project area. Said letter of confirmation shall be a public record. Variances from this rule may be granted by the department if accompanied by a written request from an affected landowner or agency. The secretary or his designee may provide this information to appropriate interested parties upon request.

AA. A fee of \$135 per day will be charged to geophysical permittees. All payments will be made by the permittees directly to the department on or before the fifteenth of each month. No payments are to be made to the seismic inspectors. Seismic inspectors shall make and the department shall maintain written records of the inspectors' work in connection with each geophysical project, identifying the date, time, location, nature of the inspector's work, and the permittee involved.

BB. All geophysical permittees conducting operations shall exercise reasonable precaution and act in accordance with approved and accepted methods to prevent destruction of, or injury to the fish, oysters, shrimp and other aquatic life, wildlife or other living natural resources of the state of Louisiana, or their habitats.

CC. Any violation of these or other rules promulgated by the commission or the department for the regulation of geophysical operations, or the refusal of any permittee or its employees to comply fully with all orders and requirements which may be made by authorized personnel of the department at the time the exploration is conducted, or any attempt to unduly influence any seismic inspector to abstain from the enforcement of these regulations shall constitute cause for suspension or cancellation of the "permission to operate", cessation of all exploration work, and disqualification of the party chief, party manager, field manager, and/or the permittee involved from future operations in this state. The permittee may request a hearing from the secretary or his designee to review the particular circumstances prompting the department to suspend or cancel his letter of permission to operate per the provisions of §301.J.4.b.

DD. These rules and regulations supersede all other rules and regulations issued prior to this date, and are subject to change by the department and the Wildlife and Fisheries Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:212, R.S. 30:214, R.S. 30:215, R.S. 30:216, R.S. 36:609 and R.S. 56:30.4.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 4:300 (August 1978), amended LR 10:410 (May 1984), LR 13:115 (February 1987), LR 18:509 (May 1992), LR 25:321 (February 1999), LR 49:

Family Impact Statement

In accordance with Act 1183 of 1999 Regular Session of the Louisiana Legislature, the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent. This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Poverty Impact Statement

This proposed Rule 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 written comments relative to the proposed Rule until Thursday, June 1, 2023 to Joe Maryman, Department of Wildlife and Fisheries, P. O. Box 98000, Baton Rouge, LA 70898-9000 or via e-mail to jmaryman@wlf.la.gov.

Andrew J. Blanchard
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Seismic Exploration

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

The proposed rule change will have no expenditure impact on state or local governmental units.

The proposed rule change does the following:

Raises the bond amount for surety bonds for applicants for seismic exploration projects from \$75,000 per applicant to \$100,000 per project;

Raises the proof of general liability insurance requirement from \$1 M to \$2 M;

Removes references to oyster cultivation and production, the Marine Fisheries Division Seismic Section, shot hole fees, linear mile fees, and annual reviews of seismic survey application fees and inserts references to Louisiana designated scenic rivers and public oyster seed grounds to make the rule consistent with statute;

Alters application mapping requirements;

Alters the public notification process for seismic exploration applicants, including requirements for public meetings, publication of notices in parish official journals, and notification of local governing authorities;

Alters the seismic exploration application review and approval process for the Louisiana Department of Wildlife and Fisheries (LDWF);

Changes the color allowed on source lines to orange and allows other approved colors on receiver and source lines; and

Clarifies the existing rule that allows funds received by the LDWF from geophysical and geophysical survey activity occurring on state lands to be used on oyster ground enhancement or rehabilitation.

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

The proposed rule change is anticipated to have no 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 is expected to benefit the public by improving the public notification process for potential seismic exploration projects.

The proposed changes in bonding requirements and liability insurance may increase costs for firms that provide seismic exploration services. Bond fees and insurance premiums may vary depending on the characteristics of the

project and the performance history and financial status of the permittee.

The proposed rule change will have a small economic impact on seismic exploration applicants who may be required to hold additional public meetings when a seismic exploration project poses potential impacts on multiple parishes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)

The proposed rule change is anticipated to have no impact on competition and employment in Louisiana.

Brian McClinton
Undersecretary
2304#031

Evan Brasseaux
Interim Deputy Fiscal Officer
Legislative Fiscal Office

Committee Reports

COMMITTEE REPORT

Senate Committee on Health and Welfare

Oversight Consideration of Proposed Rule
Board of Nursing—Authorized Practice
(LAC 46:XLVII.4513)

In accordance with the powers conferred by the Administrative Procedure Act in R.S. 49:966, the Senate Committee on Health and Welfare met on April 11, 2023, for the purpose of exercising legislative oversight authority with respect to the Louisiana State Board of Nursing's proposed rule to remove prohibitions against advanced practice registered nurses prescribing controlled substances to treat obesity and chronic pain conditions.

After a thorough hearing on the matter, including presentations by the board and both proponents and opponents of the proposed rule, the Senate committee

members, by unanimous vote of the members present and voting, rejected the proposed rule.

The Senate committee members found that the proposed rule is not in conformity with the intent and scope of the enabling legislation purporting to authorize it, is not in conformity with all applicable provisions of law and the constitution, is lacking in advisability, and is therefore unacceptable.

By transmittal of this written report and a copy of the proposed rule in accordance with R.S. 49:966(F), the Senate Committee on Health and Welfare is notifying the governor, the Louisiana State Board of Nursing, and the *Louisiana Register* of the action by which it has determined the proposed rule to be unacceptable.

Fred H. Mills, Jr.
Chairman

2304#071

Potpourri

POTPOURRI

Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences

2023 Annual Quarantine List

The Louisiana Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, hereby gives notice of the 2023 Annual Quarantine List.

In accordance with LAC 7:XV.107 and 109, we are hereby publishing the annual quarantine.

1.0 Sweetpotato Weevil (*Cylas formicarius elegantulus* Sum)

(a) In the United States: the states of Alabama, California, Florida, Georgia, Mississippi, North Carolina, South Carolina, Texas and any other state found to have the sweetpotato weevil.

