

# Rules

## RULE

### Board of Elementary and Secondary Education

Bulletin 741C Louisiana Handbook for School Administrators  
CInstructional Program Standards  
(LAC 28:I.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended Bulletin 741, *Louisiana Handbook for School Administrators*, referenced in LAC 28:I.901.A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). The change in the Rule changes the name of the Proficient achievement level to the Mastery achievement level for LEAP 21 and GEE 21. This change is required by the No Child Left Behind Act of 2001.

## Title 28 EDUCATION

### Part I. Board of Elementary and Secondary Education Chapter 9. Bulletins, Regulations, and State Plans Subchapter A. Bulletins and Regulations

#### §901. School Approval Standards and Regulations

##### A. Bulletin 741

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AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A) (10), (11), (15); R.S. 17:7 (5), (7), (11); R.S. 17:10, 11; R.S. 17:22 (2), (6).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended, LR 27:694-695 (May 2001), LR 27:695-702 (May 2001), LR 27:815-820 (June 2001), LR 28:1936 (September 2002), LR 29:117 (February 2003).

#### Instructional Program Standards

#### Louisiana Educational Assessment Program

**1.009.03** Each school system shall participate in the Louisiana Educational Assessment Program.

Performance standards for *LEAP for the 21st Century* (LEAP 21) and Graduation Exit Examination for the 21<sup>st</sup> Century (GEE 21) are equal to the rigor of the National Assessment of Educational Progress (NAEP) performance standards.

#### Achievement Level Labels

Label and Short Description	Policy Definition
Advanced	A student at this level has demonstrated superior performance beyond the mastery level.
Mastery (Exceeding the Standard)	A student at this level has demonstrated competency over challenging subject matter and is well prepared for the next level of schooling.
Basic (Meeting the Standard)	A student at this level has demonstrated only the fundamental knowledge and skills needed for the next level of schooling.
Approaching Basic (Approaching the Standard)	A student at this level has only partially demonstrated the fundamental knowledge and skills needed for the next level of schooling.
Unsatisfactory	A student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling.

District-wide test results, but not scores or rankings of individual students, shall be reported to the local educational governing authority at least once a year at a regularly scheduled local educational governing authority meeting.

A school system shall not conduct any program of specific preparation of the students for the assessment program by using the particular test to be administered therein.

Weegie Peabody  
Executive Director

0302#004

## RULE

### Board of Elementary and Secondary Education

Bulletin 746C Louisiana Standards for State Certification of School Personnel  
C Denial of Certificate for Criminal Offenses  
(LAC 28:I.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended Bulletin 746, *Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903.A. The Rule change includes language relative to specific criminal offenses that is consistent with the laws requiring background checks. The change adds language requiring a current FBI criminal background check and specifies the evidence to be presented for documentation of rehabilitation.

## Title 28 EDUCATION

### Part I. Board of Elementary and Secondary Education Chapter 9. Bulletins, Regulations, and State Plans Subchapter A. Bulletins and Regulations

#### §903. Teacher Certification Standards and Regulations

##### A. Bulletin 746

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 1:183, 311, 399, 435, 541 (April, July, September, October, December 1975); amended LR 27:825, 828 (June 2001); LR 27:1189 (August 2001), LR 27:1516 (September 2001), LR 27:1676, 1680 (October 2001), LR 27:2096, 2099 (December 2001), LR 28:273 (February 2002), LR 28:1727 (August 2002), LR 29:117 (February 2003).

#### Denial of Certificates for Criminal Offenses

I. An application for a Louisiana teaching certificate shall be denied if the individual applying for the certificate has been convicted of any offense listed in R.S. 15:587.1(C) or any felony offense whatsoever. (See Attachment 1)

II. For the purposes of this policy:

The term "offense" or "crime" shall include those listed in R.S. 15.587.1(C) and any felony offense whatsoever.

The term "teaching certificate" or "certificate" shall include any license, permit, or certificate issued by the Certification and Higher Education section of the Department of Education.

The term "applicant" shall include any person applying for any permanent, ancillary, provisional or temporary certificate.

The term "convicted" or "conviction" shall include any proceedings in which the accused pleads guilty or no contest and those proceedings that are tried and result in a judgment of guilty.

The term "Department" refers to the Louisiana Department of Education.

The term "Board" refers to the Board of Elementary and Secondary Education as a whole and/or any of its standing committees.

III. Any conviction that results in a suspended sentence pursuant to Articles 893 or 894 of the Louisiana Code of Criminal Procedures, shall be treated as a conviction for the purpose of denial.

Gubernatorial pardons, first offender pardons, and expungement may be used as evidence of rehabilitation, but shall not preclude the denial of a teaching certificate.

IV. When the department is notified that any applicant has been convicted of a specific crime:

A. The applicant shall be notified by certified mail and by any other appropriate means of notice that his/her certificate has been denied and that a hearing will be conducted by a board committee to consider issuance of Louisiana certification.

B. If the applicant cannot be reached and/or if his/her employment status cannot be determined, denial of the certificate shall proceed as will all other steps in the process outlined in this policy.

C. An applicant may contact the office of the board and request a hearing prior to the date set for the denial consideration by the board. Such hearing will be limited to a determination of the individual's true identity and true conviction status. The applicant shall provide copies of any documents that verify his/her identity and refute the existence of a criminal conviction.

V. Upon official action by the board, any applicant whose certificate has been denied, shall be notified of such action by certified mail. The correspondence shall include instructions for and identification of the date when the individual may apply to the board for issuance of his/her certificate.

VI. If the conviction upon which an applicant's certificate has been denied is reversed, vacated, or set aside such action may be communicated to the board through documentation from the court in which the conviction occurred.

VII. An applicant whose certification has been denied under the provisions of this part may apply for issuance only after the time restriction has been completed.

VIII. Time Restrictions on Applications for Reinstatement:

A. Certificate issuance will never be considered for teachers convicted of the following crimes: 14:30, 14:30.1, 14:41, 14:42, 14:42.1, 14:43, 14:43.1, 14:43.2, 14:43.3, 14:43.4, 14:43.5, 14:44, 14:44.1, 14:45, 14:78, 14:79.1, 14:80, 14:81, 14:81.1, 14:81.2, 14:82.1, 14:86, 14:89, 14:89.1, 14:93, 14:93.2.1, and 14:286. (See Attachment 1)

B. Issuance of certificates shall not be considered for any final felony conviction until at least three years have elapsed from the date of the final conviction.

IX. Procedures for Issuance:

A. An applicant may apply to the board for issuance of his/her teaching certificate after the lapse of time indicated above and under the following conditions.

1. There have been no other arrests or convictions. The applicant must provide a current FBI criminal background check that is clean and clear.

2. There has been successful completion of all conditions and/or requirements of parole and/or probation. The applicant must provide relevant documentation, such as, copies of court records, sentencing recommendations, probation release forms. He/she must also provide written verification from the applicant's parole/probation officer that all requirements have been completed and/or met.

3. There is documented evidence of rehabilitation. The applicant is responsible for providing copies of every requested document. (a, b, and c are required items, d and e are recommended items):

a. written approval for reinstatement from the local district attorney in which the conviction occurred;

b. written approval for reinstatement from the local judge from the jurisdiction in which the conviction occurred;

c. letter of support from local Superintendent;

d. letter of support from a local community person (business owner, minister, priest, rabbi, city council person, etc.);

e. other letters of support or written reports that verify the applicant's rehabilitation.

4. The applicant requests a hearing for issuance of certificate.

B. The applicant must:

1. contact the office of the Board of Elementary and Secondary Education;

2. provide each item identified above.

C. The board is not required to conduct an issuance hearing and may summarily deny a request for issuance.

D. If the board or its designees decide to conduct an issuance hearing, board staff shall notify the applicant of a date, time, and place when a committee of the board shall consider the applicant's request. The applicant may be represented/accompanied by legal counsel. In addition to the applicant and his/her legal counsel, a maximum of three witnesses may be called to provide testimony regarding the applicant's rehabilitation. Testimony and information considered will be limited to evidence of rehabilitation. The conviction itself will be given full faith and credit. Testimony will not be allowed as to the circumstances surrounding the conviction. The written documentation provided prior to the hearing will also be considered.

E. The committee of the board shall make a recommendation to the full board regarding whether the teaching certificate should be granted, or denied. board staff shall notify the applicant of the board's action.

X. The Board of Elementary and Secondary Education reserves the right to accept or reject any document or testimony offered as evidence of rehabilitation.

The Board of Elementary and Secondary Education reserves the right to determine if adequate rehabilitation has occurred and will itself determine if and when an applicant is eligible for a teaching certificate.

### Attachment 1

The following crimes are reported under R.S.15:587.1: R.S. 14:30, R.S. 14:30.1, R.S. 14:31, R.S. 14:41 through R.S.14:45, R.S. 14:74, R.S. 14:78, R.S. 14:79.1, R.S. 14:80 through R.S. 14:86, R.S. 14:89, R.S. 14:89.1, R.S. 14:92, R.S. 14:93, R.S. 14:93.2.1, R.S. 14:93.3, R.S. 14:106, R.S. 14:282, R.S. 14:286, R.S. 40:966(A), R.S. 40:967(A), R.S. 40:968(A), R.S. 40:969(A), and R.S. 40:970(A) or convictions for attempt or conspiracy to commit any of those offenses; Those of a jurisdiction other than Louisiana which, in the judgment of the bureau employee charged with responsibility for responding to the request, would constitute a crime under the provisions cited in this Subsection, and Those under the Federal Criminal Code having analogous elements of criminal and moral turpitude. (Federal Criminal Code provisions are in Title 18 of U.S.C.A.) Specifically:

*R.S. 14:30	First degree murder
*R.S. 14:30.1	Second degree murder
R.S. 14:31	Manslaughter
*R.S. 14:41	Rape
*R.S. 14:42	Aggravated rape
*R.S. 14:42.1	Forcible rape
*R.S. 14:43	Simple rape
*R.S. 14:43.1	Sexual battery
*R.S. 14:43.2	Aggravated sexual battery
*R.S. 14:43.3	Oral sexual battery
*R.S. 14:43.4	Aggravated oral sexual battery
*R.S. 14:43.5	Intentional exposure to the AIDS virus
*R.S. 14:44	Aggravated kidnapping
*R.S. 14:44.1	Second degree kidnapping
*R.S. 14:45	Simple kidnapping
R.S. 14:74	Criminal neglect of family
*R.S. 14:78	Incest
*R.S. 14:79.1	Criminal abandonment
*R.S. 14:80	Carnal knowledge of a juvenile
*R.S. 14:81	Indecent behavior with a juvenile
*R.S. 14:81.1	Pornography involving juveniles
*R.S. 14:81.2	Molestation of a juvenile
R.S. 14:82	Prostitution
*R.S. 14:82.1	Prostitution; persons under seventeen; additional offenses
R.S. 14:83	Soliciting for prostitutes
R.S. 14:83.1	Inciting prostitution
R.S. 14:83.2	Promoting prostitution
R.S. 14:83.3	Prostitution by massage
R.S. 14:83.4	Massage; sexual content prohibit
R.S. 14:84	Pandering
R.S. 14:85	Letting premises for prostitution
R.S. 14:85.1	Letting premises for obscenity
*R.S. 14:86	Enticing persons into prostitution
*R.S. 14:89	Crime against nature
*R.S. 14:89.1	Aggravated crime against nature
R.S. 14:92	Contributing to the delinquency of juveniles
*R.S. 14:93	Cruelty to juveniles
*R.S. 14:93.2.1	Child desertion
R.S. 14:93.3	Cruelty to the infirm
R.S. 14:106	Obscenity
R.S. 14:282	Operation of places of prostitution prohibited
*R.S. 14:286	Sale of minor children
R.S. 40:966(A)	Penalty for distribution or possession with intent to distribute narcotic drugs listed in Schedule I; Manufacture; distribution
R.S. 40:967(A)	Prohibited acts; Schedule II, penalties; Manufacture; distribution
R.S. 40:968(A)	Prohibited acts--Schedule III; penalties; Manufacture distribution

R.S. 40:969(A) Prohibited acts--Schedule IV; penalties; Manufacture; distribution

R.S. 40:970(A) Prohibited acts--Schedule V; penalties; Manufacture; distribution

\*Reinstatement will never be considered for crimes marked with an asterisk.

Weegie Peabody  
Executive Director

0302#010

### RULE

#### Board of Elementary and Secondary Education

Bulletin 746C Louisiana Standards for State Certification of School PersonnelCNew Certification Structure for Educational Leadership (LAC 28:1.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended Bulletin 746, *Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:1.903.A. The New Certification Structure for Educational Leadership will consolidate under one certification area the current certifications in Elementary Principal, Secondary Principal, Supervisor of Instruction, Supervisor of Child Welfare and Attendance, and Parish or City School Superintendent. This action will require that, as recommended by the Blue Ribbon Commission, all colleges and universities redesign their graduate programs in Educational Leadership. These newly redesigned programs are scheduled to be implemented July 1, 2004. It is expected that based on this implementation date that the first program completers will graduate from these programs in Summer 2006. Therefore, it will be necessary to gradually phase out the four certification areas (Elementary Principal, Secondary Principal, Supervisor of Instruction, Supervisor of Child Welfare and Attendance, and Parish or City School Superintendent) currently in place over time beginning July 1, 2006.

### Title 28

#### EDUCATION

##### Part I. Board of Elementary and Secondary Education Chapter 9. Bulletins, Regulations, and State Plans Subchapter A. Bulletins and Regulations

##### §903. Teacher Certification Standards and Regulations

###### A. Bulletin 746

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 1:183, 311, 399, 435, 541 (April, July, September, October, December 1975), amended LR 27:825, 828 (June 2001), LR 27:1189 (August 2001), LR 27:1516 (September 2001), LR 27:1676, 1680 (October 2001), LR 27:2096, 2099 (December 2001), LR 28:273 (February 2002), LR 28:0000 (August 2002), LR 29:119 (February 2003).

**Proposed New Certification Structure for Educational Leadership**

Effective Date: July 1, 2003

<b>Overarching Requirements</b>	
<p>All graduate degree preparation programs, assessments, and continuing learning units shall be aligned with the following state and national standards:</p> <ul style="list-style-type: none"> <li>• the <i>Standards for School Principals in Louisiana</i>;</li> <li>• the Interstate School Leaders Licensure Consortium (ISLLC) <i>Standards for School Leaders</i>; and</li> <li>• the Educational Leadership Constituent Council (ELCC) <i>Standards for Advanced Programs in Educational Leadership</i>, the standards used by the National Council for the Accreditation of Colleges of Teacher Evaluation (NCATE) for university program reviews.</li> </ul>	
<b>Teacher Leader Endorsement (optional)</b>	
<p>Teachers who hold a valid Type B or Level 2 or higher Louisiana teaching certificate may add a Teacher Leader Endorsement to their teaching certificate by completing a state-approved Teacher Leader Institute that:</p> <ul style="list-style-type: none"> <li>○ Requires, at minimum, the equivalent of six graduate hours (90 contact hours);</li> <li>○ Includes a combination of face-to-face and field-based professional development activities which may include the use of a cohort approach;</li> <li>○ Provides support from and monitoring by current outstanding administrators serving as mentors and/or facilitators;</li> <li>○ Includes an electronic component (on-line and/or compressed video) to ensure each participant's access to key resources and to build a statewide network of qualified administrator candidates that could include the development of cohorts; and,</li> <li>○ Requires the development and presentation of a culminating portfolio that provides evidence that knowledge gained and skills acquired are aligned with national and state leader standards.</li> </ul> <p><u>Requirements for Renewal of the Teacher Leader Endorsement:</u></p> <p>Teacher Leader Endorsement requires completion of a minimum of 150 continuing learning units of professional development every five years that are consistent with the leader's Individual Professional Growth Plan (IPGP).</p>	
<b>Certification Levels</b>	
<p>All educational leaders will progress through two levels of educational leader certification. An additional level of certification (Superintendent) is required for employment as a local district superintendent.</p>	
<p style="text-align: center;"><b>Educational Leader Certificate–Level 1</b></p> <p>All candidates for school and district educational leadership positions (e.g., assistant principal, principal, parish or city school supervisor of instruction, supervisor of child welfare and attendance, or comparable school or district leader positions) must meet the following requirements in order to receive an entry-level certificate in educational leadership.</p> <p>Candidates for Level 1 Educational Leader Certification shall meet the following criteria.</p> <ol style="list-style-type: none"> <li>1. Hold or be eligible to hold a valid Louisiana Type A or Level 3 Teaching Certificate.</li> <li>2. Have completed a graduate degree preparation program in the area of educational leadership from or recognized by a regionally accredited institution of higher education. These programs must be aligned with: <ul style="list-style-type: none"> <li>• the <i>Standards for School Principals in Louisiana</i>;</li> <li>• the Interstate School Leaders Licensure Consortium (ISLLC) <i>Standards for School Leaders</i>; and</li> <li>• the Educational Leadership Constituent Council (ELCC) <i>Standards for Advanced Programs in Educational Leadership</i>.</li> </ul> </li> <li>3. Earn a passing score on the <i>School Leaders Licensure Assessment (SLLA)</i> in accordance with state requirements.</li> <li>4. Persons who have met the requirements of Items 1-3 above are eligible for a Level 1 Educational Leader Certificate. Upon employment as a school or district educational leader, an individual with Level 1 Educational Leader certificate must enroll in the two-year Educational Leader Induction Program under the direction of the Louisiana Department of Education.</li> <li>5. Any individual, with Level 1 Educational Leader certificate, employed as a school or district educational leader shall have three years to complete the two-year Educational Leader Induction Program under the direction of the Louisiana Department of Education. Failure to fulfill this requirement within the three-year timeline will result in revocation of the Level 1 Educational Leader certificate.</li> </ol>	<p style="text-align: center;"><b>Educational Leader–Level 1 (Alternative Path)</b></p> <p>Candidates for school and district educational leadership positions (e.g., assistant principal, principal, parish or city school supervisor of instruction, supervisor of child welfare and attendance, or comparable school or district leader positions) may meet the following requirements in order to receive an entry-level certificate in educational leadership as an alternative to the traditional Educational Leader Certificate Level 1.</p> <p>The alternative path to Level 1 Certification is for those persons who hold a Master's Degree in Education and are seeking to add an Educational Leader Certification.</p> <p><u>Candidates for the Alternative Path to Level 1 Educational Leader Certification shall meet the following criteria.</u></p> <ol style="list-style-type: none"> <li>1. Hold or be eligible to hold a valid Louisiana Type A or Level 3 Teaching Certificate.</li> <li>2. Have previously completed a graduate degree program from a regionally accredited institution of higher education or a degree equivalent to a graduate degree recognized by the American Association of Collegiate Registrars and Admissions Officers (AACRAO), Office of International Education Services.</li> <li>3. Earn a passing score on the <i>School Leaders Licensure Assessment (SLLA)</i> in accordance with state requirements.</li> <li>4. Persons who have met the requirements of Items 1-3 above are eligible for a Level 1 Educational Leader Certificate. Upon employment as a school or district educational leader, an individual with Level 1 Educational Leader certificate must enroll in the two-year Educational Leader Induction Program under the direction of the Louisiana Department of Education.</li> <li>5. Any individual, with Level 1 Educational Leader certificate, employed as a school or district educational leader shall have three years to complete the two-year Educational Leader Induction Program under the direction of the Louisiana Department of Education. Failure to fulfill this requirement within the three-year timeline will result in revocation of the Level 1 Educational Leader certificate.</li> </ol>
<b>Educational Leader Certificate Level 2</b>	
<p>All candidates must meet the following requirements in order to receive a five-year renewable professional certificate in educational leadership.</p> <p><u>Candidates for initial Level 2 Educational Leader Certification shall meet the following criteria.</u></p> <ol style="list-style-type: none"> <li>1. Hold a valid Level 1 Educational Leader Certificate.</li> <li>2. Complete the two-year induction program under the guidance of a mentor trained in accordance with standards set by the Louisiana Department of Education and outlined in Bulletin 741, <i>Louisiana Handbook for School Administrators</i>. The induction period begins upon the individual's first full-time administrative appointment (whether permanent or acting) as an assistant principal, principal, parish or city school supervisor of instruction, supervisor of child welfare and attendance, or comparable school or district leader position; and, is to be completed within a three year period.</li> <li>3. Earn a passing score on the ISLLC <i>School Leader Portfolio Assessment</i>, in accordance with state requirements.</li> </ol> <p><u>Requirement for Renewal of the Level 2 Educational Leader Certificate.</u></p> <p>Level 2 Educational Leaders must complete a minimum of 150 continuing learning units of professional development over a five-year time period that are consistent with the leader's Individual Professional Growth Plan (IPGP) and includes updating the educational leader portfolio to renew the certificate.</p>	

**Educational Leader Certificate C Level 3 (Superintendent)**

All candidates must meet the following requirements in order to receive a five-year Level 3 Educational Leader Certificate to become a Superintendent. The five-year certification period is activated with the candidate's first full-time appointment as Superintendent.

Candidates for initial Level 3 (Superintendent) Educational Leader Certification must meet the following criteria

1. Hold a valid Louisiana Level 2 Educational Leader Certificate.
2. Have had 5 years of successful administrative or management experience in education at the level of principal or above.
3. Earn a passing score on the *School Superintendent Assessment (SSA)* in keeping with state requirements.

Requirement for Renewal of the Level 3 Educational Leader Certificate.

Level 3 Educational Leaders must complete a minimum of 150 continuing learning units of professional development over a five-year time period that are consistent with the leader's Individual Professional Growth Plan (IPGP) and includes updating the educational leader portfolio to renew the certificate.

Weegie Peabody  
Executive Director

0302#008

**RULE**

**Board of Elementary and Secondary Education**

Bulletin 746C Louisiana Standards for State Certification of School PersonnelCSuspension, Revocation, and Reinstatement of Certificates for Criminal Offenses (LAC 28:I.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended Bulletin 746, *Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903.A. The Rule change includes language relative to specific criminal offenses which is consistent with the laws requiring background checks. In addition, the change outlines specific procedures for reinstatement of certificates, the required evidence of rehabilitation, and graduated time lines for convictions rendered at various times in the past.

**Title 28  
EDUCATION**

**Part I. Board of Elementary and Secondary Education  
Chapter 9. Bulletins, Regulations, and State Plans  
Subchapter A. Bulletins and Regulations**

**§903. Teacher Certification Standards and Regulations  
A. Bulletin 746**

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 1:183, 311, 399, 435, 541 (April, July, September, October, December 1975), amended LR 27:825, 828 (June 2001), LR 27:1189 (August 2001), LR 27:1516 (September 2001), LR 27:1676, 1680 (October 2001), LR 27:2096, 2099 (December 2001), LR 28:273 (February 2002), LR 28:1727 (August 2002), LR 29:121 (February 2003).

**Suspension, Revocation, and Reinstatement of  
Certificates for Criminal Offenses**

I. A Louisiana teaching certificate shall be suspended and revoked if the individual holding the certificate has been convicted of any offense listed in R.S. 15:587.1.C or any felony offense whatsoever. (See Attachment 1)

II. For the purposes of this policy:

The term "offense" or "crime" shall include those listed in R.S. 15.587.1.C and any felony offense whatsoever.

The term "teaching certificate" or "certificate" shall include any license, permit, or certificate issued by the

Certification and Higher Education section of the Department of Education.

The term "teacher" shall include any person holding any permanent, ancillary, or temporary teaching certificate.

The term "applicant" shall include any person applying for any permanent, ancillary, provisional or temporary certificate.

The term "convicted" or "conviction" shall include any proceedings in which the accused pleads guilty or no contest and those proceedings that are tried and result in a judgment of guilty.

The term "Department" refers to the Louisiana Department of Education.

The term "Board" refers to the Board of Elementary and Secondary Education as a whole and/or any of its standing committees.

III. Any conviction that results in a suspended sentence pursuant to Articles 893 or 894 of the Louisiana Code of Criminal Procedures, shall be treated as a conviction for the purposes of suspension and/or revocation.

Gubernatorial pardons, first offender pardons, and expungement may be used as evidence of rehabilitation, but shall not preclude suspension and/or revocation of a teaching certificate.

IV. When the department is notified that any teacher has been convicted of a specific crime:

A. Department staff shall attempt to contact the teacher to inform him/her that the department has information regarding a criminal conviction and is proceeding under this policy to suspend the certificate.

B. The teacher shall have 10 working days from the date of notification to provide verification that he/she has not been convicted of a criminal offense. This opportunity for response is intended as a check against mistaken identity or other incorrect information and the requested verification may be provided through a telephone conversation or written correspondence.

C. If the department determines that there is evidence that a teacher has been convicted of a criminal offense, that teacher's certificate shall be suspended. The board, the teacher, and the employing school system shall be notified that the teacher's certificate has been suspended pending official board action.

D. The teacher shall be notified by certified mail and by any other appropriate means of notice that his/her certificate has been suspended and that a hearing will be conducted by the board to consider revocation. Such hearing will be limited to a determination of the individual's true

identity and true conviction status. The teacher shall provide copies of any documents that verify his/her identity and refute the existence of a criminal conviction.

E. If the teacher cannot be reached and/or if his/her employment status cannot be determined, suspension of the certificate shall proceed as will all other steps in the process outlined in this policy.

V. Upon official action by the board, any teacher whose certificate has been revoked, shall be notified of such action by certified mail. The correspondence shall include instructions for and identification of the date when the individual may apply to the board for reinstatement of his/her certificate.

VI. If the conviction upon which a teacher's certificate has been suspended and/or revoked is reversed, vacated, or set aside, such action may be communicated to the board through documentation from the court in which the conviction occurred. The board may receive such information and order immediate reinstatement of the teacher's certificate.

VII. Time Restrictions on Applications for Reinstatement:

A. Reinstatement will never be considered for teachers convicted of the following crimes: 14:30, 14:30.1, 14:41, 14:42, 14:42.1, 14:43, 14:43.1, 14:43.2, 14:43.3, 14:43.4, 14:43.5, 14:44, 14:44.1, 14:45, 14:78, 14:79.1, 14:80, 14:81, 14:81.1, 14:81.2, 14:82.1, 14:86, 14:89, 14:89.1, 14:93, 14:93.2.1, and 14:286. (See Attachment 1)

B. Reinstatements of certificates shall not be considered for any final felony conviction until at least 3 years have elapsed from the date of the final conviction.

C. For other final convictions rendered 4 to 6 years prior to revocation, reinstatement will not be considered for at least 2 years from the date of revocation or voluntary forfeiture of the certificate, whichever is earlier.

D. For other final convictions rendered 7 to 9 years prior to revocation, reinstatement will not be considered for at least 1 year from the date of revocation or voluntary forfeiture of the certificate, whichever is earlier.

E. For other final convictions rendered more than 9 years prior, a teacher may apply immediately for reinstatement.

VIII. Procedures for Reinstatement:

A. An applicant may apply to the board for reinstatement of his/her teaching certificate after the lapse of time indicated above and under the following conditions:

1. There have been no other arrests or convictions. The applicant must provide a current FBI criminal history background check that is clean and clear.

2. There has been successful completion of all conditions/requirements of parole and/or probation. The applicant must provide relevant documentation, such as, copies of court records, sentencing recommendations, and probation release forms. He/she must also provide written verification from the applicant's parole/probation officer that all requirements have been completed and/or met.

3. There is documented evidence of rehabilitation. The applicant is responsible for providing copies of every requested document (a, b, and c are required items, d and e are recommended items):

a. written approval for reinstatement from the local district attorney in which the conviction occurred;

b. written approval for reinstatement from the local judge from the jurisdiction in which the conviction occurred;

c. letter of support from the local Superintendent;

d. letter of support from a local community person (business owner, minister, priest, rabbi, city council person, etc.);

e. other letters of support or written reports that verify the applicant's rehabilitation.

4. The applicant requests a reinstatement hearing.

B. The applicant must:

1. contact the office of the Board of Elementary and Secondary Education;

2. provide each item identified above.

C. The board is not required to conduct a reinstatement hearing and may summarily deny a request for reinstatement.

D. If the board or its designees decide to conduct a reinstatement hearing, board staff shall notify the applicant of a date, time, and place when a committee of the board shall consider the applicant's request. The applicant may be represented/accompanied by legal counsel. In addition to the applicant and his/her legal counsel, a maximum of three witnesses may be called to provide testimony regarding the applicant's rehabilitation. Testimony and information considered will be limited to evidence of rehabilitation. The conviction itself will be given full faith and credit. Testimony will not be allowed as to the circumstances surrounding the conviction. The written documentation provided prior to the hearing will also be considered.

E. The committee of the board shall make a recommendation to the full board regarding whether the applicant's teaching certificate should be reinstated, suspended for an additional period of time, or remain revoked. board staff shall notify the applicant of the board's action.

IX. The Board of Elementary and Secondary Education reserves the right to accept or reject any document or testimony offered as evidence of rehabilitation.

The Board of Elementary and Secondary Education reserves the right to determine if adequate rehabilitation has occurred and will itself determine if and when an applicant is eligible for reinstatement of a teaching certificate.

#### **Attachment 1**

The following crimes are reported under R.S.15:587.1: R.S. 14:30, R.S. 14:30.1, R.S. 14:31, R.S. 14:41 through R.S.14:45, R.S. 14:74, R.S. 14:78, R.S. 14:79.1, R.S. 14:80 through R.S. 14:86, R.S. 14:89, R.S. 4:89.1, R.S. 14:92, R.S. 14:93, R.S. 14:93.2.1, R.S. 14:93.3, R.S. 14:106, R.S. 14:282, R.S. 14:286, R.S. 40:966(A), R.S. 40:967(A), R.S. 40:968(A), R.S. 40:969(A), and R.S. 40:970(A) or convictions for attempt or conspiracy to commit any of those offenses; Those of a jurisdiction other than Louisiana which, in the judgment of the bureau employee charged with responsibility for responding to the request, would constitute a crime under the provisions cited in this Subsection, and Those under the Federal Criminal Code having analogous

elements of criminal and moral turpitude. (Federal Criminal Code provisions are in Title 18 of U.S.C.A.) Specifically:

- \*R.S. 14:30 First degree murder
- \*R.S. 14:30.1 Second degree murder
- R.S. 14:31 Manslaughter
- \*R.S. 14:41 Rape
- \*R.S. 14:42 Aggravated rape
- \*R.S. 14:42.1 Forcible rape
- \*R.S. 14:43 Simple rape
- \*R.S. 14:43.1 Sexual battery
- \*R.S. 14:43.2 Aggravated sexual battery
- \*R.S. 14:43.3 Oral sexual battery
- \*R.S. 14:43.4 Aggravated oral sexual battery
- \*R.S. 14:43.5 Intentional exposure to the AIDS virus
- \*R.S. 14:44 Aggravated kidnapping
- \*R.S. 14:44.1 Second degree kidnapping
- \*R.S. 14:45 Simple kidnapping
- R.S. 14:74 Criminal neglect of family
- \*R.S. 14:78 Incest
- \*R.S. 14:79.1 Criminal abandonment
- \*R.S. 14:80 Carnal knowledge of a juvenile
- \*R.S. 14:81 Indecent behavior with a juvenile
- \*R.S. 14:81.1 Pornography involving juveniles
- \*R.S. 14:81.2 Molestation of a juvenile
- R.S. 14:82 Prostitution
- \*R.S. 14:82.1 Prostitution; persons under 17; additional offenses
- R.S. 14:83 Soliciting for prostitutes
- R.S. 14:83.1 Inciting prostitution
- R.S. 14:83.2 Promoting prostitution
- R.S. 14:83.3 Prostitution by massage
- R.S. 14:83.4 Massage; sexual content prohibited
- R.S. 14:84 Pandering
- R.S. 14:85 Letting premises for prostitution
- R.S. 14:85.1 Letting premises for obscenity
- \*R.S. 14:86 Enticing persons into prostitution
- \*R.S. 14:89 Crime against nature
- \*R.S. 14:89.1 Aggravated crime against nature
- R.S. 14:92 Contributing to the delinquency of juveniles
- \*R.S. 14:93 Cruelty to juveniles
- \*R.S. 14:93.2.1 Child desertion
- R.S. 14:93.3 Cruelty to the infirm
- R.S. 14:106 Obscenity
- R.S. 14:282 Operation of places of prostitution prohibited
- \*R.S. 14:286 Sale of minor children
- R.S. 40:966(A) Penalty for distribution or possession with intent to distribute narcotic drugs listed in Schedule I; Manufacture; distribution
- R.S. 40:967(A) Prohibited acts; Schedule II, penalties; Manufacture; distribution
- R.S. 40:968(A) Prohibited acts; Schedule III; penalties; Manufacture; distribution
- R.S. 40:969(A) Prohibited acts; Schedule IV; penalties; Manufacture; distribution
- R.S. 40:970(A) Prohibited acts; Schedule V; penalties; Manufacture; distribution

\*Reinstatement will never be considered for crimes marked with an asterisk.

Weegie Peabody  
Executive Director

0302#009

**RULE**

**Board of Elementary and Secondary Education**

Bulletin 1566C Guidelines for Pupil Progression  
(LAC 28:XXXIX.503, 505, and 1301)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the State Board of Elementary and Secondary Education has amended Bulletin 1566, *Guidelines for Pupil*

*Progression*, referenced in LAC 28:I.907.A. The Rule changes eliminate the waiver for students with disabilities participating in on-level testing and change the name of out-of-level testing to LEAP Alternative Assessment-B (LAA-B). The criteria for placement in LAA-B remains the same as required for out-of-level testing. The Rule changes one of the accountability labels from "Proficient" to "Mastery" in order to meet the mandates of the federal No Child Left Behind legislation.

**Title 28**

**EDUCATION**

**Part XXXIX. Bulletin 1566C Guidelines for Pupil Progression**

**Chapter 5. Place Policies; State Requirements**

**§503. Regular Placement**

A. - A.1.b.ii.(a)(iii). ...

(iv). Waiver for students with disabilities eligible under the Individuals with Disabilities Education Act (IDEA). LEAP Alternate Assessment (LAA and LAA-B) Students with disabilities who participate in the LEAP Alternate Assessment (LAA) or LEAP Alternate Assessment B (LAA-B) shall have promotion decisions determined by the SBLC.

A.1.b.ii.(a)(v). - D.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2171 (November 1999), amended LR 26:1433 (July 2000), LR 26:1576 (August 2000), LR 27:188 (February 2001), LR 27:1006 (July 2001), LR 27:1682 (October 2001), LR 29:123 (February 2003).

**§505. Progression—Students Participating in LEAP Alternate Assessment (LAA) or LEAP Alternate Assessment B (LAA-B)**

A. Students with disabilities who participate in the LEAP alternate assessment (LAA) or LEAP Alternate Assessment (LAA-B) shall have promotion decisions determined by the School Building Level Committee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2172 (November 1999), amended LR 26:1433 (July 2000), LR 27:188 (February 2001), LR 27:1683 (October 2001), LR 29:123 (February 2003).

**Chapter 13. Appendix B**

**§1301. LEAP for the 21st Century, High Stakes Testing Policy**

A. - A.3.b. ...

c. Students with disabilities who participate in LEAP Alternate Assessment (LAA) or LEAP Alternate Assessment B (LAA-B), are not eligible to attend the LEAP 21 summer remediation programs.

3.d. - 6.a. ...

i. The local school system (LEA) may override the State policy for students scoring at the Unsatisfactory level in English language arts or mathematics if the student scores at the Mastery or Advanced level in the other provided that:

(a). - (c). ...

b. Waiver for Students with Disabilities Eligible under the Individuals with Disabilities Education Act (IDEA)

i. LEAP Alternate Assessment (LAA and LAA-B)

(a). Students with disabilities who participate in the LEAP Alternate Assessment (LAA) or LEAP Alternate Assessment B (LAA-B) shall have promotion decisions determined by the SBLC.

A.6.b.i.(a).(i). - B.3.b. ...

c. Students with disabilities who participate in LEAP Alternate Assessment (LAA) or LEAP Alternate Assessment B (LAA-B) are not eligible to attend the LEAP 21 summer remediation programs.

d. LEAs are encouraged to offer remediation services to students who score at the *approaching basic* level.

4. - 8.a. ...

i. The local school system (LEA) may override the State policy for students scoring at the *unsatisfactory* level in English or mathematics if the student scores at the *mastery* or *advanced* level in the other provided that

ii. - iv. ...

b. Waiver for Students with Disabilities Eligible under the Individuals with Disabilities Education Act (IDEA)

i. ...

(a) LEAP Alternate Assessment (LAA and LAA-B)

(i). Students with disabilities who participate in the LEAP Alternate Assessment (LAA) or Alternate Assessment B (LAA-B) shall have promotion decisions determined by the SBLC.

8.b.i.(b). - 9. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:1008 (July 2001), amended LR 27:1683 (October 2001), LR 28:1189 (June 2002), LR 29:123 (February 2003).

Weegie Peabody  
Executive Director

0302#012

## RULE

### Board of Elementary and Secondary Education

Bulletin 1794C State Textbook Adoption Policy  
and Procedure Manual  
(LAC 28:XXXIII.305, 311, 503, 507, and 701)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended Bulletin 1794, *State Textbook Adoption Policy and Procedure Manual*, referenced in LAC 28:I.919.A and LAC Part XXXIII. Bulletin 1794 is being revised to provide clarity regarding the state textbook adoption process. New and revised sections address the issues of local adoption, free items provided by publishers, contact and interaction between publisher representatives and local school employees, and publisher participation in the state textbook caravan.

## Title 28 EDUCATION

### Part XXXIII. Bulletin 1794C State Textbook Adoption Policy and Procedure Manual

#### §305. Textbooks and Materials of Instruction

A. - C. ...

1. Each school district shall make a formal adoption of textbooks within six months from the date of state-level approval by the State Board of Elementary and Secondary Education (SBESE). (Refer to Chapter 5, Local School System Responsibilities)

2. ...

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:992 (May 2000), LR 29:124 (February 2003).

#### §311. Invitation Circular Letter

A. - G ...

H. Any items designated as "free" by publishers must also be submitted on the appropriate "LT Submission" form(s). Publishers may modify their free offerings by providing a written explanation and a detailed listing of items to be added to their original submission to the Department of Education within 60 days of the original due date. Any additions or offers of free materials or services made to local school systems verbally or in writing that are not included on forms submitted to the department will be considered a violation and may cause the publisher to be disqualified.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:995 (May 2000); LR 29:124 (February 2003).

#### §503. Formal Adoption (see also Bulletin 741, 1.070.03)

A. School systems shall make a formal adoption of textbooks according to the state adoption cycle within six months from the date of formal approval by the State Board of Elementary and Secondary Education (SBESE).

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:998; LR 29:124 (February 2003).

#### §507. Local Adoption Procedures

A. - E.3 ...

4. Prior to the completion of the State Textbook Caravan, any publisher initiated communication with local schools and school systems must be coordinated through the Parish/City Textbook Supervisor or the appropriate Curriculum Supervisor. Publishers may not initiate direct contacts with principals, teachers, or schools until after the completion of the State Textbook Caravan.

F. - F.6. ...

7. The "piloting" of new materials in any school or school system prior to official review by the State Textbook

Adoption Committee and final approval by the SBESSE is prohibited. Publishers are not to offer school-wide copies or classroom sets of any item or material on a trial or pilot basis.

G. - G.2. ...

3. Local school system officials shall not solicit or accept any free material, item, or service other than those included on official bid submission forms and officially received by the Department of Education. (See Section 311.)

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:998 (May 2000), LR 29:124 (February 2003).

#### **§701. Requirements for Publishers' Participation in State Textbook Adoption**

A. - H. ...

I. Publishers shall not contact teachers, principals, or other school system employees for the purpose of providing meals, materials, or any other free items in conjunction with a preview or overview of new materials, at any time during the school year in which an adoption cycle begins or ends. Such awareness sessions or any similar activities are strictly prohibited.

J. Publishers who have materials recommended by the State Committee and approved by the SBESSE shall participate in the State Textbook Caravan.

K. Publishers shall not offer or provide any free material, item, or service other than those included on official bid submission forms and properly forwarded to the Department of Education. (See Section 311.)

L. The "piloting" of new materials in any school or school system prior to official review by the State Textbook Adoption Committee and final approval by the SBESSE is prohibited. Publishers are not to offer school-wide copies or classroom sets of any item or material on a trial or pilot basis.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:1002, LR 29:125 (February 2003).

Weegie Peabody  
Executive Director

0302#011

#### **RULE**

#### **Student Financial Assistance Commission Office of Student Financial Assistance**

Scholarship/Grant Programs  
(LAC 28:IV.703, 1103, 1705, and 2103)

The Louisiana Student Financial Assistance Commission (LASFAC) has amended the Rules of the Scholarship/Grant programs (R.S. 17:3021-3026, R.S. 3041.10-3041.15, and R.S. 17:3042.1, R.S. 17:3048.1).

## **Title 28 EDUCATION**

### **Part IV. Student Financial Assistance—Higher Education Scholarship and Grant Programs Chapter 7. Tuition Opportunity Program for Students (TOPS) Opportunity, Performance, and Honors Awards**

#### **§703. Establishing Eligibility**

A. - D. ...

E. Students graduating in academic years 1996-97 and 1997-98 who qualified by reduction of the foreign language requirement must provide LASFAC a copy of their college transcript showing completion of one or more foreign language courses. Eligibility for an award is not established until receipt of the transcript verifying that the foreign language credit was earned and the student shall first be awarded for the semester or term following that in which eligibility was established. Under this provision, eligibility must be established not later than the conclusion of the 1998-99 award year. High School Graduates of 1996-97 and 1997-98 who meet the requirements of §703.A.4.b or d or §803.A.4.b or d of these rules and who have not been discharged with an undesirable, bad conduct or dishonorable discharge must meet the foreign language requirement no later than one year after the date of separation from active duty.

F. - G.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:636 (April 1998), amended LR 24:1902 (October 1998), LR 25:2237 (December 1998), LR 25:257 (February 1999), LR 25:655 (April 1999), LR 25:1794 (October 1999), LR 26:64, 67 (January 2000), LR 26:689 (April 2000), LR 26:1262 (June 2000), LR 26:1602, 1998 (August 2000), LR 26:1996, 2001 (September 2000), LR 26:2268 (October 2000), LR 26:2753 (December 2000), LR 27:36 (January 2001), LR 27:702 (May 2001), LR 27:1219, 1219 (August 2001), LR 27:1850 (November 2001), LR 28:772 (April 2002), LR:28:1760 (August 2002), LR 29:125 (February 2003).

#### **Chapter 11. Rockefeller State Wildlife Scholarship §1103. Establishing Eligibility**

A. - A.7. ...

8. a. must have graduated from high school, and if at the time of application the student applicant has earned less than 24 hours of graded college credit since graduating from high school, have earned a minimum cumulative high school grade point average of at least 2.50 calculated on a 4.00 scale for all courses completed in grades 9 through 12 and have taken the ACT or SAT and received test score results; or

b. if, at the time of application, the student applicant has earned 24 or more hours of college credit, then the applicant must have at least a 2.50 cumulative college grade point average;

c. if, at the time of application, the student is in graduate school, then the applicant must have at least a 3.00 cumulative grade point average on all credits earned in graduate school.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:639 (April 1998), amended LR 24:1908 (October 1998), LR 27:1220 (August 2001), repromulgated LR 27:1859 (November 2001), amended LR 28:774 (April 2002), LR 29:125 (February 2003).

