

# Notices of Intent

## NOTICE OF INTENT

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

Advisory Commission on Pesticides  
(LAC 7:XXIII.121,.125 and 129)

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Advisory Commission on Pesticides, proposes to amend regulations regarding the examinations of applicators, certification of commercial applicators and agricultural consultants.

The amendments clarify and accurately indicate the intent of the regulations. The test scores are in percentage, certification shall be renewed and the consultants are controlling pests.

These rules comply with and are enabled by R.S. 3:3203 and R.S. 3:3223.

## Title 7

### AGRICULTURE AND ANIMALS

#### Part XXIII. Pesticide

#### Chapter 1. Advisory Commission on Pesticides

#### Subchapter E. Applicators, Salespersons and Agricultural Consultants

#### §121. Examinations of Applicators, Salespersons and Agricultural Consultants

A. The minimum score necessary for successful completion of examinations for certifications under these rules shall be 70 percent.

B. The director, in cooperation with the director of the Cooperative Extension Service or his designee, shall be responsible for the preparation of all examinations.

C. The director shall be responsible for the administration and grading of all examinations.

D. Each applicant who fails to receive a passing score on any test in any category or subcategory shall wait a minimum of 10 days before being eligible for re-examination.

E. No person shall be allowed to take an examination in any category more than three times in a 12-month period.

F. Louisiana citizens who have failed any examinations under these standards shall not be permitted to receive certification under a reciprocal agreement with another state.

G. All applicants for private applicators' certification must be at least 16 years of age or an emancipated minor. All applicants for salesperson certification must be at least 18 years of age or an emancipated minor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203 and R.S. 3:3241 and 3:3249.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended LR 11:943 (October 1985), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 15:76 (February 1989), LR 27:

#### Subchapter F. Certification

#### §125. Certification of Commercial Applicators

A. - D. ...

E. Each person that has been certified in any category or subcategory as a commercial applicator, and whose certification has not been revoked or suspended, shall renew that certification by attending a recertification meeting or training course for that category as designated by the commissioner.

F. The commissioner shall issue a certification card to each commercial applicator showing the categories or subcategories in which the applicator is certified. This certification card shall expire on December 31 of each year. Each person wishing to renew a certification card shall do so by submitting an application form prescribed by the commissioner and by submitting the proper fee.

G. Each person who is certified as a commercial applicator need not be certified as a private applicator or a pesticide salesperson to apply or supervise the application of any restricted use pesticide as a private applicator, or to sell or supervise the sale of restricted use pesticides.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203, R.S. 3:3242 and R.S. 3:324.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended LR 10:193 (March 1984), amended by the Department of Agriculture and Forestry, Office of Agriculture and Environmental Sciences, LR 19:735 (June 1993), LR 20:641 (June 1994), LR 21:928 (September 1995), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 23:193 (February 1997), LR 24:280 (February 1998), LR 27:

#### §129. Certification of Agricultural Consultants

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

ii. Forest Entomology. Making recommendations for the control of forest pests.

iii. Household, Structural and Industrial Entomology. Making recommendations for the control of household pests, structural and industrial pests (such as termites, in stores, warehouse and transportation facilities).

iv. Medical, Veterinary and Public Health Entomology. Making recommendations for control of arthropods affecting man and animals.

v. Orchard and Nut Tree Entomology. Making recommendations for the control of orchard pests.

vi. Ornamental Entomology. Making recommendations for the control of pests of ornamentals, lawns, turf and shade trees.

b. Control of Plant Pathogens (Category 2).

i. Agricultural Plant Pathology. Making recommendations for the control of diseases of agronomic crops, especially sugarcane, cotton, rice, soybeans and home garden plants.

ii. Turf, Ornamental, Shade-tree and Floral Plant Pathology. Making recommendations for the control of diseases of turf, ornamentals, shade-trees and floral plants. Also includes greenhouse and nursery plant disease control.

iii. Forest Pathology. Making recommendations for the control of diseases of trees in plantations, nurseries

and managed or unmanaged forests wherein the principal value lies in the production of wood fiber.

iv. Orchard Pathology. Making recommendations for the control of diseases of wood vines and trees wherein the principal value lies in the production of fruits or nuts.

c. Control of Weeds (Category 3).

i. Agricultural Weed Control. Making recommendations for the control of weeds and grasses in field crops, vegetable crops, pastures and rangeland.

ii. Turf, Ornamental and Shade-Tree Weed Control. Making recommendations for the control of weeds and grasses in ornamentals, turf areas, cemeteries and other similar areas.