(b) In the State of Louisiana:

1) The entire parishes of: Acadia, Allen, Ascension, Assumption, Avoyelles, Beauregard, Bienville, Bossier, Caddo, Calcasieu, Cameron, DeSoto, East Baton Rouge, East Feliciana, Evangeline, Grant, Iberia, Iberville, Jefferson, Jefferson Davis, Lafayette, Lafourche, Livingston, Natchitoches, Orleans, Plaquemines, Pointe Coupee, Rapides, Red River, Sabine, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Vermilion, Vernon, Washington, Webster, West Baton Rouge, West Feliciana.

2.0 Pink Bollworm (*Pectinophora gossypiella* Saunders)

Pink bollworm quarantined areas are divided into generally infested and/or suppressive areas as described by USDA-PPQ.

Arizona

Generally infested area: the entire state.

California

(1) Generally infested area: The entire counties of: Imperial, Inyo, Los Angeles, Orange, Riverside, San Bernardino, and San Diego.

(2) Suppressive area: The entire counties of: Fresno, Kern, Kings, Madera, Merced, San Benito, and Tulare.

New Mexico

(1) Generally infested area: The entire state.

Texas

(1) Generally infested area: The entire state.

3.0 Phytophagous Snails

The states of Arizona and California.

4.0 Sugarcane Pests and Diseases

All states outside of Louisiana.

5.0 Lethal Yellowing

The state of Florida.

Louisiana

Infested parishes: East Baton Rouge and Jefferson.

6.0 Lethal Bronzing (formerly Texas Phoenix Decline)

The states of Texas and Florida.

Louisiana

Infested parishes: East Baton Rouge, Iberia, Jefferson, Orleans and West Baton Rouge.

7.0 Tristeza, Xyloporosis, Psorosis, Exocortis.

All citrus growing areas of the United States.

8.0 Burrowing Nematode (*Radopholus similis*)

The States of Florida and Hawaii and the Commonwealth of Puerto Rico.

9.0 Oak Wilt (*Ceratocystis fagacearum*)

Arkansas

Infected counties: Baxter, Benton, Boone, Carroll, Clay, Craighead, Crawford, Franklin, Fulton, Independence, Izard, Johnson, Lawrence, Logan, Madison, Marion, Mississippi, Nevada, Newton, Poinsett, Pope, Randolph, Scott, Searcy, Sharp, Stone, Washington, and Yell.

Illinois

Entire state.

Indiana

Entire state.

Iowa

Entire state.

Kansas

Infected counties: Anderson, Atchison, Cherokee, Doniphan, Douglas, Franklin, Jackson, Jefferson, Johnson, Leavenworth, Linn, Miami, Neosho, Pottawatomie, Shawnee, and Wyandotte.

Kentucky

Infected counties: Adair, Allen, Ballard, Bath, Bell, Boyd, Breathitt, Breckinridge, Bullitt, Butler, Caldwell, Calloway, Carter, Casey, Christian, Clay, Clinton, Cumberland, Daviess, Edmonson, Elliott, Estill, Fleming, Floyd, Graves, Grayson, Green, Greenup, Hancock, Hardin, Harlan, Hart, Henderson,

Hopkins, Jefferson, Johnson, Knott, Knox, Lawrence, Lee, Leslie, Letcher, Lewis, Logan, McCracken, McLean, Magoffin, Marshall, Martin, Menifee, Metcalfe, Montgomery, Morgan, Muhlenberg, Nelson, Ohio, Oldham, Owsley, Perry, Pike, Powell, Pulaski, Rowan, Russell, Taylor, Todd, Trigg, Union, Warren, Wayne, and Webster.

Maryland

Infected Counties: Allegany, Frederick, Garrett, and Washington.

Michigan

Infected counties: Barry, Barrien, Calhoun, Cass, Clare, Clinton, Grand Traverse, Kalamazoo, Kent, Lake, Livingston, Manistee, Missaukee, Muskegon, Oakland, Roscommon, St. Joseph, Van Buren, Washtenaw, Wyne, and Menominee.

Minnesota

Infected counties: Anoka, Aitkin, Blue Earth, Carver, Cass, Chicago, Crow Wing, Dakota, Dodge, Fillmore, Freeborn, Goodhue, Hennepin, Houston, Le Sueur, McLeod, Mille Lacs, Morrison, Mower, Nicollet, Olmsted, Ramsey, Rice, Scott, Sherburne, Sibley, Steele, Wabasha, Waseca, Washington, Winona, and Wright.

Missouri

Entire state.

Nebraska

Infected counties: Cass, Douglas, Nemaha, Otoe, Richardson, and Sarpy.

North Carolina

Infected counties: Buncombe, Burke, Haywood, Jackson, Lenoir, Macon, Madison, and Swain.

Ohio

Entire state.

Oklahoma

Infected counties: Adair, Cherokee, Craig, Delaware, Haskell, Latimer, LeFlore, Mayes, McCurtain, McIntosh, Ottawa, Pittsburg, Rogers, Sequoyah, and Wagoner.

Pennsylvania

Infected counties: Adams, Allegheny, Armstrong, Beaver, Bedford, Blair, Butler, Cambria, Centre, Clarion, Clinton, Cumberland, Erie, Fayette, Franklin, Fulton, Greene, Huntingdon, Indiana, Jefferson, Juniata, Lawrence, Mifflin, Perry, Somerset, Venango, Washington, and Westmoreland.

South Carolina

Infected counties: Chesterfield, Kershaw, Lancaster, Lee, and Richland.

Tennessee

Infected Counties: Blount, Carter, Cocke, Cumberland, Grainger, Greene, Hamblen, Hancock, Hardeman, Hawkins, Jefferson, Knox, Lincoln, Loudon, Montgomery, Rhea, Roane, Robertson, Sevier, Sullivan, Union, Washington, and White.