**Chapter 17. Responsibilities of High Schools, School Boards, Special School Governing Boards, the Louisiana Department of Education and LASFAC on Behalf of Eligible Non-Louisiana High Schools**

**§1705. Notification of Certified Students**

A. - B. ...

C. If the certifying authority elects to notify students of their certification, then the following disclaimer shall be included in any communication to the student: "Although you have been certified as academically eligible for a Tuition Opportunity Program for Students (TOPS) Award, you must satisfy all of the following conditions to redeem a scholarship under this program:

1. you must be a Louisiana resident as defined by the Louisiana Student Financial Assistance Commission; and

2. you must be accepted for enrollment by an eligible Louisiana college and be registered as a full-time undergraduate student; and

3. you must annually apply for federal student aid, if eligible for such aid, by the deadline required for consideration for state aid; and

4. you must have met all academic and nonacademic requirements and be officially notified of your award by the Louisiana Student Financial Assistance Commission (LASFAC)."

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:644 (April 1998), amended LR 24:1913 (October 1998), repromulgated LR 27:1864 (November 2001), amended LR 29:126 (February 2003).

**Chapter 21. Miscellaneous Provisions and Exceptions**

**§2103. Circumstances Warranting Exception to the Initial and Continuous Enrollment Requirements**

A. - E.1.c. ...

4. Temporary Disability

a. - b.i. ...

ii. a written statement from a qualified professional of the existence of a temporary disability and a description of the injury, illness, or required surgery, including the dates of treatment, the treatment required, the prognosis, the length of the recovery period, the beginning and ending dates of the doctor's care, and opinions as to the impact of the disability on the student's ability to attend school; and

4.b.iii - 7.c. ...

8. Death of Immediate Family Member

a. Definition. The student's spouse, parent, stepparent, guardian, dependent, sister or brother, step sibling, or grandparent dies.

8.b. - 11.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:647 (April 1998), amended LR 24:1916 (October 1998), LR 26:1015 (May 2000), LR 26:2004 (September 2000), LR 27:37 (January 2001), LR 27:1875 (October 2001), LR 27:1866 (November 2001), LR 28:46 (January 2002), LR 28:449 (March 2002), LR 28:775 (April 2002), LR 29:126 (February 2003).

George Badge Eldredge  
General Counsel

0302#063

**RULE**

**Office of the Governor  
Real Estate Appraisers Board of Certification**

Appraiser Certification  
(LAC 46:LXVII.10311 and 10313)

Under the authority of the Louisiana Real Estate Appraisers Law, R.S. 37:3391 et seq., and in accordance with the provisions of the Louisiana Administrative Procedure Act, R.S. 49:950, et seq., the Louisiana Real Estate Appraisers Board has repealed LAC 46:LXVII.Real Estate.Subpart 2.Appraisers, Chapter 103, §10311.D.9-11 and §10313.D.21-23. This will remove textbook authorship, real estate journal articles, and appraisal course instruction from the experience credit points which may be used to obtain state certification as a real estate appraiser.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part LXVII. Real Estate**

**Subpart 2. Appraisers**

**Chapter 103. Certification**

**§10311. Residential Certification Minimum Express**

A. - D.8. ...

9. Repealed.

10. Repealed.

11. Repealed.

D.12. - F.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisers Board of Certification, LR 25:1426 (August 1999), amended by the Office of the Governor, Real Estate Appraisers Board of Certification, LR 29:126 (February 2003).

**§10313. General Certification Experience**

A. - .D.20. ...

21. Repealed.

22. Repealed.

23. Repealed.

Note: Repealed.

E. - F.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisers Board of Certification, LR 25:1427 (August 1999), amended by the Office of

the Governor, Real Estate Appraisers Board of Certification, LR 29:126 (February 2003).

Julius C. Willie  
Executive Director

0302#044

**RULE**

**Office of the Governor  
Real Estate Commission**

Real Estate Names and/or Trade Names  
(LAC 46:LXVII.2501)

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 Louisiana Real Estate Commission has amended LAC 46:LXVII.Real Estate, Chapter 25, Section 2501. The amendments specify what names and/or trade names may be used by an individual licensee, partnership, firm or corporate broker in advertising and establishes advertising guidelines specific to salesperson and associate brokers.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part LXVII. Real Estate**

**Subpart 1. Real Estate**

**Chapter 25. Advertising**

**§2501. Advertisements**

A. - B. ...

C. All advertising of a licensed individual, partnership, firm, or corporate broker shall include their licensed business name, which for the purpose of these rules shall mean the name in which that individual, partnership, firm or corporation is on record with the commission as doing business as a real estate broker or, in the case of a trade name, that which is registered with the secretary of state and on record with the commission.

D. A salesperson or associate broker is prohibited from advertising under only his or her name.

E. All advertising by a salesperson or associate broker must be under the direct supervision of his or her sponsoring broker.

F. In all advertising, the salesperson or associate broker must include the name and telephone number of his or her broker as defined in this Section. The broker's name and telephone number must be conspicuous, discernible, and easily identifiable by the public.

G. If allowed by the sponsoring broker, the salesperson or associate broker may include in the advertisement:

1. the salesperson's or associate broker's personal logo or insignia, which cannot be construed as that of a company name;

2. the salesperson's or associate broker's contact information;

3. a group or team name as long as the name(s) of the salesperson(s) and/or associate broker(s) are included near the team name reference and cannot be construed as that of a company name; and

4. a slogan that may not be construed as that of a company name.

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 26:42 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 28:829 (April 2002), LR 29:127 (February 2003).

Julius C. Willie  
Executive Director

0302#045

**RULE**

**Department of Health and Hospitals  
Board of Practical Nursing Examiners**

Appointing Authority  
(LAC 46:XLVII.303)

The Board of Practical Nurse Examiners hereby amends LAC 46:XLVII.101 et seq., in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Practical Nursing Practice Act, R.S. 37:961-979.

The purpose of this Rule change to Section 303.A.1, Additional Duties and Powers of the Board, is to provide for delegation of appointing authority, previously granted to the board's executive director by policy. This Rule has been in effect since October 24, 2002 when it was adopted as an Emergency Rule at a meeting of the board.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part XLVII. Nurses**

**Subpart 1. Practical Nurses**

**Chapter 3. Board of Practical Nurse Examiners**

**§303. Additional Duties and Powers of the Board**

A. In accordance with the Louisiana Statutes, Title 37, Section 969, the board shall have all such powers and duties as written. In addition the board shall:

1. appoint an executive director and associate executive director who shall be professional nurses currently licensed in the state of Louisiana and who shall serve as the executive staff of the board. The executive director, or in her absence the associate executive director, serves as the appointing authority of the board;

2. - 3. ....

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:193 (April 1977), amended LR 10:335 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 26:2614 (November 2000), LR 28:2353 (November 2002), LR 29:127 (February 2003)

Claire Doody Glaviano  
Executive Director

0302#014

## RULE

### Department of Health and Hospitals Licensed Professional Counselors Board of Examiners

Licensure of Licensed Professional Counselors  
and Licensed Marriage and Family Therapists  
(LAC 46:LX.Chapters 1-47)

The Licensed Professional Counselors Board of Examiners, under authority of the Louisiana Mental Health Counselor Licensing Act, R.S. 37:1101-1122, and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., has repealed and adopted certain Rules with regard to licensing of licensed professional counselors and licensed marriage and family therapists.

This revision is necessitated by Act 1195 of 2001 which extended the board's regulatory authority to include licensure of marriage and family therapists.

Sections 101-2117 are revisions of the existing Board Rules relative to licensed professional counselors, to bring them into accord with Act 1195, in terms of board composition and duties, and related issues.

Sections 2701-4720 are all new provisions, and deal strictly with licensure and regulations of marriage and family therapists, including the "grandfathering" of certain therapists who meet statutory and regulatory requirements. These Sections were likewise implemented by Emergency Rule effective August 5, 2002, to allow the Board to meet statutory deadlines for completion of the "grandfathering" process.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part LX. Licensed Professional Counselors

##### Subpart 1. Licensed Professional Counselors

##### Chapter 1. General Provisions

##### §101. Statutory Authority

A. The Louisiana Licensed Professional Counselors Board of Examiners was initially created and empowered by Act 892 of the 1987 Legislature to provide regulation of the practice of mental health counseling and provide for the regulation of the use of the title "Licensed Professional Counselor" (R.S. 37:1102). Subsequently Act 1195 of 2001 empowered the Board to provide regulation of marriage and family therapy and the use of the title "Licensed Marriage and Family Therapist" (R.S.37:1102(B)). Therefore, the Professional Counselors Board of Examiners establishes the Rules and regulations herein pursuant to the authority granted to, and imposed upon said board under the provisions of the Louisiana Revised Statutes, Title 37, Chapter 13, R.S. 37:1101-1122.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:128 (February 2003).

##### §103. Description of Organization

A. The Louisiana Licensed Professional Counselors Board of Examiners, hereafter referred to as the board, resides in the Department of Health and Hospitals, and consists of nine members, who shall be residents of the state of Louisiana. Each term shall be for four years. Seven

appointments to the board shall be made by the governor from a list of qualified candidates submitted by the executive board of the Louisiana Counseling Association. Two appointments to the board shall be made by the governor from a list of candidates submitted by the Louisiana Association of Marriage and Family Therapists. Each appointment by the governor shall be submitted to the Senate for confirmation. Board membership shall consist of three licensed professional counselors, three educators who are licensed professional counselors and whose function is the training of mental health counselors in accredited programs, two licensed marriage and family therapists, and one individual from the public at large. No board member shall serve more than two full consecutive terms. The professional membership of the board shall be licensed under this Chapter. No board member shall be liable in any civil action for any act performed in good faith in the execution of his duties under Chapter 13 of Title 37.

1. The licensed professional counselor board shall establish a Marriage and Family Therapy Advisory Committee, which shall consist of the two board members appointed by the governor from a list of names submitted by the Louisiana Association of Marriage and Family and one additional non-board member appointed by the governor from a list of names submitted by the Louisiana Association of Marriage and Family Therapy.

2. The function of the advisory committee shall be established by Rules and regulations developed by the advisory committee, promulgated by the board, and approved jointly by the House and Senate Health and Welfare Committee.

3. The functions and duties of the advisory board may include but are not limited to the following. Develop Rules and regulations in accordance with the Administrative Procedure Act as it may deem necessary to implement the provisions of this Chapter for promulgation and implementation by the board:

a. examine and qualify all applicants for licensure as marriage and family therapists and recommend to the board each successful applicant for licensure, attesting to his professional qualifications to be a licensed marriage and family therapist;

b. develop for the board application forms for licensure pursuant to this Chapter; and

c. maintain complete records of all meetings, proceedings, and hearings conducted by the advisory committee.

4. The non-board member shall serve a term of three years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:128 (February 2003).

##### §105. Vacancies

A. A vacancy occurring in board membership for an unexpired term shall be filled for the remainder of the term by the governor, within 30 days, from a list of qualified candidates submitted by the Executive Board of the Louisiana Counseling Association. Unexpired terms shall be filled by appointment by the governor, within 30 days, from a list of qualified candidates prescribed in Section 1104 of R.S. 37:1101-1122.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:128 (February 2003).

#### **§107. Reimbursement**

A. Each board member shall serve without compensation, but shall be reimbursed for actual travel, incidental, and clerical expenses incurred while engaged on official board business.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:129 (February 2003).

#### **§109. Financially Self-Sufficient**

A. The board shall be financially self-sufficient. It shall receive no state funds through appropriation or otherwise and shall not expend any such state funds. No state funds shall be expended or committed to expenditure for the group benefits program or any other health insurance or employee benefit program, for any retirement system, for any salary, per diem payment, travel or expenses, office supplies and materials, rent, purchase of any of any product or service, or for any other purpose.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:129 (February 2003).

#### **§111. Notification of Change**

A. Every licensed professional counselor/counselor intern and every licensed marriage and family therapist/MFT intern shall immediately notify in writing the Licensed Professional Counselors Board of Examiners of any and all changes in name, address, and phone number. Failure to comply with this rule within 30 days of change will result in a fine as set forth in Chapter 9.D.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:129 (February 2003).

### **Chapter 3. Board Meetings, Procedures, Records, Powers and Duties**

#### **§301. Officers**

A. The board shall hold a meeting within 60 days after October 1, 1987 and elect from its membership a chairman, vice chairman, and secretary. The chairman shall preside at all meetings at which he or she is in attendance and perform all duties prescribed by Chapter 13 of Title 37 and the board. The chairman is authorized by the board to make day-to-day decisions regarding board activities to facilitate the responsiveness and effectiveness of the board. The vice chairman shall perform the duties of the chairman in case of absence or disability of the chairman. In the event the office of chairman becomes vacant, the vice chairman shall serve as chairman until a successor is named. In the absence of the chairman and vice chairman, the secretary will preside until the chairman or vice chairman is present. The secretary shall keep the minutes of board meetings and send said minutes to board members and the clerical secretary of the board before each regular meeting of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:129 (February 2003).

#### **§305. Board Staff**

A. An executive director, who shall not be a member of the board, shall be employed, within the limits of the funds received by the board pursuant to R.S. 37:1106. The board shall be empowered to accept grants from foundations and institutions to carry on its functions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:129 (February 2003).

#### **§307. Meetings**

A. The board shall be domiciled in Baton Rouge and shall hold its meetings in places to be designated by the board. The board shall hold a meeting within 60 days after October 1, 1987, and semiannually thereafter. The chairperson may call meetings after consultation with board members or by a majority of members voting at a regular meeting. Reasonable notice of all board meetings will be given by posting the meeting place and time, seven days before the meeting, on the door of the office of the board and in two places in the building housing the office of the board. The board may examine, approve, revoke, suspend, and renew the license of applicants and shall review applications at least once a year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:129 (February 2003).

#### **§309. Quorum**

A. Five members of the board shall constitute a quorum of the board at any meeting or hearing for the transaction of business and may examine, approve, and renew the license of applicants.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:129 (February 2003).

#### **§311. Procedures**

A. The board shall adopt such Rules, regulations, and examination procedures as it may deem necessary to effect the provisions of Act 892 (Chapter 13, R.S. 37:1101-1122). The board shall be empowered to accept grants from foundations and institutions to carry on its functions. The board shall submit an annual report to the governor containing the financial and professional actions of the board during the past year. The board shall adopt a seal which shall be affixed to all licenses issued by the board. The board hereby adopts Robert's Rules of Order Revised as the basis of parliamentary decisions by the board except as otherwise provided by board Rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:129 (February 2003).

### §313. Code of Ethics

A. The board has adopted the Code of Ethics of the American Counseling Association for Licensed Professional Counselors as specified in R.S. 37:1105(D) and may adopt any revisions or additions deemed appropriate or necessary by the board. Applicable ethics requirements for Licensed Marriage and Family Therapists and MFT Interns are addressed at §4301 of these Rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:130 (February 2003).

### §315. Records of Proceedings

A. The board shall keep a record of its proceedings including applicant examinations, a register of applicants for licenses, and a register of licensed professional counselors which shall be made available to the public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:130 (February 2003).

## Chapter 5. License and Practice of Counseling

### §501. License of Title and Practice

A. As stated in R.S. 37:1111(A), no person shall assume or use the title or designation "Licensed Professional Counselor" or engage in the practice of mental health counseling unless he has in his possession a valid license issued by the board under the authority of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:130 (February 2003).

### §503. Definitions for Licensed Professional Counselors

A. For purposes of this rule, the following definitions will apply.

**Board** The Louisiana Licensed Professional Counselors Board of Examiners.

**Licensed Professional Counselor** Any person who holds himself out to the public for a fee or other personal gain, by any title or description of services incorporating the words "licensed professional counselor" or any similar term, and who offers to render professional mental health counseling services denoting a client-counselor relationship in which the counselor assumes responsibility for knowledge, skill, and ethical considerations needed to assist individuals, groups, organizations, or the general public, and who implies that he is licensed to practice mental health counseling.

**Mental Health Counseling Services** Those acts and behaviors coming within the *practice of mental health counseling* as defined in this chapter, including diagnosis and treatment of conditions or disorders requiring mental health counseling as defined in R.S. 37:1103(4)(a). However, nothing in this chapter shall be construed to authorize any person licensed hereunder to administer or interpret tests in accordance with the provisions of R.S. 37:2352(5), except as provided by LAC 46:LXIII.1702.E of the Louisiana Administrative Code, or engage in the practice of psychology or to prescribe, either orally or in writing, distribute, dispense, or administer any medications.

**Practice of Mental Health Counseling** Rendering or offering to individuals, groups, organizations, or the general public by a licensed professional counselor, any service consistent with his professional training as prescribed by R.S. 37:1107(A)(8), and code of ethics/behavior involving the application of principles, methods, or procedures of the mental health counseling profession which include but are not limited to:

a. **Mental Health Counseling** Assisting an individual or group, through the counseling relationship, to develop an understanding of personal problems, to define goals, and to plan actions reflecting his or their interests, abilities, aptitudes, and needs as these are related to personal and social concerns, educational progress, and occupations and careers.

i. **Mental Health Counseling Practicum.** Licensure requires the completion of a mental health counseling practicum totaling 100 clock hours. The practicum includes:

(a) a minimum of 40 hours of direct counseling with individuals or groups;

(b) a minimum of one hour per week of individual supervision by a counseling faculty member supervisor or supervisor working under the supervision of a program faculty member;

(c) a minimum of one and one-half hours per week of group supervision with other students in similar practica or internships by a program faculty member supervisor or a student supervisor working under the supervision of a program faculty member or an approved on-site supervisor that meets the on-site supervisor requirements established by the university.

ii. **Mental Health Counseling Internship.** Licensure requires the completion of a mental health counseling internship totaling 300 clock hours. The internship includes:

(a) a minimum of 120 hours of direct counseling with individuals or groups;

(b) a minimum of one hour per week of individual supervision by a counseling faculty member supervisor or an LPC working in conjunction with the faculty member;

(c) a minimum of one and one-half hours per week of group supervision with other students in similar practica or internships by a program faculty member supervisor or a student supervisor working under the supervision of a program faculty member or an approved on-site supervisor that meets the on-site supervisor requirements established by the university.

b. **Consulting** Interpreting or reporting scientific fact or theory to provide assistance in solving current or potential problems of individuals, groups, or organizations.

c. **Referral Activities** The evaluation of data to identify problems and to determine the advisability of referral to other specialists.

d. **Research Activities** Reporting, designing, conducting, or consulting on research in counseling with human subjects.

e. **Appraisal**

i. use or administration of tests of language, educational and achievement tests, adaptive behavioral tests, and symptoms screening checklists or instruments, as well as

tests of abilities, interests, and aptitudes, for the purpose of diagnosing those conditions allowed within the scope of these statutes, defining counseling goals, planning and implementing interventions, and documenting clients progress as related to mental health counseling. Appraisal includes but is not necessarily limited to the following areas.

(a). *Abilities*—those normative-based individual and group administered instruments used to measure general mental ability vis -a-vis specific abilities.

(b). *Interests*—those normative-based individual and group administered instruments used to suggest educational and vocational adjustment, interpersonal relations, intrapersonal tendencies and interests, satisfaction from avocational pursuits, and other major phases of human development.

(c). *Aptitudes*—those normative-based individual and group administered instruments used to measure special ability related to a future task(s).

ii. qualified licensed professional counselors as well as other appropriately licensed or certified professionals may also administer or use test of language, educational and achievement, adaptive behavior tests, and symptom screening checklists or instruments. The administration and interpretation of these tests are not exclusively within the scope of this regulation.

iii. appraisals done within the practice of mental health counseling must be performed in accordance with the requirements of the Louisiana Administrative Code, Title 46, Part LX, Chapter 21. Code of Conduct for Licensed Professional Counselors. A licensed professional counselor must be privileged by this board to utilize formal appraisal instruments and shall limit such use to those areas heretofore mentioned in Chapter 5. A licensed professional counselor who wishes to be board privileged to utilize formal appraisal instruments in the appraisal of individuals shall additionally furnish this board satisfactory evidence of formal graduate training in statistics, sampling theory, test construction, test and measurements and individual differences. Formal training shall include a practicum and supervised practice with appraisal instruments.

f. *Graduate Degree*—the substance of which is professional mental health counseling in content shall be defined as a graduate degree from a regionally accredited university that shall conform to one of the criteria below:

i. a CACREP accredited counseling program;

ii. a counseling program incorporating the word "counseling" or counselor" in its title;

iii. a program incorporating a counseling-related term in its title (e.g. "marriage and family therapy"); or

iv. a program incorporating the eight content areas, a counseling practicum, and a counseling internship.

g. In addition, the above should not be construed to include degrees in disciplines licensed elsewhere by the State of Louisiana (e.g., social work, psychology) with the exception of counseling psychology and vocational rehabilitation counseling programs.

h. Other definitions specific to Licensed Marriage and Family Therapists and MFT Interns can be found in §3105.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:130 (February 2003).

## **Chapter 7. Requirements for Licensure of Licensed Professional Counselors**

### **§701. General Provisions**

A. The board shall license to practice all persons who present satisfactory evidence of qualifications as specified in these Rules and regulations of the board. Such licensure shall be signed by the chairman and vice chairman of the board under the seal of the board. No license shall be denied any applicant based upon the applicant's race, religion, creed, national origin, sex, or physical impairment.

AUTHORITY NOTE: Promulgated in accordance with RS. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:131 (February 2003).

### **§703. Licensed Professional Counselors Licensing Requirements**

A. The board shall issue a license to each Licensed Professional Counselor applicant who files an application upon a form designated by the board and in such a manner as the board prescribes, accompanied by such fee required by R.S. 37:1106 and who furnishes satisfactory evidence to the board that he:

1. is at least 21 years of age;
2. is of good moral character;
3. is a citizen of the United States or has legally declared his intentions of becoming such;
4. is a resident of the state of Louisiana or is in the act of establishing residency in the state of Louisiana;
5. is not in violation of any of the provisions of R.S. 37:1101-1122 and the Rules and regulations adopted herein;
6. can document a minimum of 3,000 hours of post-master's experience in professional mental health counseling under the clinical supervision of a board-approved supervisor, with said supervision occurring over a period of no less than two years and not more than seven years from the original date such supervision was approved. Five hundred hours of supervised experience may be gained for each 30 graduate semester hours earned beyond the required master's degree, provided that such hours are clearly related to the field of mental health counseling, are earned from a regionally accredited institution, and are acceptable to the board provided that in no case the applicant has less than 2,000 hours of board-approved supervised experience within the aforementioned time limits;
7. has declared special competencies and demonstrated professional competence therein by passing a written and, at the discretion of the board, an oral examination as shall be prescribed by the board;
8. has received a graduate degree, the substance of which is professional mental health counseling in content from a regionally accredited institution of higher education offering a master's and/or doctoral program in counseling that is approved by the board and has accumulated at least 48 graduate semester hours as part of the graduate degree plan containing the eight required areas, the supervised mental health practicum and supervised internship in mental health counseling (as defined by Rules adopted by the board listed under Chapter 5), which shall not be interpreted to

exclude post-graduate course work in mental health counseling, as part of the degree plan containing 48 graduate hours including eight content areas, practicum and internship approved by the Licensed Professional Counselors (LPC) Board.

a. the following eight areas are required to have at least one semester course:

- i. counseling/theories of personality;
- ii. human growth and development;
- iii. abnormal behavior;
- iv. techniques of counseling;
- v. group dynamics, processes, and counseling;
- vi. lifestyle and career development;
- vii. appraisal of individuals;
- viii. ethics.

9. has provided to the board a Declaration of Practices and Procedures, with the content being subject to board review and approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:131 (February 2003).

### **§705. Supervised Experience for Counselor Interns**

#### **A. Supervision Requirements**

1. Supervision is defined as assisting the counselor intern in developing expertise in methods of the professional mental health counseling practice and in developing self-appraisal and professional development strategies. Supervision must comply with standards as set by the board.

2. Pursuant to R.S. 37:1107(A), an applicant for license must document a minimum of 3,000 hours of post-master's experience in professional mental health counseling under the clinical supervision of a board-approved supervisor, with said supervision occurring over a period of no less than two years and not more than seven years from the original date such supervision was approved. Five hundred hours of supervised experience may be gained for each 30 graduate semester hours earned beyond the required master's degree provided that such hours are clearly related to the field of mental health counseling, are earned from a regionally accredited institution, and are acceptable to the board, provided that in no case the applicant has less than 2,000 hours of board-approved supervised experience within the aforementioned time limits. Only those applicants already receiving board-approved supervision prior to June 30, 1998 are exempt from the aforementioned time allowance.

a.i. Based on the above, the board has broken down the required 3,000 hours of counseling experience in the following manner:

(a). a minimum of 1,900 hours (up to 2,900 hours) in direct client contact, individual or group counseling;

(b). a maximum of 1,000 hours in additional client contact, counseling related activities (i.e. case notes, staffing, case consultation, or testing/assessment of clients) or education at the graduate level in the field of mental health as defined above;

(c). a minimum of 100 hours of face-to-face supervision by a board approved supervisor.

ii. An applicant may utilize supervised hours earned in post-master's degree courses in counseling or in a

doctoral degree program in counseling toward the required hours of supervised experience in addition to exercising the option of substituting 30 graduate semester hours earned beyond the master's degree for 500 hours of supervised experience, as long as supervised experience, practicum, or internship courses are not included in the 30 graduate semester hours that are used to substitute for 500 hours of supervised experience. In no case, may the applicant have less than 2,000 hours of supervised experience.

b. The board recommends one hour of supervision for every 20 hours of direct client contact as outlined in Subclause (a). Supervision may not take place via mail or telephone. Telephone or mail contacts with supervisor may be counted under Subclause (b) (i.e., consultation), however, it cannot be counted as face-to-face supervision as defined in Subclause (c).

c. To be eligible for supervision as a counselor intern, the applicant must provide proof of completion of a supervised practicum and internship as listed in §503, Definitions, and each of the following eight content areas. In order for a course to fulfill a content area requirement, it must include in a substantial manner, the areas in the description for the content areas.

i. Counseling/Theories of Personality. Description: counseling theories including both individual and systems perspectives; research and factors considered in applications of counseling theories; or theories of personality including major theories of personality.

ii. Human Growth and Development. Description: the nature and needs of individuals at developmental levels; theories of individual and family development and transitions across the life-span; theories of learning and personality development; human behavior including an understanding of developmental crises, disability, addictive behavior, psychopathology, and environmental factors as they affect both normal and abnormal behavior; strategies for facilitating development over the lifespan.

iii. Abnormal Behavior. Description: emotional and mental disorders experienced by persons of all ages; characteristics of disorders; common nosologies of emotional and mental disorders utilized within the U.S. health care system; the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders, as published by the American Psychiatric Association; preferred treatment approaches for disorders based on research; common medications used by psychiatrists to treat disorders; working with other health care and mental health care professionals in treating individuals with emotional and mental disorders;

iv. Techniques of Counseling. Description: basic interviewing, assessment, and counseling skills; counselor characteristics and behaviors that influence helping processes including age, gender and ethnic differences, verbal and nonverbal behaviors and personal characteristics, orientations, and skills; client characteristics and behaviors that influence helping processes including age, gender and ethnic differences, verbal and nonverbal behaviors and personal characteristics, traits, capabilities, and life circumstances;

v. Group Dynamics, Processes, and Counseling. Description: principles of group dynamics including group process components, developmental stage theories, and group members' roles and behaviors; group leadership styles

and approaches including characteristics of various types of group leaders and leadership styles; theories of group counseling including commonalities, distinguishing characteristics, and pertinent research and literature; group counseling methods including group counselor orientations and behaviors, ethical standards, appropriate selection criteria and methods, and methods of evaluation of effectiveness; approaches used for other types of group work, including task groups, prevention groups, support groups, and therapy groups.

vi. **Lifestyle and Career Development.** Description: career development theories and decision-making models; career, a vocational, educational, and labor market information resources, visual and print media, and computer-based career information systems; career development program planning, organization, implementation, administration, and evaluation; interrelationships among work, family, and other life roles and factors including multicultural and gender issues as related to career development; career and educational placement, follow-up and evaluation; assessment instruments and techniques relevant to career planning and decision-making; computer based career development applications and strategies, including computer-assisted guidance systems; career counseling processes, techniques and resources including those applicable to specific populations.

vii. **Appraisal of Individuals.** Description: theoretical and historical bases for assessment techniques; validity including evidence for establishing content, construct, and empirical validity; reliability including methods of establishing stability, internal and equivalence reliability; appraisal methods including environmental assessment, performance assessment, individual and group test and inventory methods, behavioral observations, and computer-managed and computer-assisted methods; psychometric statistics including types of assessment scores, measures of central tendency, indices of variability, standard errors, and correlations; age, gender, ethnicity, language, disability, and culture factors related to the assessment and evaluation of individuals and groups; strategies for selecting, administering, interpreting, and using assessment and evaluation instruments and techniques in counseling.

viii. **Ethics.** Description: ethical standards of the American Counseling Association, state counselor licensure boards, and national counselor certifying agencies; ethical and legal issues and their applications to various professional activities; history of the helping professions including significant factors and events; professional roles and functions of counselors including similarities and differences with other mental health professionals; professional organizations, primarily the American Counseling Association, its divisions, branches, and affiliates, including membership benefits, activities, services to members, and current emphases, professional preparation standards, their evolution, and current applications; professional credentialing including certification, licensure, and accreditation practices and standards, and the effects of public policy on these issues; public policy processes including the role of the professional counselor in advocating on behalf of the profession and its clientele.

d. If a counselor intern commences supervision prior to August 15, 1996 pursuant to §705.A.2.c above, the counselor intern must complete all of the eight content areas pursuant to R.S.37:1107(B), in order to be eligible for licensure upon completion of the supervised internship.

3. Acceptable modes for supervision of direct clinical contact are the following.

a. **Individual Supervision.** The supervisory session is conducted by an approved supervisor with one counselor intern present.

b. **Group Supervision.** The supervisory session is conducted by an approved supervisor with no more than 10 counselor interns present.

4. At least 100 hours of the counselor intern's direct clinical contact with clients must be supervised by an approved supervisor or supervisors, as defined below.

a. At least 50 of these 100 hours must be individual supervision as defined above. The remaining 50 hours of these 100 hours may be either individual supervision or group supervision as defined above.

b. A supervisor may not supervise more than 10 counselor interns at any given time.

5. Supervisors of, counselor interns, as defined in these Rules, have the responsibility of assisting counselor interns in increasing their skills as a mental health professional. Supervisors, as defined in these Rules, have no control, oversight, or professional responsibility for the services of counselor interns whom they are supervising, unless a supervisor also serves as the administrative supervisor of a counselor interns in the setting in which the counselor intern is employed or contracted or is rendering counseling services on a volunteer basis. The control, oversight, and professional responsibility for counselor interns rests with the counselor intern's administrative supervisor in the setting in which they are employed or contracted or are rendering counseling services on a volunteer basis. In obtaining permission for outside supervision, counselor interns must notify their administrative supervisor of the identity of their supervisor for the purpose of gaining the supervised experience for licensure and the nature of the supervisory activities, including any observations or taping that occurs with clients, after obtaining the client's permission, in the setting.

6. The process of supervision must encompass multiple strategies of supervision, including regularly scheduled live observation of counseling sessions (where possible) and review of audiotapes and/or videotapes of counseling sessions. The process may also include discussion of the counselor intern's self-reports, microtraining, interpersonal process recall, modeling, role-playing, and other supervisory techniques.

7. The supervisor must provide nurturance and support to the counselor intern, explaining the relationship of theory to practice, suggesting specific actions, assisting the counselor intern in exploring various models for practice, and challenging discrepancies in the counselor intern's practice.

8. The supervisor must ensure the counselor intern's familiarity with important literature in the field of counseling.

9. The supervisor must provide training appropriate to the counselor intern's intended area of expertise and practice.

10. The supervisor must model effective professional counseling practice.

11. The supervisor must ensure that the mental health counseling and the supervision of the mental health counseling is completed in an appropriate professional setting.

12. The counselor intern must have received a letter of supervision approval from the board; and

13. The professional setting cannot include private practice in which the counselor intern operates, manages or has an ownership interest in the private practice, unless the counselor intern is authorized to participate in the private practice by authority of a separate license issued by the state of Louisiana.

14. Supervisors may employ counselor interns in their private practice setting. The supervisor may bill clients for services rendered by the counselor intern, however, under no circumstances can the counselor intern bill clients directly for services rendered by him/herself.

15. The supervisor must certify to the board that the counselor intern has successfully complied with all requirements for supervised counseling experience.

**B. Qualifications of a Supervisor of counselor interns**

1. Those individuals who may provide supervision to counselor interns must meet the following requirements:

a. **Licensure Requirements.** The supervisor must hold a Louisiana license as a Licensed Professional Counselor.

b. **Counseling Practice.** The supervisor must have been practicing mental health counseling in their setting (i.e., school, agency, private practice) for at least five years. Two of the five years experience must be post licensing experience.

c. **Training in Supervision.** Supervisors must have successfully completed either i or ii below.

i. **Graduate-Level Academic Training.** At least one graduate-level academic course in counseling supervision. The course must have included at least 45 clock hours (equivalent to a three credit hour semester course) of supervision training.

ii. **Professional Training.** A board approved professional training program in supervision. The training program must be a minimum of 25 direct clock hours with the trainers and meet presentation standards established by the board.

2. A supervisor may not be a relative of the counselor intern. Relative of the counselor intern is defined as spouse, parent, child, sibling of the whole- or half-blood, grandparent, grandchild, aunt, uncle, one who is or has been related by marriage or has any other dual relationship.

3. No person shall serve as a supervisor if his/her license is expired or subject to terms of probation, suspension, or revocation.

**C. Responsibility of Applicant under Supervision**

1. During the period of supervised counseling experience an applicant will identify him/herself as a counselor intern.

2. Each counselor intern must provide his/her clients with a disclosure statement (as outlined in the Appendix of the LPC Code of Conduct) that includes:

a. his/her training status; and

b. the name of his/her supervisor for licensure purposes.

3. Counselor interns must comply with all laws and regulations relating to the practice of mental health counseling (R.S. 37:1101- 1122).

4. Counselor interns may not initiate a private practice during their period of supervised counseling experience. Counselor interns who are employed within their supervisors' private practice setting cannot, under any circumstances, bill clients directly for services they render, unless the counselor intern is authorized to participate in the private practice by authority of a separate license issued by the state of Louisiana.

5. Upon completion of the required number of hours of supervised counseling experience, the counselor intern needs to submit an application for licensure. Any individual who does not apply for licensure within three months after completing the required number of hours of supervised counseling experience cannot continue to practice professional mental health counseling.

6. Supervision hours do not begin accruing until after the application for supervision has been filed and approved by the LPC Board.

**D. Registration of Supervised Experience**

1. All proposed supervision arrangements beginning on or after January 1, 1993 must be approved by the board prior to the starting date of the supervised experience.

a. The counselor intern will:

i. along with his/her supervisor provide the board with a written proposal outlining with as much specificity as possible the nature of the counseling duties to be performed by the counselor intern and the nature of the supervision;

ii. submit this written proposal on forms provided by the board at least 60 days prior to the proposed starting date of the supervision;

iii. submit along with the written proposal the appropriate fee determined by the board.

2. Supervised experience rendered by the counselor intern in an exempt setting needs to meet the requirements in this rule if that supervised experience is to meet the requirements for licensure as set forth by R.S. 37:1107(A).

3. Following the board's review, the counselor intern will be informed by letter either that the proposed supervision arrangement has been approved or that it has been rejected. Any rejection letter will outline, with as much specificity as practicable, the reasons for rejection.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1101-1122.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:132 (February 2003).

**Chapter 8. Renewal of Licensed Professional Counselor Licenses**

**§801. Renewal**

A. A licensed professional counselor shall renew his/her license every two years in the month of June by meeting the requirement that 40 clock hours of continuing education be obtained prior to each renewal date every two years in an area of professional mental health counseling as approved by the board and by paying a renewal fee. The licensee should submit a declaration statement only if there has been a change in area of expertise, with the content being subject to

board review and approval. The board, at its discretion, may require the licensee to present satisfactory evidence supporting any changes in areas of expertise noted in the declaration statement. The chairman shall issue a document renewing the license for a term of two years. The license of any mental health counselor who fails to have this license renewed every two years during the month of June shall lapse; however, the failure to renew said license shall not deprive said counselor the right of renewal thereafter. A lapsed license may be renewed within a period of two years after the expired renewal date upon payment of all fees in arrears and presentation of evidence of completion of the continuing education requirement. Application for renewal after two years from the date of expiration will not be considered for renewal; the individual must apply under the current licensure guidelines.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:134 (February 2003).

### **§803. Continuing Education Requirements for Licensed Professional Counselors**

#### **A. General Guidelines**

1. An LPC licensee must accrue 40 clock hours of continuing education by every renewal period every two years, with the exception that a licensee renewing a license which expires on June 30, 2000 must accrue 25 clock hours of continuing education.

2. One continuing education hour (CEH) is equivalent to one clock hour.

3. Accrual of continuing education begins only after the date the license was issued.

4. CEHs accrued beyond the required 40 hours may not be applied toward the next renewal period. Renewal periods run from July 1 to June 30, every two years.

5. The licensee is responsible for keeping a personal record of his/her CEHs until official notification of renewal is received. Do not forward documentation of CEHs to the Board office as they are accrued.

6. At the time of renewal 10 percent of the licensees will be audited to ensure that the continuing education requirement is being met. If you are one of the 10 percent chosen, you will be requested by letter to submit documentation of your CEHs.

#### **B. Approved Continuing Education for Licensed Professional Counselors**

1. Continuing education requirements are meant to encourage personal and professional development throughout the LPC's career. For this reason a wide range of options are offered to accommodate the diversity of counselors' training, experience and geographic locations.

2. An LPC may obtain the 40 CEHs through one or more of the options listed below.

a. Continuing Education Approved by Other Organizations. Continuing education that is approved by either the American Counseling Association (ACA), its divisions, regions and state branches, Louisiana Counseling Association (LCA), or the National Board of Certified Counselors (NBCC) will be accepted by the Board of Examiners. One may contact these associations to find out which organizations, groups or individuals are approved providers. One may receive one clock hour of continuing

education for each hour of direct participation in a structured educational format as a learner. Credit cannot be granted for: business/governance meetings; breaks; social activities including meal functions, except for actual time of a content speaker. Credit cannot be given for an approved session to persons who leave early from that session. Verification can consist of copies of certificates of attendance.

b. Continuing Education Not Preapproved. For those organizations, groups or individuals that do not carry provider status by one of the above associations, the continuing education hours will be subject to approval by the Board of Examiners at the time of renewal. The Board will not preapprove any type of continuing education. The continuing education must be in one of the twelve approved content areas listed in §803.C, and be given by a qualified presenter. A qualified presenter is considered to be someone at the master's level or above and trained in the mental health field or related services. One may receive one clock hour of continuing education for each hour of direct participation in a structured educational format as a learner. Credit cannot be granted for: business/governance meetings; breaks; social activities including meal functions, except for actual time of a content speaker. Credit cannot be given for an approved session to persons who leave early from that session. Verification for workshops, seminars, or conventions can consist of copies of certificates of attendance. Typically one Continuing Education Unit (CEU) is equivalent to 10 clock hours.

c. Coursework. CEHs may also be gained by taking coursework (undergraduate or graduate) from a regionally accredited institution in one of the 12 approved content areas for continuing education listed in §803.C. One may take a course for credit or audit a course. In a college or university program, one semester hour is equivalent to 15 clock hours and one quarter hour is equivalent to 10 clock hours. Therefore, 45 CEHs will be given for a three hour university course completed at a regionally accredited university. Verification for coursework can consist of either copies of transcripts for coursework taken for credit or letter of attestation from instructor for courses audited.

d. Home Study. The LCA journal, video presentations and approved teleconferences are all approved home study options. Each option must carry a provider number from either NBCC, LCA or other board approved mental health organizations. Each activity will specify the number of CEHs that will be granted upon completion. Verification consists of a certificate issued by NBCC, LCA or certificates from other professional mental health organizations that will be reviewed by the Board.

e. Presentations. Presenters may get credit for original presentations at a rate of five clock hours per one hour presentation. Presenters must meet the qualifications stated in Subparagraph b. above. The presentation must be to the professional community; not to the lay public or a classroom presentation. The presentation must also be in one of the twelve approved content areas listed in §803.C. Verification of your presentation consists of obtaining a letter from the workshop/convention coordinator stating the topic, date, and number of hours of presentation.

f. Publishing. Authors may receive five clock hours per article or chapter in a book. The article must be published in a professional refereed journal. Both articles

and chapters must be in one of the 12 approved content areas listed in §803.C. Verification will consist of either a reprint of the article/chapter, or a copy of the article/chapter, cover of the book/journal and page listing the editor or publisher.

g. Counseling (10 hours maximum per renewal period). One may receive one clock hour of continuing education per counseling hour as a client. To qualify, one must be a client receiving services from a licensed mental health professional having qualifications equal to or exceeding those currently required of LPC's. Consultation and supervision hours do not qualify. Verification will consist of a letter from the counseling mental health professional verifying client therapy hours.

h. Research. One may receive one clock hour of continuing education per hour of planning or conduct of, or participation in, counseling or counseling-related research. To qualify, this activity must constitute an original and substantive educational experience for the learner. Verification will consist of a letter from the faculty member or researcher.

i. Peer Supervision (10 Hour maximum per renewal period). One may receive one clock hour of continuing education per hours of performing peer supervision activities. For example, case work consultation.

C. Approved Content Areas. Continuing Education Hours must be in one of the following 12 content areas.

1. Counseling TheoryCincludes a study of basic theories, principles and techniques of counseling and their application in professional settings.

2. Human Growth and DevelopmentCincludes studies that provide a broad understanding of the nature and needs of individuals at all developmental levels, normal and abnormal human behavior, personality theory and learning theory within appropriate cultural contexts.

3. Social and Cultural FoundationsCincludes studies that provide a broad understanding of societal changes and trends, human roles, societal subgroups, social mores and interaction patterns, and differing lifestyles.

4. The Helping RelationshipCincludes studies that provide a broad understanding of philosophic bases of helping processes, counseling theories and their applications, basic and advanced helping skills, consultation theories and their applications, client and helper self-understanding and self-development, and facilitation of client or consultee change.

5. Group Dynamics, Processing and CounselingCincludes studies that provide a broad understanding of group development, dynamics, and counseling theories, group leadership styles, basic and advanced group counseling methods and skills, and other group approaches.

6. Lifestyle and Career DevelopmentCincludes studies that provide a broad understanding of career development theories; occupational and educational information sources and systems; career and leisure counseling, guidance, and education; lifestyle and career decision-making; career development program planning and resources; and effectiveness evaluation.

7. Appraisal of IndividualsCincludes studies that provide a broad understanding of group and individual educational and psychometric theories and approaches to appraisal, data and information gathering methods, validity

and reliability, psychometric statistics, factors influencing appraisals, and use of appraisal results in helping processes.

8. Research and EvaluationCincludes studies that provide a broad understanding of types of research, basic statistics, research report development, research implementation, program evaluation, needs assessment, publication of research information, and ethical and legal considerations associated with the conduct of research.

9. Professional OrientationCincludes studies that provide a broad understanding of professional roles and functions, professional goals and objectives, professional organizations and associations, professional history and trends, ethical and legal standards, professional preparation standards, professional credentialing and management of private practice and agency settings.

10. Marriage and FamilyCincludes studies that provide a broad understanding of marriage and family theories and approaches to counseling with families and couples. This includes appraisal of family and couples systems and the application of these to counseling families and/or couples.

11. Chemical DependencyCincludes studies that provide a broad understanding of chemical dependency issues, theories, and strategies to be applied in the helping relationship for chemical dependency counseling.

12. SupervisionCincludes studies in theory and techniques of supervision as well as ethical and legal issues, case management, and topics relative to the specific supervised setting.