iii. Forest Weed Control. Making recommendations for the control of weeds and grasses in forest lands.

iv. Right-of-Way and Industrial Weed Control. Making recommendations for the control of weeds and grasses in and around industrial and commercial sites.

d. Soil Management (Category 4).

i. Agricultural Field Soil Management. Knowledgeable in symptoms of soil and/or tissue nutrient problems; sampling techniques for soil and/or tissue analysis; interpretation of laboratory results; and recommendations for soil and/or tissue amendments.

ii. Agricultural Soil, Water and Tissue Laboratory Analysis. Knowledge of all diagnostic procedures pertaining to analysis of soil, water and/or tissue samples.

iii. Agricultural Soil Reclamation. Knowledge of techniques, methods, etc. for restoring or attempting to restore soil productivity as a result of physical and/or chemical disturbance or natural causes such as severe erosion or contaminated soils.

iv. Agricultural Water Management. Knowledge of irrigation scheduling practices and techniques for various enterprises requiring water on a regular or intermittent basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203, R.S. 3:3246 and R.S. 3:3249.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended LR 11:943 (October 1985), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 24:281 (February 1998) amended LR 27:

#### **Family Impact Statement**

The proposed amendments to LAC 7:XXIII.Chapter 1 regarding the examinations of applicators, certification of commercial applicators and agricultural consultants should not have any known or foreseeable impact on any family as Defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed rule.

Interested persons should submit written comments on the proposed rules to Bobby Simoneaux through the close of business on October 30, 2001, at 5825 Florida Blvd., Baton

Rouge, LA 70806. No preamble regarding these rules is necessary.

Bob Odom  
Commissioner

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

### **RULE TITLE: Advisory Commission on Pesticides**

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

There is estimated to be no implementation costs or savings to state or local governmental units. These regulation changes correct grammatical errors that were overlooked during the rule making process.

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

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

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

There is estimated to be no costs and/or economic benefits to directly affected persons or non-governmental groups.

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

There is estimated to be no effect on competition and employment.

Skip Rhorer  
Assistant Commissioner  
0109#048

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

## **NOTICE OF INTENT**

### **Department of Civil Service Board of Ethics**

Advisory Opinions; Complaints; Hearings; Penalties; Records and Reports Campaign Finance Disclosure Act; Lobbyist Disclosure Act (LAC 52:I.611, 701, 704, 708, 1005, 1202, 1305, 1310, 1313, 1604, 1609, 1610, and 1902)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Civil Service, Louisiana Board of Ethics, has initiated rulemaking procedures to promulgate amendments and changes to the Rules for the Board of Ethics pursuant to its authority in Section 1134(A) of the Code of Governmental Ethics [R.S. 42:1134(A)] and in accordance with legislation enacted during the 2001 Regular Legislative Session.

### **Title 52 ETHICS**

#### **Part I. Board of Ethics**

#### **Chapter 6. Advisory Opinions**

##### **§611. Persons to be Heard**

A. At any time during the board's general agenda, opportunity to appear before the board shall be provided to persons who would like to comment on an item of the board's general agenda, excluding those items scheduled as adversarial public hearings.

B. Subject to the provisions of this Section, the chairman shall have the authority to regulate the course of testimony

in connection with an item before the board, including the authority to begin and terminate the consideration of an item before the board, to continue consideration of the item to another time or location, and to limit testimony which would be excessively cumulative or not related to the purpose of the matter; provided that nothing herein shall be construed to prevent the right of any citizen to speak at a public meeting.

C. Any person requesting to appear before the board, shall notify the executive secretary of their interest in the matter, and the group, organization or company they represent, if any, prior to the item being called by the board for consideration. Regarding testimony provided before the board, the chairman shall give first preference for speaking to the person submitting the item to the board and second preference to any person who is the subject of the matter submitted. Thereafter the chairman shall allow those persons who have notified the executive secretary of their wish to appear before the board in order of the receipt of said notification. The chairman may fix the maximum amount of time that each person provides testimony. The chairman shall allot the time in an equitable manner among those persons who are to be heard.

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

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 27:

## **Chapter 7. Complaints**

### **§701. General Requirements**

A. The board shall consider any signed sworn or non-sworn complaint from any elector concerning a violation of any law within its jurisdiction or the regulations or orders issued by the board. The complaint may be based on firsthand knowledge or on information and belief. Upon consideration of a complaint, the board may close the file, refer the complaint to investigation, or take such other action as it deems appropriate.