Texas

Infected counties: Bandera, Bastrop, Bexar, Blanco, Basque, Burnett, Dallas, Erath, Fayette, Gillespie, Hamilton, Kendall, Kerr, Lampasas, Lavaca, McLennan, Midland, Tarrant, Travis, Williamson.

Virginia

Infected counties: Aleghany, Augusta, Bath, Botetoust, Clarke, Frederick, Giles, Highland, Lee, Loudoun, Montgomery, Page, Rockbridge, Rockingham, Scott, Shenandoah, Smyth, Warren, Washington, Wise, and Wythe.

West Virginia

Infected counties: all counties except Tucker and Webster.

Wisconsin

Infected counties: Adams, Brown, Buffalo, Chippewa, Clark, Columbia, Crawford, Dane, Dodge, Dunn, Eau Claire, Fond du Lac, Grant, Green, Green Lake, Iowa, Jackson, Jefferson, Juneau, Kenosha, La Crosse, Lafayette, Lincoln, Marquette, Milwaukee, Monroe, Oconto, Outagamie, Ozaukee, Pepin, Pierce, Polk, Portage, Racine, Richland, Rock, St. Croix, Sauk, Shawano, Trempealeau, Vernon, Walworth, Washington, Waukesha, Waupaca, Waushara, Winnebago, and Wood.

10.0 Phony Peach

Alabama

Entire state.

Arkansas

Counties of Arkansas, Ashley, Bradley, Chicot, Columbia, Crittendon, Cross, Desha, Drew, Hempstead, Howard, Jefferson, Lafayette, Lee, Lincoln, Little River, Miller, Monroe, Nevada, Phillips, Pike, Poinsett, St. Francis, Sevier, Union, and Woodruff.

Florida

Entire state.

Georgia

Entire state.

Kentucky

County of McCracken.

Louisiana

Parishes of Bienville, Bossier, Caddo, Claiborne, DeSoto, Jackson, Lincoln, Morehouse, Natchitoches, Ouachita, Red River and Union.

Mississippi

Entire state.

Missouri

County of Dunklin.

North Carolina

Counties of Anson, Cumberland, Gaston, Hoke, Polk and Rutherford.

South Carolina

Counties of Aiken, Allendale, Bamberg, Barnwell, Cherokee, Chesterfield, Edgefield, Greenville, Lancaster, Laurens, Lexington, Marlboro, Orangeburg, Richland, Saluda, Spartanburg, Sumter, and York.

Tennessee

Counties of Chester, Crockett, Dyer, Fayette, Hardman, Hardin, Lake, Lauderdale, McNairy, Madison, and Weakley.

Texas

Counties of Anderson, Bexar, Brazos, Cherokee, Freestone, Limestone, McLennan, Milan, Rusk, San Augustine, Smith, and Upshur.

11.0 Citrus Canker (*Xanthomonas citri* subsp. *citri*)

Louisiana

Infested parishes: Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John and a portion of St. Martin.

Any areas designated as quarantined under the Federal Citrus Canker quarantine 7 CFR 301.75 et seq.

12.0 Citrus Greening [*Candidatus Liberibacter asiaticus*]

Louisiana

Infested parishes: Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles and Washington.

Any other areas or states designated as infested under the Federal Citrus Greening and Asian Citrus Psyllid quarantine 7 CFR 301.76 et seq.

13.0 Asian Citrus Psyllid [*Diaphorina citri* Kuwayama]

Louisiana

Infested parishes: Jefferson, Orleans, Lafourche, Plaquemines, St. Bernard, St. Charles, St. James, St. Tammany, Tangipahoa and Terrebonne.

Any other areas or states designated as infested under the Federal Citrus Greening and Asian Citrus Psyllid quarantine 7 CFR 301.76 et seq.

14.0 Emerald Ash Borer [*Agrilus planipennis*]

Louisiana

Infested parishes: Bienville, Bossier, Caddo, Claiborne, Jackson, Lincoln, Morehouse, Ouachita, Union and Webster.

15.0 Roseau Cane Scale (*Nipponaclerda biwakoensis*)

Louisiana

Infested parishes: Acadia, Allen, Ascension, Assumption, Beauregard, Calcasieu, Cameron, East Baton Rouge, East Feliciana, Evangeline, Iberia, Iberville, Jefferson, Jefferson Davis, Lafayette, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, St. Bernard, St. Charles, St. Helena, St. James, St. John, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Vernon, Washington, and West Feliciana.

16.0 Guava root knot nematode (*Meloidogyne enterolobii*)

enterolobii)

The entire states of Florida, North Carolina, and South Carolina.

Mike Strain DVM
Commissioner

2304#068

POTPOURRI

**Department of Children and Family Services
Division of Programs**

Social Services Block Grant Intended Use Report

The Department of Children and Family Services (DCFS) announces opportunities for public review of the state’s pre-expenditure report on intended uses of Social Services Block Grant (SSBG) funds for the state fiscal year (SFY) beginning July 1, 2023, and ending June 30, 2024. The proposed SFY 2023-2024 SSBG intended use report has been developed in compliance with the requirements of section 2004 of the Social Security Act (SSA), as amended and includes information on the types of activities to be supported and the categories or characteristics of individuals to be served through use of the state’s allocation of SSBG funds. Section 2004 of the SSA further requires that the SSBG pre-expenditure report shall be “made public within the state in such manner as to facilitate comment by any person.” The DCFS, as the designated state department, will continue to administer programs funded under the SSBG in accordance with applicable statutory requirements and federal regulations. The DCFS, Child Welfare Section (CWS) will be responsible for provision of social services, by direct delivery and vendor purchase, through use of SFY 2023-2024 SSBG expenditures for adoption, child protection, family services, and foster care/residential care services.

Louisiana, through DCFS/CWS, will utilize its allotted funds to provide comprehensive social services on behalf of children and families in fulfillment of legislative mandates for child protection and child welfare programs. These

mandated services, and certain other essential social services, are provided without regard to income (WRI) to individuals in need. Individuals to be served also include low-income persons as defined in the intended use report who meet eligibility criteria for services provided through SSBG funding.