#### D. Types of Documentation Needed for Verification

1. Copy of certificate of attendance for workshops, seminars, or conventions.

2. Copy of transcript for coursework taken for credit/letter of attendance from instructor for courses audited.

3. Home Study verification form or certificate issued by LCA/NBCC.

4. Letter from workshop/convention coordinator verifying presentations.

5. Copy of article, cover and editorial board page for publications.

6. Letter from counseling mental health professional verifying number of hours in counseling as a client.

7. Letter from the faculty member or researcher verifying number of hours in research.

8. Letter or certificate from the LPC Board of Examiners, or from the board-approved counseling service organization, verifying number of hours of service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:135 (February 2003).

## Chapter 9. Fees

### §901. General

A. The board shall collect the following fees stated in R.S. 37:1106.

1. Application, license and seal	\$200
2. Privileging review for appraisal and other specialty areas	\$100
3. Registration of Supervision	\$100
4. Renewal of license	\$150
5. Late fee for renewal	\$ 50
6. Reissue of license duplicate	\$ 25

7. Name change on records	\$ 25
8. Copy of LPC file	\$ 25
9. Copy of any documents	cost incurred
10. Marriage and Family Therapy Examination Fee	\$100

B The late fee will be incurred the day after a licensee's designated renewal deadline at 4 p.m. (no grace period). No part of any fee shall be refundable under any conditions. All fees for licensing must be paid to the board by certified check or money order. The renewal shall be deemed timely when:

1. the renewal is delivered on or before the due date; or
2. the renewal is mailed on or before the due date. If the renewal is received by mail on the first working day following the due date, there shall be a rebuttable presumption that it was timely filed. In all cases where the presumption does not apply, the timeliness of the mailing shall be shown only by an official United States postmark or by official receipt or certificate from the United States Postal Service made at the time of mailing which indicates the date thereof. For purpose of this Section, "by mail" applies only to the United States Postal Service.

C. The board may assess and collect fines in an amount not to exceed \$500 for violations of Chapter 9 and Rules promulgated by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:136 (February 2003).

### **§903. Deposit and Use of Fees and Funds**

A. All fees collected and all gifts or grants shall be deposited and credited to the account of the board in a licensed financial institution of the board's choosing. The funds of the board may be used for printing, travel expenses of the board, and for other necessary expenses as are essential to carrying out of the provisions of R.S. 37:1101-1122. Expenses shall be paid under the written direction of the chairman of the board in accordance with procedures established by the Division of Administration. Any surplus at the end of the fiscal year shall be retained by the board for future expenditures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:137 (February 2003).

## **Chapter 11. Reciprocity In LPC Licensing**

### **§1101. States, Territories, and Commonwealths**

A. Upon application accompanied by a fee and without written or oral examination, as stated in R.S.37:1109, the board may issue an LPC license to any person who furnished upon a form and in such manner as the board prescribes, evidence satisfactory to the board that he is licensed, certified, or registered as a professional counselor by another state, territorial possession of the United States, District of Columbia, or Commonwealth of Puerto Rico if the requirements for such licensure, certification, or registration are substantially equivalent to those of R.S. 37:1101-1122.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Professional

Counselors, LR 14:84 (February, 1988), amended by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 22:103 (February 1996), amended by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:137 (February 2003).

## **Chapter 13. Disciplinary Proceedings for Licensed Professional Counselors**

### **§1301. Causes for Administrative Action**

A. The Board, after due notice and hearing as set forth herein and the Louisiana Administrative Procedures Act, R.S.49:950 et seq., may withhold, deny, revoke or suspend any license issued or applied for or otherwise discipline a Licensed Professional Counselor on a finding that the person has violated the Louisiana Mental Health Counselor Licensing Act, any of the Rules and regulations promulgated by the board, the Code of Ethics of the American Counseling Association, or prior final decisions and/or consent orders involving the Licensed Professional Counselor or applicant for licensure. Sometimes hereinafter in this Chapter, where the context allows a Licensed Professional Counselor or applicant for licensure may be referred to as "person".

B. The Board shall also deny, revoke or suspend any license issued or applied for, or otherwise discipline a Licensed Professional Counselor on a finding that such person has violated any other applicable state law which themselves requires denial, revocation, or suspension of the license of such Licensed Professional Counselor or applicant. Such statutes include, but are not limited to R.S.37:2951 et seq. (nonpayment of certain student loans), and R.S.37:2952 et seq. (nonpayment of child support).

C. In addition to the Code of Conduct adopted by the LPC Board as Chapter 21, §2101-2117, the following actions or inactions by a Licensed Professional Counselor shall also be considered ethical violations by a Licensed Professional Counselor which may allow denial revocation, or suspension of Licensed Professional Counselor's license.

1. Failure to report suspected child abuse or neglect (R.S. 14:403 et seq. and Children's Code Article 609 et seq.)
2. Failure to report suspected elder abuse or neglect (R.S. 14:403.2 et seq.)
3. Failure to maintain patient records required by law (R.S. 40:1299.96 et seq.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:137 (February 2003).

### **§1303. Disciplinary Process and Procedures**

A. The purpose of the following Rules and regulations is to supplement and effectuate the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., regarding the disciplinary process and procedures incident thereto. These Rules and regulations are not intended to amend or repeal the provisions of the Administrative Procedure Act, and to the extent any of these Rules and regulations are in conflict therewith, the provisions of the Administrative Procedure Act shall govern.

B. 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.

C. The purpose of a disciplinary proceeding is to determine contested issues of law and fact; whether the person did certain acts or omissions and, if he did, whether those acts or omissions violated the Louisiana Mental Health Counselor Licensing Act, the Rules and regulations of the board, the Code of Ethics of the American Counseling Association, or prior Final Decisions and/or Consent Orders involving the licensed professional counselor or applicant for licensure and to determine the appropriate disciplinary action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR:25:259 (February 1999), amended LR 29:137 (February 2003).

### **§1305. Initiation of Complaints**

A. Complaints may be initiated by any person or by the board on its own initiative.

B. All complaints shall be addressed confidential to the Ad Hoc Committee for Disciplinary Affairs of the board and shall be sent to the board office. The Ad Hoc Committee for Disciplinary Affairs of the board shall, during an executive session of the board, convey the complaint to the board members. The board members by a vote of four of the seven members shall agree to investigate the charges or deny the charges. If a denial, the chairperson of the board shall request the Ad Hoc Committee for Disciplinary Affairs to prepare the letters of denial for his signature. If the board agrees to investigate, the board shall request the Ad Hoc Committee for Disciplinary Affairs to notify the person that allegations have been made that he may have committed a breach of statute, rule and regulation, ethical code, and/or prior final decisions or consent orders and that he must respond in writing to the board within a specified time period. A response is to be made to the Ad Hoc Committee for Disciplinary Affairs of the board at the board office address. The complaint letter of alleged violations shall not be given initially to the person. However, sufficiently specific allegations shall be conveyed to the person for his response. Once the person has answered the complaint, a determination will be made if a disciplinary proceeding is required.

C. Pursuant to its authority to regulate this industry, the board through its Ad Hoc Committee on Disciplinary Affairs, may conduct investigations into alleged violations by a licensed professional counselor or applicant of this Chapter or Rules and regulations promulgated pursuant thereto, may issue subpoenas to secure evidence of alleged violations of the Louisiana Mental Health Counselor Licensing Act, any of the Rules and regulations promulgated by the board, the Code of Ethics of the American Counseling Association, or prior final decisions and/or consent orders involving the licensed professional counselor or applicant for licensure. The confidential or privileged records of a patient or client which are subpoenaed are to be sanitized by the custodian of such records so as to maintain the anonymity of the patient or client.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:138 (February 2003).

### **§1307. Informal Disposition of Complaints**

A. Some complaints may be settled informally by the board and the person accused of a violation without a formal hearing. The following types of informal dispositions may be utilized.

1. Disposition by Correspondence. For complaints less serious, the Ad Hoc Committee for Disciplinary Affairs of the board may write to the person explaining the nature of the complaint received. The person's subsequent response may satisfactorily explain the situation, and the matter may be dropped. If the situation is not satisfactorily explained, it shall be pursued through an informal conference or formal hearing.

2. Informal Conference

a. The Ad Hoc Committee for Disciplinary Affairs of the board may hold a conference with the person in lieu of, or in addition to, correspondence in cases of less serious complaints. If the situation is satisfactorily explained in conference, a formal hearing is not scheduled.

b. The person shall be given adequate notice of the conference, of the issues to be discussed, and of the fact that information brought out of the conference may later be used in a formal hearing. Board members may not be involved in informal conferences.

3. Settlement. An agreement worked out between the person making the complaint and the person accused of a violation does not preclude disciplinary action by the board. The nature of the offense alleged and the evidence before the board must be considered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:138 (February 2003).

### **§1309. Formal Hearing**

A. The board has the authority, granted by R.S. 37:1101 et seq., to bring administrative proceedings against persons to whom it has issued a license to practice as a licensed professional counselor or any applicant requesting a license. The person has the right to:

1. appear and be heard, either appearing alone or with counsel;
2. the right of notice;
3. a statement of what accusations have been made;
4. the right to present evidence and to cross-examine; and
5. the right to have witnesses subpoenaed.

B. If the person does not appear, either in person or through counsel, after proper notice has been given, the person may be considered to have waived these rights and the board may proceed with the hearing without the presence of the person.

C. The process of administrative action shall include certain steps and may include other steps as follows.

1. The board received a complaint alleging that a person has acted in violation of the Louisiana Mental Health Counselor Licensing Act, the Rules and regulations of the board, or the Code of Ethics of the American Counseling Association. Communications from the complaining party shall not be revealed to any person until and unless a formal complaint is filed except those documents being subpoenaed by a court.

2.a. The complaint is investigated by the board's agent or attorney to determine if there is sufficient evidence to warrant disciplinary proceedings. No board member may communicate with any party to a proceeding or his representative concerning any issue of fact or law involved in that proceeding.

b. A decision to initiate a formal complaint or charge is made if one or more of the following conditions exists:

- i. the complaint is sufficiently serious;
- ii. the person fails to respond to the board's correspondence concerning the complaint;
- iii. the person's response to the board's letter or investigation demand is not convincing that no action is necessary;
- iv. an informal approach is used, but fails to resolve all of the issues.

3. A Notice of Hearing is issued pursuant to R.S. 49:955, charging the violation of one or more of the provisions of the Louisiana Mental Health Counselor Licensing Act, the Rules and regulations promulgated thereto, the Code of Ethics of the American Counseling Association, or prior final decisions and/or consent orders involving the person.

4. A time and place for a hearing is fixed by the chairman or an agent of the board.

5.a. At least 20 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 are sent by certified mail to the last known address of the person accused. If the mailing is not returned to the board, it is assumed to have been received. It is the person's obligation to keep the board informed of his whereabouts. The board will conduct the hearing, with the accused person in absentia, in the event that certified mail at the last known address is unsuccessful.

b. The content of the charges limits the scope of the hearing and the evidence which may be introduced. The charges may be amended at any time up to 10 days prior to the date set for the hearing.

c. If the board is unable to describe the matters involved in detail at the time the sworn complaint is filed, this complaint may be limited to a general statement of the issues involved. Thereafter, upon the person's request, the board shall supply a more definite and detailed statement to the person.

6. Except for extreme emergencies, motions requesting a continuance of a hearing shall be filed at least five days prior to the time set for the hearing. The motion shall contain the reason for the request, which reason must have relevance to due process. The decision to grant or deny a motion to continue shall be left to the discretion of the board chair and may only be granted for compelling reasons.

7.a. The chairman, or an authorized agent of the board, issues subpoenas for the board for disciplinary proceedings, and when requested to do so, may issue subpoenas for the other party. Subpoenas include:

- i. a subpoena requiring a person to appear and give testimony; and
- ii. a subpoena duces tecum, which requires that a person produce books, records, correspondence, or other materials over which he has custody.

b. A motion to limit or quash a subpoena may be filed with the board, but not less than 72 hours prior to the hearing.

8.a. The hearing is held, at which time the board's primary role is to hear evidence and argument, and to reach a decision. Any board member who, because of bias or interest, is unable to assure a fair hearing, shall be recused from the particular proceeding. The reasons for the recusal are made part of the record. Should the majority of the board 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.

b. The board is represented by its agent who conducted the investigation and presents evidence that disciplinary action should be taken against the person and/or by the board's attorney. The person may present evidence personally or through an attorney, and witnesses may testify on behalf of the person.

c. Evidence includes the following:

i. 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 the requesting party);

ii. documentary evidence, i.e., written or printed materials including public, business, institutional records, books and reports;

iii. visual, physical and illustrative evidence;

iv. admissions, which are written or oral statements of a party made either before or during the hearing;

v. facts officially noted into the record, usually readily determined facts making proof of such unnecessary.

d. All testimony is given under oath. If the witness objects to swearing, the word "affirm" may be substituted.

9. The chairman of the board presides and the customary order of proceedings at a hearing is as follows.

a. The board's representative makes an opening statement of what he intends to prove, and what action, he wants the board to take.

b. The person, or his attorney, makes an opening statement, explaining why he believes that the charges against him are not legally founded.

c. The board's representative presents the case against the person.

d. The person, or his attorney, cross-examines.

e. The person presents evidence.

f. The board's representative cross-examines.

g. The board's representative rebuts the person's evidence.

h. Both parties make closing statements. The board's representative makes the initial closing statement and the final statement.

10. 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 record of the proceeding.

11.a. The record of the hearing shall include:

- i. all papers filed and served in the proceeding;

- ii. all documents and/or other materials accepted as evidence at the hearing;
- iii. statements of matters officially noticed;
- iv. notices required by the statutes or Rules; including notice of hearing;
- v. affidavits of service or receipts for mailing or process or other evidence of service;
- vi. stipulations, settlement agreements or consent orders, if any;
- vii. records of matters agreed upon at a prehearing conference;
- viii. reports filed by the hearing officer, if one is used;
- ix. orders of the board and its final decision;
- x. actions taken subsequent to the decision, including requests for reconsideration and rehearing;
- xi. a transcript of the proceedings, if one has been made, or a tape recording or stenographic record.

b. 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.

12.a. The decision of the board shall be reached according to the following process:

- i. determine the facts at issue on the basis of the evidence submitted at the hearing;
- ii. determine whether the facts in the case support the charges brought against the person; and
- iii. determine whether charges brought are a violation of the Louisiana Mental Health Counselor Licensing Act or Rules and regulations of the board.

b. Deliberation

- i. The board will deliberate in closed session;
- ii. the board will vote on each charge as to whether the charge has been supported by the evidence (the standard will be "preponderance of the evidence");
- iii. after considering and voting on each charge, the board will vote on a resolution to dismiss the charges, withhold, deny, revoke or suspend any license issued or applied for or otherwise discipline a licensed professional counselor or applicant for licensure; and
- iv. the board by affirmative vote of a majority of those members voting, shall be needed to withhold, deny, revoke, or suspend any license issued or applied for in accordance with the provisions of this Chapter or otherwise discipline a licensed professional counselor or applicant.

c. Sanctions against the person who is party to the proceeding are based upon findings of fact and conclusion of law determined as a result of the hearing. The party is notified by mail of the final decision of the board.

13. Every order of the board shall take effect immediately on its being rendered unless the board in such order fixes a probationary period for an applicant or licensee. Such order shall continue in effect until expiration of any specified time period or termination by a court of competent jurisdiction. The board shall notify all licensees of any action taken against a licensee and may make public its orders and judgment in such manner and form as it deems proper if such orders and judgments are not consent orders or compromise judgments.

14.a. The board 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 who is dissatisfied with a decision of the board files a motion requesting that the decision be reconsidered by the board.

b. The board 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 board's decision has been appealed.

c. A motion by a party for reconsideration or rehearing must be in proper form and filed within 10 days after notification of the board's decision. The motion shall set forth the grounds for the rehearing, which include one or more of the following:

- i. the board's decision is clearly contrary to the law and evidence;
- ii. there is newly discovered evidence by the party since the hearing which is important to the issues and which the party could not have discovered with due diligence before or during the hearing;
- iii. there is a showing that issues not previously considered ought to be examined in order to dispose of the case properly; or
- iv. it would be in the public interest to further consider the issues and the evidence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:138 (February 2003).

**§1311. Consent Order**

A. An order involving some type of disciplinary action may be made by the Board with the consent of the person. A consent order requires formal consent of four of seven members of the board. It is not the result of the board's deliberation; it is the board's acceptance of an agreement reached between the board and the person. The consent order is issued by the board to carry out the parties' agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:140 (February 2003).

**§1313. Withdrawal of a Complaint**

A. If the complainant wishes to withdraw the complaint, the inquiry is terminated, except in cases where the board judges the issues to be of such importance as to warrant completing the investigation in its own right and in the interest of public welfare.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:140 (February 2003).

**§1315. Refusal to Respond or Cooperate with the Board**

A. If the person does not respond to the original inquiry within a reasonable period of time as requested by the board, a follow-up letter shall be sent to the person by certified mail, return receipt requested.

B. If the person refuses to reply to the board's inquiry or otherwise cooperate with the board, the board shall continue its investigation. The board shall record the circumstances of

the person's failure to cooperate and shall inform the person that the lack of cooperation may result in action which could eventually lead to the withholding, denial, revocation or suspension of his license, or application for licensure, or otherwise issue appropriate disciplinary sanction.

AUTHORITY NOTE: Promulgation in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:140 (February 2003).

### **§1317. Judicial Review of Adjudication**

A. Any person whose license, or application for licensure, has been withheld, denied, revoked or suspended or otherwise disciplined by the board shall have the right to have the proceedings of the board reviewed by the state district court for the parish of East Baton Rouge, provided that such petition for judicial review is made within 30 days after the notice of the decision of the board. If judicial review is granted, the board's decision is enforceable in the interim unless the court orders a stay.

AUTHORITY NOTE: Promulgation in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:141 (February 2003).

### **§1319. Appeal**

A. A person aggrieved by any final judgment rendered by the state district court may obtain a review of said final judgment by appeal to the appropriate circuit court of appeal. Pursuant to the applicable section of the Administrative Procedure Act, R.S. 49:950 et seq., this appeal shall be taken as in any other civil case.

AUTHORITY NOTE: Promulgation in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:141 (February 2003).

### **§1321. Reinstatement of Suspended or Revoked License**

A. The board is authorized to suspend the license of a licensed professional counselor for a period not exceeding two years. At the end of this period, the board shall re-evaluate the suspension and may recommend to the chairman the reinstatement or revocation of the license. A person whose license has been revoked may apply for reinstatement after a period of not less than two years from the date such denial or revocation is legally effective. The board may, upon favorable action by a majority of the board members present and voting, recommend such reinstatement.

AUTHORITY NOTE: Promulgation in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:141 (February 2003).

### **§1323. Declaratory Statements**

A. The board may issue a declaratory statement in response to a request for clarification of the effect of the provisions contained in the Louisiana Mental Health Counselor Licensing Act, R.S. 37:1101 et seq., the Rules and regulations promulgated by the board and/or the Code of Ethics of the American Counseling Association.

1. A request for declaratory statement is made in the form of a petition to the board. The petition should include at least:

a. the name and address of the petitioner;  
b. specific reference to the statute, rule and regulation, or provision of the Code of Ethics to which the petitioner relates; and

c. a concise statement of the manner in which the petitioner is aggrieved by the statute, Rules and regulations, or provision of the Code of Ethics by its potential application to him in which he is uncertain of its effect.

2. The petition shall be considered by the board within a reasonable period of time taking into consideration the nature of the matter and the circumstances involved.

3. The declaratory statement of the board in response to the petition shall be in writing and mailed to the petitioner at the last address furnished to the board.

AUTHORITY NOTE: Promulgation in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:141 (February 2003).

### **§1325. Injunction**

A. The board may, through the attorney general of the state of Louisiana, apply for an injunction in any court of competent jurisdiction to enjoin any person from committing any act declared to be a misdemeanor by this Chapter, any Rules and regulations adopted by the board, and any codes of ethics adopted by the board.

B. If it is established that the defendant has been or is committing an act in violation of this Chapter or of any Rules or regulations adopted pursuant to this Chapter, including any codes of ethics adopted by the board, the court, or any judge thereof, shall enter a decree enjoining said defendant from further committing such act.

C. In case of violation of any injunction issued under the provision of this Section, this court, or any judges thereof, may summarily try and punish the offender for contempt of court.

D. Such injunctive proceedings shall be in addition to, and not in lieu of, all penalties and other remedies provided in this Chapter.

AUTHORITY NOTE: Promulgation in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:141 (February 2003).

## **Chapter 15. Privileged Communication for Licensed Professional Counselors**

### **§1501. Privileged Communications with Clients**

A. The confidential relations and communications between a licensed professional counselor and client are placed upon the same basis as those provided by statute between an attorney and client. Nothing in these Rules shall be construed to require that any such privileged communication be disclosed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:141 (February 2003).

### **§1503. Privileged Communication between Health Care Provider and Patient**

A. R.S. 13:3734(A)(1), states that "health care provider" means a hospital, as defined in R.S. 40:2102, hereof, and means a person, corporation, facility, or institution licensed by the state to provide health care or professional services as

a physician, hospital, dentist, registered or licensed practical nurse, pharmacist, optometrist, podiatrist, chiropractor, physical therapist, psychologist, or licensed professional counselor and an officer, employee, or agent thereof acting in the course and scope of his employment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:141 (February 2003).

## **Chapter 17. Exclusions for Licensed Professional Counselors**

### **§1701. Scope**

A. The following persons and their activities are exempted from the licensing requirements of R.S. 37:1101-1122 and these Rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:142 (February 2003).

### **§1703. Exemptions**

A. A certified school counselor who meets the standards prescribed by the State Department of Education and the board of Elementary and Secondary Education, while practicing school counseling within the scope of his employment by a board of education or by a private school. Nothing herein shall be construed to allow such persons to render mental health counseling services to the public unless they have also been licensed under the provisions of R.S.37:1107

B. Any nonresident temporarily employed in this state to render mental health counseling services for not more than 30 days a year, who meets the requirements for licensure in R.S. 37:1107 or who holds a valid license and certificate issued under the authority of the laws of another state.

C. Any student in an accredited education institution, while carrying out activities that are part of the prescribed course of study, provided such activities are supervised by a professional mental health counselor. Such student shall hold himself out to the public only by clearly indicating his student status and the profession in which he is being trained.

D. Any persons licensed, certified, or registered under any other provision of the state law, as long as the services rendered are consistent with their laws, professional training, and code of ethics, provided they do not represent themselves as licensed professional counselors or mental health counselors, unless they have also been licensed under the provisions of R.S.37:1107.

E. Any priest, rabbi, Christian Science practitioner, or minister of the gospel of any religious denomination, provided they are practicing within the employment of their church or religious affiliated institution and they do not represent themselves as licensed professional counselors or mental health counselors unless they have also been licensed under the provisions of R.S.37:1107.

F. Any person with a master's degree in counseling while practicing mental health counseling under the board approved supervision of a licensed professional counselor. The supervisee must use the title "counselor intern" and shall not represent himself to the public as a licensed professional counselor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:142 (February 2003).

## **Chapter 21. Code of Conduct for Licensed Professional Counselors**

### **§2101. Preamble**

A. The Louisiana Licensed Professional Board of Examiners is dedicated to the enhancement of the worth, dignity, potential and uniqueness of each individual in the state of Louisiana.

B. Specification of a code of conduct enables the Board to clarify to present and future counselors and to those served by counselors the responsibilities held in common by persons practicing mental health counseling.

C. Mental health counseling, as defined in the licensure law, is "assisting an individual or group, through the counseling relationship, to develop an understanding of personal problems, to define goals and to plan actions reflecting his or their interests, abilities, aptitudes, and needs as these are related to personal and social concerns, educational progress, and occupations and careers."

D. The existence of this code of conduct serves to govern the practice of mental health counseling and the professional functioning of Licensed Professional Counselors in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:142 (February 2003).

### **§2103. Counseling Relationship**

#### **A. Client Welfare**

1. Primary Responsibility. The primary responsibility of counselors shall be to respect the dignity and to promote the welfare of clients.

2. Positive Growth and Development. Counselors shall encourage client growth and development in ways that foster the clients' interest and welfare; counselors shall avoid fostering dependent counseling relationships.

3. Counseling Plans. Counselors and their clients shall work jointly in devising integrated, individual counseling plans that offer reasonable promise of success and are consistent with abilities and circumstances of clients. Counselors and clients shall regularly review counseling plans to ensure their continued viability and effectiveness, respecting clients' freedom of choice.

4. Family Involvement. Counselors shall recognize that families are usually important in clients' lives and shall strive to enlist family understanding and involvement as a positive resource, when appropriate.

5. Career and Employment Needs. Counselors shall work with their clients in considering employment in jobs and circumstances that are consistent with the clients' overall abilities, vocational limitations, physical restrictions, general temperament, interest and aptitude patterns, social skills, education, general qualifications, and other relevant characteristics and needs. Counselors shall neither place nor participate in placing clients in positions that will result in damaging the interest and the welfare of clients, employers, or the public.

#### **B. Respecting Diversity**

1. Nondiscrimination. Counselors shall not condone or engage in discrimination based on age, color, culture, disability, ethnic group, gender, race, religion, sexual orientation, marital status, or socioeconomic status.

2. Respecting Differences. Counselors shall actively attempt to understand the diverse cultural backgrounds, of the clients with whom they work. This includes, but is not limited to, learning how the counselor's own cultural/ethnic/racial identity impacts her/his values and beliefs about the counseling process.

#### C. Client Rights

1. Disclosure to Clients. When counseling is initiated, and throughout the counseling process as necessary, counselors shall inform clients of the purposes, goals, techniques, procedures, limitations, potential risks and benefits of services to be performed, and other pertinent information. Counselors shall take steps to ensure that clients understand and implications of diagnosis, the intended use of tests and reports, fees, and billing arrangements. Clients have the right to expect confidentiality and to be provided with an explanation of its limitations, including supervision and/or treatment team professionals; to obtain clear information about their case records; to participate in the ongoing counseling plans; and to refuse any recommended services and be advised of the consequences of such refusal.

2. Freedom of Choice. Counselors shall offer clients the freedom to choose whether to enter into a counseling relationship and to determine which professional(s) will provide counseling. Restrictions that limit choices of clients shall be fully explained.

3. Inability to Give Consent. When counseling minors or persons unable to give voluntary informed consent, counselors shall act in these clients' best interests.

#### D. Clients Served by Others

1. If a client is receiving services from another mental health professional, counselors, with clients consent, shall inform the professional persons already involved and develop clear agreements to avoid confusion and conflict for the client.

#### E. Personal Needs and Values

1. Personal Needs. In the counseling relationship, counselors shall be aware of the intimacy and responsibilities inherent in the counseling relationship, maintain respect for clients, and shall avoid actions that seek to meet their personal needs at the expense of clients.

2. Personal Values. Counselors shall be aware of their own values, attitudes, beliefs, and behaviors and how these apply in a diverse society, and shall avoid imposing their values on clients.

#### F. Dual Relationships

1. Avoid When Possible. Counselors shall be aware of their influential positions with respect to clients, and they shall avoid exploiting the trust and dependency of clients. Counselors shall make every effort to avoid dual relationships with clients that could impair professional judgement or increase the risk of harm to clients. (Examples of such relationships include, but are not limited to, familial, social, financial, business, or close personal relationships with clients.) When a dual relationship cannot be avoided, counselors shall take appropriate professional precautions such as informed consent, consultation, supervision, and

documentation to ensure that judgment is not impaired and no exploitation occurs.

2. Superior/Subordinate Relationships. Counselors shall not accept as clients superiors or subordinates with whom they have administrative, supervisory, or evaluative relationships.

#### G. Sexual Intimacies with Clients

1. Current Clients. Counselors shall not have any type of sexual intimacies with clients and shall not counsel persons with whom they have had a sexual relationship.

2. Former Clients. Counselors shall not engage in sexual intimacies with former clients within a minimum of two years after terminating the counseling relationship. Counselors who engage in such relationship after two years following termination shall have the responsibility to thoroughly examine and document that such relations did not have an exploitative nature, based on factors such as duration of counseling, amount of time since counseling, termination circumstances, client's personal history and mental status, adverse impact on the client, and actions by the counselor suggesting a plan to initiate a sexual relationship with the client after termination.

H. Multiple Clients. When counselors agree to provide counseling services to two or more persons who have a relationship (such as husband and wife, or parents and children), counselors shall clarify at the outset which person or persons are clients and the nature of the relationships they will have with each involved person. If it becomes apparent that counselors may be called upon to perform potentially conflicting roles, they shall clarify, adjust, or withdraw from roles appropriately.

#### I. Group Work

1. Screening. Counselors shall screen prospective group counseling/therapy participants. To the extent possible, counselors shall select members whose needs and goals are compatible with goals of the group, who will not impede the group process, and whose well-being will not be jeopardized by the group experience.

2. Protecting Clients. In a group setting, counselors shall take reasonable precautions to protect clients from physical or psychological trauma.

#### J. Fees and Bartering

1. Advance Understanding. Counselors shall clearly explain to clients, prior to entering the counseling relationship, all financial arrangements related to professional services including the use of collection agencies or legal measures for nonpayment.

2. Establishing Fees. In establishing fees for professional counseling services, counselors shall consider the financial status of clients and locality. In the event that the established fee structure is inappropriate for a client, assistance shall be provided in attempting to find comparable services of acceptable cost.

3. Bartering Discouraged. Counselors shall ordinarily refrain from accepting goods or services from clients in return for counseling services because such arrangements create inherent potential for conflicts, exploitation, and distortion of the professional relationship. Counselors may participate in bartering only if the relationship is not exploitive, if the client requests it, if a clear written contract is established, and if such arrangements are an accepted practice among professionals in the community.

4. Pro Bono Service. Counselors shall contribute to society by devoting a portion of their professional activity to services for which there is little or no financial return (pro bono).

#### K. Termination and Referral

1. Abandonment Prohibited. Counselors shall not abandon or neglect clients in counseling. Counselors shall assist in making appropriate arrangements for the continuation of treatment, when necessary, during interruptions such as vacations, and following termination.

2. Inability to Assist Clients. If counselors determine an inability to be of professional assistance to clients, they shall avoid entering or immediately terminate a counseling relationship. Counselors shall be knowledgeable about referral resources and suggest appropriate alternatives. If clients decline the suggested referral, counselors shall discontinue the relationship.

3. Appropriate Termination. Counselors shall terminate a counseling relationship, securing client agreement when possible, when it is reasonably clear that the client is no longer benefiting, when services are no longer required, when counseling no longer serves the client's needs or interests, when agency or institution limits do not allow provision of further counseling services.

#### L. Computer Technology

1. Use of Computers. When computer applications are used in counseling services, counselors shall ensure that:

- a. the client is intellectually, emotionally, and physically capable of using the computer application;
- b. the computer application is appropriate for the needs of the client;
- c. the client understands the purpose and operation of the computer applications; and
- d. a follow-up of client use of a computer application is provided to correct possible misconceptions, discover inappropriate use, and assess subsequent needs.

2. Explanation of Limitations. Counselors shall ensure that clients are provided information as a part of the counseling relationship that adequately explains the limitations of computer technology.

3. Access to Computer Applications. Counselors shall provide for equal access to computer applications in counseling services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:142 (February 2003).

### §2105. Confidentiality

#### A. Right to Privacy

1. Respect for Privacy. Counselors shall respect their clients' right to privacy and avoid illegal and unwarranted disclosures of confidential information.

2. Client Waiver. The right to privacy may be waived by the client or their legally recognized representative.

3. Exceptions. The general requirement that counselors shall keep information confidential does not apply when disclosure is required to prevent clear and imminent danger to the client or others or when legal requirements demand that confidential information be revealed. Counselors shall consult with other professionals when in doubt as to the validity of an exception.

4. Contagious, Fatal Diseases. A counselor who receives information confirming that a client has a disease commonly known to be both communicable and fatal shall be justified in disclosing information to an identifiable third party, who by his or her relationship with the client is at a high risk of contracting the disease. Prior to making a disclosure the counselor shall ascertain that the client has not already informed the third party about his or her disease and that the client is not intending to inform the third party in the immediate future.

5. Court Ordered Disclosure. When court ordered to release confidential information without a client's permission, counselors shall request to the court that the disclosure not be required due to potential harm to the client or counseling relationship.

6. Minimal Disclosure. When circumstances require the disclosure of confidential information, only essential information shall be revealed. To the extent possible, clients are informed before confidential information is disclosed.

7. Explanation of Limitations. When counseling is initiated and throughout the counseling process as necessary, counselors shall inform clients of the limitations of confidentiality and identify foreseeable situations in which confidentiality must be breached.

8. Subordinates. Counselors shall make every effort to ensure that privacy and confidentiality of clients are maintained by subordinates including employees, supervisees, clerical assistants, and volunteers.

9. Treatment Teams. If client treatment will involve a continued review by a treatment team, the client shall be informed of the team's existence and composition.

#### B. Groups and Families

1. Group Work. In group work, counselors shall clearly define confidentiality and the parameters for the specific group being entered, explain its importance, and discuss the difficulties related to confidentiality involved in group work. The fact that confidentiality cannot be guaranteed shall be clearly communicated to group members.

2. Family Counseling. In family counseling, information about one family member shall not be disclosed to another member without permission. Counselors shall protect the privacy rights of each family member.

C. Minor or Incompetent Clients. When counseling clients who are minors or individuals who are unable to give voluntary, informed consent, parents or guardians shall be included in the counseling process as appropriate. Counselors shall act in the best interests of clients and take measures to safeguard confidentiality.

#### D. Records

1. Requirement of Records. Counselors shall maintain records necessary for rendering professional services to their clients and as required by laws, regulations, or agency or institution procedures.

2. Confidentiality of Records. Counselors shall be responsible for securing the safety and confidentiality of any counseling records they create, maintain, transfer, or destroy whether the records are written, taped, computerized, or stored in any other medium.

3. Permission to Record or Observe. Counselors shall obtain permission from clients prior to electronically recording or observing sessions.

4. Client Access. Counselors shall recognize that counseling records are kept for the benefit of clients, and therefore shall provide access to records and copies of records when requested by competent clients, unless the records contain information that may be misleading and detrimental to the client. In situations involving multiple clients, access to records shall be limited to those parts of records that do not include confidential information related to another client.

5. Disclosure or Transfer. Counselors shall obtain written permission from clients to disclose or transfer records to legitimate third parties unless exceptions to confidentiality exist as listed in §2105.A. Steps shall be taken to ensure that receivers of counseling records are sensitive to their confidential nature.

#### E. Research and Training

1. Data Disguise Required. Use of data derived from counseling relationships for purposes of training, research, or publication shall be confined to content that is disguised to ensure the anonymity of the individuals involved.

2. Agreement for Identification. Identification of a client in a presentation or publication shall be permissible only when the client has reviewed the material and has agreed to its presentation or publication.

#### F. Consultation

1. Respect for Privacy. Information obtained in a consulting relationship shall be discussed for professional purposes only with persons clearly concerned with the case. Written and oral reports shall present data germane to the purposes of the consultation, and every effort shall be made to protect client identity and avoid undue invasion of privacy.

2. Cooperation Agencies. Before sharing information, counselors shall make efforts to ensure that there are defined policies in other agencies serving the counselor's clients that effectively protect the confidentiality of information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:144 (February 2003).

### §2107. Professional Responsibilities

A. Standards Knowledge. Counselors shall have a responsibility to read, understand, and follow the Code of Ethics and the Standards of Practice.

#### B. Professional Competence

1. Boundaries of Competence. Counselors shall practice only within the boundaries of their competence, based on their education, training, supervised experience, state and national professional credentials, and appropriate professional experience. Counselors shall demonstrate a commitment to gain knowledge, personal awareness, sensitivity, and skills pertinent to working with a diverse client population. The Louisiana Licensed Professional Counselors Board of Examiners shall require their licensees to submit to this board a written statement of area(s) of intended practice along with supporting documentation of qualifications for the respective area(s) in which practice is intended.

2. New Specialty Areas of Practice. Counselors shall practice in specialty areas new to them only after appropriate education, training, and supervised experience. While developing skills in new specialty areas, counselors shall

take steps to ensure the competence of their work and to protect others from possible harm. The Louisiana Licensed Professional Counselors Board of Examiners shall require their licensees to submit to this board a written statement of new area(s) of intended practice along with supporting documentation of qualifications for the respective area(s) in which practice is intended.

3. Qualified for Employment. Counselors shall accept employment only for positions for which they are qualified by education, training, supervised experience, state and national professional credentials, and appropriate professional experience. Counselors shall hire for professional counseling positions only individuals who are qualified and competent.

4. Monitor Effectiveness. Counselors shall continually monitor their effectiveness as professionals and take steps to improve when necessary. Counselors in private practice shall take reasonable steps to seek out peer supervision to evaluate their efficacy as counselors.

5. Ethical Issues Consultation. Counselors shall take reasonable steps to consult with other counselors or related professionals when they have questions regarding their ethical obligations or professional practice.

6. Continuing Education. Counselors shall recognize the need for continuing education to maintain a reasonable level of awareness of current scientific and professional information in their fields of activity. They shall take steps to maintain competence in the skills they use, are open to new procedures, and keep current when the diverse and/or special populations with whom they work.

7. Impairment. Counselors shall refrain from offering or accepting professional services when their physical, mental or emotional problems are likely to harm a client or others. They shall be alert to the signs of impairment, seek assistance for problems, and, if necessary, limit, suspend, or terminate their professional responsibilities.

#### C. Advertising and Soliciting Clients

1. Accurate Advertising. There are no restrictions on advertising by counselors except those that can be specifically justified to protect the public from deceptive practices. Counselors shall advertise or represent their services to the public by identifying their credentials in an accurate that is not false, misleading, deceptive, or fraudulent. Counselors shall only advertise the highest degree earned which is in counseling or a closely related field from a college or university that was accredited by one of the regional accrediting bodies recognized by the Council on Postsecondary Accreditation at the time the degree was awarded.

2. Testimonials. Counselors who use testimonials shall not solicit them from clients or other persons who, because of their particular circumstances, may be vulnerable to undue influence.

3. Statements by Others. Counselors shall make reasonable efforts to ensure that statements made by others about them or the profession of counseling are accurate.

4. Recruiting Through Employment. Counselors shall not use their places of employment or institutional affiliation to recruit or gain clients, supervisees, or consultees for their private practices.

5. Products and Training Advertisements. Counselors who develop products related to their profession or conduct

workshops or training events shall ensure that the advertisements concerning these products or events are accurate and disclose adequate information for consumers to make informed choices.

6. Promoting to Those Served. Counselors shall not use counseling, teaching, training, or supervisory relationships to promote their products or training events in a manner that is deceptive or would exert undue influence on individuals who may be vulnerable. Counselors may adopt textbooks they have authored for instruction purposes.

7. Professional Association Involvement. Counselors shall actively participate in local, state, and national associations that foster the development and improvement of counseling.

#### D. Credentials

1. Credentials Claimed. Counselors shall claim or imply only professional credentials possessed and are responsible for correcting any known misrepresentations of their credentials by others. Professional credentials shall include graduate degrees in counseling or closely related mental health fields, accreditation of graduate programs, national voluntary certifications, government-issued certifications or licenses, ACA professional membership, or any other credential that might indicate to the public specialized knowledge or expertise in counseling.

2. ACA Professional Membership. ACA professional members may announce to the public their membership status. Regular members shall not announce their ACA membership in a manner that might imply they are credentialed counselors.

3. Credential Guidelines. Counselors shall follow the guidelines for use of credentials that have been established by the entities that issue the credentials.

4. Misrepresentation of Credentials. Counselors shall not attribute more to their credentials than the credentials represent, and shall not imply that other counselors are not qualified because they do not possess certain credentials.

#### 5. Doctoral Degrees from Other Fields

a. Counselors who hold a master's degree in counseling or a closely related mental health field, but hold a doctoral degree from other than counseling or a closely related field shall not use the title, "Dr." in their practices and shall not announce to the public in relation to their practice or status as a counselor that they hold a doctorate.

b. A doctoral degree in counseling or a closely related field is defined as a doctoral degree from a regionally accredited university that shall conform to one of the criteria below:

i. a CACREP accredited doctoral counseling program;

ii. a doctoral counseling program incorporating the work "counseling" or "counselor" in its title;

iii. a doctoral program incorporating a counseling related term in its title (e.g., "Marriage and Family Therapy"); or

iv. a doctoral program in a behavioral science that would augment the counseling skills of a Licensed Professional Counselor.

#### E. Public Responsibility

1. Nondiscrimination. Counselors shall not discriminate against clients, students, or supervisees in a manner that has a negative impact based on their age, color,

culture, disability, ethnic group, gender, race, religion, sexual orientation, or socioeconomic status, or for any other reason.

2. Sexual Harassment. Counselors shall not engage in sexual harassment. Sexual harassment is defined as sexual solicitation, physical advances, or verbal or nonverbal conduct that is sexual in nature, that occurs in connection with professional activities or roles, and that either:

a. is unwelcome, is offensive, or creates a hostile workplace environment, and counselors know or are told this; or

b. is sufficiently severe or intense to be perceived as harassment to a reasonable person in the context. Sexual harassment can consist of a single intense or severe act or multiple persistent or pervasive acts.

3. Reports to Third Parties. Counselors shall be accurate, honest, and unbiased in reporting their professional activities and judgments to appropriate third parties including courts, health insurance companies, those who are the recipients of evaluation reports, and others.

4. Media Presentations. When counselors provide advice or comment by means of public lectures, demonstrations, radio or television programs, prerecorded tapes, printed articles, mailed material, or other media, they shall take reasonable precautions to ensure that:

a. the statements are based on appropriate professional counseling literature and practice;

b. the statements are otherwise consistent with the Code of Ethics and the Standards of Practice; and

c. the recipients of the information are not encouraged to infer that a professional counseling relationship has been established.

5. Unjustified Gains. Counselors shall not use their professional positions to seek or receive unjustified personal gains, sexual favors, unfair advantage, or unearned goods or services.

#### F. Responsibility to Other Professionals

1. Different Approaches. Counselors shall be respectful of approaches to professional counseling that differ from their own. Counselors shall know and take into account the traditions and practices of other professional groups with which they work.

2. Personal Public Statements. When making personal statements in a public context, counselors shall clarify that they are speaking from their personal perspectives and that they are not speaking on behalf of all counselors or the profession.

3. Clients Served by Others. When counselors learn that their clients are in a professional relationship with another mental health professional, they shall request release from clients to inform the other professionals and strive to establish positive and collaborative professional relationships.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:145 (February 2003).

### **§2109. Relationships with Other Professionals**

#### A. Relationships with Employers and Employees

1. Role Definition. Counselors shall define and describe for their employers and employees the parameters and levels of their professional roles.

2. **Agreements.** Counselors shall establish working agreements with supervisors, colleagues, and subordinates regarding counseling or clinical relationships, confidentiality, adherence to professional standards, distinction between public and private material, maintenance and dissemination of recorded information, workload, and accountability. Working agreements in each instance shall be specified and made known to those concerned.

3. **Negative Conditions.** Counselors shall alert their employers to conditions that may be potentially disruptive or damaging to the counselor's professional responsibilities or that may limit their effectiveness.

4. **Evaluation.** Counselors shall submit regularly to professional review and evaluation by their supervisor or the appropriate representative of the employer.

5. **In-Service.** Counselors shall be responsible for in-service development of self and staff.

6. **Goals.** Counselors shall inform their staff of goals and programs.

7. **Practices.** Counselors shall provide personnel and agency practices that respect and enhance the rights and welfare of each employee and recipient of agency services. Counselors shall strive to maintain the highest levels of professional services.