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

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1292 (October 1997), amended LR 27:

### **§704. Notification**

A. The executive secretary shall mail by certified mail a certified copy of the vote and explanation of the matter to the object of the non-sworn complaint within 10 days after the vote occurs.

B. The executive secretary shall mail by certified mail a copy of the sworn complaint if one has been submitted to the board to the object of the sworn complaint and the complainant within 10 days after the sworn complaint is received and considered.

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

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1292 (October 1997), amended LR 27:

### **§708. Complaints; Action by the Board**

A. The board shall have one year from the date upon which a sworn complaint is received to either dismiss the complaint or file formal charges.

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

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1292 (October 1997), amended LR 27:

## **Chapter 10. Hearings**

### **§1005. Notice of Public Hearings**

A. ...

B. Notice to the public shall be posted in the lobby of the office of the Ethics Administration Program and at such other place where the public hearing is to be held.

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

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1294 (October 1997), amended LR 27:

## **Chapter 12. Penalties**

### **§1202. Late Filing; Notice**

A. The staff shall mail by certified mail a notice of delinquency within four business days after the due date for any report or statement, of which the staff knows or has reason to know is due by the filer, that is due under any law within the board's jurisdiction which has not been timely filed.

B. ...

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

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1298 (October 1997), amended LR 26:627 (April 2000), amended LR 27:

## **Chapter 13. Records and Reports**

### **§1305. Statements Filed Pursuant to Section 1120 of the Code**

A. Statements filed pursuant to this Section contain:

1. the name and address of the elected official; and
2. a detailed description of the matter in question, including the description of the transaction to be voted upon as well as a description of the nature of the conflict, or potential conflict, and the reasons why despite the conflict the elected official is able to cast a vote that is fair, objective and in the public interest.

B. ...

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

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1299 (October 1997), amended LR 27:

### **§1310. Notices Filed Pursuant to R.S. 18:1495.7(B)**

A. Notices filed pursuant to this Section shall:

1. be filed within two business days after the issuance of a proclamation stating the object of a special session;
2. be in writing; and
3. contain:
  - a. The name of the legislator by or for whom the fundraising function is being given;
  - b. The date of the fundraising function;
  - c. The location of the fundraising function.

B. When filed by anyone other than a legislator, the notice shall also provide the name of the individual, group or organization giving or sponsoring the fundraising function.

C. The executive secretary shall maintain these statements suitably indexed.

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

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 27:

**§1313. Disclosure Forms Filed Pursuant to R.S. 27:96(A) and R.S. 27:261(A)**

A. Disclosure forms filed pursuant to R.S. 27:96(A) and R.S. 27:261(A) shall:

1. be in writing and on a form provided by the board or a form which is substantially similar to the form provided by the Board of Ethics;
2. be filed no later than five days prior to the elected public official's performance;
3. contain:
  - a. the name and address of the elected public official;
  - b. the public position held by the elected public official;
  - c. the date, time and place of the performance;
  - d. the amount of compensation the elected public official has contracted to receive for the performance; and,
  - e. the identity of the person or entity providing the compensation;
4. include a copy of the contract.

B. The executive secretary shall maintain these forms suitably indexed.

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

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 27:

**Chapter 16. The Board as Supervisory Committee of the Louisiana Campaign Finance Disclosure Act**

**§1604. Registration and Reporting; Forms**

A. - C. ...

D. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1302 (October 1997), amended LR 25:24 ( January 1999), LR 26:627 (April 2000), amended LR 27:

**§1609. Contribution Limit**

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1302 (October 1997), amended LR 26:1429 (July 2000), repealed LR 27:

**§1610. Monthly Reporting by Political Committees**

A. If a political committee, other than a principal or subsidiary campaign committee of a candidate, chooses to file campaign finance disclosure reports on a monthly basis, written notification must be provided to the supervisory committee no less than forty-five days prior to the next campaign finance disclosure report required by R.S. 18:1491.6 and R.S. to be filed by the political committee.

B. Such notification must be in writing on a form provided by the supervisory committee or a form which is substantially similar to the form provided by the supervisory committee, and be signed by the chairman of the political committee.

C. Upon receipt of the written notification from the political committee by the supervisory committee, the political committee shall file reports by the tenth of each month if the political committee accepted a contribution or some other receipt, or made an expenditure or some other disbursement during the preceding month. If the political

committee is required to file a monthly report, the political committee shall begin filing monthly reports no later than the next month after which notification is received by the supervisory committee.