Services designated for provision through SSBG funding for SFY 2023-2024 are:

- A. adoption (pre-placement to termination of parental rights);
- B. child protective services including assessment, evaluation, social work intervention, shelter care, counseling and referrals for child abuse/neglect reports;
- C. family services (social work intervention subsequent to validation of a report of child abuse/neglect, counseling to high risk groups);
- D. foster care/residential care services (foster, residential care, and treatment on a 24-hour basis).

Definitions for the proposed services are set forth in the intended use report.

Persons eligible for SSBG funded services include:

- A. persons WRI, who are in need of adoption services, child protection, family services, and foster care/residential services;
- B. individuals WRI who are recipients of Title IV-E adoption assistance;
- C. recipients of supplemental security income (SSI) and recipients of Temporary Assistance for Needy Families (TANF) and those persons whose needs were taken into account in determining the needs of TANF recipients;
- D. low-income persons (income eligible) whose gross monthly income is not more than 125 percent of the poverty level. A family of four with gross monthly income of not more than \$2890 would qualify as income eligible for services;
- E. persons receiving title XIX (Medicaid) benefits and certain Medicaid applicants identified in the proposed plan as eligible groups.

The post expenditure report for the SSBG program for SFY 2023 is included in the SSBG intended use report for SFY 2023-2024. Free copies are available by telephone request to (225) 342-342-5918 or by writing to the Administrator, Child Welfare Section, P.O. Box 3318, Baton Rouge, LA 70821.

The report is available for public review online at: <http://www.dss.state.la.us/index.cfm?md=pagebuilder&tmp=home&pid=131>, then select the 2023-2024 SSBG link. Inquiries and comments on the plan may be submitted in writing to the DCFS, Attention Administrator, P.O. Box 3318, Baton Rouge, LA 70821. The deadline for receipt of written comments is Thursday, May 26, 2023 at 4 p.m.

All interested persons will have the opportunity to provide comments and/or recommendations on the plan, orally or in writing, at a public hearing scheduled for Thursday, May 26, 2023 at 10:00 a.m. Due to COVID-19, interested persons may join via ZOOM: Join from PC, Mac, Linux, iOS or Android: <https://stateofladcfs.zoom.us/j/87026413084?pwd=VTBraVluek13b3YwVFhWTXdoeEFvQT09> password: – 018130 or Telephone by dialing USA (713) 353-0212, conference code 848054. Individuals with disabilities who

require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (voice and TDD).

Terri Porche Ricks
Secretary

2304#064

POTPOURRI

Department of Children and Family Services

Louisiana's 2023 Annual Progress and Services Report

The Department of Children and Family Services (DCFS) announces opportunities for public review of the state's 2023 Annual Progress and Services Report (APSR). The APSR is a report on the achievement of goals and objectives and/or outcomes for the last year of the 2020-2024 Child and Family Services Plan (CFSP). This plan addresses the use of Title IV-B, Subpart 1 and Subpart 2, Title IV-E Chafee Foster Care Independence Program (CFCIP), Educational and Training Vouchers (ETV), and Child Abuse Prevention and Treatment Act (CAPTA) funds and serves as the applications for additional funds from these federal sources.

Louisiana, through the DCFS, provides services that include child abuse prevention, child protective services, family services-prevention and intervention services, foster care, adoption and the youth transition services. The Department will use its allotted funds provided under the Social Security Act, Title IV-B, Subpart 1, entitled the Stephanie Tubbs Jones Child Welfare Services Program, to provide child welfare services to prevent child abuse and neglect, to prevent foster care placement, to reunite families, to arrange adoptions, and to ensure adequate foster care. Title IV-B, Subpart 2, entitled Promoting Safe and Stable Families, funds services to support families and prevent the need for foster care. The CFCIP funds services to assist foster children 15 years of age and older who are likely to remain in foster care until 18 years of age. Former foster care recipients who are 18 years of age who have aged out of foster care, and those who were adopted or entered guardianship at age 16 years of age or older, are also eligible for services. The services include basic living skills training and education and employment opportunities. The CAPTA funding is used to complement and support the overall mission of child welfare with emphasis on developing, strengthening, and carrying out child abuse and neglect prevention and treatment programs and to support Citizen Review Panels statewide.

The DCFS is encouraging public participation in the planning of services and the writing of this document. The report can be found for review on the internet at <http://www.dss.state.la.us/index.cfm?md=pagebuilder&tmp=home&pid=132> then by clicking on the 2022 APSR link. Inquiries and comments on the plan may be submitted in writing to the DCFS, Attention: Child Welfare Administrator, P O Box 3318, Baton Rouge, LA 70821. The deadline for receipt of written comments is May 26, 2023 at 4:00 p.m.

All interested persons will have the opportunity to provide comments and/or recommendations on the plan, orally or in

writing, at a public hearing scheduled for May 26, 2023 at 11:00 a.m. Due to COVID-19, interested persons may join via ZOOM: Join from PC, Mac, Linux, iOS or Android: <https://stateofladcfs.zoom.us/j/87026413084?pwd=VTBraVluek13b3YwVFhWTXdoeEFvQT09password:018130>, or Telephone by dialing USA (713) 353-0212, Conference code: 848054.

Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (Voice and TDD).

Terri Porche Ricks
Secretary

2304#063

POTPOURRI

Office of the Governor Division of Administration Office of Broadband Development and Connectivity

Granting Unserved Municipalities Broadband Opportunities (GUMBO) Solicitation of Comments

In accordance with the federal Infrastructure Investment and Jobs Act (Public Law No. 117-58), the Office of Broadband Development and Connectivity (the Office) submits the following Potpourri Notice. The Office is creating rules to comply with the Broadband Equity, Access, and Deployment (BEAD) program. To submit public comment on the promulgation of proposed rules, any interested party may email the Office at connect@la.gov with the with the subject line "Public Comment—Broadband Equity, Access, and Deployment".