8. **Personnel Selection and Assignment.** Counselors shall select competent staff and assign responsibilities compatible with their skills and experiences.

9. **Discrimination.** Counselors, as either employers or employees, shall not engage in or condone practices that are inhumane, illegal, or unjustifiable (such as considerations based on age, color, culture, disability, ethnic group, gender, race, religion, sexual orientation, or socioeconomic status) in hiring, promotion, or training.

10. **Professional Conduct.** Counselors shall have a responsibility both to clients and to the agency or institution within which services are performed to maintain high standards of professional conduct.

11. **Exploitive Relationships.** Counselors shall not engage in exploitive relationships with individuals over whom they have supervisory, evaluative, or instructional control or authority.

12. **Employer Policies.** The acceptance of employment in an agency or institution implies that counselors shall be in agreement with its general policies and principles. Counselors shall strive to reach agreement with employers as to acceptable standards of conduct that allow for changes in institutional policy conducive to the growth and development of clients.

#### B. Consultation

1. **Consultation as an Option.** Counselors may choose to consult with any other professionally competent persons about their clients. In choosing consultants, counselors shall avoid placing the consultant in a conflict of interest situation that would preclude the consultant being a proper party to the counselor's efforts to help the client. Should counselors be engaged in a work setting that compromises this consultation standard, they shall consult with other professionals whenever possible to consider justifiable alternatives.

2. **Consultant Competency.** Counselors shall be reasonably certain that they have or the organization represented has the necessary competencies and resources

for giving the kind of consulting services needed and that appropriate referral resources are available.

3. **Understanding with Clients.** When providing consultation, counselors shall attempt to develop with their clients a clear understanding of problem definition, goals for change, and predicted consequences of interventions selected.

4. **Consultant Goals.** The Consulting relationship is one in which client adaptability and growth toward self-direction shall be consistently encouraged and cultivated.

#### C. Fees for Referral

1. **Accepting Fees from Agency Clients.** Counselors shall refuse a private fee or other remuneration for rendering services to persons who are entitled to such services through the counselor's employing agency or institution. The policies of a particular agency may make explicit provisions for agency clients to receive counseling services from members of its staff in private practice. In such instances, the clients must be informed of other options open to them should they seek private counseling services.

2. **Referral Fees.** Counselors shall not accept a referral fee from other professionals.

D. **Subcontractor Arrangements.** When counselors work as subcontractors for counseling services for a third party, they shall have a duty to inform clients of the limitations of confidentiality that the organization may place on counselors in providing counseling services to clients. The limits of such confidentiality ordinarily shall be discussed as part of the intake session.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1101-1122.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:146 (February 2003).

### **§2111. Evaluation, Appraisal, and Interpretation**

#### A. General

1. **Appraisal Techniques.** The primary purpose of appraisal (henceforth known as "appraisal") is to provide measures that are objective and interpretable in either comparative or absolute terms. Counselors shall recognize the need to interpret the statements in this section as applying to the whole range of appraisal techniques, including test and non-test data. Counselors shall recognize their legal parameters in utilizing formalized appraisal techniques and adhere to such.

2. **Client Welfare.** Counselors shall promote the welfare and best interests of the client in the development, publication and utilization of appraisal techniques. They shall not misuse appraisal results and interpretations and shall take reasonable steps to prevent others from misusing the information these techniques provide. They shall respect the client's right to know the result, the interpretations made, and the bases for their conclusions and recommendations.

#### B. Competence to Use and Interpret Tests

1. **Limits of Competence.** Counselors shall recognize the limits of their competence and perform only those testing and appraisal services for which they have been trained and is within RS 37:1101-1122. They shall be familiar with reliability, validity, related standardization, error of measurement, and proper application of any technique utilized. Counselors using computer-based test interpretations shall be trained in the construction being measured and the specific instrument being used prior to

using this type of computer application. Counselors shall take reasonable measures to ensure the proper use of formalized appraisal techniques by persons under their supervision.

2. **Appropriate Use.** Counselors shall be responsible for the appropriate application, scoring, interpretation, and use of appraisal instruments, whether they score and interpret such tests themselves or use computerized or other services.

3. **Decisions Based on Results.** Counselors shall be responsible for decisions involving individuals or policies that are based on appraisal results have a thorough understanding of formalized measurement technique, including validation criteria, test research, and guidelines for test development and use.

4. **Accurate Information.** Counselors shall provide accurate information and avoid false claims or misconceptions when making statements about formalized appraisal instruments or techniques.

#### C. Informed Consent

1. **Explanation to Clients.** Prior to performing such, counselors shall explain the nature and purposes of a formal appraisal and the specific use of results in language the client (or other legally authorized person on behalf of the client) can understand, unless as explicit exception to this right has been agreed upon in advance. Regardless of whether scoring and interpretation are completed by counselors, or by computer or other outside services, counselors shall take reasonable steps to ensure that appropriate explanations are given to the client.

2. **Recipients of Results.** The examinee's welfare, explicit understanding, and prior agreement shall determine the recipients of test results. Counselors shall include accurate and appropriate interpretations with any release of individual or group test results.

#### D. Release of Information to Competent Professionals

1. **Misuse of Results.** Counselors shall not misuse appraisal results, including test results, and interpretations, and shall take reasonable steps to prevent the misuse of such by others.

2. **Release of Raw Data.** Counselors shall ordinarily release data (e.g., protocols, counseling or interview notes, or questionnaires) in which the client is identified only with the consent of the client or the client's legal representative. Such data are usually released only to persons recognized by counselors as competent to interpret the data.

#### E. Test Selection

1. **Appropriateness of Instruments.** Counselors shall carefully consider the validity, reliability, psychometric limitations, and appropriateness of instruments when selecting tests for use in a given situation or with a particular client.

2. **Culturally Diverse Populations.** Counselors shall be cautious when selecting tests for culturally diverse populations to avoid inappropriateness of testing that may be outside of socialized behavioral or cognitive patterns.

#### F. Conditions of Test Administration

1. **Administration Conditions.** Counselors shall administer tests under the same conditions that were established in their standardization. When tests are not administered under standard conditions or when unusual behavior or irregularities occur during the testing session,

those conditions shall be noted in interpretation, and the results may be designated as invalid or of questionable validity.

2. **Computer Administration.** Counselors shall be responsible for ensuring that administration programs function properly to provide clients with accurate results when a computer or other electronic methods are used for test administration.

3. **Unsupervised Test-Taking.** Counselors shall not permit unsupervised or inadequately supervised use of tests or appraisals unless the tests or appraisals are designed, intended, and validated for self-administration and/or scoring.

4. **Disclosure of Favorable Conditions.** Prior to test administration, conditions that produce most favorable test results shall be made known to the examinee.

G. **Diversity in Testing** Counselors shall be cautious in using appraisal techniques, making evaluations, and interpreting the performance of populations not represented in the norm group on which an instrument was standardized. They shall recognize the effects of age, color, culture, disability, ethnic group, gender, race, religion, sexual orientation, and socioeconomic status on test administration and interpretation and place test results in proper perspective with other relevant factors.

#### H. Test Scoring and Interpretation

1. **Reporting Reservations.** In reporting appraisal results, counselors shall indicate any reservations that exist regarding validity or reliability because of the circumstances of the appraisal or the inappropriateness of the norms for the person tested.

2. **Research Instruments.** Counselors shall exercise caution when interpreting the results of research instruments possessing insufficient technical data to support respondent results. The specific purposes for the use of such instruments shall be stated explicitly to the examinee.

3. **Testing Services.** Counselors who provide test scoring and test interpretation services to support the appraisal process shall confirm the validity of such interpretations. They shall accurately describe the purpose, norms, validity, reliability, and applications of the procedures and any special qualifications applicable to their use. The public offering of an automated test interpretations service is shall be considered a professional-to-professional consultation. The formal responsibility of the consultant shall be to the consultee, but the ultimate and overriding responsibility shall be to the client.

I. **Test Security.** Counselors shall maintain the integrity and security of tests and other appraisal techniques consistent with legal and contractual obligations. Counselors shall not appropriate, reproduce, or modify published tests or parts thereof without acknowledgment and permission from the publisher.

J. **Obsolete Tests and Outdated Test Results.** Counselors shall not use data or test results that are obsolete or outdated for the current purpose. Counselors shall make every effort to prevent the misuse of obsolete measures and test data by others.

K. **Test Construction.** Counselors shall use established scientific procedures, relevant standards, and current professional knowledge for test design in the development, publication, and utilization of appraisal techniques.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICALNOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:147 (February 2003).

### **§2113. Teaching, Training, and Supervision**

#### **A. Counselor Educators and Trainers**

1. Educators as Teachers and Practitioners. Counselors who are responsible for developing, implementing, and supervising educational programs shall be skilled as teachers and practitioners. They shall be knowledgeable regarding the ethical, legal, and regulatory aspects of the profession, shall be skilled in applying that knowledge, and shall make students and supervisees aware of their responsibilities. Counselors shall conduct counselor education and training programs in an ethical manner and shall serve as role models for professional behavior. Counselor educators shall make an effort to infuse material related to human diversity into all courses and/or workshops that are designed to promote the development of professional counselors.

2. Relationship Boundaries with Students and Supervisees. Counselors shall clearly define and maintain ethical, professional, and social relationship boundaries with their students and supervisees. They shall be aware of the differential in power that exists and the student's or supervisee's possible incomprehension of that power differential. Counselors shall explain to students and supervisees the potential for the relationship to become exploitive.

3. Sexual Relationships. Counselors shall not engage in sexual relationships with students or supervisees and shall not subject them to sexual harassment.

4. Contributions to Research. Counselors shall give credit to students or supervisees for their contributions to research and scholarly projects. Credit shall be given through co-authorship, acknowledgment, footnote statement, or other appropriate means, in accordance with such contributions.

5. Close Relatives. Counselors shall not accept close relatives as students or supervisees.

6. Supervision Preparations. Counselors who offer clinical supervision services shall be adequately prepared in supervision methods and techniques. Counselors who are doctoral students serving as practicum or internship supervisors to master's level students shall be adequately prepared and supervised by the training program.

7. Responsibility for Services to Clients. Counselors who supervise the counseling services of others shall take reasonable measures to ensure that counseling services provided to clients are professional.

8. Endorsement. Counselors shall not endorse students or supervisees for certification, licensure, employment, or completion of an academic or training program if they believe students or supervisees are not qualified for the endorsement. Counselors shall take reasonable steps to assist students or supervisees who are not qualified for endorsement to become qualified.

#### **B. Counselor Education and Training Programs**

1. Orientation. Prior to admission, counselors shall orient prospective students to the counselor education or

training program's expectations, including but not limited to the following:

- a. the type and level of skill acquisition required for successful completion of the training;
- b. subject matter to be covered;
- c. basis for evaluation;
- d. training components that encourage self-growth or self-disclosure as part of the training process;
- e. the type of supervision settings and requirements of the sites for required clinical field experiences;
- f. student and supervisee evaluation and dismissal policies and procedures; and
- g. up-to-date employment prospects for graduates.

2. Integration of Study and Practice. Counselors shall establish counselor education and training programs that integrate academic study and supervised practice.

3. Evaluation. Counselors shall clearly state to students and supervisees, in advance of training, the levels of competency expected, appraisal methods, and timing of evaluations for both didactic and experiential components. Counselors shall provide students and supervisees with periodic performance appraisal and evaluation feedback throughout the training program.

4. Teaching Ethics. Counselors shall make students and supervisees aware of the ethical responsibilities and standards of the profession and the students' and supervisees' ethical responsibilities to the profession.

5. Peer Relationships. When students or supervisees are assigned to lead counseling groups or provide clinical supervision for their peers, counselors shall take steps to ensure that students and supervisees placed in these roles do not have personal or adverse relationships with peers and that they understand they have the same ethical obligations as counselor educators, trainers, and supervisors. Counselors shall make every effort to ensure that the rights of peers are not compromised when students or supervisees are assigned to lead counseling groups or provide clinical supervision.

6. Varied Theoretical Positions. Counselors shall present varied theoretical positions so that students and supervisees may make comparisons and have opportunities to develop their own positions. Counselors shall provide information concerning the scientific bases of professional practice.

7. Field Placement. Counselors shall develop clear policies within their training program regarding field placement and other clinical experiences. Counselors shall provide clearly stated roles and responsibilities for the student or supervisee, the site supervisor, and the program supervisor. They shall confirm that site supervisors are qualified to provide supervision and are informed of their professional and ethical responsibilities in this role.

8. Dual Relationships as Supervisors. Counselors shall avoid dual relationships such as performing the role of site supervisor and training program supervisor in the student's or supervisee's training program. Counselors shall not accept any form of professional services, fees, commissions, reimbursement, or remuneration from a site for student or supervisee placement.

9. Diversity in Programs. Counselors shall be responsive to their institution's and program's recruitment

and retention needs for training program administrators, faculty, and students with diverse backgrounds and special needs.

### C. Students and Supervisees

1. **Limitations.** Counselors, through ongoing evaluation and appraisal, shall be aware of the academic and personal limitations of students and supervisees that might impede performance. Counselors shall assist students and supervisees in securing remedial assistance when needed, and dismiss from the training program supervisees who are unable to provide competent service due to academic or personal limitations. Counselors shall seek professional consultation and document their decision to dismiss or refer students or supervisees for assistance. Counselors shall assure that students and supervisees have recourse to address decisions made, to require them to seek assistance, or to dismiss them.

2. **Self-Growth Experience.** Counselors shall use professional judgment when designing training experiences conducted by the counselors themselves that require student and supervisee self-growth or self-disclosure. Safeguards shall be provided so that students and supervisees are aware of the ramifications their self-disclosure may have on counselors whose primary role as teacher, trainer, or supervisor requires acting on ethical obligations to the profession. Evaluative components of experiential training experiences shall explicitly delineate predetermined academic standards that are separate and not dependent on the student's level of self-disclosure.

3. **Counseling for Students and Supervisees.** If students or supervisees request counseling, supervisors or counselor educators shall provide them with acceptable referrals. Supervisors or counselor educators shall not serve as counselor to students or supervisees over whom they hold administrative, teaching, or evaluative roles unless this is a brief role associated with a training experience.

4. **Clients of Students and Supervisees.** Counselors shall make every effort to ensure that the clients at field placements are aware of the services rendered and the qualifications of the students and supervisees rendering those services. Clients shall receive professional disclosure information and shall be informed of the limits of confidentiality. Client permission shall be obtained in order for the students and supervisees to use any information concerning the counseling relationship in the training process.

5. **Standards for Students and Supervisees.** Students and supervisees preparing to become counselors shall adhere to the Code of Ethics and the Standards of Practice. Students and supervisees shall have the same obligations to clients as those required of counselors.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1101-1122.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:149 (February 2003).

## §2115. Research and Publication

### A. Research Responsibilities

1. **Use of Human Subjects.** Counselors shall plan, design, conduct, and report research in a manner consistent with pertinent ethical principles, federal and state laws, host

institutional regulations, and scientific standards governing research with human subjects. Counselors shall design and conduct research that reflects cultural sensitivity appropriateness.

2. **Deviation from Standard Practices.** Counselors shall seek consultation and observe stringent safeguards to protect the rights of research participants when a research problem suggests a deviation from standard acceptable practices.

3. **Precautions to Avoid Injury.** Counselors who conduct research with human subjects shall be responsible for the subjects' welfare throughout the experiment and shall take reasonable precautions to avoid causing injurious psychological, physical, or social effects to their subjects.

4. **Principal Researcher Responsibility.** The ultimate responsibility for ethical research practice shall lie with the principal researcher. All others involved in the research activities shall share ethical obligations and full responsibility for their own actions.

5. **Minimal Interference.** Counselors shall take reasonable precautions to avoid causing disruptions in subjects' lives due to participation in research.

6. **Diversity.** Counselors shall be sensitive to diversity and research issues with special populations. They shall seek consultation when appropriate.

### B. Informed Consent

1. **Topics Disclosed.** In obtaining informed consent for research, counselors shall use language that is understandable to research participants and that:

- a. accurately explains the purpose and procedures to be followed;
- b. identifies any procedures that are experimental or relatively untried;
- c. describes the attendant discomforts and risks;
- d. describes the benefits or changes in individuals or organizations that might be reasonably expected;
- e. discloses appropriate alternative procedures that would be advantageous for subjects;
- f. offers to answer any inquiries concerning the procedures;
- g. describes any limitations on confidentiality; and
- h. instructs that subjects are free to withdraw their consent and to discontinue participation in the project at any time.

2. **Deception.** Counselors shall not conduct research involving deception unless alternative procedures are not feasible and the prospective value of the research justifies the deception. When the methodological requirements of a study necessitate concealment or deception, the investigator shall be required to explain clearly the reasons for this action as soon as possible.

3. **Voluntary Participation.** Participation in research shall be typically voluntary and without any penalty for refusal to participate. Involuntary participation shall be appropriate only when it can be demonstrated that participation will have no harmful effects on subjects and is essential to the investigation.

4. **Confidentiality of Information.** Information obtained about research participants during the course of an investigation is confidential. When the possibility exists that

others may obtain access to such information, ethical research practice requires that the possibility, together with the plans for protecting confidentiality, shall be explained to participants as a part of the procedure for obtaining informed consent.

5. **Persons Incapable of Giving Informed Consent.** When a person is incapable of giving informed consent, counselors shall provide an appropriate explanation, obtain agreement for participation and shall obtain appropriate consent from a legally authorized person.

6. **Commitments to Participants.** Counselors shall take reasonable measures to honor all commitments to research participants.

7. **Explanations after Data Collections.** After data are collected, counselors shall provide participants with full clarification of the nature of the study to remove any misconceptions. Where scientific or human values justify delaying or withholding information, counselors shall take reasonable measures to avoid causing harm.

8. **Agreements to Cooperate.** Counselors who agree to cooperate with another individual in research or publication incur an obligation to cooperate as promised in terms of punctuality of performance and with regard to the completeness and accuracy of the information required.

9. **Informed Consent for Sponsors.** In the pursuit of research, counselors shall give sponsors, institutions, and publication channels the same respect and opportunity for giving informed consent that they accord to individual research participants. Counselors shall be aware of their obligation to future research workers and ensure that host institutions are given feedback information and proper acknowledgment.

#### C. Reporting Results

1. **Information Affecting Outcome.** When reporting research results, counselors shall explicitly mention all variables and conditions known to the investigator that may have affected the outcome of a study or the interpretation of data.

2. **Accurate Results.** Counselors shall plan, conduct, and report research accurately and in a manner that minimizes the possibility that results will be misleading. They shall provide thorough discussions of the limitations of their data and alternative hypotheses. Counselors shall not engage in fraudulent research, distort data, misrepresent data, or deliberately bias their results.

3. **Obligation to Report Unfavorable Results.** Counselors shall communicate to other counselors the results of any research judged to be of professional value. Results that reflect unfavorably on institutions, programs, services, prevailing opinions, or vested interests shall not be withheld.

4. **Identity of Subjects.** Counselors who supply data, aid in the research of another person, report research results, or make original data available shall take due care to disguise the identity of respective subjects in the absence of specific authorization from the subjects to do otherwise.

5. **Replication Studies.** Counselors shall be obligated to make available sufficient original research data to qualified professionals who may wish to replicate the study.

#### D. Publication

1. **Recognition of Others.** When conducting and reporting research, counselors shall be familiar with and give recognition to previous work on the topic, observe copyright laws, and give full credit to those to whom credit is due.

2. **Contributors.** Counselors shall give credit through joint authorship, acknowledgment, footnote statements, or other appropriate means to those who have contributed significantly to research or concept development in accordance with such contributions. The principal contributor shall be listed first and minor technical or professional contributions shall be acknowledged in notes or introductory statements.

3. **Student Research.** For an article that is substantially based on a student's dissertation or thesis, the student shall be listed as the principal author.

4. **Duplicate Submission.** Counselors shall submit manuscripts for consideration to only one journal at a time. Manuscripts that are published in whole or in substantial part in another journal or published work shall not be submitted for publication without acknowledgment and permission from the previous publication.

5. **Professional Review.** Counselors who review material submitted for publication, research, or other scholarly purposes shall respect the confidentiality and proprietary rights of those who submitted it.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1101-1122.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:150 (February 2003).

#### §2117. Resolving Ethical Issues

A. **Knowledge of Standards.** Counselors shall be familiar with the Code of Ethics and the Standards of Practice and other applicable ethics codes from other professional organizations of which they are members, or from certification and licensure bodies. Lack of knowledge or misunderstanding of an ethical responsibility shall not be a defense against a charge of unethical conduct.

##### B. Suspected Violations.

1. **Ethical Behavior Expected.** Counselors shall expect professional associates to adhere to Code of Ethics. When counselors possess reasonable cause that raises doubts as to whether a counselor is acting in an ethical manner, they shall take appropriate action.

2. **Consultation.** When uncertain as to whether a particular situation or course of action may be in violation of Code of Ethics, counselors shall consult with other counselors who are knowledgeable about ethics, with colleagues, or with appropriate authorities.

3. **Organization Conflicts.** If the demands of an organization with which counselors are affiliated pose a conflict with Code of Ethics, counselors shall specify the nature of such conflicts and express to their supervisors or other responsible officials their commitment to Code of Ethics. When possible, counselors shall work toward change within the organization to allow full adherence to Code of Ethics.

4. **Informal Resolution.** When counselors have reasonable cause to believe that another counselor is violating an ethical standard, they shall attempt to first resolve the issue informally with the other counselor if feasible, providing that such action does not violate confidentiality rights that may be involved.

5. **Reporting Suspected Violations.** When an informal resolution is not appropriate or feasible, counselors, upon reasonable cause, shall take action such as reporting the suspected ethical violation to state or national ethics committee, unless this action conflicts with confidentiality rights that cannot be resolved.

6. **Unwarranted Complaints.** Counselors shall not initiate, participate in, or encourage the filing of ethics complaints that are unwarranted or intend to harm a counselor rather than to protect clients or the public.

C. **Cooperation with Ethics Committees.** Counselors shall assist in the process of enforcing Code of Ethics. Counselors shall cooperate with investigations, proceedings, and requirements of the ACA Ethics Committee or ethics committees of other duly constituted associations or boards having jurisdiction over those charged with a violation. Counselors shall be familiar with the ACA Policies and Procedures and use it as a reference in assisting the enforcement of the Code of Ethics.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1101-1122

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:151 (February 2003).

#### **§2118. AppendixC Declaration of Practices and Procedures for Licensed Professional Counselors**

A. The following comprises the information that must be available in writing for each client seen by a licensed professional counselor/counselor intern in the state of Louisiana. Counselors/counselor interns must read and incorporate the Code of Conduct for Professional Counselors in their declaration statement.

1. LPC/counselor intern's name, mailing address, and telephone number.

2. **Qualifications**

a. Include degrees earned and institution(s) attended.

b. Give your license number, specifying the LPC Board of Examiners including address and telephone number as the grantor of your license.

c. An individual under supervision must refer to him/herself as a counselor intern and include the name and address of his/her board-approved supervisor.

3. **Counseling Relationship**

a. Provide a general statement about the dynamics of the counseling relationship.

b. Include general goals for clients.

4. **Areas of Expertise**

a. List your areas of expertise such as career counseling, marriage and family counseling, adolescents, etc.

b. List your national certifications in counseling.

5. **Fee Scales**

a. List your fees and describe your billing policies.

b. Describe your policy on scheduling and breaking appointments.

c. State your policy on insurance payments.

6. **Explanation of the Types of Services Offered and Clients Served**

a. Include the theoretical basis and the type of techniques and/or strategies that you use in therapy;

b. Specify the modality you use such as group and/or individual therapy.

c. Specify the type(s) of clients you serve.

7. **Code of Conduct:** State that you are required by state law to adhere to a Code of Conduct for your practice which is determined by the Louisiana Licensing Board, and a copy of this Code is available on request.

8. **Privileged Communication.** Describe the Rules governing privileged communication and include the limits of confidentiality.

9. **Emergency Situations.** Describe your policy for emergency client situations.

10. **Client Responsibilities.** List client responsibilities, e.g., clients are expected to follow office procedures for keeping appointments, clients must pay for services at the time of each visit, and clients must terminate the counseling relationship before being seen by another mental health professional and/or notify the counselor of any other ongoing professional mental health relationship. If a client is seeing another mental health professional (psychologist, board certified social worker, etc.), then permission must be granted by the first therapist for the second to work with the same client. (See Code of Conduct).

11. **Physical Health.** Suggest that client have a complete physical examination if he/she has not had one within the past year. Also have client list any medications that he/she may be taking.

12. **Potential Counseling Risks.** Indicate that as a result of mental health counseling, the client may realize that he/she has additional issues which may not have surfaced prior to the onset of the counseling relationship. The counselor may also indicate possible risk within specific specialty areas (i.e., marriage and family: as one partner changes, additional strain may be placed on the marital relationship if the other partner refuses to work).

13. It is also required that a place be provided for the signatures of the counselor/counselor intern, the client(s), and the counselor intern's supervisor. A general statement indicating that the client has read and understands the declaration statement and the date of the signature must also be included.

B. To practice mental health counseling in Louisiana the Licensed Professional Counselor must have a copy of his/her declaration statement on file in the LPC Board office. The counselor intern must include a copy of his/her declaration statement with his/her Registration of Supervision. The Code of Conduct can be duplicated for clients and additional copies are available from the board.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37: 1101-1122.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:152 (February 2003).

#### **Subpart 2. Professional Standards for Licensed Marriage and Family Therapists**

##### **Chapter 27. General Provisions**

##### **§2701. Statement of Purpose**

A. "The legislature does further hereby find and declare that marriage and family therapy in this state is a

professional practice which affects the public safety and welfare of the citizens of the state and requires appropriate regulation and control in the public interest. It is a purpose of this Chapter to establish a regulatory structure and procedures that will ensure that the public is protected from the unprofessional, improper, unauthorized, and unqualified practice of marriage and family therapy." (R.S. 37:1102)

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:152 (February 2003).

### **§2703. Statutory Authority of the Marriage and Family Therapy Advisory Committee**

A. The Marriage and Family Therapy Advisory Committee was created and empowered by Act 1195 of the 2001 Legislature to provide for the regulation of the use of the title "Licensed Marriage and Family Therapist" (R.S. 37:1101-1122). Therefore, the Louisiana Licensed Professional Counselors Board of Examiners, hereafter referred to as the board, establishes the Marriage and Family Therapy Advisory Committee as directed by the 2001 Legislature. The Marriage and Family Therapy Advisory Committee shall develop the Rules and regulations herein pursuant to the authority granted to, and imposed upon, said advisory committee under the provisions of the Louisiana Revised Statutes, Title 37, Chapter 13: §1101-1122. The Health and Welfare Committees in the House and Senate shall jointly approve these Rules and regulations. The board shall promulgate these Rules and regulations [R.S. 37:1104(B)(2)(b)]. The board shall approve, revoke, suspend, and renew the license of applicants for licensure as licensed marriage and family therapists upon recommendation of the Marriage and Family Therapy Advisory Committee. [R.S. 37:1105(G)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:153 (February 2003).

### **§2705. Description of Organization**

A. The Marriage and Family Therapy Advisory Committee, hereafter referred to as the advisory committee, consists of three members, who shall be residents of the state of Louisiana. All candidates and advisory committee members shall be licensed marriage and family therapists except for the first three members who shall be members of the American Association for Marriage and Family Therapy. These first three advisory committee members shall be eligible for licensure as licensed marriage and family therapists under Title 37, Chapter 13 as soon as these Rules and regulations are approved. Two advisory committee members shall be members of the board.

B. The governor shall make appointments to the board and the advisory committee from a list of qualified candidates submitted by the board of the Louisiana Association of Marriage and Family Therapy, hereinafter referred to as LAMFT. LAMFT shall specify which candidates are to be appointed to the board. Each appointment by the governor shall be submitted to the Senate for confirmation.

C. Board member terms shall be for four years; non-board member terms shall be for three years. No advisory

committee member shall serve more than two full consecutive terms.

D. Any vacancy occurring in advisory committee membership, other than by expiration of term, shall be filled for the remainder of the unexpired term by the governor within 30 days from a list of qualified candidates supplied by the LAMFT board as prescribed in Section 1104 of R.S. 37:1101-1122.

E. No advisory committee member shall be liable in any civil action for any act performed in good faith in the execution of his or her duties under Chapter 13 of Title 37.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:153 (February 2003).

### **§2707. Reimbursement**

A. Each advisory committee member shall serve without compensation, but shall be reimbursed for actual travel, incidental, and clerical expenses incurred while engaged on official board or advisory committee business.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:153 (February 2003).

### **§2709. Notification of Change**

A. Licensed marriage and family therapists/interns and LMFT-approved supervisors/supervisors-in-training shall notify the Licensed Professional Counselors Board of Examiners in writing of any and all changes in name, address, and phone number within 30 days. Failure to do so will result in a fine as set forth in §901.D.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:153 (February 2003).

## **Chapter 29. Advisory Committee Meetings, Procedures, Records, Powers and Duties**

### **§2901. Officers**

A. The advisory committee shall elect from its membership a chair, vice chair, and secretary. The chair shall preside at all meetings at which he or she is in attendance and perform all duties prescribed by Chapter 13 of Title 37 and these Rules. The chair is authorized by the board to make day-to-day decisions regarding advisory committee activities to facilitate its responsiveness and effectiveness. The vice chair shall perform the duties of the chair if the chair is absent or disabled. If the office of chair becomes vacant, the vice chair shall serve as chair until a successor is named. The secretary shall keep the minutes of the advisory committee meetings and send them to the advisory committee members and the clerical secretary before the next meeting of the advisory committee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Professional Counselors, LR 29:153 (February 2003).

### **§2903. Meetings**

A. The advisory committee shall be domiciled in Baton Rouge and shall hold its meetings in places to be designated by the advisory committee. Advisory committee meetings

shall be held at least semiannually. The advisory committee shall hold meetings regularly, with prior approval from the Board, to conduct its business. Reasonable notice of all advisory committee meetings will be given by posting the meeting place, time, and agenda 24 hours before the meeting on the door and in two places in the building housing the office of the board and on the door of the location of the meeting, if different from the board office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Professional Counselors, LR 29:153 (February 2003).

#### **§2905. Quorum**

A. Two members of the advisory committee shall constitute a quorum at any meeting or hearing for the transaction of business.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Professional Counselors, LR 29:154 (February 2003).

#### **§2907. Procedures**

A. The advisory committee shall develop such Rules and regulations as it deems necessary to effect the provisions of Act 1195 (Chapter 13, R.S. 37:1101-1122). The board shall promulgate these Rules and regulations. The House and Senate Health and Welfare Committees shall jointly approve these Rules and regulations.

B. The advisory committee shall review applications for examination, licensure, and renewal for recommended approval to the board. The advisory committee shall recommend to the board to withhold, deny, revoke, or suspend any license of an applicant, or impose any other sanctions on licensed marriage and family therapists.

C. The advisory committee shall submit an annual report to the board containing its professional actions during the year. The advisory committee hereby adopts Robert's Rules of Order Revised as the basis of its parliamentary decisions except as otherwise provided by advisory committee Rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Professional Counselors, LR 29:154 (February 2003).

#### **§2909. Code of Ethics**

A. The advisory committee has adopted the Code of Ethics of the American Association for Marriage and Family Therapy (AAMFT), including any revisions or additions deemed appropriate or necessary by the board as recommended by advisory committee. AAMFT has given its written permission to use its code of ethics.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Professional Counselors, LR 29:154 (February 2003).

#### **§2911. Records**

A. The advisory committee shall maintain records of pertinent matters relating to application, licensure, and discipline. Registers of approved supervisors and

supervisors-in-training and a register of licensed marriage and family therapists shall be made available to the public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Professional Counselors, LR 29:154 (February 2003).

### **Chapter 31. License of Title for Marriage and Family Therapy**

#### **§3101. License of Title for Marriage and Family Therapy**

A. As stated in R.S. 37:1122(A), no person, unless licensed as a marriage and family therapist, shall advertise as being a "licensed marriage and family therapist" or hold themselves out to the public or make use of any title, words, letters or abbreviations that may reasonably be confused with the title "licensed marriage and family therapist."

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:154 (February 2003).

#### **§3103. Practice of Marriage and Family Therapy by Other Licensed Mental Health Professionals**

A. Nothing in this subpart shall be construed as prohibiting qualified members of other professional groups including but not limited to clinical social workers, psychiatric nurses, psychologists, physicians, licensed professional counselors, or members of the clergy, including Christian Science practitioners, from doing or advertising that they perform work of a marriage and family therapy nature consistent with the accepted standards of their respective professions. No such person, however, shall use the title, or use any words or abbreviations that may reasonably be confused with the title, "licensed marriage and family therapist."

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:154 (February 2003).

#### **§3105. Definitions for Licensed Marriage and Family Therapists**

*Advisory Committee*—the Marriage and Family Therapy Advisory Committee.

*Assessment*—

1. the evaluation through the use of systems oriented methods and processes of:
  - a. individual;
  - b. couple;
  - c. family; and
  - d. larger systems;
2. for the purpose of:
  - a. developing treatment plans;
  - b. monitoring psychotherapeutic processes;
  - c. measuring psychotherapeutic progress; and
  - d. measuring psychotherapeutic outcomes;
3. such evaluation may include the use of:
  - a. informal; or
  - b. formal instruments;

4. for which the licensed marriage and family therapist has received;
  - a. appropriate training; and
  - b. supervision in:
    - i. individual settings; and
    - ii. group settings.

*Board*—the Louisiana Licensed Professional Counselors Board of Examiners

*Marriage and Family Therapy*—the professional application of psychotherapeutic and family systems theories and techniques in the assessment and treatment of:

1. individuals;
2. couples; and
3. families.

*Qualified Supervision*—the supervision of the clinical services of an applicant working toward licensure as a licensed marriage and family therapist:

1. in accordance with standards developed by the advisory committee; and
2. by an individual who has been recognized by the advisory committee as an LMFT-approved supervisor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:154 (February 2003).

### **Chapter 33. Requirements for Licensure**

#### **§3301. General Provisions**

A. The board upon recommendation of the marriage and family therapy advisory committee shall license to practice all persons who present satisfactory evidence of qualifications as specified in these Rules and regulations of the advisory committee. Such licensure shall be signed by the chairman and vice chairman of the board and the chairman and vice chairman of the advisory committee. No license shall be denied any applicant based upon the applicant's race, religion, creed, national origin, sex, or physical impairment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:155 (February 2003).

#### **§3303. Definitions**

*Allied Mental Health Discipline*—includes, but may not be limited to, mental health counseling, social work, psychology, psychiatric nursing, and psychiatry.

*Applicant*—any individual seeking licensure who has submitted an official application and paid the application fee.

*Appropriate Graduate Degree*—a master's or doctoral degree from a college or university accredited by the Southern Association of Colleges and Schools (SACS), or a comparable accrediting body. If a discipline requires a specific terminal degree, that degree will be considered the appropriate degree.

*Client Contact Hour*—A 50-minute period a therapist spends working face-to-face with an individual, couple, family, or group.

*Direct Client Contact*—face-to-face (therapist and client) therapy with individuals, couples, families, and/or groups from a relational perspective. Activities such as telephone contact, case planning, observation of therapy, record

keeping, travel, administrative activities, consultation with community members or professionals, or supervision, are not considered direct client contact. Assessments done face-to-face and more than clerical in nature and focus may be counted as direct client contact. Psychoeducation may be counted as direct client contact.

*Licensed Marriage and Family Therapist Intern or MFT Intern*—a person who has earned a qualifying graduate degree and is receiving MFT approved postgraduate supervision.

*Recognized Educational Institution*—a postgraduate training institute or any regionally accredited educational institution that grants a master's or doctoral degree that meets the standards established by the Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE) as determined by the advisory committee or, until June 30, 2003, the standards for marriage and family counseling or therapy established by the Council on Accreditation of Counseling and Related Educational Programs (CACREP) as determined by the ad hoc committee on licensure and supervision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:155 (February 2003).

#### **§3305. General Licensing Requirements**

- A. To become licensed, an applicant must:
1. be of good moral character;
  2. never have engaged in any practice or conduct that would be grounds for refusing to issue a license;
  3. be qualified for licensure pursuant to the requirements provided for in this Subpart;
  4. file a completed application form, accompanied by the required fee;
  5. ask that official transcripts be sent directly from the education institution for the applicants' files;
  6. provide a statement of practice (refer to the Appendix) for review and approval by the advisory committee. Applicants also licensed by one or more other allied mental health professions may integrate the requirements specific to licensed marriage and family therapy as determined by the advisory committee into any similar informed consent document required for licensure by such allied mental health professions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:155 (February 2003).

#### **§3307. Specific Licensing Requirements for**

##### **Applications Made on or before January 1, 2003**

A. On applications postmarked on or before January 1, 2003, the board upon recommendation of the advisory committee shall issue licenses to applicants who meet the requirements in this section.

1. Specific requirements for §3307 may be met in one of four ways:
  - a. an appropriate graduate degree and two years of supervised clinical experience:
    - i. the applicant must have an appropriate graduate degree in:
      - (a). marriage and family therapy; or

(b). an allied mental health discipline; and  
ii. have completed, after the receipt of a qualifying degree:

(a). at least two years of supervised clinical experience; and

(b). a minimum of 1000 hours of direct client contact;

(i.) in the practice of marriage and family therapy; or  
(ii.) as part of the scope of practice of an allied mental health discipline;

b. persons with appropriate graduate degrees who do not meet the two years of supervised clinical experience may apply to become MFT interns:

i. the minimum of 1000 hours of direct client contact may be met by:

(a). supervised clinical experience obtained in the degree program beyond that required for the degree; and

(b). supervision recommended for approval by the advisory committee;

ii. applicants may not become licensed without two years of post-degree clinical experience;

c. current clinical membership in the Association for Marriage and Family Therapy (AAMFT);

i. verification of such membership sent directly from AAMFT will be accepted as a presumption of having met both the educational and clinical experience required;

d. a valid license from a licensing body that requires standards substantially equivalent to the licensing requirements for licensed marriage and family therapists in Louisiana as specified in Subparagraph A.1.a.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:155 (February 2003).

### **§3309. Specific Licensing Requirements for Applications Made after January 1, 2003**

A. For applications postmarked after January 1, 2003, the board upon recommendation of the advisory committee shall issue licenses to applicants who meet the requirements in this section.

#### **1. Summary of Specific Requirements for §3309**

##### **a. Academic Requirements**

i. A master's or doctoral degree from a marriage and family therapy program that meets the standards established by the Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE) as determined by the advisory committee in a regionally accredited educational institution or training from a postgraduate training institute that meets the standards established by COAMFTE as determined by the advisory committee; or

ii. until June 30, 2003, a master's or doctoral degree in mental health counseling with a specialization in marriage and family counseling that substantially meets the standards established by the Council on Accreditation of Counseling and Related Educational Programs (CACREP) as determined by the ad hoc committee on licensure and supervision from a regionally accredited educational institution or training from a postgraduate training institute that meets the standards established by CACREP as

determined by the ad hoc committee on licensure and supervision; or

iii. an appropriate graduate degree in an allied mental health field from a regionally accredited educational institution with graduate level coursework equivalent to:

(a). a master's degree in marriage and family therapy that meets the standards established by COAMFTE as determined by the advisory committee and specified in §3311 Academic Requirements for Equivalency; or

(i). until June 30, 2003, the standards for marriage and family counseling or therapy established by CACREP as determined by the ad hoc committee on licensure and supervision and specified in §3311. Academic Requirements for Equivalency.

##### **b. Supervision Requirements**

i. Applicants must complete a minimum of two years of supervised work experience in marriage and family therapy as specified in §3315 Supervision Requirements after receipt of a qualifying degree.

##### **c. Examination Requirements**

i. Applicants must pass the national examination in marriage and family therapy as specified in §3313 Examination Requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:156 (February 2003).

### **§3311. Academic Requirements for Equivalency after January 1, 2003**

#### **A. General**

1. An applicant must have completed a minimum of 48 semester hours or its equivalent of graduate coursework.

2. One course is defined as 3 semester credits, 4 quarter credits, or 45 didactic contact hours (i.e., lecture hours).

3. If titles of academic courses are not self-explanatory, their content and relevance must be substantiated by the applicant through course descriptions in official school catalogs, bulletins, syllabi, or by other means approved by the advisory committee.

4. Undergraduate level courses will not meet academic requirements unless the applicant's official transcript clearly shows that the course was given graduate credit.

5. Only coursework taken for credit and receiving a passing grade will be accepted.

6. Coursework taken outside of a program of studies for which a degree was granted must receive an "A," "B," or "pass."

7. In a postgraduate training program, a minimum of 45 contact hours will be considered equivalent to a 3-hour semester credit course.

8. An applicant who wishes to make up academic deficiencies may propose a plan of additional coursework to the advisory committee.

9. An applicant who has completed a master's degree program in marriage and family therapy or counseling that was accredited by the Council on the Accreditation of Counseling and Related Educational Programs (CACREP) and has a minimum of six graduate courses in Marriage and Family Therapy, will be determined by the Advisory Committee and the Board to have met the equivalency of

standards established by the Commission on Accreditation for Marriage and Family Education (COAMFTE).

B. Specific equivalency requirements that meet the standards for marriage and family therapy established by COAMFTE as determined by the advisory committee.

1. Academic Course Content. An applicant with a graduate degree in an allied mental health field must have coursework in each of the following areas (one course equals three semester hours).

a. Theoretical Knowledge of Marriage and Family TherapyCa minimum of two courses.

i. Courses in this area shall contain such content as the historical development, theoretical and empirical foundations, and contemporary conceptual directions of the field of marriage and family therapy and will be related conceptually to clinical concerns. Students will be able to conceptualize and distinguish the critical epistemological issues in the profession of marriage and family therapy. Materials covered will provide a comprehensive survey and substantive understanding of the major models of marriage, couple, and family therapy.

b. Clinical Knowledge of Marriage and Family TherapyCa minimum of four courses.

i. Courses in this area shall contain such content as:

(a). couple and family therapy practice and be related conceptually to theory;

(b). contemporary issues, which include but are not limited to gender, violence, addictions, and abuse, in the treatment of individuals, couples, and families from a relational/systemic perspective;

(c). a wide variety of presenting clinical problems;

(d). issues of gender and sexual functioning, sexual orientation, and sex therapy as they relate to couple, marriage and family therapy theory and practice;

(e). diversity and discrimination as it relates to couple and family therapy theory and practice.

c. Assessment and Treatment in Marriage and Family TherapyCa minimum of two courses.

i. Courses in this area shall contain such content from a relational/systemic perspective as:

(a). psychopharmacology;

(b). physical health and illness;

(c). traditional psychodiagnostic categories; and

(d). the assessment and treatment of major mental health issues. One course must be in psychopathology.

d. Individual, Couple, and Family DevelopmentCa minimum of one course.

i. Courses in this area shall contain such content as individual, couple, and family development across the lifespan.

e. Professional Identity and EthicsCa minimum of one course

i. Courses in this area shall contain such content as:

(a). professional identity, including professional socialization, scope of practice, professional organizations, licensure, and certification;

(b). ethical issues related to the profession of marriage and family therapy and the practice of individual,

couple, and family therapy. A generic course in ethics does not meet this standard;

(c). the AAMFT Code of Ethics, confidentiality issues, the legal responsibilities and liabilities of clinical practice and research, family law, record keeping, reimbursement, and the business aspects of practice;

(d). the interface between therapist responsibility and the professional, social, and political context of treatment.

f. ResearchCa minimum of one course.

i. Courses in this area shall include significant material on research in couple and family therapy; focus on content such as research methodology, data analysis and the evaluation of research, and include quantitative and qualitative research.

g. Additional LearningCa minimum of one course.

i. Courses in this area will augment students' specialized interest and background in individual, couple, and family therapy and may be chosen from coursework offered in a variety of disciplines.