D. If a political committee intends to cease filing reports on a monthly basis written notification must be provided to the supervisory committee prior to the due date of the next monthly report; thereafter, the political committee must file the next monthly report and then commence filing reports in accordance with R.S. 18:1491.6.

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

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 27:

**Chapter 19. Lobbyist Disclosure Act §1902. Filing Fees**

A. A fee of \$110 shall be remitted to the board with each registration or supplemental registration required to be filed by a lobbyist.

B. ...

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

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 25:264 (April 1999), amended LR 27:

No preamble to the proposed rule changes has been prepared. Interested persons may direct their comments to R. Gray Sexton, Louisiana Board of Ethics, 8401 United Plaza Boulevard, Suite 200, Baton Rouge, LA 70809-7017, telephone (225) 922-1400 or (800) 842-6630, until October 10, 2001.

If necessary, a public hearing will be held by the Louisiana Board of Ethics at 8401 United Plaza Boulevard, Suite 200, Baton Rouge, LA 70809-7017, between October 25, 2001 and October 30, 2001.

R. Gray Sexton  
Ethics Administrator

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES  
RULE TITLE: Advisory Opinions; Complaints; Hearings; Penalties; Records and Reports Campaign Finance Disclosure Act; Lobbyist Disclosure Act**

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

The amendments to the rules for the Board of Ethics are a result in part due to legislation enacted during the 2001 Regular Legislative Session. Implementation of the amendments will increase expenditures by \$280 for publishing the rules in the *Louisiana Register*, and decrease expenditures by \$708 in FY 01-02, \$829 in 02-03, and \$2,543 in FY 03-04 due to a decrease in the number of certified correspondence mailed to those persons who do not timely file reports and those persons that file non-sworn complaints. The costs and savings will be absorbed into the board's existing budget.

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

The amendments to the rules for the Board of Ethics are not expected to have any significant fiscal impact on revenue collections of local governmental units. However, the amendments will increase self-generated funds of the agency by \$44,000 due to the registration fee for lobbyists increasing from \$10 to \$110.

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

Persons that register as lobbyists will be required to pay an annual registration fee of \$110.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition or employment.

R. Gray Sexton  
Ethics Administrator  
0109#057

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

Bulletin 741C Louisiana Handbook For School Administrators  
Policy for Louisiana's Public Education Accountability System (LAC 28:I.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to Bulletin 741, referenced in LAC 28:I.901.A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). Act 478 of the 1997 Regular Legislative Session called for the development of an Accountability System for the purpose of implementing fundamental changes in classroom teaching by helping schools and communities focus on improved student achievement. The State's Accountability System is an evolving system with different components. The proposed changes more clearly explain and refine the existing policy as follows:

- 1) the process to be used to evaluate any instance of irregularity or unusual data results reported for indicators used to calculate a school's SPS; and
- 2) clarification of the process to be used for allocating rewards based on the findings of the irregular or unusual data.

**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**

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 by the Board of Elementary and Secondary Education LR 26:635 (April, 2000); LR 26:1260 (June, 2000), LR 26:1260-1261 (June, 2000), LR 27:

**The Louisiana School and District  
Accountability System**

**Data Collection and Data Verification**

**2.006.04** A test score shall be entered for all eligible students within a given school. For any eligible student who does not take the test, including those who are absent, a score of "0" on the CRT and NRT shall be calculated in the school's SPS. (See Standard 2.006.18 for students

participating in out-of-level testing.) To assist a school in dealing with absent students, the Louisiana Department of Education shall provide an extended testing period for test administration. The only exception to this policy is a student who was sick during the test and re-testing periods and who has formal medical documentation for that period.

The Districts and the LDE shall evaluate any instance of Irregularity or Unusual Data in the following respects:

For Attendance and Dropout data:

- The LDE shall identify a statistically valid sample of all schools included in the accountability system. All schools included in this sample shall be audited.
- Additionally, the LDE shall audit all schools included in the accountability system that have an Irregularity or Unusual Data Result (UDR), as defined below. The LDE may have an outside team conduct the audit.
- The findings of the audit shall be reported to the SBESE, the local district and local school. If the audit findings cannot be resolved, the Superintendent shall recommend to the SBESE, who shall approve the appropriate data to be used in the calculation of the School Performance Score.