All public comment must comply the U.S. Department of Commerce's BEAD Notice of Funding Opportunity.

The deadline for receipt of all written comments is 4:30 p.m. on Friday, May 26, 2023.

Jay Dardenne
Commissioner
and
Veneeth Iyengar
Executive Director

2304#070

POTPOURRI

Department of Health Office of Public Health Bureau of Family Health

Maternal and Child (MCH) Block Grant Federal Funding for FFY 2023

The Louisiana Department of Health (LDH) applied for Title V Maternal and Child (MCH) Block Grant Federal Funding for FFY 2023 in accordance with Public Law 97-35 and the Omnibus Budget Reconciliation Act of 1981. The Office of Public Health, Bureau of Family Health is responsible for program administration of the grant.

The Block Grant Application includes a five-year State Action Plan (FFY 2021-2025) that outlines the goals and planned activities to advance maternal and child health and systems of care for children and youth with special health care needs. Title V priorities are based on the results of a statewide needs assessment that was conducted during 2019-2020. The Title V State Action Plan is reviewed and updated annually based on ongoing needs assessments and other relevant population and performance data.

We would like for the public to know more about the Title V Block Grant reports and applications and provide feedback to inform future Block Grant applications. The complete current Title V MCH Block Grant Federal Fiscal Year (FFY) 2021 Report/FFY application document is available for review and download at <https://ldh.la.gov/page/935>. If you have any questions and/or want to submit feedback on the application, please email us at TitleVMCH@la.gov.

Doris Gray Brown, MEd, MS, APRN, CNS
Assistant Secretary

2304#014

POTPOURRI

Department of Justice Occupational Licensing Review Program

Accepting Participants for FY 2023-2024

The Department of Justice is currently accepting occupational licensing boards into the Department of Justice Occupational Licensing Review Program established by La. R.S. 49:260. This program provides for active state supervision and was established to ensure that participating boards and board members will avoid liability under federal antitrust laws. Participants for the 2023-2024 Fiscal Year will be accepted into the program through May 31, 2023. For information about participating in the program, contact Terrence “Joe” Donahue, Jr., Assistant Attorney General, Louisiana Department of Justice, Civil Division at 225-326-6000.

Terrence “Joe” Donahue, Jr.
Assistant Attorney General

2304#069

CUMULATIVE INDEX
(Volume 49, Number 4)

2023	
Pages	Issue
1-196.....	January
197-437.....	February
438-634.....	March
635-826.....	April

EO—Executive Order
PPM—Policy and Procedure Memoranda
ER—Emergency Rule
R—Rule
N—Notice of Intent
CR—Committee Report
GR—Governor's Report
L—Legislation
P—Potpourri
QU—Administrative Code Quarterly Update

ADMINISTRATIVE CODE UPDATE

Cumulative

January 2022-December 2022, 178QU
January 2023-March 2023, 814QU

AGRICULTURE AND FORESTRY

Agricultural and Environmental Sciences, Office of

2023 Annual Quarantine List, 816P
Restrictions on application of certain pesticides, 77N,
641R

Animal Health, Board of

Chronic Wasting Disease, 236R
Trichomoniasis, 236R

Animal Health and Food Safety

Chronic Wasting Disease, 236R
Trichomoniasis, 236R

Veterinary Medicine, Board of

Petitions for rule modification, 346N
Preceptor Program, 640R

CHILDREN AND FAMILY SERVICES

Louisiana's 2023 Annual Progress and Services Report,
819P

Child Support Enforcement Section

Criminal history records checks for access to federal tax
information, 240R

Child Welfare, Division of

State central registry, 3ER, 527N
TANF caseload reduction, 179P
TANF Star Academy Program, 3ER, 348N

Licensing Section

12-Month license
Child placing agencies, 349N, 440ER
Child residential care Class B, 349N, 440ER
General provisions, 349N, 440ER
Juvenile detention, 349N, 440ER
Residential homes (Type IV), 349N, 440ER

Programs, Division of

Social Services Block Grant Intended Use Report, 818P

CIVIL SERVICE

Ethics, Board of

Exemption disclosure statement, 528N
Food and drink limit, 705N
Late filings, 529N
Spousal income disclosure statement, 530N

COMMITTEE REPORTS

House of Representatives

Committee on Natural Resources and Environment

Oversight consideration of the proposed Department of
Wildlife and Fisheries Rule
Spotted seatrout management measures, 412CR

Senate

Committee on Health and Welfare

Oversight Consideration of Proposed Rule
Board of Nursing—Authorized Practice, 815CR

Committee on Natural Resources

Oversight consideration of the proposed Department of
Wildlife and Fisheries Rule
Spotted seatrout management measures, 412CR

ECONOMIC DEVELOPMENT

Business Development, Office of

Louisiana Competes Regional Economic Development
Program "Louisiana Competes Program", 608P
Quality Jobs Program, 25R, 338R, 414P

Secretary, Office of the

Small Business Innovation Recruitment Fund Program,
413P, 531N

EDUCATION

Elementary and Secondary Education, Board of

BESE/8(g) operations, 241R
Biocontaminants, 705N
Hazardous materials, 705N
Procedural requirements for documentation, 705N
Bulletin 111—The Louisiana School, District, and State
Accountability System, 31R
Alternative education, 242R
Bulletin 119—Louisiana School Transportation
Specifications and Procedures, 243R
Bulletin 130—Regulations for the Evaluation and
Assessment of School Personnel
Teacher observations, 4ER
Bulletin 137—Louisiana Early Learning Center
Licensing Regulations, 32R

EDUCATION (continued)