2. Supervised Clinical PracticumC500 supervised direct client contact hours with 100 hours of face-to-face supervision. At least 250 of these hours will be with couples or families present in the therapy room.

a. The training of the supervisor must be equivalent to that of an AAMFT approved supervisor or AAMFT supervisor candidate.

b. If a student is simultaneously being supervised and having direct client contact, the time may be counted as both supervision time and direct client contact time.

C. Until June 30, 2003, specific equivalency requirements that meet the standards for marriage and family counseling/therapy established by CACREP as determined by the committee on mental health counseling licensure/supervision for the advisory committee.

1. Academic Course Content. To fulfill the CACREP requirements of the academic component for eligibility, the applicant must have completed a minimum of four courses from the following areas.

a. Foundations of Marital, Couple, and Family Counseling/Therapy:

i. the history of marital, couple, and family counseling/therapy including philosophical and etiological premises that define the practice of marital, couple, and family counseling/therapy;

ii. the structure and operations of professional organizations, preparation standards, and credentialing bodies pertaining to the practice of marital, couple, and family counseling/therapy (e.g., the International Association of Marriage and Family Counselors);

iii. the ethical and legal considerations specifically related to the practice of marital, couple, and family counseling/therapy (e.g., the *ACA and IAMFC Code of Ethics*);

iv. the implications of professional issues unique to marital, couple, and family counseling/therapy including recognition, reimbursement, and right to practice;

v. the role of marital, couple, and family counselors/therapists in a variety of practice settings and in relation to other helping professionals; and

vi. the role of racial, ethnic, and cultural heritage, nationality, socioeconomic status, family structure, age,

gender, sexual orientation, religious and spiritual beliefs, occupation, physical and mental status, and equity issues in marital, couple, and family counseling/therapy.

b. Contextual Dimensions of Marital, Couple, and Family Counseling/Therapy:

i. marital, couple, and family life cycle dynamics, healthy family structures, and development in a multicultural society, family of origin and intergenerational influences, cultural heritage, socioeconomic status, and belief systems;

ii. human sexuality issues and their impact on family and couple functioning, and strategies for their resolution; and

iii. societal trends and treatment issues related to working with diverse family systems (e.g., families in transition, dual-career couples, and blended families).

c. Knowledge and Skill Requirements for Marital, Couple, and Family Counselor/Therapists

i. family systems theories and other relevant theories and their application in working with couples and families, and other systems (e.g., legal, legislative, school and community systems) and with individuals;

ii. interviewing, assessment, and case management skills for working with individuals, couples, families, and other systems; and implementing appropriate skill in systemic interventions;

iii. preventive approaches for working with individuals, couples, families, and other systems such as pre-marital counseling, parenting skills training, and relationship enhancement;

iv. specific problems that impede family functioning, including issues related to socioeconomic disadvantage, discrimination and bias, addictive behaviors, person abuse, and interventions for their resolution; and

v. research and technology applications in marital, couple, and family counseling/therapy.

2. The supervised CACREP clinical practice must include:

a. a 100-hour practicum, of which 40 hours must be direct client contact; and

b. a 600-hour internship, of which 240 hours must be direct hour contact. The requirements for this internship are:

i. it must occur in a counseling setting, under the clinical supervision of a site supervisor;

ii. direct service clock hours are defined as work with couples, families, and individuals from a systems perspective;

iii. at least half the direct service clock hours must be with couples and family units.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:156 (February 2003).

### §3313. Examination Requirements

A. The examination for licensure shall be the national marriage and family therapy examination as determined by the advisory committee.

B. Applicants for licensure are not eligible for examination until approved by the advisory committee.

C. Passing scores on the examination are determined by the testing agency.

D. Any person who fails an examination shall not be admitted to a subsequent examination for at least six months.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:158 (February 2003).

### §3315. Supervision Requirements

A. General Provisions

1. Applicants who apply before January 1, 2003, who meet the degree requirements but do not meet the experience requirements and applicants who apply after January 1, 2003, who meet the degree requirements must successfully complete two years of work experience in marriage and family therapy under qualified supervision in accordance with COAMFTE supervision standards as described in this section.

B. Definitions for Supervision

*Co-Therapy Supervision* Csupervision outside the session on cases in which the supervisor is a co-therapist.

*Consultation* Ca voluntary relationship between professionals of relative equal expertise or status wherein the person being consulted offers his/her best advice or information on an individual case or problem for use by the person asking for assistance. The consultant has no functional authority over the person asking for assistance, no legal or professional accountability for either the services performed or the welfare of the client. Consultation is not supervision. Experience under contract for consultation will not be credited toward fulfillment of supervision requirements.

*Group Supervision* Cface-to-face supervision of more than two MFT Interns and no more than six MFT Interns per group regardless of the number of supervisors. Group supervision provides the opportunity for the supervisees to interact with other supervisees and offers a different learning experience than that obtained from individual supervision.

*Individual Supervision* Cface-to-face supervision of one or two individuals by one supervisor.

*LMFT-Approved Supervisor* Can individual who has met requirements and takes responsibility for the practice of the supervisee during a specific time to enable the supervisee to meet the requirements of licensing. The supervisor is responsible for the delivery of services, the representation to the public of services, and the supervisor/supervisee relationship.

*LMFT-Approved Supervisor Candidate* Can individual under the supervision of an LMFT-approved supervisor for the purpose of qualifying as an LMFT-approved supervisor.

*Live Supervision* Csupervision (individual and/or group) in which the supervisor directly observes the case while the therapy is being conducted and has the opportunity to provide supervisory input during the session. When a supervisor conducts live supervision the time is counted as individual supervision for up to two interns providing therapy in the room with the client(s) and for up to two interns observing the therapy and interacting with the supervisor. The time is counted as group supervision when more than two MFT interns involved in direct client contact or more than two observers interacting with the supervisor are present, providing that there are no more than six interns involved.

*MFT Intern*Ca individual who has been recommended by the LMFT Advisory Committee and approved by the Board for supervision by an LMFT-approved supervisor.

*Qualified Supervision*Csupervision of the clinical services of an MFT intern by a supervisor recommended by the MFT Advisory Committee and approved by the Board.

*Supervision*Cthe professional relationship between a supervisor and supervisee that promotes the development of responsibility, skill, knowledge, and ethical standards in the practice of licensed marriage and family therapy. In addition to monitoring the MFT intern's supervised interaction with clients, the supervisor provides regular, face-to-face guidance and instruction. Supervision may include, without being limited to, the review of case presentations, audiotapes, videotapes, and direct observation.

*Supervision Candidate Plan*Ca written agreement on a form required by the advisory committee that establishes the supervisory framework for supervision of a licensed marriage and family therapist-in-training to become an LMFT approved supervisor.

*Supervised Experience Plan*Ca written agreement on a form required by the advisory committee that establishes the supervisory framework for postgraduate clinical experience and describes the expectations and responsibilities of the supervisor and the supervisee.

*Work Experience*Cincludes direct client contact and activities such as telephone contact, case planning, observation of therapy, record keeping, travel, administrative activities, consultation with community members or professionals, or supervision,

#### C. Supervision Requirements for Licensure

1. After receipt of a qualifying degree an applicant must complete a minimum of two years of work experience in marriage and family therapy that includes at least three thousand hours of clinical services to individuals, couples, or families.

a. At least 2000 hours of these hours must be direct clinical services.

b. The remaining 1000 hours may come from related experiences that may include but are not limited to workshops, public relations, writing case notes, consulting with referral sources, etc.

c. Supervisees should apply systemic theories and treatment with all clients and make every effort to work with as many couples and families as possible.

2. The required supervision must include at least 200 hours of supervision, of which at least 100 hours must be individual supervision. Up to 100 hours of supervision received during a graduate program that can be documented as systemic may be counted toward the 200 hours.

3. The work experience shall be obtained over not less than two years.

4. After the supervision plan is submitted and fees are paid, the board upon recommendation of the advisory committee will approve supervisors before supervision begins. Supervision hours may not be counted until after approval. Approval of a supervised experience plan does not mean that the supervised experience when completed will be automatically approved.

5. To meet the requirements of the supervised clinical experience, the supervisee must:

a. meet face-to-face with the supervisor for sustained and intense learning customarily for one hour per 10 hours of client contact, with once every other week, the minimum; and three times a week ordinarily the maximum;

b. file with the advisory committee a supervised experience plan as defined in §3315.B Definitions for Supervision.

6. It is recommended that the supervisory experience include sequentially at least two supervisors with diverse family therapy orientations, such as, but not limited to, narrative, MRI, Bowenian, structural, strategic, behavioral, or solution focused.

7. The following are not acceptable as approved supervision:

a. peer supervision (supervision by a person of equivalent, rather than superior, qualifications, status and experience);

b. supervision by current or former family members (such as parents, spouse, former spouse, siblings, children, cousins, present or former in-laws, aunts, uncles, grandparents, grandchildren, step-children), anyone sharing the same household, employees, or any other person where the nature of the personal relationship prevents or makes difficult the establishment of a professional relationship. For purposes of this rule, a supervisor shall not be considered an employee of the supervisee if the only compensation received by the supervisor consists of payment for actual supervisory hours;

c. administrative supervision (administrative supervision by an institutional director or executive, for example, conducted to evaluate job performance or for case management rather the clinical supervision of the quality of therapy given to clients);

d. a primarily didactic process wherein techniques or procedures are taught in a group setting, classroom, workshop, or seminar;

e. consultation, staff development, or orientation to a field program, or role-playing of family interrelationships as a substitute for current clinical practice in an appropriate clinical situation.

#### D. Qualifications of a Supervisor and Supervisor Candidate

1. Supervision not provided by an LMFT-approved supervisor or an LMFT supervisor candidate as determined by the advisory committee will not be counted toward licensure.

2. A supervisor may not have more than 10 supervisees and/or supervisor candidates at the same time.

3. A person who wishes to become an LMFT-approved supervisor must be a licensed marriage and family therapist and must submit a completed application that documents that he or she meets the requirements in one of two ways.

a. The applicant may meet the requirements by meeting the following requirements.

i. Coursework requirements:

(a). a one-semester graduate course in marriage and family therapy supervision from a regionally accredited institution; or

(b). an equivalent course of study consisting of a 15-hour didactic component and a 15-hour interactive component in the study of marriage and family therapy

supervision approved by the advisory committee. The interactive component must include a minimum of four persons.

ii. Experience Requirements

(a). has at least two years experience as a licensed Marriage and Family therapist.

iii. Supervision of Supervision

(a). Before January 1, 2004, an applicant must have 36 hours of supervision of supervision for marriage and family therapy from a person considered to be a qualified supervisor by the advisory committee.

(b). Before January 1, 2004, applicants with a degree in marriage and family therapy or its equivalent as determined by the advisory committee who meet the requirements in i. and ii. in this Subparagraph will not be required to obtain the 36 hours of supervision of supervision.

(c). After January 1, 2004, supervision of supervision must be taken from an LMFT-approved supervisor.

b. Designation as an AAMFT Approved Supervisor qualifies a person to become an LMFT approved supervisor. Documentation must be submitted and recommended by the advisory committee for Board approval.

4. LMFT Candidate Supervisor or

a. A person who wishes to become an LMFT approved supervisor in-training must submit an application provided by the board upon recommendation of the advisory committee that:

i. includes documentation that he has at least two years experience as a Licensed Marriage and Family Therapist;

ii. either documents that he or she has met the coursework and interactional requirement specified in Subparagraph D.3.a.i. or proposes how this requirement shall be met;

iii. includes the name of the LMFT-approved supervisor who will be supervising his or her supervision and the approximate dates such supervision will begin and end.

b. The advisory committee will review the application and inform the individual in writing that the proposed supervision of supervision arrangement either has been approved or rejected. Any rejection letter will outline the reasons for rejection.

c. An advisory committee member cannot participate in deliberations or votes on any applicant who has been supervised by that advisory committee member.

d. Upon completion of the required hours of supervision of supervision, the supervisor-in-training must submit an application to become an LMFT approved supervisor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:158 (February 2003).

**Chapter 35. Renewal of License**

**§3501. General Provisions**

A. Licenses shall be renewed every two years in January. The licensee shall submit an application form and payment of the renewal fee. Renewals must be postmarked no later than December 31. Upon approval by the advisory

committee, the board shall issue a document renewing the license for two years.

B. A license not renewed shall lapse December 31. To renew a lapsed license, the licensee must pay all fees in arrears and provide documentation of the continuing education requirements. A lapsed license not renewed within two years will expire and the individual must re-apply under the current Rules for licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:160 (February 2003).

**§3503. Continuing Education Requirements**

A. General Guidelines

1. A licensee must accrue 40 clock hours of continuing education by every renewal period every two years.

2. One continuing education unit (CEU) is equivalent to one clock hour.

3. Accrual of continuing education begins only after the date the license was issued.

4. Continuing education hours accrued beyond the required 40 clock hours may not be applied toward the next renewal period. Renewal periods run from January 1 to December 31

5. The licensee is responsible for keeping a personal record of his/her continuing education hours until official notification of renewal is received. Do not forward documentation of continuing education hours to the board office as they are accrued.

6. At the time of renewal 10 percent of the licensees will be audited to ensure that the continuing education requirement is being met. Licensees audited will be requested by letter to submit documentation as specified in §3503.B of their continuing education hours.

7. Licensees will be asked in the renewal application to note any changes in areas of expertise. The advisory committee, at its discretion, may require the licensee to present satisfactory documentation supporting these changes.

8. A licensee must accrue 40 clock hours of training in ethics that specifically addresses ethics for licensed marriage and family therapy as defined in Subparagraph C.3.e every renewal period. A generic ethics class will not be acceptable.

9. Those licensed marriage and family therapists who hold another license that requires continuing education hours may count the continuing education hours obtained for that license toward their LMFT CEU requirements. Of the 40 CEU's submitted, however, 20 hours must be in the area of marriage and family therapy with an emphasis upon systemic approaches or the theory, research, or practice of systemic psychotherapeutic work with couples or families including three hours of ethics specific to marriage and family therapy.

10. The approval of and requirements for continuing education are specified in Subsection C.

B. Types of documentation needed for continuing education audit:

1. copy of certificate of attendance for workshops, seminars, or conventions;

2. copy of transcript for coursework taken for credit/audit;

3. letter from workshop/convention coordinator verifying presentation;

4. copy of article plus the table of contents of the journal it appears in, copy of chapter plus table of contents for chapter authored for books, title page and table of contents for authoring or editing books, letter from conference coordinator or journal editor for reviewing refereed workshop presentations or journal articles.

C. Approved Continuing Education for Licensed Marriage and Family Therapists

1. Continuing education requirements are meant to ensure personal and professional development throughout an individual's career.

2. An LMFT may obtain the 40 clock hours of continuing education through the options listed. All continuing education hours may be obtained through Subparagraph a or 20 of the 40 hours may be obtained through Subparagraph b:

a. Direct participation in a structured educational format as a learner in continuing education workshops and presentations or in graduate coursework (either for credit or audit).

i. The advisory committee will accept workshops and presentations approved by the American Association for Marriage and Family Therapy (AAMFT) and its regional or state divisions including the Louisiana Association for Marriage and Family Therapy (LAMFT). Contact them directly to find out which organizations, groups, or individuals are approved providers graduate coursework either taken for credit or audit must be from a regionally accredited college or university and in the areas of marriage and family therapy described in Paragraph C.3.

ii. Licensees may receive one clock hour of continuing education for each hour of direct participation in a structured educational format as a learner. Credit cannot be given to persons who leave early from an approved session or to persons who do not successfully complete graduate coursework.

iii. Continuing education taken from organizations, groups, or individuals not holding provider status by one of the associations listed in Clause i. will be subject to approval by the advisory committee at the time of renewal.

(a). The advisory committee will not pre-approve any type of continuing education.

(b). The continuing education must be in one of the seven approved content areas listed in §3503.C and given by a qualified presenter.

(c). A qualified presenter is considered to be someone at the master's level or above trained in marriage and family therapy or another appropriate mental health field.

(d). One may receive one clock hour of continuing education for each hour of direct participation in a structured educational format as a learner.

(e). Credit cannot be granted for business/governance meetings; breaks; and social activities including meal functions, except for the actual time of an educational content speaker.

(f). Credit may not be given for marketing the business aspects of one's practice, time management, supervisory sessions, staff orientation, agency activities that

address procedural issues, personal therapy, or other methods not structured on sound educational principles or for content contrary to the LMFT Code of Ethics (Chapter 43).

b. Optional Ways to Obtain Continuing Education (20 Hours Maximum)

i. Licensees may receive one clock hour of continuing education for each hour of direct work in:

(a). teaching a marriage and family therapy course (10 hours maximum) in an area as described in Paragraph C.3 in an institution accredited by a regional accrediting association. Continuing education hours may be earned only for the first time the individual teaches the course, or

(b). authoring, editing, or reviewing professional manuscripts or presentations (10 hours maximum) in an area of marriage and family therapy as described in Paragraph C.3. Articles must be published in a professional refereed journal.

ii. Presentations at workshops, seminars, symposia, and meetings in an area of marriage and family therapy as described in Paragraph C.3 may count for up to 10 hours maximum at a rate of two clock hours per one-hour presentation. Presenters must meet the qualifications stated in Subparagraph 2.a. The presentation must be to the professional community, not to the lay public or a classroom presentation.

3. Continuing education hours must be relevant to the practice of marriage and family therapy and generally evolve from the following seven areas.

a. Theoretical Knowledge of Marriage and Family Therapy. Continuing education in this area shall contain such content as the historical development, theoretical and empirical foundations, and contemporary conceptual directions of the field of marriage and family therapy and will be related conceptually to clinical concerns.

b. Clinical Knowledge of Marriage and Family Therapy: Continuing education in this area shall contain such content as:

i. couple and family therapy practice and be related conceptually to theory;

ii. contemporary issues, which include but are not limited to gender, violence, addictions, and abuse, in the treatment of individuals, couples, and families from a relational/systemic perspective;

iii. a wide variety of presenting clinical problems;

iv. issues of gender and sexual functioning, sexual orientation, and sex therapy as they relate to couple, marriage and family therapy theory and practice;

v. diversity and discrimination as it relates to couple and family therapy theory and practice.

c. Assessment and Treatment in Marriage and Family Therapy. Continuing education in this area shall contain such content from a relational/systemic perspective as psychopharmacology, physical health and illness, traditional psychodiagnostic categories, and the assessment and treatment of major mental health issues.

d. Individual, Couple, and Family Development. Continuing education in this area shall contain such content as individual, couple, and family development across the lifespan.

e. Professional Identity and Ethics in Marriage and Family Therapy. Continuing education in this area shall contain such content as:

i. professional identity, including professional socialization, scope of practice, professional organizations, licensure and certification;

ii. ethical issues related to the profession of marriage and family therapy and the practice of individual, couple and family therapy. Generic education in ethics does not meet this standard;

iii. the AAMFT Code of Ethics, confidentiality issues, the legal responsibilities and liabilities of clinical practice and research, family law, record keeping, reimbursement, and the business aspects of practice;

iv. the interface between therapist responsibility and the professional, social, and political context of treatment.

f. Research in Marriage and Family Therapy. Continuing education in this area shall include significant material on research in couple and family therapy; focus on content such as research methodology, data analysis and the evaluation of research, and include quantitative and qualitative research.

g. Supervision in Marriage and Family Therapy: Continuing education in this area include studies in theory and techniques of supervision as well as ethical and legal issues, case management, and topics relative to the specific supervised training.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:160 (February 2003).

### **Chapter 37. Reciprocity and Provisional Licenses**

#### **§3701. States, Territories, and Commonwealths**

A. Upon application accompanied by the required fee:

1. the board through the advisory committee may issue a license to any person who has a valid license as a marriage and family therapist from a licensing body that requires standards substantially equivalent to the licensing requirements for licensed marriage and family therapists in Louisiana;

2. the board through the advisory committee may develop Rules to provide for the issuance of provisional licenses for licensed marriage and family therapists for up to one year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:162 (February 2003).

### **Chapter 39. Disciplinary Proceedings**

#### **§3901. Causes for Administrative Action**

A. The board, upon recommendation of the advisory committee, after due notice and hearing as set forth herein and the Administrative Procedure Act, R.S. 49:950 et seq., may withhold, deny, revoke or suspend any license issued or applied for or otherwise discipline a licensed marriage and family therapist on a finding that the person has violated R.S. 37: 1101-1122, any of the Rules, regulations, and ethical standards for licensed marriage and family therapy promulgated by the board for the advisory committee, or prior final decisions and/or consent orders involving the

licensed marriage and family therapist or applicant for licensure. Additionally, the Board, upon recommendation of the advisory committee, may withhold, deny, revoke, or suspend any license issued or applied for, or otherwise discipline or an LMFT as provided by other applicable state or federal laws, including but not limited to the following violations:

1. failure to pay court-ordered child support (RS 37:2952 et seq.);

2. failure to pay certain student loans (RS 37:2951 et seq.);

3. failure to report suspected cases of child abuse or neglect (RS 14:403 et seq.);

4. failure to report suspected cases of abuse of the elderly (RS 14:403.2 et seq.);

5. failure to maintain patient records as required by law (R.S. 40:1299.96 et seq.).

B. Sometimes hereinafter, where the context allows, a licensed marriage and family therapist or applicant for licensure may be referred to as a licensee or applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Professional Counselors, LR 29:162 (February 2003).

#### **§3903. Disciplinary Process and Procedures**

A. The purpose of the following Rules and regulations is to supplement and effectuate the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., regarding the disciplinary process and procedures incident thereto. These Rules and regulations are not intended to amend or repeal the provisions of the Administrative Procedure Act, and to the extent any of these Rules and regulations are in conflict therewith, the provisions of the Administrative Procedure Act shall govern.

B. A disciplinary proceeding, including the formal hearing, is less formal than a judicial proceeding. It is not subject to strict evidentiary Rules and technicalities, but must be conducted in accordance with considerations of fair play and constitutional requirements of due process.

C. The purpose of a disciplinary proceeding is to determine contested issues of law and fact; whether the person did certain acts or omissions and, if he did, whether those acts or omissions violated the Louisiana Mental Health Counselor Licensing Act, the Rules and regulations and ethical standards for licensed marriage family therapy promulgated by the board for the advisory committee, or prior Final Decisions and/or Consent Orders involving the licensed marriage and family therapist or applicant for licensure and to determine the appropriate disciplinary action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:162 (February 2003).

#### **§3905. Initiation of Complaints**

A. Any person or the advisory committee on their own initiative may initiate complaints.

B. All complaints shall be addressed "confidential" to the ad hoc Committee for Disciplinary Affairs (hereafter referred to as the disciplinary committee) and shall be sent to the board office. A member of the advisory committee shall

be appointed to serve on the ad hoc Committee for Disciplinary Affairs, by the chair of the Board, and shall be empowered to act on behalf of the Advisory committee. He/she shall concur or disagree with the recommendation of the disciplinary committee chair and such concurrence or disagreement shall constitute the official recommendation of the advisory committee as to the complaint in question. The disciplinary committee shall convey the complaint to the board. By a simple majority, the Disciplinary Committee shall vote to investigate or deny the charge. If a denial, the chair of the Disciplinary Committee shall prepare the letters of denial. If an agreement to investigate, the board shall request that the Disciplinary Committee notify the person that allegations have been made that he/she may have committed a breach of statute, rule and regulation, ethical code, and/or prior final decisions or consent orders and that he/she must respond in writing to the Disciplinary Committee within a specified time period. A response is to be made to the disciplinary committee at the board office address. The complaint letter of alleged violations shall not be given initially to the person. However, sufficiently specific allegations shall be conveyed to the person for his/her response. Once the person has answered the complaint, a determination will be made if a disciplinary proceeding is required. The Disciplinary Committee shall inform the board of its decision.

C. Pursuant to its authority to regulate this industry, the board, upon recommendation of the advisory committee through its Disciplinary Committee, may issue subpoenas to secure evidence of alleged violations of the Louisiana Mental Health Counselor Licensing Act, any of the Rules and regulations or ethical standards for licensed marriage and family therapists promulgated by the board for the advisory committee, or prior final decisions and/or consent orders involving the licensed marriage and family therapist or applicant for licensure. The subpoenaed confidential or privileged records of a patient or client are to be sanitized by the custodian of such records so as to maintain the anonymity of the patient or client.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:162 (February 2003).

### **§3907. Informal Disposition of Complaints**

A. The board, upon recommendation of the Disciplinary Committee and the person accused of a violation, may settle some complaints informally without a formal hearing. The disciplinary committee shall guide cases through any informal process, and, failing resolution, may recommend a formal hearing. The following types of informal dispositions may be utilized.

1. Disposition by Correspondence. For less serious complaints, the disciplinary committee may write to the person explaining the nature of the complaint received. The person's subsequent response may satisfactorily explain the situation, and the matter may be dropped. If the situation is not satisfactorily explained, it shall be pursued through an informal conference or formal hearing.

2. Informal Conference

a. The disciplinary committee may hold a conference with the person in lieu of, or in addition to,

correspondence in cases of less serious complaints. If the situation is satisfactorily explained in conference, a formal hearing is not scheduled.

b. The person shall be given adequate notice of the conference, of the issues to be discussed, and of the fact that information brought out of the conference may later be used in a formal hearing.

3. Settlement. An agreement worked out between the person making the complaint and the person accused of a violation does not preclude disciplinary action by the board. The board must consider the nature of the alleged offense and the evidence before it.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:163 (February 2003).

### **§3909. Formal Hearing**

A. The board upon recommendation of the Disciplinary Committee has the authority, granted by R.S. 37:1101 et seq., to bring administrative proceedings against persons to whom it has issued a license upon recommendation of the advisory committee to practice as a licensed marriage and family therapist or any applicant requesting a license. The person has the right to:

1. appear and be heard, either appearing alone or with counsel;

2. the right of notice;

3. a statement of what accusations have been made;

4. the right to present evidence and to cross-examine; and

5. the right to have witnesses subpoenaed.

B. If the person does not appear, either in person or through counsel, after proper notice has been given, the person may be considered to have waived these rights and the board may proceed with the hearing without the presence of the person.

C. The process of administrative action shall include certain steps and may include other steps as follows.

1. The disciplinary committee receives a complaint alleging that a person has acted in violation of the Louisiana Mental Health Counselor Licensing Act, the Rules and regulations and ethical standards for licensed marriage and family therapists promulgated by the board for the advisory committee. Communications from the complaining party shall not be revealed to any person until and unless a formal complaint is filed except those documents being subpoenaed by a court.

2.a. The disciplinary counsel investigates the complaint to determine if there is sufficient evidence to warrant disciplinary proceedings. No board member, other than disciplinary committee members may communicate with any party to a proceeding or his/her representative concerning any issue of fact or law involved in this stage of the proceeding.

b. A decision to initiate a formal complaint or charge may be made by the board if one or more of the following conditions exists:

i. the complaint is sufficiently serious;

ii. the person fails to respond to the Ad Hoc Disciplinary Affairs Committee's correspondence concerning the complaint;

iii. the person's response to the Ad Hoc Disciplinary Affairs Committee letter or investigation demand is not convincing that no action is necessary;

iv. an informal approach is used, but fails to resolve all of the issues.

3. A Notice of Hearing is issued pursuant to R.S. 49:955, charging the violation of one or more of the provisions of the Louisiana Mental Health Counselor Licensing Act, the Rules and regulations and ethical standards for licensed marriage and family therapists promulgated by the board for the advisory committee thereto, or prior final decisions and/or consent orders involving the person.

4. The board chair or disciplinary counsel sets a time and place for a hearing.

5.a. At least 20 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 are sent by certified mail to the last known address of the person accused. If the mailing is not returned to the board, it is assumed to have been received. It is the person's obligation to keep the board informed of his whereabouts. The board will conduct the hearing, with the accused person in absentia, in the event that certified mail at the last known address is unsuccessful.

b. The content of the charges limits the scope of the hearing and the evidence that may be introduced. The charges may be amended at any time up to 10 days prior to the date set for the hearing.

c. If the Disciplinary Committee is unable to describe the matters involved in detail at the time the sworn complaint is filed, this complaint may be limited to a general statement of the issues involved. Thereafter, upon the person's request, the board shall supply a more definite and detailed statement to the person.

6. Except for extreme emergencies, motions requesting a continuance of a hearing shall be filed at least five days prior to the time set for the hearing. The motion shall contain the reason for the request, which reason must have relevance to due process. The decision to grant or deny a motion to continue shall be left to the discretion of the Board chair and may only be granted for compelling reasons.

7.a. The board chair or disciplinary counsel issues subpoenas for the board for disciplinary proceedings, and when requested to do so, may issue subpoenas for any other party. Subpoenas include:

i. a subpoena requiring a person to appear and give testimony; and

ii. a subpoena *dues tecum*, which requires that a person produce books, records, correspondence, or other materials over which he/she has custody.

b. A motion to limit or quash a subpoena may be filed with the board, but not less than 72 hours prior to the hearing.

8. a. The hearing is held, at which time the board's primary role is to hear evidence and argument and to reach a decision. Any board member, who, because of bias, interest, or other conflict is unable to participate in the hearing, shall be recused from the particular proceeding. The reasons for the recusal are made part of the record. The board shall be assisted and advised at the hearing by its general counsel, who shall not participate in any other manner in the

investigation or prosecution of charges. The general counsel shall also attend the board's deliberations, advise the board at such deliberations, and assist the board with development and drafting of its findings.

b. The disciplinary counsel who conducted the investigation represents the board and presents evidence that disciplinary action should be taken against the person. The person may present evidence personally or through an attorney, and witnesses may testify on behalf of the person.

c. Evidence includes the following:

i. 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 the requesting party);

ii. documentary evidence, i.e., written or printed materials including public, business, institutional records, books and reports;

iii. visual, physical and illustrative evidence;

iv. admissions, which are written or oral statements of a party made either before or during the hearing;

v. facts officially noted into the record, usually readily determined facts making proof of such unnecessary.

d. All testimony is given under oath. If the witness objects to swearing, an affirmation may be substituted.

9. The board chair presides as chair of the board over all hearings for licensed marriage and family therapists. The customary order of proceedings at a hearing is as follows.

a. The disciplinary counsel makes an opening statement of what he/she intends to prove, and what action, he/she wants the board to take.

b. The person, or his/her attorney, makes an opening statement, explaining why he/she believes that the charges against him/her are not legally founded.

c. The disciplinary counsel presents the case against the person.

d. The person, or his/her attorney, cross-examines.

e. The person presents evidence.

f. The disciplinary counsel cross-examines.

g. The rebuts the person's evidence.

10. Both parties make closing statements. The disciplinary counsel makes the initial closing statement and any final statement.

11. 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, and become part of the record of the proceeding.

12.a. The record of the hearing shall include:

i. all papers filed and served in the proceeding;

b. all documents and/or other materials accepted as evidence at the hearing;

ii. statements of matters officially noticed;

c. notices required by the statutes or Rules; including notice of hearing;

d. affidavits of service or receipts for mailing or process or other evidence of service;

e. stipulations, settlement agreements or consent orders, if any;

i. records of matters agreed upon at a prehearing conference;

- ii. orders of the board and its final decision;
- iii. actions taken subsequent to the decision, including requests for reconsideration and rehearing;
- iv. a transcript of the proceedings, if one has been made, or a tape recording or stenographic record.

f. 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.

13.a. The decision of the board shall be reached according to the following process.

- i. Determine the facts at issue on the basis of the evidence submitted at the hearing.
- ii. Determine whether the facts in the case support the charges brought against the person.
- iii. Determine whether charges brought are a violation of the Louisiana Mental Health Counselor Licensing Act or Rules and regulations and ethical standards for licensed marriage and family therapy promulgated by the board for the advisory committee.

b. Deliberation

- i. The board will deliberate in closed session.
- ii. The advisory committee shall make its recommendation as to each charge presented.
- iii. The board will vote on each charge as to whether the charge has been supported by the evidence. (The standard will be *preponderance of the evidence*).
- iv. After considering and voting on each charge, the board will vote on a resolution to dismiss the charges, withhold, deny, revoke or suspend any license issued or applied for or otherwise discipline a licensed marriage and family therapist or applicant for licensure.

v. The board by affirmative majority vote may vote to withhold, deny, revoke, or suspend any license issued or applied for in accordance with the provisions of R.S. 37, Chapter 13, or otherwise discipline a licensed marriage and family therapist or applicant.

c. Sanctions against the person who is party to the proceedings are based upon findings of fact and conclusions of law determined as a result of the hearing. The party is notified by certified mail of the final decision of the board.

14. Every order of the board shall take effect immediately on its being rendered unless the board in such order fixes a probationary period for an applicant or licensee. Such order shall continue in effect until expiration of any specified time period or termination by a court of competent jurisdiction. The board shall notify all licensees of any action taken against a licensee and may make public its orders and judgment in such manner and form as it and the advisory committee deem proper if such orders and judgments are not consent orders or compromise judgments.

15.a. The board may reconsider a matter that 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 who is dissatisfied with a decision of the board files a motion requesting that the board reconsider the decision.

b. The board 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 board's decision has been appealed.

c. A motion by a party for reconsideration or rehearing must be in proper form and filed within 10 days after notification of the board's decision. The motion shall set forth the grounds for the rehearing, which include one or more of the following.

i. The board's decision is clearly contrary to the law and evidence.

ii. There is newly discovered evidence by the party since the hearing which is important to the issues and which the party could not have discovered with due diligence before or during the hearing.

iii. There is a showing that issues not previously considered ought to be examined in order to dispose of the case properly.

iv. It would be in the public interest to further consider the issues and the evidence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:163 (February 2003).

**§3911. Consent Order**

A. The board may issue an order involving some type of disciplinary action with the consent of the person. A consent order requires a simple majority of the board. This consent order is not the result of the board's deliberation, but rather the board's acceptance upon recommendation of disciplinary committee to the board of an agreement reached between the board's agents and the person. The board issues the consent order to carry out the parties' agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:165 (February 2003).

**§3913. Withdrawal of a Complaint**

A. If the complainant wishes to withdraw the complaint, the inquiry is terminated, except in cases where the board judges the issues to be of such importance as to warrant completing the investigation in its own right and in the interest of public welfare.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:165 (February 2003).

**§3915. Refusal to Respond or Cooperate with the Board**

A. If the person does not respond to the original inquiry within a reasonable period of time as requested by the board, a follow-up letter shall be sent to the person by certified, restricted delivery mail.

B. If the person refuses to reply to the board's inquiry or otherwise cooperate with the board, the board shall continue its investigation. The board shall record the circumstances of the person's failure to cooperate and shall inform the person that the lack of cooperation may result in action by the board that could eventually lead to the withholding, denial, revocation or suspension of his/her license, or application for licensure, or otherwise issue appropriate disciplinary sanction.

AUTHORITY NOTE: Promulgation in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgation by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:165 (February 2003).

### **§3917. Judicial Review of Adjudication**

A. Any person whose license, or application for licensure, has been withheld, denied, revoked or suspended or otherwise disciplined by the board shall have the right to have the proceedings of the board reviewed by the 19th Judicial District Court for the parish of East Baton Rouge, provided that such petition for judicial review is filed within thirty days after receipt of the notice of the decision of the board. If judicial review is granted, the board's decision remains enforceable in the interim unless the 19th Judicial District Court orders a stay. Pursuant to the applicable section of the Louisiana Administrative Procedure Act, LSA R.S. 49:950 et seq., this appeal shall be taken as in any other civil case.

AUTHORITY NOTE: Promulgation in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgation by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:166 (February 2003).

### **§3919. Further Appeal**

A. A person aggrieved by any final judgment rendered by the state district court may obtain a review of said final judgment by appeal to the appropriate circuit court of appeal.

AUTHORITY NOTE: Promulgation in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgation by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:166 (February 2003).

### **§3921. Reinstatement of Suspended or Revoked License**

A. The board is authorized to suspend the license of a licensed marriage and family therapist for a period not exceeding two years. At the end of this period, the Board shall re-evaluate the suspension and may reinstate or revoke the license. A person whose license has been revoked may apply for reinstatement after a period of not less than two years from the date such denial or revocation is legally effective.

AUTHORITY NOTE: Promulgation in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgation by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:166 (February 2003).

### **§3923. Declaratory Statements**

A. The board upon recommendation of the advisory committee may issue a declaratory statement in response to a request for clarification of the effect of the provisions contained in the Louisiana Mental Health Counselor Licensing Act, R.S. 37:1101 et seq., the Rules, regulations, and ethical standards promulgated by the board for the advisory committee.

1. A request for declaratory statement is made in the form of a petition to the advisory committee. The petition should include at least:

- a. the name and address of the petitioner;
- b. specific reference to the statute, rule and regulation, or provision of the Code of Ethics to which the petitioner relates; and
- c. a concise statement of the manner in which the petitioner is aggrieved by the statute, Rules and regulations,

or ethical standards by its potential application to him in which he is uncertain of its effect.

2. The advisory committee shall consider the petition within a reasonable period of time, taking into consideration the nature of the matter and the circumstances involved.

3. The declaratory statement shall be in writing and mailed to the petitioner at the last address furnished to the board.

AUTHORITY NOTE: Promulgation in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgation by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:166 (February 2003).

### **§3925. Injunction**

A. The board upon recommendation of the advisory committee may, through the Louisiana attorney general, apply for an injunction in any court of competent jurisdiction to enjoin any person from committing any act declared to be a misdemeanor by R.S. 37, Chapter 13.

B. If it is established that the defendant has been or is committing an act declared to be a misdemeanor by R.S. 37, Chapter 13, the court, may enter a decree enjoining the defendant from further committing such act.

C. In case of violation of any injunction issued under the provision of §1325, a court, or any judges thereof, may summarily try and punish the offender for contempt of court.

D. Such injunctive proceedings shall be in addition to, and not in lieu of, all other penalties and other remedies provided in R.S. 37, Chapter 13.

AUTHORITY NOTE: Promulgation in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgation by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:166 (February 2003).

## **Chapter 41. Informed Consent**

### **§4101. General Provisions**

A. Licensed marriage and family therapists obtain appropriate informed consent to therapy or related procedures before the formal therapeutic process begins. Information provided to clients by licensed marriage and family therapists about the treatment process shall include, but is not limited to, the therapist's statement of practice as outlined in the Appendix. The therapist should be sure that the client understands all information provided before asking for consent to treatment. The content of informed consent may vary depending on the client and treatment plan; however, informed consent generally necessitates that the client:

1. has the capacity to consent;
2. has been adequately informed of the ethical and practical components of treatment processes and procedures, including but not limited to, the use of audio or video taping, or the use of observers, supervisors, or therapy teams during therapy;
3. has been adequately informed of potential therapy outcomes, including the risks and benefits of treatment, not only for recognized approaches, but also for approaches for which generally recognized standards do not yet exist;
4. has freely and without undue influence expressed consent; and
5. has provided consent that is appropriately documented.

B. When persons, due to age or mental status, are legally incapable of giving informed consent, licensed marriage and family therapists obtain informed permission from a legally authorized person, if such substitute consent is legally permissible.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:166 (February 2003).

#### **Chapter 43. Privileged Communications**

##### **§4301. Privileged Communication with Clients**

A. Licensed marriage and family therapists disclose to clients and other interested parties, as early as feasible in their professional contacts, the nature of confidentiality in the therapeutic process and possible limitations of the clients' right to confidentiality. Therapists review with clients the circumstances where confidential information may be requested and where disclosure of confidential information may be legally required. Circumstances may necessitate repeated disclosures. Licensed marriage and family therapists also shall be aware of specific ethical requirements concerning licensed marriage and family therapy as specified in the Code of Ethics (Chapter 47) and in §4301.C.

B. Licensed marriage and family therapists do not disclose client confidences except by written authorization or waiver, court order, or where mandated or specifically permitted by law, or reasonably necessary to protect the client or other parties from a clear and imminent threat of serious physical harm. Verbal authorization may be sufficient in emergency situations or where otherwise permitted by law.

C. Licensed marriage and family therapists shall be cognizant of and adhere to any confidentiality requirement that may differ from requirements in other licenses they hold. Licensed marriage and family therapists have unique confidentiality concerns because the client in a therapeutic relationship may be more than one person. Therapists respect and guard the confidences of each individual client within the system of which they are working as well as the confidences of the system.

1. When providing couple, family, or group treatment, a licensed marriage and family therapist shall not disclose information outside the treatment context without a written authorization from each individual competent to execute a waiver.

2. In the context of couple, family, or group treatment, the therapist may not reveal any individual's confidences to others in the client unit without the prior written permission of that individual.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:167 (February 2003).

#### **Chapter 45. Exemptions**

##### **§4501. Exemptions**

A. No person shall be required to obtain a license as a licensed marriage and family therapist. The practice of marriage and family therapy is not prohibited by Act 1195. As stated in R.S. 37:1122(A), the only prohibition is the use of the title "licensed marriage and family therapist".

B. Nothing in this Chapter shall prevent qualified members of other professional groups as defined by the board upon recommendation of the advisory committee including but not limited to clinical social workers, psychiatric nurses, psychologists, physicians, licensed professional counselors, or members of the clergy, including Christian Science practitioners, from doing or advertising that they perform work of a marriage and family therapy nature consistent with the accepted standards of their respective professions. However, no such person shall use the title "licensed marriage and family therapist". (R.S. 37:1121)

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:167 (February 2003).

#### **Chapter 47. Code of Ethics**

##### **§4701. General**

A. The Marriage and Family Therapy Advisory Committee strives to honor the public trust in licensed marriage and family therapists by setting the standards for ethical practice as described in this code of ethics.

B. Licensed marriage and family therapists have an obligation to be familiar with this code of ethics and its application to their professional services. They also must be familiar with any applicable ethical codes that govern other licensure that they hold or are responsible for through certification or membership in professional organizations. Lack of awareness or misunderstanding of an ethical standard is not a defense to a charge of unethical conduct.

C. These ethical standards govern the practice of licensed marriage and family therapy and professional functioning of the advisory committee and shall be enforced by the board through the advisory committee.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:167 (February 2003).

##### **§4703. Resolving Ethical Issues**

A. The absence of an explicit reference to a specific behavior or situation in the Code does not mean that the behavior is ethical or unethical. The standards are not exhaustive. Licensed marriage and family therapists shall consult with other licensed marriage and family therapists who are knowledgeable about ethics, with colleagues, with LMFT-approved supervisors, or with appropriate authorities when:

1. they are uncertain if the ethics of a particular situation or course of action is in violation of this code; or

2. provisions in the ethical codes that regulate licensure that they may hold in other professions differs from provisions in this code; or

3. provisions in the ethical codes that regulate their membership or certification in a professional organization differs from provisions in this code.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:1667 (February 2003).

#### **§4705. Responsibility to Clients**

A. Licensed marriage and family therapists advance the welfare of families and individuals. They respect the rights of those persons seeking their assistance and make reasonable efforts to ensure that their services are used appropriately.

B. Licensed marriage and family therapists provide professional assistance to persons without discrimination on the basis of race, age, ethnicity, socioeconomic status, disability, gender, health status, religion, national origin, or sexual orientation.

C. Licensed marriage and family therapists obtain appropriate informed consent to therapy or related procedures early in the therapeutic relationship, usually before the therapeutic relationship begins, and use language that is reasonably understandable to clients. The licensed marriage and family therapist will provide all clients with a statement of practice subject to review and approval by the advisory committee (See Appendix). The content of informed consent may vary depending upon the therapist's areas of expertise, the client(s) and treatment plan.