- Bulletin 741—Louisiana Handbook for School Administrators, 244R
Attendance, 32R
Cameras in certain special education settings, 33R
Student transfer requests, 35R
- Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators, 35R
- Bulletin 746—Louisiana Standards for State Certification of School Personnel, 36R
Algebra I, 40R
- Bulletin 996—Standards for Approval of Teacher and/or Educational Leader Educational Preparation Programs, 41R
- Bulletin 1508—Pupil Appraisal Handbook Interventions and Screenings, 710N
- Bulletin 1530—Louisiana's IEP Handbook for Students with Exceptionalities
Alternate assessment participation criteria, 41R
- Bulletin 1566—Pupil Progression Policies and Procedures, 244R
- Bulletins Regarding Administration of Educational Programs, 245R
Civics assessment, 351N
Foreign languages, 78N, 642R
Innovative Assessment Program, 42R, 644R
Learning pods, 81N, 647R
Medication administration training, 84N, 354N
School nurses, 355N
Teacher observations, 85N, 649R
Teacher Preparation Program entry, 255R
- Regents, Board of**
Student Financial Assistance, Office of
Scholarship/Grant Programs
2022 Legislation, 45R
Mental health exception, 357N
- Tuition Trust Authority**
Student Financial Assistance, Office of
Education savings account rollover, 58R

ENVIRONMENTAL QUALITY

- Office of the Secretary**
Legal Affairs and Criminal Investigations Division
One-Time wastes excluded
Marine Shale Processors (MSP) Site PRP Group, 58R
Radiation protection, 60R
RLS criteria pollutant fee increase, 358N
Voluntary environmental self-audit regulations, 711N
Water quality standards triennial revision, 87N

EXECUTIVE ORDERS

- JBE 23-01 Flags at Half-Staff—Representative Kenneth Louis Odinet, Sr., 1EO
JBE 23-02 Flags at Half-Staff—Representative Joseph Raymond Lalonde, Sr., 1 EO
JBE 23-03 Flags at Half-Staff—Representative Kay Iles, 2EO

- JBE 23-04 Carry-Forward Bond Allocation, 197EO
JBE 23-05 Suspension of Election Qualifying, 438EO
JBE 23-06 Amending the National Incident Management System (NIMS) Designation, 438EO

GOVERNOR

Administration, Division of

Facility Planning and Control

- Building code for state-owned buildings, 258R

Broadband Development and Connectivity, Office of

- Granting Unserved Municipalities Broadband Opportunities (GUMBO), 442ER, 637ER, P

Public hearing

Substantive change

- Granting Unserved Municipalities Broadband Opportunities (GUMBO), 414P

Solicitation of comments, 819P

Certified Public Accountants, Board of

- Certified public accountants, 650R

Group Benefits, Office of

- Bariatric surgery services, 716N

Racing Commission

- Horses disqualified for a foul, 455ER, 533N

- Owner's entry of more than one horse, 455ER, 534N

Tax Commission

Public Hearing

Substantive changes to Notice of Intent

- Electronic tax roll export specifications, 609P

Exempt property, 609P

Industrial exemption properties, 609P

Valuation of oil, gas, and other wells, 609P

Boxing and Wrestling Commission

- Boxing and wrestling standards, 198ER

Coastal Protection and Restoration Authority

Public hearing

- 2023 Draft Coastal Master Plan and Fiscal Year, 179P

- 2024 Draft Annual Plan, 179P

Commission on Law Enforcement and Administration of Criminal Justice

- General subgrant guidelines, 91N

- Peace officer training, 654R

Crime Victims Reparations Board

- Compensation to victims, 92N

Public hearing

- Crime Victims Reparations Program, 428P

Financial Institutions, Office

- Virtual currency business activity, 259R

Motor Vehicle Commission

- Availability of vehicles, 723N

Pardons, Board of

- Parole, 256R

Real Estate Commission

- Investigations and hearings, 481R

- Certificate of Authority, 655R

- Examination, 655R

- Instructors, 655R

- Licensure, 655R

- Vendors, 655R

HEALTH

Aging and Adult Services, Office of

Home and community-based services waivers
Adult Day Health Care Waiver
Assistive technology services, 485R
Bonus payments, ER5, 683R
Direct support worker wages, ER5, 683R
Community Choices Waiver
Assistive technology services, 486R
Bonus payments, ER9, 684R
Direct support/service worker wages, ER9, 684R
Home-delivered meals, 486R
Resource assessment and allocation process, 538N
Support coordination workforce bonus payments, ER13, 685R
Personal care services
Long Term, 378N
Bonus payments, ER17, 696R
Direct service worker wages, ER17, 696R
Programs and services amendments due to the Coronavirus Disease 2019 (COVID-19) Public Health Emergency, 212ER
Home and community-based services waivers, 217ER
Long-Term personal care services, 217ER
Public hearing
Substantive changes to proposed rule
Home and community-based services waivers
Adult Day Health Care Waiver
Bonus payments, 180P
Direct support worker wages, 180P
Community Choices Waiver
Bonus payments, 182P
Direct support/service worker wages, 182P
Personal care services
Long term
Bonus payments, 188P
Direct service worker wages, 188P
Support coordination workforce bonus payments, 186P

Behavioral Health, Office of

Healthy Louisiana and coordinated system of care waiver
Behavioral health directed payments, 744N

Citizens with Developmental Disabilities, Office for

Home and community-based services waivers
Children's Choice Waiver
Bonus payments, ER8, 201ER, 203ER, 458ER
Direct service worker wages, ER8, 201ER, 203ER, 456ER
Medicaid eligibility
Act 421 Children's Medicaid Option, 752N
New Opportunities Waiver
Bonus payments, ER6, 203ER, 205ER, 459ER
Direct service worker wages, ER6, 203ER, 205ER, 458ER
Residential Options Waiver
Bonus payments, ER11, 206ER, 208ER, 460ER
Direct service worker wages, ER11, 206ER, 208ER, 460ER