1. Informed consent generally necessitates that the client:

- a. has the capacity to consent;
- b. has been adequately informed of significant information concerning treatment processes and procedures;
  - i. has been adequately informed of potential risks and benefits of treatments for which generally recognized standards do not yet exist;
- c. has freely and without undue influence signed a statement of practice.

2. When persons, due to age or mental status, are legally incapable of giving informed consent, licensed marriage and family therapists obtain informed permission from a legally authorized person, if such substitute consent is legally permissible.

D. Licensed marriage and family therapists are aware of their influential positions with respect to clients, and they avoid exploiting the trust and dependency of such persons. Therapists, therefore, make every effort to avoid conditions and multiple relationships with clients that could impair professional judgment or increase the risk of exploitation. Such relationships include, but are not limited to, business or close personal relationships with a client or the client's immediate family. When the risk of impairment or exploitation exists due to conditions or multiple roles, therapists take appropriate precautions.

E. Sexual intimacy with clients is prohibited.

F. Sexual intimacy with former clients is likely to be harmful and is therefore prohibited for two years following the termination of therapy or last professional contact. In an effort to avoid exploiting the trust and dependency of clients, licensed marriage and family therapists should not engage in sexual intimacy with former clients after the two years following termination or last professional contact. Should therapists engage in sexual intimacy with former clients following two years after termination or last professional contact, the burden shifts to the therapist to demonstrate that there has been no exploitation or injury to the former client or to the client's immediate family.

G. Licensed marriage and family therapists comply with applicable laws regarding the reporting of alleged unethical conduct.

H. Licensed marriage and family therapists do not use their professional relationships with clients to further their own interests.

I. Licensed marriage and family therapists respect the rights of clients to make decisions and help them to understand the consequences of these decisions. Therapists clearly advise the clients that they have the responsibility to make decisions regarding relationships such as cohabitation, marriage, divorce, separation, reconciliation, custody, and visitation.

J. Licensed marriage and family therapists continue therapeutic relationships only so long as it is reasonably clear that clients are benefiting from the relationship.

K. Licensed marriage and family therapists assist persons in obtaining other therapeutic services if the therapist is unable or unwilling, for appropriate reasons, to provide professional help.

L. Licensed marriage and family therapists do not abandon or neglect clients in treatment without making reasonable arrangements for the continuation of such treatment.

M. Licensed marriage and family therapists obtain written informed consent from clients before videotaping, audio recording, or permitting third-party observation.

N. Licensed marriage and family therapists, upon agreeing to provide services to a person or entity at the request of a third party, clarify, to the extent feasible and at the outset of the service, the nature of the relationship with each party and the limits of confidentiality.

**AUTHORITY NOTE:** In accordance with R.S. 37:1101-1122.

**HISTORICAL NOTE:** Promulgated in accordance with the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:168 (February 2003).

#### **§4707. Confidentiality**

A. Licensed marriage and family therapists have unique confidentiality concerns because the client in a therapeutic relationship may be more than one person. Therapists respect and guard the confidences of each individual client.

B. Licensed marriage and family therapists disclose to clients and other interested parties, as early as feasible in their professional contacts, the nature of confidentiality and possible limitations of the clients' right to confidentiality. Therapists review with clients the circumstances where confidential information may be requested and where disclosure of confidential information may be legally required. Circumstances may necessitate repeated disclosures.

C. Licensed marriage and family therapists do not disclose client confidences except by written authorization or waiver, or where mandated or permitted by law. Verbal authorization will not be sufficient except in emergency situations, unless prohibited by law, specifically in instances of danger to self or others, suspected child abuse/neglect, elderly abuse/neglect, or disabled adult abuse/neglect. When providing couple, family or group treatment, the therapist does not disclose information outside the treatment context without a written authorization from each individual competent to execute a waiver. In the context of couple,

family or group treatment, the therapist may not reveal any individual's confidences to others in the client unit without the prior written permission of that individual.

D. Licensed marriage and family therapists use client and/or clinical materials in teaching, writing, consulting, research, and public presentations only if a written waiver has been obtained in accordance with this section, or when appropriate steps have been taken to protect client identity and confidentiality.

E. Licensed marriage and family therapists store, safeguard, and dispose of client records in ways that maintain confidentiality and in accord with applicable laws and professional standards.

F. Subsequent to the therapist moving from the area, closing the practice, or upon the death of the therapist, a marriage and family therapist arranges for the storage, transfer, or disposal of client records in ways that maintain confidentiality and safeguard the welfare of clients.

G. Licensed marriage and family therapists, when consulting with colleagues or referral sources, do not share confidential information that could reasonably lead to the identification of a client, research participant, supervisee, or other person with whom they have a confidential relationship unless they have obtained the prior written consent obtained in accordance with this section of the client, research participant, supervisee, or other person with whom they have a confidential relationship. Information may be shared only to the extent necessary to achieve the purposes of the consultation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:168 (February 2003).

#### **§4709. Professional Competence and Integrity**

A. Licensed marriage and family therapists maintain high standards of professional competence and integrity.

B. Licensed marriage and family therapists pursue knowledge of new developments and maintain competence in licensed marriage and family therapy through education, training, or supervised experience.

C. Licensed marriage and family therapists maintain adequate knowledge of and adhere to applicable laws, ethics, and professional standards.

D. Licensed marriage and family therapists seek appropriate professional assistance for their personal problems or conflicts that may impair work performance or clinical judgment.

E. Licensed marriage and family therapists do not provide services that create a conflict of interest that may impair work performance or clinical judgment.

F. Licensed marriage and family therapists, as presenters, teachers, supervisors, consultants and researchers, are dedicated to high standards of scholarship, present accurate information, and disclose potential conflicts of interest.

G. Licensed marriage and family therapists maintain accurate and adequate clinical and financial records.

H. While developing new skills in specialty areas, licensed marriage and family therapists take steps to ensure the competence of their work and to protect clients from possible harm. Licensed marriage and family therapists

practice in specialty areas new to them only after appropriate education, training, or supervised experience.

I. Licensed marriage and family therapists do not engage in sexual or other forms of harassment of clients, students, trainees, supervisees, employees, colleagues, or research subjects.

J. Licensed marriage and family therapists do not engage in the exploitation of clients, students, trainees, supervisees, employees, colleagues, or research subjects.

K. Licensed marriage and family therapists do not give to or receive from clients:

1. gifts of substantial value; or
2. gifts that impair the integrity or efficacy of the therapeutic relationship.

L. Licensed marriage and family therapists do not diagnose, treat, or advise on problems outside the recognized boundaries of their competencies.

M. Licensed marriage and family therapists make efforts to prevent the distortion or misuse of their clinical and research findings.

N. Licensed marriage and family therapists, because of their ability to influence and alter the lives of others, exercise special care when making public their professional recommendations and opinions through testimony or other public statements.

O. To avoid a conflict of interests, licensed marriage and family therapists who treat minors or adults involved in custody or visitation actions may not also perform forensic evaluations for custody, residence, or visitation of the minor. The marriage and family therapist who treats the minor may provide the court or mental health professional performing the evaluation with information about the minor from the marriage and family therapist's perspective as a treating marriage and family therapist, so long as the marriage and family therapist does not violate confidentiality.

P. Licensed marriage and family therapists are in violation of this Code and subject to revocation or suspension of licensure or other appropriate action by the board through the advisory committee if they:

1. are convicted of any felony;
2. are convicted of a misdemeanor related to their qualifications or functions;
3. engage in conduct which could lead to conviction of a felony, or a misdemeanor related to their qualifications or functions;
4. are expelled from or disciplined by professional organizations;
5. have their licenses or certificates suspended or revoked or are otherwise disciplined by other regulatory bodies;
6. continue to practice licensed marriage and family therapy while no longer competent to do so because they are impaired by physical or mental causes or the abuse of alcohol or other substances; or
7. fail to cooperate with the board through the advisory committee at any point from the inception of an ethical complaint through the completion of all proceedings regarding that complaint.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:169 (February 2003).

#### **§4711. Responsibility to Students and Supervisees**

A. Licensed marriage and family therapists do not exploit the trust and dependency of students and supervisees.

B. Licensed marriage and family therapists are aware of their influential positions with respect to students and supervisees, and they avoid exploiting the trust and dependency of such persons. Licensed marriage and family therapists, therefore, make every effort to avoid conditions and multiple relationships that could impair professional objectivity or increase the risk of exploitation. When the risk of impairment or exploitation exists due to conditions or multiple roles, licensed marriage and family therapists take appropriate precautions.

C. Licensed marriage and family therapists do not provide therapy to current students or supervisees.

D. Licensed marriage and family therapists do not engage in sexual intimacy with students or supervisees during the evaluative or training relationship between the therapist and student or supervisee. Should a supervisor engage in sexual activity with a former supervisee, the burden of proof shifts to the supervisor to demonstrate that there has been no exploitation or injury to the supervisee.

E. Licensed marriage and family therapists do not permit students or supervisees to perform or to hold themselves out as competent to perform professional services beyond their training, level of experience, and competence.

F. Licensed marriage and family therapists take reasonable measures to ensure that services provided by supervisees are professional.

G. Licensed marriage and family therapists avoid accepting as supervisees or students those individuals with whom a prior or existing relationship could compromise the therapist's objectivity. When such situations cannot be avoided, therapists take appropriate precautions to maintain objectivity. Examples of such relationships include, but are not limited to, those individuals with whom the therapist has a current or prior sexual, close personal, immediate familial, or therapeutic relationship.

H. Licensed marriage and family therapists do not disclose supervisee confidences except by written authorization or waiver, or when mandated or permitted by law. In educational or training settings where there are multiple supervisors, disclosures are permitted only to other professional colleagues, administrators, or employers who share responsibility for training of the supervisee. Verbal authorization will not be sufficient except in emergency situations, unless prohibited by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:170 (February 2003).

#### **§4713. Responsibility to Research Participants**

A. Investigators respect the dignity and protect the welfare of research participants, and are aware of applicable laws and regulations and professional standards governing the conduct of research.

B. Investigators are responsible for making careful examinations of ethical acceptability in planning studies. To the extent that services to research participants may be compromised by participation in research, investigators seek the ethical advice of qualified professionals not directly

involved in the investigation and observe safeguards to protect the rights of research participants.

C. Investigators requesting participant involvement in research inform participants of the aspects of the research that might reasonably be expected to influence willingness to participate. Investigators are especially sensitive to the possibility of diminished consent when participants are also receiving clinical services, or have impairments which limit understanding and/or communication, or when participants are children.

D. Investigators respect each participant's freedom to decline participation in or to withdraw from a research study at any time. This obligation requires special thought and consideration when investigators or other members of the research team are in positions of authority or influence over participants. Licensed marriage and family therapists, therefore, make every effort to avoid multiple relationships with research participants that could impair professional judgment or increase the risk of exploitation.

E. Information obtained about a research participant during the course of an investigation is confidential unless there is a waiver previously obtained in writing. When the possibility exists that others, including family members, may obtain access to such information, this possibility, together with the plan for protecting confidentiality, is explained as part of the procedure for obtaining informed consent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:170 (February 2003).

#### **§4715. Responsibility to the Profession**

A. Licensed marriage and family therapists respect the rights and responsibilities of professional colleagues and participate in activities that advance the goals of the profession.

B. Licensed marriage and family therapists remain accountable to the standards of the profession when acting as members or employees of organizations. If the mandates of an organization with which a licensed marriage and family therapist is affiliated, through employment, contract or otherwise, conflict with the LMFT Code of ethics licensed marriage and family therapists make known to the organization their commitment to the LMFT Code of ethics and attempt to resolve the conflict in a way that allows the fullest adherence to the Code of ethics.

C. Licensed marriage and family therapists assign publication credit to those who have contributed to a publication in proportion to their contributions and in accordance with customary professional publication practices.

D. Licensed marriage and family therapists do not accept or require authorship credit for a publication based on research from a student's program, unless the therapist made a substantial contribution beyond being a faculty advisor or research committee member. Coauthorship on a student thesis, dissertation, or project should be determined in accordance with principles of fairness and justice.

E. Licensed marriage and family therapists who are the authors of books or other materials that are published or distributed do not plagiarize or fail to cite persons to whom credit for original ideas or work is due.

F. Licensed marriage and family therapists who are the authors of books or other materials published or distributed by an organization take reasonable precautions to ensure that the organization promotes and advertises the materials accurately and factually.

G. Licensed marriage and family therapists participate in activities that contribute to a better community and society, including devoting a portion of their professional activity to services for which there is little or no financial return.

H. Licensed marriage and family therapists are concerned with developing laws and regulations pertaining to licensed marriage and family therapy that serve the public interest, and with altering such laws and regulations that are not in the public interest.

I. Licensed marriage and family therapists encourage public participation in the design and delivery of professional services and in the regulation of practitioners.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors, LR 29:170 (February 2003).

#### **§4717. Financial Arrangements**

A. Licensed marriage and family therapists make financial arrangements with clients, third-party payors, and supervisees that are reasonably understandable and conform to accepted professional practices.

B. Licensed marriage and family therapists do not offer or accept kickbacks, rebates, bonuses, or other remuneration for referrals; fee-for-service arrangements are not prohibited.

C. Prior to entering into the therapeutic or supervisory relationship, licensed marriage and family therapists clearly disclose and explain to clients and supervisees:

1. all financial arrangements and fees related to professional services, including charges for canceled or missed appointments;

2. the use of collection agencies or legal measures for nonpayment; and

3. the procedure for obtaining payment from the client, to the extent allowed by law, if payment is denied by the third-party payor;

4. once services have begun, therapists provide reasonable notice of any changes in fees or other charges.

D. Licensed marriage and family therapists give reasonable notice to clients with unpaid balances of their intent to seek collection by agency or legal recourse. When such action is taken, therapists will not disclose clinical information.

E. Licensed marriage and family therapists represent facts truthfully to clients, third party payors, and supervisees regarding services rendered.

F. Licensed marriage and family therapists ordinarily refrain from accepting goods and services from clients in return for services rendered. Bartering for professional services may be conducted only if:

1. the supervisee or client requests it;
2. the relationship is not exploitative;
3. the professional relationship is not distorted; and
4. a clear written contract is established.

G. Licensed marriage and family therapists may not withhold records under their immediate control that are requested and needed for a client's treatment solely because

payment has not been received for past services, except as otherwise provided by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:171 (February 2003).

#### **§4719. Advertising**

A. Licensed marriage and family therapists engage in appropriate informational activities, including those that enable the public, referral sources, or others to choose professional services on an informed basis.

B. Licensed marriage and family therapists accurately represent their competencies, education, training, and experience relevant to their practice of licensed marriage and family therapy.

C. Licensed marriage and family therapists ensure that advertisements and publications in any media (such as directories, announcements, business cards, newspapers, radio, television, Internet, and facsimiles) convey information that is necessary for the public to make an appropriate selection of professional services. Information could include:

1. office information, such as name, address, telephone number, credit card acceptability, fees, languages spoken, and office hours (see §4719.F);

2. qualifying clinical degree (see §4719.F);

3. other earned degrees and state or provincial licensures and/or certifications;

4. licensed marriage and family therapist status; and

5. description of practice.

D. Licensed marriage and family therapists do not use names that could mislead the public concerning the identity, responsibility, source, and status of those practicing under that name, and do not hold themselves out as being partners or associates of a firm if they are not.

E. Licensed marriage and family therapists do not use any professional identification (such as a business card, office sign, letterhead, Internet, or telephone or association directory listing) if it includes a statement or claim that is false, fraudulent, misleading, or deceptive.

F. In representing their educational qualifications, licensed marriage and family therapists list and claim as evidence only those earned degrees:

1. from institutions accredited by regional accreditation sources recognized by the United States Department of Education,

2. from institutions recognized by states or provinces that license or certify licensed marriage and family therapists, or

3. from equivalent foreign institutions.

G. Licensed marriage and family therapists correct, wherever possible, false, misleading, or inaccurate information and representations made by others concerning the therapist's qualifications, services, or products.

H. Licensed marriage and family therapists make certain that the qualifications of their employees or supervisees are represented in a manner that is not false, misleading, or deceptive.

I. Licensed marriage and family therapists do not represent themselves as providing specialized services unless they have the appropriate education, training, or supervised experience.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors, LR 29:171 (February 2003).

**§4720. Appendix C Statement of Practice for Licensed Marriage and Family Therapists**

A. Each licensed marriage and family therapist/MFT intern in Louisiana shall write a statement of practice incorporating the following information to provide to all clients. LMFT's also licensed in other mental health professions may need to add additional information required by that licensure. This statement is subject to review and approval by the advisory committee. Sample statements of practice are available from the board office.

1. Your name, mailing address, and telephone number.
2. Qualifications:
  - a. degrees earned and institution(s) attended;
  - b. your LMFT licensure number, noting that the Board of Examiners is the grantor of your license. Include the address and telephone number of the board;
  - c. other licensure numbers, including the name, address, and telephone number of the grantor;
  - d. an MFT intern must use this title and include the name and address of his/her approved supervisor and a brief explanation of how supervision affects the therapy provided.
3. Specify the type(s) of clients you serve.
4. Specialty Areas:
  - a. List your specialty areas such as family of origin, parenting, stepfamilies, adolescents, marriage, etc.
  - b. List your national certifications.
5. What Clients Can Expect from Therapy
  - a. Briefly describe the theoretical orientation and the type of techniques and/or strategies that you use in therapy.
  - b. Briefly describe your philosophical view of therapy, including clients' input for treatment plans.
  - c. Briefly describe your general goals and objectives for clients.
6. Note Any Expectations that You Have for Clients
  - a. For example, clients:
    - i. must make their own decisions regarding such things as deciding to marry, divorce, separate, reconcile, and how to set up custody and visitation; that is, you may help them understand the consequences of these decisions, but your code of ethics does not allow you to advise a specific decision.
    - ii. must notify you before beginning therapy of any other ongoing professional mental health relationship or other professional relationship that might impact the therapy
    - iii. must inform you during the therapy before being seeing another mental health professional or professional in another discipline that might impact the therapy.
    - iv. are expected to follow through on homework assignments;
    - v. are expected to inform you on their intake form and during therapy of their general physical health, any medical treatments that may impact their therapy and any medications that they are taking.

7. Code of Ethics

- a. State that you are required by state law to adhere to The Louisiana Code of Ethics for Licensed Marriage and Family Therapists; and
  - b. that a copy is available on request;
  - c. you might want to specifically note some of the provisions in the Code of Ethics that you would like clients to be aware of;
8. Describe the Rules governing privileged communication for Licensed Marriage and Family Therapists.
- a. Include instances where confidentiality may be waived. This includes, but is not limited to danger to self or others, suspected child abuse/neglect, elderly abuse/neglect, or disabled adult abuse/neglect.
  - b. Include the information that when providing couple, family or group treatment, a licensed marriage and family therapist cannot:
    - i. disclose any information outside the treatment context without a written authorization from each individual competent to execute a waiver; and
    - ii. may not reveal any individual's confidences to others in the client unit without the prior written permission of that individual.
  - c. If you audio- or video-tape sessions, include information specific to their use.
  - d. See Chapter 39 and the Code of Ethics in the Appendix for Rules on privileged communication.
9. State your policy for emergency client situations.
10. Fees, Office Procedures, Insurance Policies
- a. List your fees and describe your billing policies.
  - b. State your policy on insurance payments.
  - c. Describe your policy on payments, scheduling and breaking appointments, etc.
11. Adequately inform clients of potential risks and benefits of therapy. For example:
- a. clients may realize that they have additional issues that they were not aware of before the therapy as a result of the therapy;
  - b. making changes through therapy may bring about unforeseen changes in a person's life;
  - c. individual issues may surface for each spouse as clients work on a marital relationship;
  - d. making changes in communication and/or ways of interacting with others may produce adverse responses from others;
  - e. marital or family conflicts may intensify as feelings are expressed;
  - f. individuals in marital or family therapy may find that spouses or family members are not willing to change.
12. Briefly add any additional information that you believe is important for your clients to be informed about your qualifications and the therapy that you provide.
13. End with a general statement indicating that the client(s) have read and understand the statement of practice, providing spaces for the date, client(s)' signatures, and your signature. MFT Interns need to have a line for their LMFT-approved supervisor's signature.
- B. Provide clients with a copy or copies of the signed statement of practice.

C. A Licensed Marriage and Family Therapist/MFT Intern must have a copy of his/her statement of practice on file in the board office. An MFT Intern must include a copy of his/her statement of practice with his/her Registration of Supervision. The Code of Ethics can be duplicated for clients and additional copies are available at [www.lpcboard.org](http://www.lpcboard.org) or from the board office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

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Gary S. Grand  
Board Chair

0302#024

## RULE

### Department of Health and Hospitals Office of Public Health

#### Preparation and Handling of Seafood for Market (LAC 51:IX.303 and 333)

Editor's Note: Sections 303 and 333 are being repromulgated to correct errors in the June 2002 compilation of Title 51.

#### Title 51

#### PUBLIC HEALTHCSANITARY CODE

#### Part IX. Marine and Fresh Water Animal Food Products

#### Chapter 3. Preparation and Handling of Seafood for Market

#### §303. Construction and Cleanliness of Shellfish Boats [formerly paragraph 9:006]

A. All boats utilized for the harvesting or transporting of shellfish shall be provided with a false deck or bottom to prevent the contamination of shellfish with bilge water. For the purpose of this regulation, bilge water may be defined as any water that collects in the lowest inner part of a boat's hull. Decks, holds or binds used for storage of shellfish shall be washed daily with either potable water, or water drawn from an approved growing area. Unless otherwise exempted in writing by the Department of Health and Hospitals, a suspended awning shall be provided on harvest boats to protect shellfish from direct exposure to sun, birds and other adverse conditions. The suspended awning shall be a minimum of 12 inches above the shellfish with a maximum height of 7 feet. The suspended awning shall be of such width and length so as to extend to the outer edges of the harvesting or transporting vessel. The provisions of this rule shall apply to all types of harvesting and transporting vessels. Small children in diapers, dogs, cats or other forms of wildlife shall not be permitted on board harvesting vessels while shellfish are being fished or transported. Violation of any of the requirements in this Section shall result in one of the following penalties.

1. Shellfish shall be seized and destroyed at violator's expense.

2. Shellfish shall be bedded on a Department of Wildlife and Fisheries managed seed reservation at violator's expense.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.A.(1) and R.S. 40:5.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1301 (June 2002), repromulgated LR 29:173 (February 2003).

#### §333. General Provisions

##### [formerly paragraph 9:052-3]

A. Shell-stock harvested for delivery to a steam factory for canning and thermal processing shall be landed at the factory within 72 hours from the time harvesting begins. The time harvesting begins and the time of arrival at the factory shall be recorded on the harvester's invoice.

B. If a harvester elects to fish both shell-stock intended for raw consumption and for shucking by a certified dealer on the same day, it shall be his responsibility to properly separate and identify the two types of shell-stock.

C. Except for deliveries made to a shellfish dealer certified by the Office of Public Health for inclusion on the U.S. Food and Drug Administration's Interstate Certified Shellfish Shippers List and located less than 30 minutes from dockside, all land-based deliveries of shell stock shall be made aboard mechanically refrigerated trucks with an internal air temperature of 45 degrees Fahrenheit or less as measured 12 inches from the blower. For shipments by air, an internal meat temperature of 45 degrees Fahrenheit or less shall be maintained at all times. To accomplish this it shall be necessary to pre-chill shellstock to an internal temperature of 40 degrees Fahrenheit or less prior to being packed into insulated containers with frozen gel packs. Land-based deliveries of molluscan shell stock to a steam factory for thermal processing and canning shall be exempt from these refrigeration requirements during the months November through May provided that the shellfish are delivered to the cannery in accordance with the requirements cited in Paragraph A of this Section and the Department of Wildlife and Fisheries, Enforcement Division is notified via their toll free telephone number (800/442-2511) prior to making each delivery.

D. When shell-stock are temporarily off-loaded for any reason, storage must be on pallets or on a well graded paved surface, with direct exposure to the sun limited to no more than 30 minutes.

E.1. A Harvester-Dealer Time/Temperature Log Sheet (see §345) shall be completed by both the harvester and first certified dealer to document compliance with time to refrigeration requirements during the months January through December. Log sheets shall be maintained for a period of one year and made readily available for inspection by agents of the Department of Health and Hospitals, Department of Wildlife and Fisheries and the U.S. Food and Drug Administration. Log sheets for the current and previous 15 days harvest shall be kept aboard the harvest vessel for immediate examination. The requirement for a Harvester-Dealer Time/Temperature Log Sheet will not apply to the West Cove Conditional Management Area or the Lower Calcasieu Lake Conditional Management Area which are located in Cameron Parish. Log Sheet Instructions: A Harvester-Dealer Time/Temperature Log Sheet (see §345 formerly Table 1). Prior to the taking of oysters the harvester shall make the following legible entries:

- a. boat name/number;
- b. harvester name/license number;

- c. harvester signature and date;
- d. harvesting area/lease number (note: if there is a change relating to harvesting area/lease number, the changes must be documented on log sheet);
- e. time harvesting begins;
- f. harvester shall declare whether oysters will be bedded, shucked, relayed or other (explain).

2. Upon completion of the taking of oysters and prior to the leaving of the harvesting site, the harvester shall record the time harvesting ended and the total number of sacks harvested.

3. If the harvester declares sacks of oysters for both shucking and half-shell, those oysters shall be distinguished by placing the appropriate tag on the sack prior to leaving the harvesting area.

4. The certified dealer information shall be completed as follows.

- a. The certified dealer/agent shall legibly document in the appropriate place on the harvester dealer time/temperature log sheet the temperature of the cooler where oysters are being stored at the time unloading of the harvesting vessel begins.

- b. The certified dealer/agent shall legibly document in the appropriate place the time when the last sack or container of oysters taken from the harvest vessel is placed in the cooler. This entry must be made immediately upon removal of the last sack or container of shellfish from the vessel.

- c. The certified dealer/agent shall legibly document in the appropriate place the temperature of the cooler immediately upon removal of the last sack or container of oysters from the harvesting vessel and placement of same under refrigeration.

- d. The certified dealer/agent shall immediately sign and date the log sheet in the appropriate place.

5. Alternate designs for the Harvester-Dealer Time/Temperature Log Sheet depicted in §345 may be submitted for consideration and approval to the Office of Public Health.

#### F. Post-Harvest Processing

1. If a dealer elects to use a process to reduce the levels(s) of one target pathogen or some target pathogens, or all pathogens of public health concern in shellfish, the dealer shall:

- a. have a Hazard Analysis Critical Control Point (HCAAP) plan approved by the authority for the process that ensures that the target pathogen(s) are at safe levels for the at risk population in product that has been subjected to the process:

- i. for processes that target *Vibrio vulnificus*, the level of *Vibrio vulnificus* in product that has been subjected to the process shall be non-detectable (<3 MPN/gram), to be determined by use of the *Vibrio vulnificus* FDA approved EIA procedure of Tamplin, et al, as described in Chapter 9 of the FDA Bacteriological Analytical Manual, 7<sup>th</sup> Edition, 1992;

- ii. for processes that target *Vibrio parahaemolyticus*, the level of *Vibrio parahaemolyticus* in product that has been subjected to the process shall be non-detectable (<1 CFU/0.1 gram);

- iii. for processes that target other pathogens, the level of those pathogens in product that has been subjected to the process shall be below the appropriate FDA action level, or, in the absence of such a level, below the appropriate level as determined by the ISSC;

- iv. the ability of the process to reliably achieve the appropriate reduction in the target pathogen(s) shall be validated by a study approved by the Authority, with the concurrence of FDA;

- v. the HACCP plan shall include:

- (a) process controls to ensure that the end point criteria are met for every lot; and

- (b) a sampling program to periodically verify that the end point criteria are met;

- b. package and label all shellfish in accordance with all requirements of the Model Ordinance. This includes labeling all shellfish which have been subjected to the process but which are not frozen in accordance with applicable shellfish tagging and labeling requirements in Chapter X.05 and X.06 of the National Shellfish Sanitation Program Model Ordinance;

- c. keep records in accordance with Chapter X.07 of the National Shellfish Sanitation Program Model Ordinance.

2. A dealer who meets the requirements of this Section may label product that has been subjected to the reduction process as:

- a. "processed for added safety," if the process reduces the levels of all pathogens of public health concern to safe levels for the at risk population;

- b. "processed to reduce [name of target pathogen(s)] to non-detectable levels," if the process reduces one or more, but not all, pathogens of public health concern to safe levels for the at risk population, and if that level is non-detectable; or

- c. "processed to reduce [name of target pathogen(s)] to non-detectable levels for added safety," if the process reduces one or more, but not all, pathogens of public health concern to safe levels for the at risk population, and if that level is non-detectable; or

- d. a term that describes the type of process applied (e.g., "pasteurized," "individually quick frozen," "pressure treated") may be substituted for the word "processed" in the options contained in §333.F.2.c.

3. For the purpose of refrigeration, if the end product is dead, the product shall be treated as shucked product. If the end product is live, the product shall be treated as shell-stock.

4. A Harvester-Dealer Oyster Tag, blue in color, shall be used for shell-stock that has undergone a *Post-Harvest Treatment Process*.

5. Certification number of the Post-Harvest treatment facility is required on all Post-Harvest treated tags.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.A.(1) and R.S. 40:5.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1309 (June 2002), repromulgated LR 29:173 (February 2003).

0302#027

**RULE**

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

Services for Special Populations  
(LAC 50:XV.Chapters 65 - 87)

Editor's Note: The following Subpart has recently been compiled and is being promulgated for codification purposes.

The table below shows the Rules compiled to create each Section.

Section Number	Rules
§6503	LR 16:973 (November 1990)
§6505	LR 19:1331 (October 1993)
§6703	LR 16:972 (November 1990), LR 16:973(November 1990)
§6705	LR 12:678 (October 1986), LR 19:748 (June 1993), LR 22:106 (February 1996), LR 23:413 (April 1996)
§6901	LR 27:1240 (August 2001), LR 28:2534 (December 2002)
§6903	LR 3:445 (November 1977), LR 8:75 (February 1982), LR 9:415 (June 1983), LR 27:203 (February 2001), LR 27:1240 (August 2001), LR 28:2534 (December 2002)
§7101	LR 16:971 (November 1990), LR 23:413 (April 1996), LR 24:336 (February 1998)
§7301	LR 21:947 (September 1995)
§7303	LR 21:947 (September 1995)
§7305	LR 21:947 (September 1995)
§7307	LR 21:947 (September 1995)
§7309	LR 21:947 (September 1995)
§7311	LR 21:947 (September 1995)
§7313	LR 21:947 (September 1995)
§7315	LR 21:947 (September 1995)
§7317	LR 21:947 (September 1995)
§7319	LR 21:947 (September 1995)
§7321	LR 21:947 (September 1995)
§7323	LR 21:947 (September 1995)
§7701	LR 29:40 (January 2003)
§7703	LR 29:40 (January 2003)
§7705	LR 29:40 (January 2003)
§7707	LR 29:40 (January 2003)
§8501	LR 8:75 (February 1982), LR 22:104 (February 1996)
§8701	LR 27:547 (April 2001)
§8703	LR 22:104 (February 1996)
§8717	LR 24:1300 (July 1998)
§8719	LR 24:1300 (July 1998)
§8721	LR 24:1300 (July 1998)
§8723	LR 24:1300 (July 1998)

**Title 50**

**PUBLIC HEALTH MEDICAL ASSISTANCE**

**Part XV. Services For Special Populations**

**Subpart 5. Early And Periodic Screening, Diagnosis, And Treatment**

**Chapter 65. General Provisions**

**§6501. Reserved.**

**§6503. Service Limit Exemptions**

A. The following limitations on services shall not apply to Medicaid-eligible recipients under the age of 21:

1. inpatient hospitalization stay limits;
2. outpatient hospital emergency room limits;
3. physician office visit limits;
4. physician hospital visit limits;
5. home health annual visit limits;

6. home health daily limits on nursing and nurse aide 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 29:175 (February 2003).

**§6505. Provider Restrictions**

A. The Medical Assistance Program of Louisiana prohibits Medicaid providers from charging a fee to Medicaid beneficiaries for completing referral forms to obtain services from other state or federally funded programs.

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 29:175 (February 2003).

**Chapter 67. KIDMED**

**§6701. Reserved.**

**§6703. Screening Services**

A. Screening services reimbursable under the Early and Periodic Screening, Diagnosis, and Treatment Program to Medicaid-eligible children under 21 years of age shall include:

1. health education (including anticipatory guidance) as a minimum component in addition to a comprehensive health and development history (including assessment of both physical and mental health development);
2. a comprehensive unclothed physical exam;
3. appropriate immunizations according to age and health history; and
4. laboratory tests (including blood lead level assessment appropriate for age and risk factors).

B. Vision and hearing services shall be performed according to distinct periodicity schedules which meet reasonable standards of medical practice, as determined after consultation with recognized medical organizations involved in child health care.

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 29:175 (February 2003).

**§6705. Reimbursement**

A. KIDMED providers are reimbursed \$51 under the Early Periodic Screening Diagnosis and Treatment Program for medical screenings of Medicaid recipients under 21 years of age, which are performed by or under the supervision of a licensed physician, or by a certified physician assistant or registered nurse within their scope of practice permitted by state law.

B. Reimbursement for follow-up medical screening services is set for the following procedure codes.

Procedure Codes	Description	Rate
X0180	Consult EPSDT-New Dx by Nurse	\$13.71
X0181	Consult EPSDT-New Dx by Nutrition	\$13.71
X0182	Consult EPSDT-New Dx by Social Worker	\$13.71
X0187	Consult EPSDT-Scm Dx by Nurse	\$13.71
X0188	Consult EPSDT-Scm Dx by Nutrition	\$13.71
X0189	Consult EPSDT-Scm Dx by Social Worker	\$13.71

C. Timely Filing. KIDMED medical screening claims for Medicaid beneficiaries between the ages of four months and 20 years must be received by Louisiana KIDMED within 60 calendar days of the date of service in order to be processed and the provider reimbursed by Medicaid of Louisiana. Claims not received by Louisiana KIDMED within this time limit may be denied.

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 29:175 (February 2003).

**Chapter 69. Dental**

**§6901. Provider Requirements**

A. There are requirements for unique identification information to be processed into all new removable dental prosthetics reimbursed under the Medicaid Program. Into the acrylic base of each new removable dental prosthesis, EPSDT Dental Program providers shall process the first four letters of the recipients last name, first initial, month and year, and the last five digits of the Medicaid provider number. This criteria applies to the following services:

1. full upper denture;
2. full lower denture;
3. immediate full upper denture;
4. immediate full lower denture;
5. upper acrylic partial w/clasp;
6. lower acrylic partial w/clasp;
7. upper cast partial/acrylic; and
8. lower cast partial/acrylic.

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 29:176 (February 2003).

**§6903. Reimbursement**

[Editor's Note: refer to EPSDT Manual for complete Maximum Fee Schedule of Authorized Services.]

A. Reimbursement fees are increased for certain designated procedure codes to the following rates.

Procedure Code	Procedure	Rate
00120	Periodic Oral Exam	\$ 16
00220	Radiograph – Periapical – First Film	\$ 6
00230	Radiograph – Periapical – Each Additional Film	\$ 5
00272	Radiographs – Bitewing – Two Films	\$ 12
01110	Adult Prophylaxis	\$ 27
01120	Child Prophylaxis	\$ 12
01351	Sealant – Per Tooth	\$ 16
02110	Amalgam - One Surface Deciduous	\$ 35
02120	Amalgam – Two Surface, Primary	\$ 50
02130	Amalgam - Three Surface, Primary	\$ 60
02140	Amalgam - One Surface, Permanent	\$ 42
02150	Amalgam - Two Surface, Permanent	\$ 53
02160	Amalgam - Three Surface, Permanent	\$ 64
02330	Resin – One Surface	\$ 45
02331	Resin – Two Surface	\$ 55
02332	Resin – Three Surface	\$ 65
02930	Stainless Steel Crown, Primary	\$ 80
02931	Stainless Steel Crown, Permanent	\$ 80
02950	Crown Buildup	\$ 85
03220	Pulpotomy – Deciduous Tooth Only	\$ 40
03310	Root Canal – One Canal	\$212
03320	Root Canal – Two Canals	\$241
03330	Root Canal – Three Canals	\$306

05110	Full Upper Denture	\$470
05120	Full Lower Denture	\$470
05130	Immediate Full Upper Denture	\$470
05140	Immediate Full Lower Denture	\$470
05211	Upper Acrylic Partial w/Clasp	\$425
05212	Lower Acrylic Partial w/Clasp	\$425
05750	Reline Full Upper Denture-Lab Reline	\$200
05751	Reline Full Lower Denture-Lab Reline	\$200
05760	Reline Upper Partial Denture-Lab Reline	\$175
05761	Reline Lower Partial Denture-Lab Reline	\$175
07110	Simple Extraction	\$ 38
07210	Surgical Extraction	\$ 57

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 29:176 (February 2003).

**Chapter 71. Rehabilitation Services**

**§7101. Reimbursement**

A. Medically necessary physical therapy, occupational therapy, and speech therapy required for maintenance of optimum functional levels shall be reimbursed under the EPSDT Health Services Program when such services are rendered to Medicaid-eligible recipients. Prior authorization for these services shall be required and a determination of medical necessity shall be made by the Bureau of Health Services Financing prior to approval.

B. The following reimbursement rates for rehabilitation services are provided.

Procedure	Rate
Occupational therapy evaluation, re-evaluation	\$51.00
Occupational therapy orthotics training-each 15 minutes	\$ 8.00
Therapeutic activity-15 minutes	\$ 8.00
Occupational therapy, physical performance test-15 minutes	\$ 8.00
Physical therapy evaluation	\$54.00
Physical therapy therapeutic procedure-15 minutes	\$10.00
Physical therapy neuromuscular re-educ.-15 minutes	\$10.00
Physical therapy gait training- 1/2 hour	\$20.00
Physical therapy physical med- 1/2hour	\$10.00
Combo. of physical med. init.- 1/2hour	\$20.00
Physical therapy+ 15 minutes	\$30.00
Application of modality-15 minutes	\$10.00
Individual speech therapy-1 hour	\$30.00
Individual speech therapy- 1/2 hour	\$15.00
Individual speech therapy-20 minutes	\$10.00
Individual speech therapy-15 minutes	\$ 7.50
Group speech therapy-1 hour	\$30.00
Group speech therapy- 1/2 hour	\$15.00
Group speech therapy-20 minutes	\$10.00
Group speech therapy-15 minutes	\$ 7.50

C. All school boards that participate in Medicaid as EPSDT health services providers must submit a signed school system certification of understanding (PE-50 EPSDT provider supplement agreement AC@) in order to receive the new reimbursement rates for these services. The new reimbursement rates will not be activated until a completed PE-50 EPSDT provider supplement agreement AC@ form has been received from all of the school boards enrolled as EPSDT health services providers.

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 29:176 (February 2003).

### **Chapter 73. Personal Care Services**

#### **§7301. Introduction**

*Early Periodic Screening, Diagnosis and Treatment Personal Care ServicesC*

1. tasks which are medically necessary as they pertain to an EPSDT eligible's physical requirements when physical limitations due to illness or injury necessitate assistance with eating, bathing, dressing, personal hygiene, bladder or bowel requirements;

2. services which prevent institutionalization and enable the recipient to be treated on an outpatient basis rather than an inpatient basis to the extent that services on an outpatient basis are projected to be more cost effective than services provided on an inpatient basis.

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 29:177 (February 2003).

#### **§7303. Services**

A. The recipient shall be allowed the freedom of choice to select an EPSDT PCS provider.

B. EPSDT personal care services include:

1. basic personal care, toileting and grooming activities, including bathing, care of the hair, and assistance with clothing;

2. assistance with bladder and/or bowel requirements or problems, including helping the client to and from the bathroom or assisting the client with bedpan routines, but excluding catheterization;

3. assistance with eating and food, nutrition, and diet activities, including preparation of meals for the recipient only;

4. performance of incidental household services essential to the client's health and comfort in her/his home. Examples of such activities are changing and washing bed linens and rearranging furniture to enable the recipient to move about more easily in his/her own home;

5. accompanying not transporting the recipient to and from his/her physician and/or medical facility for necessary medical services;

6. EPSDT personal care services are not to be provided to meet childcare needs nor as a substitute for the parent in the absence of the parent;

7. personal care services (PCS) are not allowable for the purpose of providing respite care to the primary caregiver;

8. EPSDT personal care services provided in an educational setting shall not be reimbursed if these services duplicate services that are provided by or must be provided by the Department of Education;

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 29:177 (February 2003).

#### **§7305. Recipient Qualifications**

A. Conditions for Provision of EPSDT Personal Care Services

1. The person must be a categorically-eligible Medicaid recipient birth through 20 years of age (EPSDT eligible) and have been prescribed EPSDT PCS as medically necessary by a physician. To establish medical necessity the parent or guardian must be physically unable to provide personal care services to the child.

2. An EPSDT-eligible must meet medical necessity criteria as established by the Bureau of Health Services Financing (BHSF) which shall be based on criteria equivalent to at least an Intermediate Care Facility I (ICF-1) level of care; and be impaired in at least two of daily living tasks, as determined by BHSF.

3. When determining whether a recipient qualifies for EPSDT PCS, consideration must be given not only to the type of services needed, but also the availability of family members and/or friends who can aid in providing such care. EPSDT PCS are not to function as a substitute for childcare arrangements.

4. EPSDT personal care services must be prescribed by the recipient's attending physician initially and every 180 days thereafter (or rolling six months), and when changes in the Plan of Care occur. The physician should only sign a fully completed plan of care which shall be acceptable for submission to BHSF only after the physician signs and dates the form. The physician's signature must be an original signature and not a rubber stamp.

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 29:177 (February 2003).

#### **§7307. Prior Authorization**

A. EPSDT personal care services must be prior authorized by the BHSF or its designee. A face-to-face medical assessment shall be completed by the physician. The recipient's choice of a personal care services provider may assist the physician in developing a plan of care which shall be submitted by the physician for review/approval by BHSF or its designee. The plan of care must specify:

1. the personal care service(s) to be provided (i.e., activities of daily living for which assistance is needed); and

2. the minimum and maximum frequency and the minimum duration of each of these services.

B. Dates of care not included in the plan of care or provided prior to approval of the plan of care by BHSF are not reimbursable. The recipient's attending physician shall review and/or modify the plan of care and sign off on it prior to the plan of care being submitted to BHSF. A copy of the physician's prescription or referral for EPSDT PCA services must be retained in the personal care services provider's files.

C. A new plan of care must be submitted at least every 180 days (rolling six months) with approval by the recipient's attending physician. The plan of care must reassess the patient's need for EPSDT PCS services, including any updates to information which has changed since the previous assessment was conducted (with explanation of when and why the change(s) occurred).

D. Amendments or changes in the plan of care should be submitted as they occur and shall be treated as a new plan of care which begins a new six-month service period. Revisions

of the plan of care may be necessary because of changes that occur in the patient's medical condition which warrant an additional type of service, an increase in frequency of service or an increase in duration of service. Documentation for a revised plan of care is the same as for a new plan of care. Both a new "start date" and "reassessment date" must be established at the time of reassessment. The provider may not initiate services or changes in services under the plan of care prior to approval by BHSF.

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 29:177 (February 2003).

#### **§7309. Place of Service**

A. EPSDT personal care services must be provided in the recipient's home or in another location if medically necessary to be outside of the recipient's home. The recipient's home is defined as the recipient's own dwelling:

1. an apartment;
2. a custodial relative's home;
3. a boarding home;
4. a foster home;
5. a substitute family home; or
6. a supervised living facility.

a. Institutions such as a hospital, institution for mental diseases, nursing facility, intermediate care facility for the mentally retarded or residential treatment center are not considered a recipient's home.