Supports Waiver

Direct service worker wages, ER14, 208ER, 210ER, 462ER
Bonus payments, ER14, 208ER, 210ER, 462ER
Programs and services amendments due to the Coronavirus Disease 2019 (COVID-19) Public Health Emergency, 212ER
Home and community-based services waivers, 217ER
Long-Term personal care services, 217ER
Public hearing
Substantive changes to proposed rule
Home and community-based services waivers
Children's Choice Waiver
Bonus payments, 181P, 613P
Direct service worker wages, 181P, 613P
New Opportunities Waiver
Bonus payments, 183P, 615P
Direct service worker wages, 183P, 615P
Residential Options Waiver
Bonus payments, 184P, 616P
Direct service worker wages, 184P, 616P
Supports Waiver
Bonus payments, 186P, 617P
Direct service worker wages, 186P, 617P
Personal care services
Long term
Bonus payments, 188P
Direct service worker wages, 188P

Dentistry, Board of

Dentists
Continuing education requirements, 65R

Emergency Response Network

LERN destination protocol: TRAUMA, 266R

Examiners of Psychologists, Board of

Code of ethics
Licensed specialists
School psychology, 657R
Continuing education, 665R
Exemptions and fees, 665R
Neuropsychology
Credentials and scope of practice, 671R
Provisional licensure, 671R
Specialty designation, 671R
Training, 671R
Registration of assistant to a psychologist, 668R

Health Services Financing, Bureau of

Adult Dentures Program
Reimbursement, 635ER, 736N
Adult residential care providers, 68R
Dental Benefits Prepaid Ambulatory Health Plan, 95N, 682R
Participation requirements, 537N
Early and periodic screening, diagnosis and treatment
Dental services, 635ER, 737N
Personal care services
Personal care workers wage enhancement, 262R
Federally qualified health centers,
Alternative payment methodology, 739N
Free-Standing birth centers
Licensing standards, 481R

HEALTH (continued)

Healthcare facility sanctions, 740N
Healthcare services provider fees
Hospital fee assessments, 262R
Healthy Louisiana and coordinated system of care waiver
Behavioral health directed payments, 744N
Home and community-based services waivers
Adult Day Health Care Waiver
Assistive technology services, 485R
Bonus payments, ER5, 683R
Direct support worker wages, ER5, 683R
Children's Choice Waiver
Bonus payments, ER8, 201ER, 203ER, 456ER
Direct service worker wages, ER8, 201ER, 203ER, 458ER
Community Choices Waiver
Assistive technology services, 486R
Bonus payments, ER9, 684R
Direct support/service worker wages, ER9, 684R
Home-delivered meals, 486R
Resource assessment and allocation process, 538N
New Opportunities Waiver
Bonus payments, ER6, 203ER, 205ER, 459ER, 615P
Direct service worker wages, ER6, 203ER, 205ER, 459ER, 615P
Residential Options Waiver
Bonus payments, ER11, 206ER, 208ER, 460ER
Direct service worker wages, ER11, 206ER, 208ER, 460ER
Support coordination workforce bonus payments, ER13, 685R
Supports Waiver
Bonus payments, ER14, 208ER, 210ER, 462ER, 617P
Direct service worker wages, ER14, 208ER, 210ER, 462ER, 617P
Home Health Program
American Rescue Plan Act funding, 16ER, 371N
Authorizing authority and emergency provisions, 373N
Reimbursement rate increase, 636ER
Hospice services
Payment methodology, 746N
Hospital licensing standards, 464ER, 540N
Rural emergency hospitals, 465ER, 749N
Inpatient hospital services, 97N, 686R
Coverage of genetic testing of critically ill infants, 487R
Medicare Part A claims for Medicaid eligible beneficiaries, 750N
Teaching classification qualifications, 70R
Urban metropolitan statistical area facility
New Orleans area, 263R
Intermediate care facilities for persons with intellectual disabilities
Reimbursement methodology
Dental services, 99N, 687R
Managed care for physical and behavioral health
Hospital directed payments, 264R
Reimbursement methodology, 103N

Medicaid eligibility
Act 421 Children's Medicaid Option, 752N
Disregard of accumulated resources, 754N
Resource disregards, ER15, 375N
Medical Transportation Program
Non-Emergency medical transportation
American Rescue Plan Act, 211ER, 376N
Nurse Aide Training and Competency Evaluation Program
Licensing Standards
Medication attendant certified, 690R
Nursing facilities
Licensing standards, 466ER, 619P
Outpatient hospital services
Urban metropolitan statistical area facility
New Orleans area, 265R
Personal care services
Long Term, 378N
Bonus payments, ER17, 696R
Direct service worker wages, ER17, 696R
Professional Services Program
Tobacco cessation counseling, 542N
Programs and services amendments due to the Coronavirus Disease 2019 (COVID-19) Public Health Emergency, 212ER, 636ER
Home and community-based services waivers, 217ER
Long-Term personal care services, 217ER
Public hearing
Substantive changes to proposed rule
Home and community-based services waivers
Adult Day Health Care Waiver
Bonus payments, 180P
Direct support worker wages, 180P
Children's Choice Waiver
Bonus payments, 181P, 613P
Direct service worker wages, 181P, 613P
Community Choices Waiver
Bonus payments, 182P
Direct support/service worker wages, 182P
New Opportunities Waiver
Bonus payments, 183P
Direct service worker wages, 183P
Residential Options Waiver
Bonus payments, 184P, 616P
Direct service worker wages, 184P, 616P
Support coordination workforce bonus payments, 186P
Supports Waiver
Bonus payments, 186P
Direct service worker wages, 186P
Nurse Aide Training and Competency Evaluation Program
Medication attendant certified, 188P
Personal care services
Long term
Bonus payments, 188P
Direct service worker wages, 188P
Targeted case management
Reimbursement methodology
Workforce bonus payments, 189P, 698R

HEALTH (continued)

Licensed Professional Counselors Board of Examiners

Academic requirements for MFT licensure or provisional licensure, 544N

Name change fee removal, 545N

Medical Examiners, Board of

Bridge Year Graduate Program

Physicians, 200ER

Nursing, Board of

Authorized practice, 360N

Optometry Examiners, Board of

Continuing education, 456ER, 535N

Pharmacy, Board of

Compounding, 66R

DATA-Waiver registration elimination, 724N

Healthcare workplace violence prevention, 361N

Licensing dependents of healthcare professionals relocating to Louisiana, 66R

Marijuana pharmacy, 726N

Nonresident pharmacies, 679R

Partial fills of controlled dangerous substance prescriptions, 681R

Pharmacy benefit managers, 363N

Pharmacy change of ownership, 731N

Prescriptions, 365N

Staffing ratios, 734N

Temporary closure of pharmacy, 369N

Transfer of prescription information, 67R

Public Health, Office of

Emergency Medical Services Certification Commission

EMS licensing pre-application eligibility determination, 477ER

Family Health, Office of

Maternal and Child (MCH) Block Grant

Federal funding for FFY 2023, 819P

Emergency Medical Services, Bureau of

Emergency medical services professionals, 755N

Emergency medical transportation services

Licensing standards, 104N

Conditions that shall deem an unborn child “medically futile”, 218ER

Health Professional Development Program, 219ER

Registration of foods, drugs, cosmetics and prophylactic devices, 222ER

INSURANCE

Commissioner, Office of the

Emergency Rule 48—Insure Louisiana Incentive Program, 224ER

Regulation 31—Holding Company, 488R

Regulation 42—Group Self-Insurance Funds, 267R, 490R

Regulation 53—Basic Health Insurance Plan Pilot Program, 490R

Regulation 101—Registration and Regulation of Navigators, 70R

Regulation 103—Utilization Review Organizations and Independent Review Organizations, 124N

Regulation 124—Catastrophe Claims Process Disclosure Form-Guide, 493R

Regulation 125—Insure Louisiana Incentive Program, 270R, 547N

Regulation 126—Louisiana Fortify Homes Program, 126N, 698R

Regulation 127—The Hurricane Property Insurance Claim Alternate Dispute Resolution Program, 386N

Regulation 128—Louisiana Timber and Agriculture Transportation Group Self-Insurance Funds, 381N

JUSTICE

Civil Division

Occupational Licensing Review Program

Accepting participants for FY 2023-2024, 820P

NATURAL RESOURCES

Office of Conservation

Community injection wells and systems, 71R

License renewal, 130N, 701R

Orphaned oilfield sites, 190P, 430P, 620P

Pipeline safety, 389N, 549N

Public comment announcement

Statewide Order No. 29-B, 428P, 622P

Rule reorganization, 276R

Use of reclaimed oilfield waste (ROW) for downhole well operations, 398N

PUBLIC SAFETY AND CORRECTIONS

Corrections Services

Equal employment opportunity, 495R

Offender mail and publications, 502R

Offender visitation, 570N

Gaming Control Board

Video draw poker, 72R

Motor Vehicles, Office of

Auto title companies, 769N

Designation or restrictions on driver's licenses and identification cards, 383N

Odometer disclosure, 385N

Public tag agents, 330R, 582N

Uniform Construction Code Council

Uniform Construction Code

Energy codes, 589N

Freeboard requirements, 601N

REVENUE

Policy Services Division

Apprenticeship tax credits, 73R

Articles and products made of tobacco and tobacco substitutes, 333R

Fresh start proper worker classification initiative, 74R

Income exemption for digital nomads, 20ER

Income tax return filing extensions, 701R

Mobile workforce exemption, 334R

REVENUE (continued)

Notice of public hearing
Changes to proposed rule
Income tax filing extension, 191P
Voluntary disclosure agreements, 400N

TRANSPORTATION AND DEVELOPMENT

Construction Management at Risk (CMAR) Project 625P, 626P

Crescent City Connection Division

Combination or double tandem load permit, 603N

Operations, Office of

Toll exemptions,
Grand Isle school system employees, 805N
Roads and bridges, 807N

Multimodal Commerce, Office of

Intermodal transportation, 772N
Louisiana Port Construction and Development Priority Program, 792N

Professional Engineering and Land Surveying Board

Construction Management at Risk (CMAR) Project, 431P, 432P
Incidental practice, 335R
Work experience, 335R

TREASURY

State Bond Commission

Application and closing fees, 479ER
Virtual meetings, 337R

WILDLIFE AND FISHERIES

Louisiana Outdoors Forever Program Project Selection Board

Louisiana Outdoors Forever Program, 506R

Technical Advisory Board

Louisiana Outdoors Forever Program, 506R

Wildlife and Fisheries Commission

Cobia
Daily take and possession limits, 133N
Greater amberjack
2023 recreational season modification, 480ER

Hull identification numbers, 22ER, 131N

Hunting regulations
2023-2025 seasons, 134N
Licenses and fees, 511R

Mackerel

Daily take and possession limits
King, 133N, 703R
Spanish, 133N, 703R

Menhaden

Commercial reporting requirements, 76R
Season, 514R

Motorboat registration and titling

Statewide online special certificate agent, 704R

Nets

Marking system
Gill, 403N
Hoop, 403N
Slat, 403N
Trammel, 403N
Wire, 403N

Oyster

Sister Lake Public Oyster Seed Reservation to reopen to market size oyster harvest, 232ER

Public hearing

Substantive change to Notice of Intent
2023-2025 hunting regulations and seasons, 627P

Red Snapper

Private recreational season, 638ER
Charter season, 638ER

Seismic exploration, 808N

Shrimp

Season closure
In portions of state inside waters, 23ER
In additional state inside waters, 231ER
In portions of state outside waters, 231ER

Turkey

Richard K. Yancey and Sherburne WMAs, ER23

WORKFORCE COMMISSION

Plumbing Board

Plumbers
Introductory information, 404N
Licenses, 404N

Workers' Compensation, Office of

Medical treatment guidelines, 515R
Mileage update, 193P, 433P