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 29:178 (February 2003).

#### **§7311. Service Limits**

A. EPSDT personal care services are limited to a maximum of four hours per day per recipient as prescribed by the recipient's attending physician and prior authorized by the BHSF or its designee. Extensions of this limit may be requested and granted if determined medically necessary by the Bureau of Health Services Financing or its designee.

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 29:178 (February 2003).

#### **§7313. Standards for Payment**

A. EPSDT personal care services may be provided only to EPSDT eligibles and only by a staff member of a licensed personal care services agency enrolled as a Medicaid provider. A copy of the current PCS license must accompany the Medicaid application for enrollment as a PCS provider and additional copies of current licenses shall be submitted to Provider Enrollment thereafter as they are issued, for inclusion in the enrollment record. The provider's record must always include a current PCS license at all times. Enrollment is limited to providers in Louisiana and out-of-state providers only in trade areas of states bordering Louisiana (Arkansas, Mississippi, and Texas).

B. The unit of service billed by EPSDT PCS providers shall be one-half hour, exclusive of travel time to arrive at the recipient's home. The entire 30 minutes of the unit of time shall have been spent providing services in order to bill a unit.

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 29:178 (February 2003).

#### **§7315. Provider Qualifications**

A. Personal care services must be provided by a licensed personal care services agency which is duly enrolled as a Medicaid provider. Staff assigned to provide personal care services shall not be a member of the recipient's immediate family. (Immediate family includes father, mother, sister, brother, spouse, child, grandparent, in-law, or any individual acting as parent or guardian of the recipient). Personal care services may be provided by a person of a degree of relationship to the recipient other than immediate family, if the relative is not living in the recipient's home, or, if she/he is living in the recipient's home solely because her/his presence in the home is necessitated by the amount of care required by the recipient.

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 29:178 (February 2003).

#### **§7317. Provider Responsibilities**

A. The PCS agency is responsible for ensuring that all personal care individuals providing services meet all training requirements applicable under state law and regulations. The personal care services staff member must successfully complete the applicable examination for certification for PCS. Documentation of the personal care staff member's completion of all applicable requirements shall be maintained by the personal care services provider.

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 29:178 (February 2003).

#### **§7319. Agency Responsibilities**

A. Documentation

1. Documentation for EPSDT PCS provided shall include at a minimum, the following:

- a. documentation of approval of services by BHSF or its designee;
- b. daily notes by PCS provider denoting date of service, services provided (checklist is adequate);
- c. total number of hours worked;
- d. time period worked;
- e. condition of recipient;
- f. service provision difficulties;
- g. justification for not providing scheduled services;

and

- h. any other pertinent information.
2. There must be a clear audit trail between:
- a. the prescribing physician;
  - b. the personal care services provider agency;
  - c. the person providing the personal care services to the recipient; and
  - d. the services provided and reimbursed by Medicaid.

B. Agencies providing EPSDT PCS shall conform to all applicable Medicaid regulations as well as all applicable laws and regulations by federal, state, and local governmental entities regarding:

1. wages;
2. working conditions;
3. benefits;
4. Social Security deductions;
5. OSHA requirements;
6. liability insurance;
7. Workman's Compensation;
8. occupational licenses; etc.

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 29:178 (February 2003).

### §7321. Reimbursement

A. EPSDT PCS shall be paid the lesser of billed charges or the maximum unit rate set by BHSF. This maximum rate was set based on the federal minimum hourly wage as of April 1, 1995, plus 22 percent for fringe benefits (insurance, Workmen's Compensation, unemployment, etc.), plus 24 percent for agency administrative and operating costs based on BHSF administrative and operating costs; plus a profit factor of 4 percent of the above calculated rate. This rate will be adjusted whenever the federal minimum wage is adjusted.

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 29:179 (February 2003).

### §7323. Nonreimbursable Services

A. The following services are not appropriate for personal care and are not reimbursable as EPSDT personal care services:

1. insertion and sterile irrigation of catheters (although changing of a catheter bag is allowable);
2. irrigation of any body cavities which require sterile procedures;
3. application of dressing, involving prescription medication and aseptic techniques, including care of mild, moderate or severe skin problems;
4. administration of injections of fluid into veins, muscles or skin;
5. administration of medicine (as opposed to assisting with self-administered medication for EPSDT eligibles over 18 years of age);
6. cleaning of floor and furniture in an area not occupied by the recipient.
  - a. Example: cleaning entire living area if the recipient occupies only one room;
7. laundry, other than that incidental to the care of the recipient.
  - a. Example: laundering of clothing and bedding for the entire household, as opposed to simple laundering of the recipient's clothing or bedding;
8. shopping for groceries or household items other than items required specifically for the health and maintenance of the recipient, and not for items used by the rest of the household;
9. skilled nursing services, as defined in the state Nurse Practices Act, including medical observation, recording of vital signs, teaching of diet and/or administration of medications/injections, or other delegated nursing tasks;

10. teaching a family member or friend how to care for a patient who requires frequent changes of clothing or linens due to total or partial incontinence for which no bowel or bladder training program for the patient is possible;

11. specialized nursing procedures such as:
  - a. insertion of nasogastric feeding tube;
  - b. in-dwelling catheter;
  - c. tracheostomy care;
  - d. colostomy care;
  - e. ileostomy care;
  - f. venipuncture; and/or
  - g. injections;

12. rehabilitative services such as those administered by a physical therapist;

13. teaching a family member or friend techniques for providing specific care;

14. palliative skin care with medicated creams and ointments and/or required routine changes of surgical dressings and/or dressing changes due to chronic conditions;

15. teaching of signs and symptoms of disease process, diet and medications of any new or exacerbated disease process;

16. specialized aide procedures such as:

- a. rehabilitation of the patient (exercise or performance of simple procedures as an extension of physical therapy services);
- b. measuring/recording patient vital signs (temperature, pulse, respirations and/or blood pressure, etc.) or intake/output of fluids;

c. specimen collection;

d. special procedures such as:

- i. nonsterile dressings;
- ii. special skin care (nonmedicated);
- iii. decubitus ulcers;
- iv. cast care;
- v. assisting with ostomy care;
- vi. assisting with catheter care;
- vii. testing urine for sugar and acetone;
- viii. breathing exercises;
- ix. weight measurement;
- x. enemas;

17. home IV therapy;

18. custodial care or provision of only instrumental activities of daily living tasks or provision of only one activity of daily living task;

19. occupational therapy;

20. speech pathology services;

21. audiology services;

22. respiratory therapy;

23. personal comfort items;

24. durable medical equipment;

25. oxygen;

26. orthotic appliances or prosthetic devices;

27. drugs provided through the Louisiana Medicaid pharmacy program;

28. laboratory services; and

29. social worker visits.

B. EPSDT personal care services provided to meet childcare needs or as a substitute for the parent in the absence of the parent shall not be reimbursed.

C. EPSDT personal care services provided for the purpose of providing respite to the primary caregiver shall not be reimbursed.

D. EPSDT personal care services provided in an education setting shall not be reimbursed if these services duplicate services that are provided by or must be provided by the Department of Education.

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 29:179 (February 2003).

## **Chapter 77. Psychological and Behavioral Services**

### **§7701. Recipient Criteria**

A. In order to be eligible for services, a Medicaid recipient must be under the age of 21, be a member of the Chisholm lawsuit class and meet one of the following criteria:

1. have a diagnosis of Pervasive Developmental Disorder (PDD) according to a clinically appropriate diagnostic screening tool or other assessment; or

2. have an impaired functional status that can be addressed by psychological treatment on an instrument or other assessment of individual functioning that is appropriate for individuals with developmental disabilities; or

3. engage in behaviors so disruptive or dangerous that harm to others is likely (e.g., hurts or attempts to hurt others, such as hitting, biting, throwing things at others, using or threatening to use a weapon or dangerous object). Behaviors must be recurrent, not a single instance; or

4. engage in behaviors that have resulted in actual physical harm to the child himself/herself, such as bruising, lacerations or other tissue damage, or would result in physical harm if the child was not physically restrained. Behaviors must be recurrent, not a single instance. Behaviors are not the result of clinically suicidal intent.

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 29:180 (February 2003).

### **§7703. Covered Services**

A. The following services, as identified by the accompanying Current Physicians' Terminology (CPT) procedure codes, are covered under EPSDT psychological and behavioral services:

1. necessary evaluations CCPT codes 90801 and 96100;

2. family education and training CCPT code 90847;

3. clinical interventions CCPT codes 90804 and 90806; and

4. periodic follow-up CCPT codes 90847, 90804, and 90806.

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 29:180 (February 2003).

### **§7705. Provider Qualifications**

A. In order to receive reimbursement as a Medicaid provider of EPSDT psychological and behavioral services, a psychologist must provide verification that he or she meets all of the following qualifications:

1. have a Ph.D;

2. be licensed to practice within the state of Louisiana; and

3. be professionally qualified to treat children, or to treat children and/or adults with PDD, including autism and/or developmental disorders.

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 29:180 (February 2003).

## **§7707. Reimbursement Methodology**

A. Reimbursement for EPSDT psychological and behavioral services shall be based on 70 percent of the allowable rate on the 2002 Medicare Fee Schedule for Area 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 29:180 (February 2003).

## **Chapter 85. Durable Medical Equipment—Eyeglasses**

### **§8501. Eye Care**

A. EPSDT eyeglasses are limited to three per year with provision for extending if medically necessary.

B. Reimbursement. Reimbursement fees are reduced 15 percent for providers of the following Procedure Codes:

1. X6366 - X6368;

2. X6370 - X6376;

3. X9066 - X9068; and

4. X0089.

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 29:180 (February 2003).

## **Chapter 87. Durable Medical Equipment—Hearing Devices**

### **Subchapter A. Hearing Aids**

#### **§8701. Prior Authorization**

A. Hearing aids and related services are only covered for EPSDT recipients up to the age of 21. Approval is granted only when there is significant hearing loss as documented by audiometric or electrophysiologic data from a licensed audiologist and medical clearance and prescription from an ear specialist (otologist).

B. The audiologist must furnish a report, including an audiogram (if applicable) and all test results, indicating the degree and type of hearing loss. A hearing loss greater than 20 decibels with an average hearing level in the range 250-2000 Hz is considered significant. Additional required medical and social information shall include:

1. the recipient's age;

2. expected benefit of the hearing aid;

3. previous and current use of a hearing aid;

4. additional disabilities expected to influence the use of a hearing aid; and

5. referrals made on the recipient's behalf to early intervention programs, special education programs or other rehabilitative services.

C. Hearing aid repairs, batteries, and ear molds shall not require prior authorization. Limitations on the purchase of ear molds are established as follows:

1. one ear mold will be allowed every 90 days for EPSDT recipients from birth through age 4; and

2. one ear mold per year will be allowed for EPSDT recipients from age 5 up to 21.

**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 29:180 (February 2003).

### **§8703. Reimbursement**

A. EPSDT reimbursement is reduced 15 percent for providers for the following Procedure Codes.

1. X-1092;
2. V5030;
3. V5040;
4. V5050;
5. V5060;
6. V5070;
7. V5080;
8. V5100;
9. V5120;
10. V5130;
11. V5140;
12. V5150;
13. V5170;
14. V5180;
15. V5190;
16. V5210;
17. V5220;
18. V5230; and
19. V5299.

**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 29:181 (February 2003).

### **Subchapter B. Cochlear Device**

#### **§8717. Eligibility and Prior Authorization**

A. Coverage is available for cochlear implantation for recipients 2 years of age through 20 years of age with profound bilateral sensorineural hearing loss.

B. Prior Authorization. All implantations (CPT Code 69930) must be prior authorized. The request to perform surgery shall come from the cochlear implant team (made up of professionals as described in §8721 who assessed the recipient's hearing.

**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 29:181 (February 2003).

#### **§8719. Recipient Criteria**

A. Recipient Criteria (General). The following criteria apply to all candidates. Recipient must:

1. have a profound bilateral sensorineural hearing loss which is a pure tone average of 1,000, 2,000, and 4,000 Hz of 90 dB HL or greater;
2. be a profoundly deaf child, age 2 years or older or be a post linguistically deafened adult through the age of 20 years;
3. receive no significant benefit from hearing aids as validated by the cochlear implant team;
4. have high motivation to be part of the hearing community as validated by the cochlear implant team;

5. have appropriate expectation;

6. have had radiologic studies that demonstrate no intracranial anomalies or malformations which would contraindicate implantation of the receiver-stimulator or the electrode array;

7. have no medical contraindications for undergoing implant surgery or post-implant rehabilitation; and

8. show that he and his family are well-motivated, possess appropriate post-implant expectations and are prepared and willing to participate in and cooperate with pre and post implant assessment and rehabilitation programs as recommended by the implant team and in conjunction with Federal Drug Administration (FDA) guidelines.

#### **B. Recipient Criteria (Specific)**

1. Children 2 Years through 9 Years. In addition to documentation that candidates meet general criteria, the requestor shall provide documentation that:

a. profound-to-total bilateral sensorineural hearing loss which is a pure tone average of 1,000, 2,000, and 4,000 Hz of 90dB HL or greater;

b. appropriate tests were administered and no significant benefit from a hearing aid was obtained in the best aided condition as measured by age-appropriate speech perception materials; and

c. no responses were obtained to Auditory Brainstem Response, Otoacoustic Emission testing, or any other special testing that would be required to determine that the hearing loss is valid and severe enough to qualify for cochlear implantation.

2. Children 10 Years through 17 Years. In addition to documentation that candidates meet general criteria, the requestor shall provide documentation that:

a. profound-to-total bilateral sensorineural hearing loss which is a pure tone average of 1,000, 2,000, and 4,000 Hz of 90dB HL or greater;

b. appropriate tests were administered and no significant benefit from a hearing aid was obtained in the best aided condition as measured by age and language-appropriate speech perception materials;

c. no responses were obtained to Auditory Brainstem Evoked Response, Otacoustic Emission Testing, or any other special testing that would be required to determine that the hearing loss is valid and severe enough to qualify for cochlear implantation;

d. the candidate has received consistent exposure to effective auditory or phonological stimulation in conjunction with oral method of education and auditory training;

e. the candidate utilizes spoken language as his primary mode of communication through one of the following:

i. an oral/aural (re)habilitational program; or  
ii. a total communications educational program with significant oral/aural; and

f. the individual has at least six months' experience with a hearing aid or vibrotactile device except in the case of meningitis (in which case the six-month period will be reduced to three months).

3. Adults 18 Years through 20 Years. In addition to documentation that candidates meet general criteria, the requestor shall provide documentation that:

a. the candidate for implant is post linguistically deafened with severe to profound bilateral sensorineural hearing loss which is a pure tone average of 1,000, 2,000, and 4,000 Hz of 90dB HL or greater;

b. no significant benefit from a hearing aid was obtained in the best aided condition for speech/sentence recognition material;

c. no responses were obtained to Auditory Brainstem Response, Otoacoustic Emission testing, or any other special testing that would be required to determine that the hearing loss is valid and severe enough to qualify for cochlear implantation;

d. the candidate has received consistent exposure to effective auditory or phonological stimulation or auditory communication;

e. the candidate utilizes spoken language as his primary mode of communication through one of the following:

i. an oral/aural (re)habilitation program; or

ii. a total communications educational program with significant oral/aural training; and

f. the candidate has had at least six months' experience with hearing aids or vibrotactile device except in the case of meningitis (in which case the six-month period will be reduced to three months).

4. Multi-Handicapped Children. Criteria appropriate for the child's age group are applied.

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 29:181 (February 2003).

#### **§8721. Cochlear Implant Team**

A. Team Minimum Requirements. The implant team shall be composed of the following members at a minimum:

1. physician/otologist;
2. audiologist;
3. speech/language pathologist;
4. psychiatrist; and
5. educator of the deaf with experience in oral/auditory instruction.

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 29:182 (February 2003).

#### **§8723. Expenses Covered/Noncovered**

A. Covered Expenses. The following expenses related to the maintenance of the cochlear device will be covered if prior authorized:

1. all costs for upgrades and repairs to the component parts of the device; and

2. all costs for cords and batteries.

B. Noncovered Expenses. The following expenses related to the maintenance of the cochlear device are the responsibility of either the recipient or his family or care giver(s):

1. all costs for service contracts and/or extended warranties;

2. all costs for insurance to protect against loss and theft.

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 29:182 (February 2003).

0302#028

## **RULE**

### **Department of Health and Hospitals Radiologic Technology Board of Examiners**

Informal Proceeding/Consent Order and Licensure  
(LAC 46:LXVI.Chapters 7 and 11)

In accordance with applicable provisions of the Administrative Procedure Act, R.S. 49:950, et. seq., the Department of Health and Hospitals, Radiologic Technology Board of Examiners, pursuant to the authority vested in the board by R.S. 37:3207, has amended LAC 46:LXVI.Chapter 7, Informal Proceeding/Consent Order and LAC 46:LXVI.Chapter 11, Licensure by Examination, Application for Examination and Modifications to Submitted Information.

#### **Title 46**

### **PROFESSIONAL AND OCCUPATIONAL STANDARDS**

#### **Part LXVI. Radiologic Technologists**

#### **Chapter 7. Actions before the Board**

#### **§705. Informal Proceeding/Consent Order**

##### **A. Informal Proceeding**

1. The allegation(s) against a licensee may be concluded through informal proceedings without the necessity of a formal hearing if the board chair and/or designee does not deem the allegation(s) to be sufficiently serious to necessitate the convening of a formal hearing. The informal resolution of the allegation(s) may be accomplished through correspondence between the executive director and the licensee; by conference of the executive director and the licensee; or by consent order between the licensee and the board.

2. The executive director shall be authorized by the board to propose a recommended consent order to the licensee which would outline the details of disciplinary action between the parties as a consequence of the allegations.

B. The proposed consent order offered by the board through its executive director shall not be deemed as absolute and final until such time as the board ratifies the provisions of the said order.

C. A consent order between the board and the licensee or prospective licensee shall describe the disciplinary action which will be taken. The consent order shall be signed by the licensee or prospective licensee, the chairman and the vice-chairman of the board.

D. If a matter is not concluded by informal proceedings and a formal hearing is deemed necessary by the board chair and/or designee, a formal hearing shall be initiated pursuant to the provisions of §707.A, et seq.

E. If, at any point during investigation or during informal/formal proceedings as described herein, the board finds that public health, safety, or welfare imperatively requires emergency actions, the board is hereby authorized to immediately suspend the license of the licensee during the

course of the proceedings. If the board decides to institute a formal hearing, the hearing shall be instituted and conducted at the board's next regularly scheduled board meeting.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:3207(6).

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Radiologic Technology Board of Examiners, LR 11:869 (September 1985), amended by the Department of Health and Hospitals, Radiologic Technology Board of Examiners, LR 19:1433 (November 1993), LR 29:182 (February 2003).

**Chapter 11. Licensure**

**§1109. Licensure by Examination**

A. Pursuant to R.S. 37:3207 and 3209, an application for licensure shall be required to pass the written examination of the Louisiana State Radiologic Technology Board of Examiners which shall be the examination constructed by the American Registry of Radiologic Technologists (ARRT) for each category of radiologic technology, except as otherwise provided above.

1. To be eligible for examination by the board, an applicant shall possess all qualification for licensure prescribed by R.S. 37:3208, provided, however, that an applicant who has completed or prior to examination will have completed his approved course of study, shall be deemed eligible for examination upon submission to the board of a letter from the program director of a board approved school or college of radiologic technology certifying that the applicant will complete or has completed his/her radiologic technology course of study prior to examination and specifying the date of completion.

B. The board establishes as the passing criterion on the ARRT written examination the passing score as established by the ARRT.

C. The eligible applicant must request and submit application to the ARRT for licensure examination.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:3207, R.S. 37:3208 and R.S. 37:3209.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Radiologic Technology Board of Examiners, LR 11:873 (September 1985), amended by the Department of Health and Hospitals, Radiologic Technology Board of Examiners, LR 29:183 (February 2003).

**§1111. Application for Initial Licensure/Temporary Work Permit by Examination**

A. Requests for application forms shall be requested and submitted to the state board.

B. Pursuant to R.S. 37:3210(C), a temporary work permit shall be issued one time only and for the time listed on the temporary work permit.

**AUTHORITY NOTE:** Promulgated in accordance with RS. 37:3207 and R.S. 37:3209.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Radiologic Technology Board of Examiners, LR 11:873 (September 1985), amended by the Department of Health and Hospitals, Radiologic Technology Board of Examiners, LR 29:183 (February 2003).

**§1115. Modifications to Submitted Information**

A. Address or Name Changes. If a licensure/temporary work permit applicant must change the mailing address which was entered on the application form, the examinee must inform the board in writing. Changes in the examinee's name are to be handled in the same manner, but must be accompanied by documentary evidence of the change (e.g.,

copy of marriage certificate, legal name change form, etc.). If an admission ticket fails to reach a candidate due to a change of address that was not relayed to the board, the candidate may not be allowed into the examination center. No address or name changes will be processed at the examination center. All changes must be sent directly to the board by the candidate.

B. Postponements. Applicants are expected to appear for examination as assigned. When circumstances make it impossible for an examinee to appear for examination on the date assigned, the examinee may request rescheduling. Requests for rescheduling must be made in writing and submitted to the ARRT as per their rules and regulations.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:3207.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Radiologic Technology Board of Examiners, LR 11:873 (September 1985), amended by the Department of Health and Hospitals, Radiologic Technology Board of Examiners, LR 29:183 (February 2003).

Richard S. Whitehorn  
Executive Director

0302#040

**RULE**

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

NFPA Codes (LAC 55:V.103)

Editor's Note: This Rule is being repromulgated for corrective purposes. The original Rule may be viewed in the December 20, 2001 edition of the *Louisiana Register* on pages 2257-2259.

In accordance with the provisions of R.S.49:950, et seq. and R.S. 40:1563.F, relative to the authority of the State Fire Marshal to promulgate and enforce Rules, the Office of the State Fire Marshal amends the following Rule.

**Title 55**

**PUBLIC SAFETY**

**Part V. Fire Protection**

**Chapter 1. Preliminary Provisions**

**' 103. General Provisions**

A. It shall be the policy of the state fire marshal that in all instances or specifications provided in the statutes or in the codes referenced by the statutes, or by any specific references in administrative rulings by the state fire marshal, that the National Fire Codes published by the National Fire Protection Association and the Standard Building Code shall be used as the references and standards for determinations by the state fire marshal as follows.

NFPA 1	1997 Edition	Fire Prevention Code
NFPA 10	1998 Edition	Standard for Portable Fire Extinguishers
NFPA 11	1998 Edition	Standard for Low-Expansion Foam
NFPA 12	2000 Edition	Standard on Carbon Dioxide Extinguishing Systems
NFPA 12A	1997 Edition	Standard on Halon 1301 Fire Extinguishing Systems
NFPA 13	1999 Edition	Standard for the Installation of Sprinkler Systems

NFPA 13D	1999 Edition	Standard for the Installation of Sprinkler Systems in One- and Two-Family Dwellings and Manufactured Homes
NFPA 13R	1999 Edition	Standard for the Installation of Sprinkler Systems in Residential Occupancies up to and Including Four Stories in Height
NFPA 14	2000 Edition	Standard for the Installation of Standpipe and Hose Systems
NFPA 15	1996 Edition	Standard for Water Spray Fixed Systems for Fire Protection
NFPA 16	1999 Edition	Standard for the Installation of Deluge Foam-Water Sprinkler Systems
NFPA 17	1998 Edition	Standard for Dry Chemical Extinguishing Systems
NFPA 17A	1998 Edition	Standard for Wet Chemical Extinguishing Systems
NFPA 18	1995 Edition	Standard on Wetting Agents
NFPA 20	1999 Edition	Standard for the Installation of Centrifugal Pumps
NFPA 24	1995 Edition	Standard for the Installation of Private Fire Service Mains and Their Appurtenances
NFPA 25	1998 Edition	Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems
NFPA 30	1996 Edition	Flammable and Combustible Liquids Code
NFPA 30A	1996 Edition	Automotive and Marine Service Station Code
NFPA 30B	1998 Edition	Code for the Manufacture and Storage of Aerosol Products
NFPA 31	1997 Edition	Standard for the Installation of Oil-Burning Equipment
NFPA 32	1996 Edition	Standard for Dry Cleaning Plants
NFPA 33	1995 Edition	Standard for Spray Application Using Flammable or Combustible Materials
NFPA 34	1995 Edition	Standard for Dipping and Coating Processed Using Flammable or Combustible Liquids
NFPA 37	1998 Edition	Standard for the Installation and Use of Stationary Combustion Engines and Gas Turbines
NFPA 42	1997 Edition	Code for the Storage of Pyroxylin Plastic
NFPA 45	1996 Edition	Standard on Fire Protection for Laboratories Using Chemicals
NFPA 49	1994 Edition	Hazardous Chemicals Data
NFPA 50	1996 Edition	Standard for Bulk Oxygen Systems at Consumer Sites
NFPA 50A	1999 Edition	Standard for Gaseous Hydrogen Systems at Consumer Sites
NFPA 50B	1998 Edition	Standard for Liquefied Hydrogen Systems at Consumer Sites
NFPA 51	1997 Edition	Standards for the Design and Installation of Oxygen-Fuel Gas Systems for Welding, Cutting, and Allied Processes
NFPA 52	1998 Edition	Standard for Compressed Natural Gas (CNG) Vehicular Fuel Systems
NFPA 53	1999 Edition	Guide on Fire Hazards in Oxygen Enriched Atmospheres
NFPA 54	1999 Edition	National Fuel Gas Code
NFPA 55	1998 Edition	Standard for the Storage, Use, and Handling of Compressed and Liquefied Gases in Portable Cylinders
NFPA 57	1999 Edition	Standard for Liquefied Natural Gas (LNG) Vehicular Fuel Systems
NFPA 58	1998 Edition	Standard for the Storage and Handling of Liquefied Petroleum Gases
NFPA 59A	1996 Edition	Standard for the production, Storage, and Handling of Liquefied Natural Gas (LNG)

NFPA 61	1999 Edition	Standard for the Production, Storage, and Handling of Liquefied Natural Gas (LNG)
NFPA 68	1998 Edition	Guide for Venting of Deflagrations
NFPA 69	1997 Edition	Standard on Explosion Prevention Systems
NFPA 70	1999 Edition	National Electrical Code
NFPA 72	1999 Edition	National Fire Alarm Code
NFPA 75	1999 Edition	Standard for Protection of Electronic Computer/Data Processing Equipment
NFPA 80	1999 Edition	Standard for Fire Doors and Fire Windows
NFPA 82	1999 Edition	Standard on Incinerators and Waste and Linen Handling Systems and Equipment
NFPA 88A	1998 Edition	Standard for Parking Structures
NFPA 88B	1999 Edition	Standard for Repair Garages
NFPA 90A	1999 Edition	Standard for the Installation of Air Conditioning and Ventilating Systems
NFPA 90B	1999 Edition	Standard for the Installation of Warm Air Heating and Air Conditioning Systems
NFPA 92A	1996 Edition	Standard for Installation of Air Conditioning and Ventilation Systems
NFPA 92B	1995 Edition	Guide for Smoke Management in Malls, Atria, and Large Areas
NFPA 96	1998 Edition	Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations
NFPA 97	2000 Edition	Standard Glossary of Terms Relating to Chimneys, Vents, and Heat Producing Appliances
NFPA 99	1999 Edition	Standard for Health Care Facilities
NFPA 99B	1999 Edition	Standard for Hypobaric Facilities
NFPA 101	2000 Edition	Code for Safety to Life from Fire in Buildings and Structures
NFPA 101A	1998 Edition	Guide on Alternative Approaches to Life Safety
NFPA 102	1995 Edition	Standard for Grandstands, Folding and Telescopic Seating, Tents, and Membrane Structures
NFPA 105	1999 Edition	Recommended Practice for the Installation of Smoke Control Door Assemblies
NFPA 110	1999 Edition	Standard for Emergency and Standby Power Systems
NFPA 111	1996 Edition	Standard on Stored Electrical Energy Emergency and Standby Power Systems
NFPA 150	1995 Edition	Standard on Fire Safety in Racetrack Stables
NFPA 170	1999 Edition	Standard for Fire Safety Symbols
NFPA 204	1998 Edition	Guide for Smoke and Heat Venting
NFPA 211	2000 Edition	Standard for Chimneys, Fireplaces, Vents, and Solid Fuel-Burning Appliances
NFPA 220	1999 Edition	Standard on Types of Building Construction
NFPA 221	1997 Edition	Standard for Fire Walls and Fire Barrier Walls
NFPA 230	1999 Edition	Standard for General Storage
NFPA 231D	1994 Edition	Standard for Storage of Rubber Tires
NFPA 232	1995 Edition	Standard for the Protection of Records
NFPA 303	1995 Edition	Fire Protection Standard for Marinas and Boatyards
NFPA 307	1995 Edition	Standard for the Construction and Fire Protection of Marine Terminals, Piers, and Wharves
NFPA 407	1996 Edition	Standard for Aircraft Fuel Servicing
NFPA 409	1995 Edition	Standard on Aircraft Hangars
NFPA 415	1997 Edition	Standard on Airport Terminal Buildings, Fueling Ramp Drainage, and Loading Walkways

NFPA 418	1995 Edition	Standard for Heliports
NFPA 430	2000 Edition	Code for the Storage of Liquid and Solid Oxidizers
NFPA 432	1997 Edition	Code for the Storage of Organic Peroxide Formulations
NFPA 434	1998 Edition	Code for the Storage of Pesticides
NFPA 490	1998 Edition	Code for the Storage of Ammonium Nitrate
NFPA 491M	1991 Edition	Manual of Hazardous Chemical Reactions
NFPA 495	1996 Edition	Explosive Materials Code
NFPA 496	1998 Edition	Standard for Purged and Pressurized Enclosures for Electrical Equipment
NFPA 513	1998 Edition	Standard for Motor Freight Terminals
NFPA 701	1999 Edition	Standard Methods of Fire Tests for Flame-Resistant Textiles and Films
NFPA 703	1995 Edition	Standard for Fire Retardant Impregnated Wood and Fire Retardant Coatings for Building Materials
NFPA 704	1996 Edition	Standard System for the Identification of the Hazards of Materials for Emergency Response
NFPA 705	1997 Edition	Recommended Practice for a Field Flame Test for Textiles and Films
NFPA 750	1996 Edition	Standard on Water Mist Fire Protection Systems
NFPA 801	1998 Edition	Standard for Facilities Handling Radioactive Materials
NFPA 901	1995 Edition	Standard Classifications for Incident Reporting and Fire Protection Data
NFPA 902	1997 Edition	Fire Reporting Field Incident Guide
NFPA 903	1996 Edition	Fire Reporting Property Survey
NFPA 904	1996 Edition	Incident Follow-up Report Guide
NFPA 906	1998 Edition	Guide for Fire Incident Field Notes
NFPA 1123	1995 Edition	Code for Fireworks Display
NFPA 1124	1995 Edition	Code for the Manufacture, Transportation, and Storage of Fireworks
NFPA 1126	1996 Edition	Standard for the Use of Pyrotechnics before a Proximate Audience
NFPA 1221	1999 Edition	Standard for the Installation, Maintenance, and Use of Public Fire Communication Systems
NFPA 1402	1997 Edition	Guide to Building Fire Service Training Centers
NFPA 1403	1997 Edition	Standard on Live Fire Training Evolutions
NFPA 2001	2000 Edition	Standard on Clean Agent Fire Extinguishing Systems
NFPA 8501	1997 Edition	Standard for Single Burner Boiler Operation
NFPA 8502	1999 Edition	Standard for the Prevention of Furnace Explosions/Implosions in Multiple Burner Boilers
NFPA 8506	1998 Edition	Standard on Heat Recovery Steam Generator Systems

B. All inspections of buildings constructed or remodeled pursuant to plans submitted to the Office of State Fire Marshal after June 30, 2001, shall be made utilizing new construction requirements set forth in the 2000 edition of the *Life Safety Code* of the National Fire Protection Association and Section 412-Special Provisions for High-Rise Building published by the 1994 edition of the *Standard Building Code* of the Southern Building Code Congress International, Inc. All references to performance based criteria in the 2000 Edition of the *Life Safety Code* shall only be considered by the Office of State Fire Marshal after an appeal of a decision has been timely made. All inspections of buildings constructed or remodeled pursuant to plans submitted to the

Office of State Fire Marshal after December 31, 2001, shall be made utilizing new construction requirements set forth in the 2000 edition of the *Life Safety Code* of the National Fire Protection Association and Section 412-Special Provisions for High-Rise Building published by the 1997 edition of the *Standard Building Code* of the Southern Building Code Congress International, Inc.

C. All inspections of buildings constructed or remodeled pursuant to plans submitted to the Office of State Fire Marshal after May 31, 1998 will be made utilizing new construction requirements set forth in the 1997 edition of the *Life Safety Code* of the National Fire Protection Association and Section 412-Special Provisions for High-Rise Building published by the 1994 edition of the *Standard Building Code* of the Southern Building Code Congress International, Inc.

D. All inspections of buildings constructed or remodeled pursuant to plans submitted to the Office of State Fire Marshal on or after January 5, 1995, will be made utilizing new construction requirements set forth in the 1994 edition of the *Life Safety Code* of the National Fire protection Association and Section 506-Special Provisions for High-Rise Buildings published by the 1991 edition of the *Standard Building Code* of the Southern Building Code Congress International, Inc.

E. All inspections of building constructed or remodeled pursuant to plans submitted to the Office of State Fire Marshal after May 31, 1992, will be made utilizing new construction requirements set forth in the 1991 edition of the *Life Safety Code* of the National Fire Protection Association and Section 506-Special Provisions for High-Rise Buildings published by the 1998 edition of the *Standard Building Code* of the Southern Building Code Congress International, Inc.

F. With regard to buildings constructed or remodeled between February 19, 1989, and May 31, 1992, or whose construction was timely completed pursuant to plans submitted to the Office of State Fire Marshal prior to May 31, 1992, inspections will be made utilizing the new construction requirements set forth in the 1998 edition of the *Life Safety Code* of the National Fire Protection Association and Section 506-Special Provisions for High-Rise Buildings published by the *Standard Building Code* of the Southern Building Code Congress International, Inc. (1985 edition).

G. All inspections of buildings constructed or remodeled between September 1, 1986, and February 19, 1989, will be made utilizing the requirements set forth in the 1985 edition of the *Life Safety Code* of the National Fire Protection Association and Section 518 Special Provisions for High Rise of Chapter 4 of the 1985 edition of the *Standard Building Code* of the Southern Building Code Congress International, Inc.

H. All inspections of building constructed or remodeled between September 1, 1981, and September 1, 1986 will be made utilizing the requirements set forth in the 1981 edition of the *Life Safety Code* of the National Fire Protection Association and Section 506 Special Provisions for high rise of the *Standard Building Code* (1979 edition) of the Southern Building Code Congress International, Inc.

I. All inspections of buildings constructed or remodeled between January 1, 1980, and September 1, 1981, will be made utilizing the requirements set forth in the 1976 Edition of the *Life Safety Code* of the National Fire Protection Association and Section 518C Special Provision for

High-Rise of Chapter 4 of the 1974 amendments to the 1973 *Standard Building Code*.

J. With regard to buildings constructed or remodeled between January 1, 1975 and January 1, 1980, inspections of those buildings will be made on the basis of requirements that the buildings meet the minimum requirements set forth in the 1973 Edition of the *Life Safety Code* of the National Fire Protection Association and Section 518C Special Provision for High Rise of Chapter 4 of the 1974 amendments to the 1973 *Southern Standard Building Code*.

K. With regard to buildings constructed or remodeled prior to January 1, 1975, inspections by the Office of the State Fire Marshal shall be made utilizing the requirements set forth in the 1967 Edition of the *Life Safety Code* of the National Fire Protection Association.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563 F.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Fire Protection, LR 1:145 (February 1975), amended LR 5:468 (December 1979), LR 6:71 (February 1980), amended by the Office of the State Fire Marshal, LR 7:588 (November 1981). LR 9:417 (June 1983), amended by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 15:96 (February 1989), LR 17:1114 (November 1991), LR 23:1688 (December 1997), LR 27:2257 (December 2001), repromulgated LR 29:183 (February 2003).

Jerry Jones  
Undersecretary

0302#007

## RULE

### Department of Revenue Policy Services Division

#### Definition of Tangible Personal Property (LAC 61:I.4301)

Under the authority of R.S. 47:301 and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, has amended LAC 61:I.4301 relative to the definition of *tangible personal property* for sales tax purposes.

These amendments provide guidance regarding the definition of *tangible personal property* in R.S. 47:301(16) and describe items included in and excluded from that definition.

#### Title 61

#### REVENUE AND TAXATION

#### Part I. Taxes Collected and Administered by the Secretary of Revenue

#### Chapter 43. Sales and Use Tax

#### §4301. Definitions

A. - C. ...

\* \* \*

#### *Tangible Personal Property*C

a. R.S. 47:301(16)(a) defines *tangible personal property* as personal property that can be seen, weighed, measured, felt, touched, or is perceptible to the senses. The Louisiana Supreme Court has ruled that *tangible personal property* is equivalent to corporeal movable property as defined in Article 471 of the Louisiana Civil Code. The

Louisiana Civil Code describes corporeal movable property as things that physically exist and normally move or can be moved from one place to another. Examples of *tangible personal property* include but are not limited to:

i. durable goods such as appliances, vehicles, and furniture;

ii. consumable goods such as food, cleaning supplies, and medicines;

iii. utilities such as electricity, water, and natural gas; and

iv. digital or electronic products such as "canned" computer software, electronic files, and "on demand" audio and video downloads.

b. Prepaid telephone cards and authorization numbers (for state sales or use tax purposes) and work products consisting of the creation, modification, updating, or licensing of canned computer software are specifically defined as *tangible personal property* by law.

c. Repairs of machinery, appliances, and equipment that have been declared immovable under Article 467 of the Louisiana Civil Code and things that have been separated from land, buildings, or other constructions permanently attached to the ground or their component parts as defined by Article 466 of the Louisiana Civil Code are treated as taxable repairs of *tangible personal property* under R.S. 47:301(14)(g).

i. Things are considered separated from an immovable when they are detached and repaired at a location off the customer's immediate property where the immovable is located or at the repair vendor's facility, even if that facility is on property owned, leased, or occupied by the customer. If the thing is detached from the immovable and repaired on the customer's immediate property, it is not considered separated from the immovable and the repair would not be subject to tax.

ii. The customer's immediate property is the tract of land that is owned, leased, or occupied by the customer where the immovable is located.

iii. Tracts of land owned, leased, or occupied by the customer that are separated only by a public road or right-of-way from the land where the immovable is located are also considered the customer's immediate property.

d. Tangible personal property does not include:

i. incorporeal property such as patents, copyrights, rights of inheritance, servitudes, and other legal rights or obligations;

ii. work products presented in a tangible form that have worth because of the technical or professional skills of the seller. Work products are considered non-taxable technical or professional services if the tangible personal property delivered to the client is insignificant in comparison to the services performed and there is a distinction between the value of the intangible content of the service and the tangible medium on which it is transferred. These do not include items that have intrinsic value, like works of art, photographs, or videos. Also, documents that are prepared or reproduced without modification are considered tangible personal property. Examples of sales of technical or professional services that are transmitted to the customer in the form of tangible personal property include but are not limited to:

(a). audience, opinion, or marketing surveys;

- (b). research or study group reports;
- (c). business plans; and
- (d). investment analysis statements;
- iii. property defined as immovable by the Louisiana Civil Code
- e. Items specifically excluded from the definition of *tangible personal property* include:
  - i. stocks, bonds, notes, or other obligations or securities;
  - ii. gold, silver, or numismatic coins of any value;
  - iii. platinum, gold, or silver bullion having a total value of \$1,000 or more;
  - iv. proprietary geophysical survey information or geophysical data analysis furnished under a restrictive use agreement even if transferred in the form of tangible personal property;
  - v. parts and services used in the repairs of motor vehicles if all of the following conditions are met:
    - (a). the repair is performed by a dealer licensed by the Louisiana Motor Vehicle Commission or the Louisiana Used Motor Vehicle and Parts Commission;
    - (b). the repair is performed subsequent to the lapse of an original warranty that was included in the taxable price of the vehicle by the manufacturer or the seller;
    - (c). the repair is performed at no charge to the owner; and
    - (d). the repair charge is not paid by an extended warranty plan that was purchased separately.
  - vi. pharmaceuticals administered to livestock used for agricultural purposes as defined by the Louisiana Department of Agriculture and Forestry under LAC 7:XXIII.103; and
  - vii. work products of persons licensed under Title 37 of the Louisiana Revised Statutes such as legal documents prepared by an attorney, financial statements prepared by an accountant, and drawings and plans prepared by an architect or engineer for a specific customer. However, if these items are reproduced without modification, they are considered *tangible personal property* and subject to sales or use tax.
- f. Manufactured or mobile homes purchased in or delivered from another state to Louisiana after June 30, 2001, are excluded from the definition of *tangible personal property* for state sales or use taxes. Manufactured or mobile homes purchased in or delivered from another state to Louisiana after December 31, 2002, are excluded from the definition of *tangible personal property* for local sales or use taxes when the buyer certifies the manufactured or mobile home will be used as a residence.
  - i. For state sales taxes, the entire price paid for used manufactured or mobile homes and 54 percent of the price paid for new manufactured or mobile homes are excluded from the definition of *tangible personal property* and not subject to tax.
  - ii. For local sales taxes when the buyer certifies the manufactured or mobile home will be used as a residence:
    - (a). after December 31, 2002, and before January 1, 2004C25 percent of the price paid for used manufactured or mobile homes and 13 1/2 percent of the price paid for new manufactured or mobile homes are excluded from the

- definition of *tangible personal property* and not subject to tax;
- (b). after December 31, 2003, and before January 1, 2005C50 percent of the price paid for used manufactured or mobile homes and 27 percent of the price paid for new manufactured or mobile homes are excluded from the definition of *tangible personal property* and not subject to tax;
  - (c). after December 31, 2004, and before January 1, 2006C75 percent of the price paid for used manufactured or mobile homes and 40 1/2 percent of the price paid for new manufactured or mobile homes are excluded from the definition of *tangible personal property* and not subject to tax; and
  - (d). after December 31, 2005Cthe entire price paid for used manufactured or mobile homes and 54 percent of the price paid for new manufactured or mobile homes are excluded from the definition of *tangible personal property* and not subject to tax.
    - iii. Manufactured or mobile homes are structures that are transportable in one or more sections, built on a permanent chassis, designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and include plumbing, heating, air-conditioning, and electrical systems. The units must be either 8 body feet or more in width or 40 body feet or more in length in the traveling mode, or at least 320 square feet when erected on site. These size requirements may be disregarded if the manufacturer voluntarily certifies to the distributor or dealer at the time of delivery that the structure conforms to all applicable federal construction and safety standards for manufactured homes.
    - iv. Manufactured or mobile homes do not include modular homes that are not built on a chassis, self-propelled recreational vehicles, or travel trailers.
    - g. The sale or purchase of custom computer software on or after July 1, 2002, and before July 1, 2005, is partially excluded, and on or after July 1, 2005, completely excluded, from the definition of *tangible personal property* under R.S. 47:301(16)(h). This exclusion applies to state sales tax, the sales tax of political subdivisions whose boundaries are coterminous with the state, and the sales tax of political subdivisions whose boundaries are not coterminous with the state that exempt custom computer software by ordinance as authorized by R.S. 47:305.52. Custom computer software is software that is specifically written for a particular customer or that adapts prewritten or "canned" software to the needs of a particular customer.
      - i. Before July 1, 2002Cpurchases of prewritten or canned software that are incorporated into and resold as a component of custom computer software before July 1, 2002, are considered purchases of *tangible personal property* for resale. Use tax is not due on these purchases and any sales tax paid is eligible for tax credit against the tax collected on the retail sale of the custom software.
      - ii. Phase-In Period—the sales tax exclusion for custom computer software will be phased in at the rate of 25 percent per year beginning on July 1, 2002. During the phase-in period, purchases of prewritten or canned software that are incorporated into and resold as a component of custom computer software will be considered a purchase for

resale according to the applicable sales tax exclusion percentage in effect at the time of sale. The custom software vendor must pay sales tax on the purchase price of the canned software and may claim tax credit for the percentage that is resold as *tangible personal property*. If 75 percent of the sales price of the custom computer software is taxable, the vendor is allowed a tax credit for 75 percent of tax paid on the canned software purchase. Conversely, if sales tax was not paid by the custom software vendor on the purchase of canned software that is incorporated into custom software, use tax will be due on the percentage that is not considered to be a purchase for resale. The sales tax exclusion percentage will increase each year during the phase-in period and guidelines on the phase in of this exclusion will be published in a Revenue Ruling.

iii. July 1, 2005Cthe purchase of prewritten or canned software that is incorporated into and resold as a component of custom computer software sold on or after July 1, 2005, will be considered the purchase of *tangible personal property* for the personal use of the custom software vendor and subject to sales or use tax.

h. The *first purchase of digital television conversion equipment* by a taxpayer that holds a Federal Communications License issued pursuant to 47 CFR Part 73 is excluded from the definition of *tangible personal property* for state sales tax and local sales tax if the local authority adopts this exemption by ordinance.

i. *Digital Television Conversion Equipment*C items listed in R.S. 47:301(16)(i).

ii. *First Purchase*Cthe *first purchase* of each item from the categories of *digital television conversion equipment* listed in R.S. 47:301(16)(i).

iii. License holders may obtain a credit for sales taxes paid on the *first purchase of digital television conversion equipment* made after January 1, 1999, and before June 25, 2002, by submitting a request on forms prescribed by the Department of Revenue. Guidelines for claiming the credit will be published in a Revenue Ruling.

iv. License holders may obtain an exemption certificate from the Department of Revenue and make *first purchases* of qualifying digital equipment on or after June 25, 2002, without paying state sales tax or local sales tax in those local jurisdictions that elect to provide an exemption for these purchases. Sales tax paid on *first purchases* of qualifying digital equipment on or after June 25, 2002, may be refunded as tax paid in error.

v. License holders must submit to the Department of Revenue an annual report of the purchases of digital equipment for which exclusion has been claimed that includes all information required by the Department to verify the value of exclusion claimed. Guidelines for submitting this report will be published in a Revenue Ruling.

\* \* \*

AUTHORITY NOTE: Promulgated in Accordance with R.S. 47:301 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987), amended by the Department of Revenue and Taxation, Sales Tax Division, LR 21:957 (September 1995), LR 22:855 (September 1996), amended by the Department of Revenue, Policy Services Division, LR 27:1703 (October 2001), LR 28:348 (February 2002),

LR 28:1488 (June 2002), LR 28:2554 (December 2002), LR 28:2556 (December 2002), LR 29:186 (February 2003).

Raymond E. Tangney  
Senior Policy Consultant

0302#013

## RULE

### Department of Revenue Policy Services Division

#### Sales Tax on Property Used in Interstate Commerce (LAC 61:I.4420)

Under the authority of R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, has adopted LAC 61:I.4420 relative to the sales tax exemption set forth in R.S. 47:305.50 for vehicles used in interstate commerce.

This Rule provides guidance on the length of time vehicles must be used in interstate commerce in order to qualify for the exemption. It also discusses the consequences if a taxpayer claims the exemption at the time of purchase and subsequently does not qualify for the exemption.

#### Title 61

#### REVENUE AND TAXATION

#### Part I. Taxes Collected and Administered by the Secretary of Revenue

#### Chapter 44. Sales and Use Tax Exemptions

#### §4420. Property Used in Interstate Commerce

A. R.S. 47:305.50(A) allows certain taxpayers to register trucks with a gross weight of 26,000 pounds or more, trailers to be used with such trucks, and contract carrier buses with the Office of Motor Vehicles of the Department of Public Safety and Corrections (OMV) without paying state or local sales or use tax. To qualify for the exemption, the taxpayer's activities must be subject to the jurisdiction of the United States Department of Transportation, and the taxpayer must certify to the OMV that the property will be used at least 80 percent of its total mileage in interstate commerce. The Department of Revenue and the OMV provide forms on which to make these certifications.

B. Any taxpayer who claims the exemption provided for in R.S. 47:305.50(A) must maintain records of the use of the property in order to document that the property is used for at least 80 percent of its total mileage in interstate commerce.

1. If the documentation indicates that the property was not used during the one-year period following the date of its purchase for the required 80 percent or more of its total mileage in interstate commerce, the taxpayer will not qualify for the exemption and state and local sales or use tax will be due on the amount paid for the property at the rate that was applicable on the date the property was purchased, plus interest from the date the property was purchased to the date of the tax payment. The state portion of the tax must be reported on a sales tax return provided by the Department of Revenue and paid to the Department of Revenue by the twentieth day of the month following the end of the one-year period in which the taxpayer fails to qualify for the

exemption. The local portion of the tax must be reported and paid to the proper local taxing authority in accordance with their ordinances.

2. If, during any of the following one-year periods, the documentation indicates that the property was not used for the required 80 percent or more of its total mileage in interstate commerce, the taxpayer will no longer qualify for the exemption. If this occurs, state and local sales or use tax will be due on the lesser of the purchase price or fair market value of the property on the first day of the one-year period that it does not meet the 80 percent test. The tax will be calculated based on the rate in effect on the first day of the one-year period in which the taxpayer no longer qualifies for the exemption, plus interest from the date the tax is due to the date of tax payment. The state portion of the tax must be reported on a sales tax return provided by the Department of Revenue and paid to the Department of Revenue by the twentieth day of the month following the end of the one-year period in which the taxpayer no longer qualifies for the exemption. The local portion of the tax must be reported and paid to the proper local taxing authority in accordance with their ordinances.

C. If the taxpayer fails to provide proper documentation, it will be presumed that the taxpayer does not qualify for the exemption and state and local sales or use tax will be due in accordance with Subsection B above.

**AUTHORITY NOTE:** Promulgated in Accordance with R.S. 47:305.50 and R.S. 47:1511.

**HISTORICAL NOTE:** Promulgated by the Department of Revenue, Policy Services Division, LR 29:188 (February 2003).

Raymond E. Tangney  
Senior Policy Consultant

0302#016

## **RULE**

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

#### **Child Care Assistance Programs CIncentive Bonuses (LAC 67:III.5102 and 5107)**

The Department of Social Services, Office of Family Support, has amended the Louisiana Administrative Code, Title 67, Part III, Subpart 12, Child Care Assistance.

Pursuant to Act 152 of the 2002 First Extraordinary Session of the Louisiana Legislature, funds from Louisiana's Temporary Assistance for Needy Families (TANF) Block Grant were appropriated for improving the quality of low-income child care. With this goal in mind, the agency increased the incentive bonus paid to Class A providers who attain National Association for the Education of Young Children (NAEYC) accreditation.

Additionally, the agency is offering an incentive bonus to Family Child Day Care Home (FCDCH) providers who participate in the Department of Education (DOE) Child and Adult Care Food Program.

These changes were effected by Declaration of Emergency effective October 1, 2002. Authorization for emergency

action in the expenditure of TANF funds is contained in Act 13 of the 2002 Regular Session of the Louisiana Legislature.

## **Title 67**

### **SOCIAL SERVICES**

#### **Part III. Family Support**

##### **Subpart 12. Child Care Assistance**

##### **Chapter 51. Child Care Assistance Program**

##### **Subchapter B. Child Care Assistance Program**

##### **§5102. Definitions**

\* \* \*

*Full-Time Care* Authorized child care calculated to be 30 or more hours per week that is paid in units of days with a maximum of 22 days per month.

\* \* \*

*Part-Time Care* Authorized child care calculated to be less than 30 hours per week, paid in units of hours (total per day may not exceed daily rate) up to a maximum of 129 hours per month.

\* \* \*

**AUTHORITY NOTE:** Promulgated in accordance with 45 CFR Parts 98 and 99 and P.L. 104-193.

**HISTORICAL NOTE:** Promulgated by the Department of Social Services, Office of Family Support, LR 26:2826 (December 2000), LR 27:1932 (November 2001), LR 28:1490 (June 2002), LR 29:189 (February 2003).

##### **§5107. Child Care Providers**

A. - E.4. ...

F.1. Quality incentive bonuses are available to:

a. CCAP eligible Class A providers who achieve and maintain National Association for the Education of Young Children (NAEYC) accreditation. The bonus will be paid once each calendar quarter, and will be equal to 20 percent of all child care payments received during the prior calendar quarter by that provider from the certificate portion of the Child Care and Development Fund.

b. CCAP eligible Family Child Day Care Home (FCDCH) providers who participate in the Department of Education (DOE) Child and Adult Care Food Program. The bonus will be paid once each calendar quarter, and will be equal to 10 percent of all child care payments received during the prior calendar quarter by that provider from the certificate portion of the Child Care and Development Fund.

2. These bonus amounts may be adjusted at the discretion of the assistant secretary, based upon the availability of funds.

G Repealed.

H. - H.2. ...

**AUTHORITY NOTE:** Promulgated in accordance with 45 CFR Parts 98 and 99, P.L. 104-193, Act 152, 2002 First Extraordinary Session, Act 13, 2002 Reg. Session.

**HISTORICAL NOTE:** Promulgated by the Department of Social Services, Office of Family Support, LR 24:357 (February 1998), amended LR 25:2444 (December 1999), LR 26:2827 (December 2000), LR 27:1932 (November 2001), LR 28:349 (February 2002), LR 28:1491 (June 2002), LR 29:189 (February 2003).

Gwendolyn P. Hamilton  
Secretary

0302#053

**RULE**

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

TANF Initiatives  
(LAC 67:III. 5533 and 5561-5571)

In accordance with R.S.49:950 et seq., the Administrative Procedure Act, the Department of Social Services, Office of Family Support, has adopted LAC 67:III, Subpart 15, Chapter 55, §§5561, 5563, 5565, 5567, 5569, and 5571 as TANF Initiatives and has amended §5533.

All programs have been effected by several Declarations of Emergency. Section 5561 was effected by an Emergency Rule signed September 1, 2002, and Section 5563 by an Emergency Rule signed September 10, 2002. The adoption of Sections 5565, 5567, 5569, and 5571 and the amendment to Section 5533 were effected by an Emergency Rule signed September 30, 2002.

**Title 67  
SOCIAL SERVICES  
Part III. Family Support**

**Subpart 15. Temporary Assistance to Needy Families  
(TANF) Initiatives**

**Chapter 55. TANF Initiatives**

**§5533. Transportation Services Program**

A. Effective September 30, 2002, the agency shall enter into contracts with public agencies, non-profit, or for-profit organizations to provide low-income families with transportation services to assist them in overcoming transportation barriers. These services may include but are not limited to: vehicle ownership, commuter shuttles, reverse-commute shuttles, vanpools, and other modes of transportation. The agency may also make funding available for transportation of participants in TANF Initiative Programs.

B. Eligibility for services is limited to persons participating in a TANF Initiative Program or to members of a needy family. A needy family consists of minor children, custodial and non-custodial parents, legal guardians, and caretaker relatives of minor children, who have earned income at or below 200 percent of the federal poverty level. An eligible person who is employed may be provided on-going services. An eligible, unemployed person may be provided short-term, non-recurrent services that shall not exceed four months and shall be associated with an episode of need or crisis situation.

C. Services meet the TANF goals to provide assistance to needy families so children may be cared for in their own homes or in the homes of relatives or to end dependence of needy parents by promoting job preparation, work, and marriage.

D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 36:474 and 46:231; and Act 12, 2001 Reg. Session, Act 13, 2002 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:352 (February 2002), LR 29:190 (February 2003).

**§5561. Child-Parent Enrichment Services Program  
Effective September 1, 2002**

A. The Department of Social Services, Office of Family Support, shall enter into Memoranda of Understanding or contracts to create quality, early childhood education and parenting programs at various sites, such as schools, Head Start Centers, churches, and Class A Day Care Centers to provide children with age-appropriate services during the school year, school holidays, summer months and before-and-after school and to provide parents, legal guardians, or caretaker relatives of children with parenting and adult/family educational services.

B. Services offered by providers meet the TANF goals to prevent and reduce the incidence of out-of-wedlock births by providing supervised, safe environments for children thus limiting the opportunities for engaging in risky behaviors, and to encourage the formation and maintenance of two-parent families by providing educational services to parents or other caretakers to increase their own literacy level and effectiveness as a caregiver.

C. Eligibility for services is limited to needy families. A needy family is a family in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy (KCSP) grant, Food Stamp benefits, Child Care Assistance Program (CCAP) services, Title IV-E, Medicaid, Louisiana Children's Health Insurance Program (LaCHIP) benefits, Supplemental Security (SSI), Free or Reduced Lunch, or who has earned income at or below 200 percent of the federal poverty level. A needy family consists of minor children, custodial and non-custodial parents, legal guardians, or caretaker relatives of minor children.

D. Services are considered non-assistance by the agency.  
AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 13, 2002 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 29:190 (February 2003).

**§5563. Substance Abuse Treatment Program for Needy Families**

A. The Office of Family Support shall enter into a Memorandum of Understanding with the Office for Addictive Disorders (OAD) wherein OFS shall fund the cost of substance abuse screening and testing and the non-medical treatment of members of needy families to the extent that funds are available commencing June 1, 2002.

B. These services meet the TANF goal to end the dependence of needy parents on government benefits by providing needy families with substance abuse treatment so that they may become self-sufficient in order to promote job preparation, work, and marriage.

C. Eligibility for services is limited to needy families, that is, a family in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Food Stamp benefits, Child Care Assistance Program (CCAP) services, Medicaid, Louisiana Children's Health Insurance Program (LaChip) benefits, Supplemental Security Income (SSI), Free or Reduced Lunch, or who has earned income at

or below 200 percent of the federal poverty level. A needy family includes a non-custodial parent, caretaker relative, or legal guardian who has earned income at or below 200 percent of the federal poverty level.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 13, 2002 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 29:190 (February 2003).

#### **§5565. Family Strengthening and Healthy Marriages Effective September 30, 2002**

A. The Department of Social Services, Office of Family Support, shall enter into Memoranda of Understanding or contracts to provide services to improve and promote family relationships, encourage marriage, reduce incidence of out-of-wedlock births, decrease the rate of divorce, and provide services that will educate and supply young people with the guidance to break the cycle of living in fatherless homes. These intervention and support services are designed to enable low-income parents to act in the best interest of their children.

B. Services offered by providers meet the TANF goals to end dependence of needy parents by promoting job preparation, work, and marriage, to prevent and reduce the incidence of out-of-wedlock births, and to encourage the formation and maintenance of two-parent families and may be accomplished through a variety of projects including but not limited to:

1. development of an information clearing house;
2. best practices research;
3. development of a statewide network of marriage trainers and additional partners such as health care providers, members of the judiciary, and faith-based partners, to assist in implementing the initiative; and
4. development of handbooks and videos, media buys for outreach, curriculum development, and demonstration projects.

C. Eligibility for services is limited to needy families which consists of minor children, custodial and non-custodial parents, legal guardians, or caretaker relatives of minor children who have earned income at or below 200 percent of the federal poverty level.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 13, 2002 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 29:191 (February 2003).

#### **§5567. Parental Involvement Services Program Effective September 30, 2002**

A. The Office of Family Support shall enter into contracts to provide pro bono or low cost legal services that may include: mediation; development of parenting plans or other services to obtain regular visitation arrangements with the children; or legal assistance to non-custodial parents in resolving disputes resulting from a deviation in an existing visitation order. Referrals that assist low-income, non-custodial parents to overcome social, financial, and emotional barriers that hinder access to their children will also be provided. These services are designed to enable

low-income parents to act in the best interest of their children.

B. These services meet the TANF goals to end dependence of needy parents by promoting job preparation, work, and marriage, to prevent and reduce the incidence of out-of-wedlock births, and to encourage the formation and maintenance of two-parent families by improving the parent's ability to act in the best interest of their children, providing the children continuous and quality access to both parents, improving the well-being of the children, and encouraging healthy relationships, youth development, and responsible fatherhood.

C. Eligibility for services is limited to non-custodial parents of minor children who have earned income at or below 200 percent of the federal poverty level.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 13, 2002 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 29:191 (February 2003).

#### **§5569. Alternatives to Abortion Services Program Effective September 30, 2002**

A. The Office of Family Support shall enter into contracts with public agencies, non-profit organizations, or for-profit organizations to provide intervention services including crisis intervention, counseling, mentoring, support services, and pre-natal care information, in addition to information and referrals regarding healthy childbirth, adoption, and parenting to help ensure healthy and full-term pregnancies as an alternative to abortion.

B. These services meet the TANF goals to provide assistance to needy families so children may be cared for in their own homes or in the homes of relatives and to encourage the formation and maintenance of two-parent families by providing pregnancy and parenting support to low-income women, their male partners, and families who are experiencing an unplanned pregnancy.

C. Eligibility for services is limited to pregnant or potentially pregnant women, their male partners, and/or minor children whose earned income is at or below 200 percent of the federal poverty level.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 13, 2002 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 29:191 (February 2003).

#### **§5571. Parenting/Fatherhood Services Program Effective September 30, 2002**

A. The Office of Family Support shall enter into contracts with public agencies, non-profit, or for-profit organizations to create programs that will assist low-income fathers with various skills including employment, life, parenting, and other skills in order to increase their ability to provide emotional and financial support for their children, and to create a network of community- and faith-based programs that will provide linkages to and for state entities, specifically Child Support Enforcement Services.

B. These services meet the TANF goals to end the dependence of needy parents by promoting job preparation,

work, and marriage, to prevent and reduce the incidence of out-of-wedlock births and to encourage the formation and maintenance of two-parent families by eliminating emotional, social, financial, and legal barriers that hinder a father's ability to be fully engaged in his children's lives.

C. Eligibility for services is limited to fathers of minor children, who have earned income at or below 200 percent of the federal poverty level.

D. Services are considered non-assistance by the agency.  
 AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 13, 2002 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 29:191 (February 2003).

Gwendolyn P. Hamilton  
 Secretary

0302#054

**RULE**

**Department of Transportation and Development  
 Office of the Secretary**

Cash Management Plan  
 (LAC 70:I.101 and 103)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Transportation and Development has amended Chapter 1 of Title 70 entitled "Cash Management Plan," in accordance with R.S. 48:251(D).

**Title 70  
 TRANSPORTATION  
 Part I. Highway Construction**

**Chapter 1. Cash Management Plan**

**§101. Phased Funding**

A. The department is authorized to utilize cash management on multi-fiscal year projects which exceed the contract limit established in R.S. 48:251. The department is authorized to allocate only sufficient appropriated funds in any fiscal year to pay for anticipated actual contract obligations incurred in that fiscal year. A multi-fiscal year phased funding plan will be developed for each project approved by the secretary for phased funding. The phased funding plan will provide annual anticipated expenditure projections over the life of the project.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:251.D.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of the General Counsel, LR 24:1324 (July 1998), amended by the Department of Transportation and Development, Office of the Secretary, LR 29:192 (February 2003).

**§103. Project Eligibility for Phased Funding**

A. In order to qualify for phased funding, the proposed project must be a multi-fiscal year project which exceeds the contract limit established in R.S. 48:251.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:251.D.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of the General Counsel, LR. 24:1324 (July 1998), amended by the Department of

Transportation and Development, Office of the Secretary LR 29:192 (February 2003).

Kam K. Movassaghi, P.E., Ph.D.  
 Secretary

0302#050

**RULE**

**Department of Treasury  
 Office of the Treasurer**

Title 71 Restructure CParts I, III, and VII  
 (LAC 71:I.Chapter 5, III.Chapters 21-23, and VII.Chapter 1)

Editor's Note: The following Chapters have been moved for topical arrangement. These changes will be reflected in the September 2002 LAC compilation of Title 71.

The table below shows the former and the current placement of each Chapter that was moved.

Former Placement	(New) Current Placement
LAC 71:I.Chapter 5	LAC 71:III.Chapter 21
LAC 71:I.Chapter 7	LAC 71:III.Chapter 23
LAC 71:I.Chapter 9	LAC 71:VII.Chapter 1
LAC 10:XIII.Chapter 21	LAC 71:I.Chapter 5

**Title 71  
 TREASURY**

**Part I. Public Funds Investments**

**Chapter 5. Permissible Investments**

**§501. U.S. Government Agency Obligations**

A. Pursuant to R.S. 49:327(B)(1)(b), obligations of or obligations guaranteed by, any of the following agencies, instrumentalities, or government-sponsored entities of the United States Government, or their successor agencies, universally referred to in the investment community as "agency securities," shall be eligible for investment by the treasurer:

1. Government National Mortgage Association;
2. Maritime Administration;
3. Small Business Administration;
4. Federal Home Loan Bank consolidated discount notes, notes, debentures and bonds;
5. Federal Home Loan Mortgage Corporation discount notes, notes, debentures, bonds, participation certificates, guaranteed mortgage backed securities, collateralized mortgage obligations and adjustable rate mortgages;
6. Federal National Mortgage Association discount notes, short-term notes, master notes, floating rate notes, notes, debentures, subordinated debentures, bonds, guaranteed mortgage backed securities, and adjustable rate mortgages;
7. Farm Credit System consolidated system-wide discount notes, notes and bonds;
8. Student Loan Marketing Association discount notes, floating rate notes, notes and bonds.

B. The securities named above as being issued by each agency are illustrative only. Since agencies periodically issue a new form of security with the similar guarantees, any such guaranteed security issued by the above referenced agencies shall be eligible for investment by the treasurer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:327(B)(1)(b).

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Office of the Treasurer, LR 15:751 (September 1989), repromulgated LR 29:192 (February 2003).

### §503. Time Certificates of Deposit

A. Noncompetitive Bid Procedures for Time Certificates of Deposit. The state treasurer shall designate the amount of state funds available for time certificates of deposit to financial institutions in the state of Louisiana.

1. Frequency of Rate Setting. Each Tuesday, or in the case of a holiday, the first business day following the holiday, the state treasure shall set interest rates to be paid on certificates of deposit. This interest rate shall remain in effect until the next Tuesday or first business day following the holiday.

2. Procedure for Time Certificates of Deposit Maturing One Year or Less. The interest rate shall be determined by the following procedure for certificates of deposit maturing one year or less:

a. The following interest rates shall be surveyed on the day the interest rate is set and averaged to determine the interest rate.

i. National Certificates of Deposit which is the average of the top rates paid by major New York money banks on primary new issues of negotiable certificates of deposits, usually on amounts of \$1,000,000 or more with similar length of maturity as quoted from the *Wall Street Journal* or a nationally recognized quotation system or the National Average of Jumbo Certificates of Deposit as compiled by Banxquote Money Markets cited in the *Wall Street Journal* or a nationally recognized quotation system, less 15 basis points.

ii. U.S. Treasury Obligation with similar length of maturity at the bond equivalent rate adjusted for a 360-day basis obtained from the current auction or *Wall Street Journal*.

iii. Survey of Financial Institution Rates of Interest on a weekly rotating basis shall be conducted. Two small and two large financial institutions from those eligible to receive public funds deposits shall be polled as to the interest rate offered on published jumbo certificates of deposits of \$100,000. The highest rate from each of the small and large financial institutions polled shall then be averaged, 15 basis points shall be deducted from the averaged figure and the result shall be the interest rate for this category. To establish the ranking of a financial institution as small or large, annually in April, the state treasurer shall compile a list of financial institutions by total assets based on the latest annual financial statements available, as ranked by Sheshunoff Bank Rankings, the Louisiana Banker's Association, or other listing. The financial institution shall be ranked by size as follows:

- (a) small: \$0-\$100 million in total assets;
- (b) large: greater than \$100 million in total assets.

b. Minimum Interest Rate. For maturities of one year or less, the minimum interest rate shall be the discount rate on U.S. Treasury bills with a similar length of maturity.

c. Determination of Rate. The interest rate shall be an equally weighted average of those interest rates obtained in §503.A.2.a.i, ii and iii. This interest rate shall be compared to the minimum interest rate in §503.A.2.b.

Whichever rate is higher shall be the rate of interest on the time certificates of deposit.

d. Calculation and Interest Payment. All certificates of deposit maturing in one year or less shall be calculated on a 360-day basis with interest paid at maturity. The treasurer reserves the right to collect interest on a more frequent basis in cases of unusual circumstances, such as a financial emergency of the state or if a financial institution's financial position is deteriorating and collection of interest on a more frequent basis is determined appropriate by the treasurer to protect state funds.

3. Procedure for Time Certificates of Deposit Maturing Greater than One Year. The interest rate shall be determined by the following procedure for certificates of deposit maturing greater than one year.

a. The following interest rates shall be surveyed on the day the interest rate is set and averaged to determine the interest rate.

i. U.S. Treasury Obligation with similar length of maturity calculated on yield to maturity obtained from the current auction or *Wall Street Journal*.

ii. Agencies. Any one of the agencies listed in §501 with similar length of maturity calculated on yield to maturity obtained from the *Wall Street Journal*.

iii. Survey of Financial Institution Rates of Interest on a weekly rotating basis shall be conducted. Two small and two large financial institutions from those eligible to receive public funds deposits shall be polled as to the interest rate offered of jumbo certificates of deposits of \$100,000. The highest rate from each of the small and large financial institutions polled shall then be averaged, 15 basis points shall be deducted from the averaged figure and the result shall be the interest rate for this category. To establish the ranking of a financial institution as small or large, annually in April, the state treasurer shall compile a list of financial institutions by total assets based on the latest annual financial statements available, as ranked by Sheshunoff Bank Rankings, the Louisiana Banker's Association, or other listing. The financial institutions shall be ranked by size as follows:

- (a) small: \$0-\$100 million in total assets;
- (b) large: greater than \$100 million in total assets.

b. Minimum Interest Rate. For maturities of greater than one year, the minimum interest rate shall be the yield to maturity on U.S. Treasuries with similar length maturities.

c. Determination of Rate. The interest rate shall be an equally weighted average of those interest rates obtained in §503.A.3.a.i, ii and iii. This interest rate shall be compared to the minimum interest rate in §503.A.3.b. Whichever rate is the higher shall be the rate of interest on the time certificates of deposit.

d. Calculation and Interest Payment. All certificates of deposit maturing in greater than one year shall be calculated on a 360-day basis with interest paid semi-annually from date of inception. The state treasurer reserves the right to collect interest on a more frequent basis in cases of unusual circumstances, such a financial emergency of the state or if a financial institution's financial position is deteriorating and collection of interest on a more frequent basis is deemed appropriate by the treasurer to protect state funds.

B. Competitive Bid Time Certificates of Deposit. Pursuant to R.S. 49:327(B)(1)(d), 20 percent of the amount designated by the treasurer to be available for certificates of deposit to financial institutions in the state of Louisiana may be competitively bid.

1. Frequency of Bid. On the third Tuesday of each month, or in the case of a holiday, the first business day following the third Tuesday of each month, the state treasurer may offer the amount of funds determined to be available for competitive bid to be invested effective on the second business day following the acceptance of the bids. Should additional funds become available for competitive bid, the state treasurer reserves the right to offer such funds for bid on any business day.

2. Eligibility to Bid.

a. A financial institution shall become eligible to bid on the designated amount of state funds by annually completing a questionnaire by which the financial institution shall certify the following:

i. each financial institution shall state the amount of state funds it will be able to accept for bid. Refer to §503.C for the total maximum amount of certificates of deposit which shall be allowed to be maintained by each financial institution;

ii. meets Federal Deposit Insurance Corporation (FDIC), Savings Association Insurance Fund (SAIF), Federal Savings and Loan Insurance Corporation (FSLIC) Resolution Fund and National Credit Union Association (NCUA) capital adequacy requirements;

iii. solvent under generally accepted accounting principles and/or regulatory accounting requirements;

iv. the financial institution is profitable in one of the last three years as indicated in the audited financial statements or fiscal year end financial statements certified by the board of directors of the financial institution.

b. Should the overall financial condition of the financial institution substantially decline from the previous period, the state treasurer shall remove this financial institution from the list of eligible bid institutions until the institution's financial condition has returned to the minimum criteria stated above.

3. Required Financial Information. The financial institutions participating in the bid process for certificates of deposit shall provide the state treasurer's office with publicly disclosable quarterly call reports when filed with the appropriate regulatory authority. The complete quarterly call report shall be sent to the state treasurer in 90 days from the end of the quarter. Annual audited financial statements or financial statements certified by the board of directors, if annual audited statements are not available, shall be provided to the state treasurer upon completion.

4. Minimum Interest Rate. For maturities of one year or less, the minimum interest rate shall be the discount rate on U.S. Treasury bills with a similar length of maturity. For maturities of greater than one year, the minimum interest rate shall be the yield of maturity on U.S. Treasury Obligations with similar length maturities as provided for in §503.A.2.b and §503.A.3.b.

5. Determination of Rate. The state treasurer shall determine the amount of funds available for competitive bid. Bids will be opened for the available amount of funds from 9 a.m. to 12 p.m. on the third Tuesday of each month, or in the

case of a holiday, the first business day following the third Tuesday of each month. Those financial institutions eligible under §503.B.2 and who are interested in bidding for available state funds may call the state treasurer's office from 9 a.m. to 12 p.m. on the day designated and bid on the state funds indicating a dollar amount and interest rate. The highest interest rate bid shall be accepted provided that the interest rate is the same as or above the minimum rate in §503.B.4 and deemed acceptable to the state treasurer. The state treasurer reserves the right to reject all bids. The winners of the bid(s) will be notified by phone between 1 p.m. and 4:30 p.m. on the same day. The financial institutions winning the bid shall confirm in writing the amount and interest rate the financial institution bid by telephone. The certificates of deposit shall be effective on the second business day after acceptance of the bid(s). Upon receipt of acceptable collateral on the effective date, the state treasurer shall wire the appropriate amount of funds to the financial institution. Interest shall begin to accrue on the second business day after the acceptance of the bid(s).

6. Collateral for Competitive Bid Time Certificates of Deposit. Collateral for competitive bid time certificates of deposit shall be in a form acceptable to the state treasurer as indicated on the most recent list of acceptable collateral prepared by the state treasurer's office. Such a list is available upon request. Should the state treasurer deem it necessary to limit the acceptable collateral, each bidder shall be notified of such change prior to the bid.

7. Calculation and Interest Payment. All certificates of deposit maturing in one year or less shall be calculated on a 360-day basis with interest paid at maturity. All certificates of deposit maturing greater than one year shall be calculated on a 360-day basis with interest paid semi-annually from date of inception. The state treasurer reserves the right to collect interest on a more frequent basis in cases of unusual circumstances, such as a financial emergency of the state or if a financial institution's financial position is deteriorating and collection of interest on a more frequent basis is deemed appropriate by the state treasurer to protect state funds.

C. Total Amount of Certificates of Deposit with each Financial Institution. The maximum total amount of certificates of deposit with each eligible financial institution of bid and nonbid certificates shall not exceed at any one time, the total capital, surplus and undivided profits, exclusive of loan loss reserves. Should the financial institution have losses indicated, the loss shall be deducted from the total capital and surplus to determine the total amount of certificates of deposit at any one time. The total amount of certificates of deposit shall be determined based on the latest annual financial statements available which have been certified by the secretary of the board. This determination shall be set annually in April. The state treasurer reserves the right to maintain less than the maximum amount of deposits with the financial institution should the treasurer deem it in the best interest of the state. Section 503.C shall be phased in over a one-year period commencing January 1, 1990.

D. Collateral Securing Certificates of Deposit

1. Each financial institution shall submit a signed collateral agreement as issued by the treasurer in order to be eligible for both bid and nonbid certificates of deposit. This

requirement shall be effective upon completion of the collateral agreement by the state treasurer.

2. All collateral securing certificates of deposit shall be in a form acceptable to the treasurer and meet the collateral requirements under R.S. 49:321.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 49:327(B)(1)(b).

**HISTORICAL NOTE:** Promulgated by the Department of the Treasury, Office of the Treasurer, LR 15:751 (September 1989), amended LR 16:137 (February 1990), repromulgated LR 29:193 (February 2003).

### **Part III. Bond Commission Debt Management**

#### **Chapter 21. Electronic Bidding**

##### **§2101. General Provisions**

A. Bids for general obligation bonds of the state may be received by the state bond commission through sealed bids, electronic bids or facsimile bids as provided herein. Bids received electronically must be submitted via a qualified electronic bid provider, as determined by the State Treasurer, and as set forth in the Notice of Sale for the bonds. Bidders submitting a bid electronically must provide a signed official bid form to the state bond commission not later than 4 p.m. (Baton Rouge time) on the day prior to the opening of bids. In the event that there is a malfunction in the electronic bidding system, bids may be submitted by facsimile as set forth in the Notice of Sale for the bonds, provided that the facsimile bids are received within the time limits set forth in the Notice of Sale. Delivery of a bid is at the risk of the bidder.

**AUTHORITY NOTE:** Promulgated by the Department of Treasury, State Bond Commission, R.S. 47:5010.

**HISTORICAL NOTE:** Promulgated by the Department of Treasury, State Bond Commission, LR 26:1675 (August 2000), repromulgated LR 29:195 (February 2003).

#### **Chapter 23. Surety Bond Deposit**

##### **§2301. General Provisions**

A. Bidders for general obligation bonds of the state must furnish a good faith deposit in the amount of two percent of the par value of the bonds (the deposit) offered for sale in the form of a certified check or cashier's check or by surety bond. If a check is used, it must accompany each sealed bid. For an electronic bid or a facsimile bid as authorized by the Electronic Bidding Rule, the check must be provided in advance of the submission of the bid. Such check must be drawn on a bank or trust company authorized to transact business in the state of Louisiana or in the state of New York, payable to or in favor of the State Treasurer of Louisiana on behalf of the state of Louisiana. Any surety bond must be from an insurance company licensed to issue such a bond in the state of Louisiana and such bond must be submitted to the state bond commission prior to the opening of the bids. The surety bond must identify each bidder whose deposit is guaranteed by such surety bond. If the bonds are awarded to a bidder utilizing a surety bond, then the successful bidder is required to submit its deposit to the state bond commission in the form of a certified check or cashier's check drawn on a bank or trust company authorized to transact business in the state of Louisiana or in the state of New York, payable to or in favor of the State Treasurer of Louisiana on behalf of the state of Louisiana (or wire transfer such amount as instructed by the state bond commission) not later than 2 p.m. (Baton Rouge time) on the next business day following the award. If such good faith

deposit is not received by that time, the surety bond will be drawn on by the state to satisfy the deposit requirement. No interest on the deposit will accrue to the successful bidder. The deposit will be applied to the purchase price of the bonds. In the event the successful bidder fails to honor its accepted bid, the deposit will be retained by the state. Delivery of the deposit is at the risk of the bidder.

**AUTHORITY NOTE:** Promulgated by the Department of Treasury, State Bond Commission, R.S. 47:5010.

**HISTORICAL NOTE:** Promulgated by the Department of Treasury, State Bond Commission, LR 26:1675 (August 2000), repromulgated LR 29:195 (February 2003).

### **Part VII. Administration**

#### **Chapter 1. Credit Card Acceptance by State Agencies**

##### **§101. Purpose**

A. It is the intent of the state to accept payment of any obligation including, but not limited to, taxes, fees, charges, licenses, service fees or charges, fines, penalties, interest, sanctions, stamps, surcharges, assessments, obligations or any other similar charges by credit cards, debit cards or similar payment devices approved by the treasurer. The state recognizes the expanding role of electronic commerce ("e-commerce") in conducting business and the state is taking steps to become an active participant with the development of the "E-Mall," the state's one-stop shopping internet web site. Electronic payment methods, including credit cards, debit cards and similar devices is a vital link in "e-commerce". In order to incorporate these payment methods, Treasury has developed and promulgated guidelines in accordance with R.S. 49:316.1.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 49:316.1.

**HISTORICAL NOTE:** Promulgated by the Department of Treasury, LR 27:736 (May 2001), repromulgated LR 29:195 (February 2003).

##### **§103. Definitions**

**Payment Card**Ca valid credit or debit card or similar payment device which is designated by the treasurer as acceptable by any state entity to make payment for any state obligations.

**Card Provider**the issuer of a credit card, debit card or similar device who has contracted with Treasury for acceptance of their payment card or a financial institution which has contracted with Treasury for processing of card payments.

**Card Holder**the person a credit card, debit card or similar device has been issued or an authorized user of a payment card.

**Obligation**taxes, fees, charges, licenses, service fees or charges, fines, penalties, interest, sanctions, stamps, surcharges, assessments, obligations and any other similar charges or obligations.

**Provider Billings**the manner in which the card providers will bill the state for the settled card payment transactions.

**State Charge**Ca fee established by the treasurer in the form of a uniform dollar amount or percentage assessed for all types of cards or devices accepted by state entities.

**Merchant Account Number**the account number assigned by the *card provider* to the state entity.

**State Charge**Ca fee established by the treasurer in the form of a uniform dollar amount or percentage assessed for each card or device and for each method of conducting transactions to be accepted by state entities.

HISTORICAL NOTE: Promulgated by the Department of Treasury, LR 27:736 (May 2001), amended LR 28:2205 (October 2002), repromulgated LR 29:195 (February 2003).

**§105. Application for Credit Card or Similar Devices**

A. The treasurer will negotiate and enter into contracts, with card provider(s) not to exceed five years, for acceptance of credit card, debit card and similar payment devices. The treasurer will seek to achieve uniform implementation and standard terms and provisions with respect to the acceptance of payments by state entities. A state entity may recommend that the treasurer consider a specific credit or debit card for approval. Annually, the treasurer will publish on the treasurer's website a list of approved credit card, debit card or similar devices by which any state entity will be authorized to accept for payment of any obligation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:316.1.

HISTORICAL NOTE: Promulgated by the Department of Treasury, LR 27:737 (May 2001), repromulgated LR 29:196 (February 2003).

**§107. Acceptance of Cards by the State Entities**

A. The state, through any department, agency, board or commission or other state entity, may accept payment of any obligation by credit card, debit card and similar payment devices approved by the Treasurer. Each entity will apply for participation by completing a merchant service agreement. The original completed application must be delivered to treasury. Treasury will review the application for correctness and forward the application to the card provider for processing.

B. The agency may not set a per order minimum and/or maximum dollar transaction amount that an agency may accept payment by a payment card in compliance with card service agreements. State entities shall not institute or adopt any practice that discriminates or provides unequal treatment for any payment card versus any other payment card.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:316.1.

HISTORICAL NOTE: Promulgated by the Department of Treasury, LR 27:737 (May 2001), repromulgated LR 29:196 (February 2003).

**§109. Operating Procedures**

A. Treasury will determine procedures that state entities must comply with to accept payment by payment card(s). These procedures, may be modified from time to time, to accommodate the state's accounting policies or treasury contract(s) for acceptance of payment card(s). Treasury will provide written procedures to participating state entities. These procedures will provide uniform implementation and standard terms and conditions for acceptance of payments by state entities. These procedures will determine:

1. the manner in which authorization is obtained by state agencies prior to making the card sales;
2. preparation of sales slips;
3. handling of card member refunds and credits;
4. settlement of transactions;
5. charge back rights;
6. card member disputes;
7. billing inquires;
8. retention of records; and
9. any other contract matters.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:316.1.

HISTORICAL NOTE: Promulgated by the Department of Treasury, LR 27:737 (May 2001), repromulgated LR 29:196 (February 2003).

**§111. State Charge**

A. Treasury, from time to time, will negotiate with card providers for a fee for processing payment card transactions with state entities. Treasury will seek to achieve reasonable fees that reflect the economies of scale achieved by negotiation. The fees may be composed of a percentage and/or a specific dollar amount as determined by treasury and the card providers.

B. The state charges shall encompass these various fees charged by card providers and include other applicable fees including fees by third party processors, or fees assessed by providers of Internet payment processing services. The state charges shall be in the form of a uniform dollar amount or percentage assessed for each card or device and for each method of conducting transactions to be accepted by state entities. The state charges will be revised from time to time and the treasurer shall notify state entities of the revised state charges.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:316.1.

HISTORICAL NOTE: Promulgated by the Department of Treasury, LR 27:737 (May 2001), amended LR 28:2205 (October 2002), repromulgated LR 29:196 (February 2003).

**§113. Fees**

A. Each state entity shall assess a state charge for each payment transaction a payment card is accepted.

B. The state charge will be classified by the state entity into a fund designated by the treasurer. Each card issuer will provide to the treasurer and the entity a monthly billing detailing the amount of charges by merchant name and merchant account number. The entity will review the monthly billing and pay the invoice from the fund pursuant to an appropriation for this purpose by the legislature.

C. Each state entity will review the monthly billings and resolve discrepancies directly with the card provider(s).

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:316.1.

HISTORICAL NOTE: Promulgated by the Department of Treasury, LR 27:737 (May 2001), repromulgated LR 29:196 (February 2003).

0302#005

**RULE**

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

Wild Quadrupeds C Game Breeder's License  
(LAC 76:V.107)

The Wildlife and Fisheries Commission has amended the Section on white-tailed deer within the Game Breeder's License Rule.

**Title 76**

**WILDLIFE AND FISHERIES**

**Part V. Wild Quadrupeds and Wild Birds**

**Chapter 1. Wild Quadrupeds**

**§107. Game Breeder's License**

A. - B.7. ...

8. Whitetail Deer or Other North American Deer

a. Except as specified herein, licenses will not be issued. Licenses will not be issued unless pens are completed and complete applications are received in the Wildlife Division Baton Rouge Office by 4:30 p.m. October 4, 2002. Pens must be inspected before a license will be issued. If at the time of inspection, pens do not meet the requirements of this Rule, a license will not be issued and the application will not be reconsidered. Persons with valid licenses issued prior to this prohibition will be "grandfathered" and licenses may be renewed if all requirements are met. Licenses cannot be transferred beyond immediate family (father, mother, brother, sister, husband, wife, son and daughter). A license may be transferred to an immediate family member only if the pen remains in the original location. Qualified zoos, educational institutions and scientific organizations may be exempted on a case by case basis.

b. No license will be issued in metropolitan or urban areas. A rural environment is required to keep these animals. Qualified zoos, educational institutions and scientific organizations will be exempted on a case by case basis.

c. Single Animal: 5,000 square feet paddock or corral (For example: 50 feet wide x 100 feet long); increase corral size by 2,500 square feet for each additional animal; shelter required. Pen site must be well drained so as to prevent extended periods of standing water.

d. Materials: Chain link or other satisfactory woven wire, 12 gauge minimum, 8 feet high minimum. Welded wire is not acceptable.

e. Licensed game breeders are required to report all deaths of deer to a regional Wildlife Division Office within 48 hours of the time of death and preserve the carcass as instructed by the Wildlife Division, but are encouraged to report the death sooner if possible.

B.9. - C.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:171.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 14:631 (September 1988), amended LR 18:1134 (October 1992), LR 21:1355 (December 1995), LR 29:196 (February 2003).

James H. Jenkins, Jr.  
Secretary

0302#039