For NRT and CRT data:

- If there is evidence of an Irregularity or UDR, the LEA shall be required to investigate using a process as determined by the LDE and approved by the SBESE. The LEA shall report the results of its investigation to the State Superintendent of Education.
- If the State Superintendent of Education determines that the results of the investigation do not sufficiently explain the data, s/he shall designate a team to visit the school and conduct its own investigation.
- If the gains are validated by the visit, the school will be designated a "pacesetter" school. If the gains cannot be validated, the State Superintendent of Education may initiate further action.

Reported Irregularities:

- The LDE will determine and the SBESE shall approve a process for the public to report possible Irregularities.
- Anonymous complaints may be investigated.
- All signed complaints shall be investigated.

Allocation of Rewards (See Standard 2.006.08)

- If Irregularities are resolved and the data is corrected before rewards are provided, then the rewards will be based upon the corrected data.
- If the Irregularities are resolved and the data is corrected after rewards have been distributed, then the school shall be required to repay any rewards for which it was ineligible as determined by the audit findings or the SBESE will subtract the reward amount from future funds to be awarded to the district or from some other source.

An Unusual Data Result (UDR) shall be defined as any CRT, NRT, attendance or dropout data which exceeds a parameter, or a range of parameters, which shall be determined by the LDE and approved by the SBESE. An Irregularity shall be defined as any data which appears to contradict results which are otherwise expected; unrealistic information; or data generated as a result of defective data collection or processing.

**Rewards/Recognition**

**2.006.08** A school shall receive recognition and monetary awards (as appropriated by the Legislature) when it meets or surpasses its Growth Target and when it shows growth in the performance of students who are classified as high poverty and special education students. For Cycle 1 only, the SBESE shall determine distribution of rewards based on a school's

SPS and on the amount of growth (at least 0.1 points) shown in the performance of students who are classified as high poverty.

School personnel shall decide how any monetary awards shall be spent; however, possible monetary rewards shall not be used for salaries or stipends. Other forms of recognition shall also be provided for a school that meets or exceeds its Growth Target.

Districts and the LDE shall evaluate any instance of Irregularity or Unusual Data (See Standard 2.006.04) in the following respects for determining the allocation of rewards:

- If Irregularities are resolved and the data is corrected before rewards are provided, then the rewards will be based upon the corrected data.
- If the Irregularities are resolved and the data is corrected after rewards have been distributed, then the school shall be required to repay any rewards for which it was ineligible as determined by the audit findings or the SBESE will subtract the reward amount from future funds to be awarded to the district or from some other source.

Interested persons may submit written comments until 4:30 p.m., November 9, 2001, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody  
Executive Director

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

**RULE TITLE: Bulletin 741C Louisiana Handbook for  
School AdministratorsC Policy for Louisiana's Public  
Education Accountability System**

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

There are no estimated implementation costs to state governmental units. The proposed changes more clearly explain and refine the existing policy as it pertains to the process to be used to evaluate any instance of irregular or unusual data results reported for the indicators used to calculate a school's SPS, and clarification of the process to be used for allocating rewards based on the findings of the irregular or unusual data.

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

There will be no effect on revenue collections by state or local governmental units.

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

There will be no estimated costs and/or economic benefits to persons or non-governmental groups directly affected.

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

There will be no effect on competition and employment.

Marlyn J. Langley  
Deputy Superintendent  
Management and Finance  
0109#030

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

Bulletin 746C Louisiana Standards for State Certification  
of School PersonnelC Full-Time/Part-Time  
Noncertified School Personnel (LAC 28:I.903)

In accordance with R.S. 49:950, et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to Bulletin 746, *Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903.A. The proposed rule extends until July 1, 2002, the interim emergency policy for hiring full-time/part-time noncertified school personnel. There is no change proposed in the content of the policy which allows school systems to employ noncertified teachers when there is no certified teacher available.

**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**

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 26:459 (March 2000); LR 26:635-638 (April 2000); LR 26:638-639 (April 2000), LR 27:

**Interim Emergency Policy for Hiring**

**Full-Time/Part-Time Noncertified School Personnel**

Full-time/part-time noncertified school personnel, excluding speech, language, and hearing specialists, may be employed by local public education agencies experiencing extreme difficulty in employing certified teachers for the classroom, provided that the following documentation is submitted to the Department of Education:

- A signed affidavit by the local superintendent that the position could not be filled by a certified teacher,
- Submission of names, educational background, subject matter and grade levels being taught as an addendum to the annual School Report.

**A. Individuals employed under this policy must**

1. Hold a minimum of a baccalaureate degree from a regionally accredited institution;
2. Take all appropriate areas of the PRAXIS/NTE at the earliest date that it is offered during the first year of employment and in all appropriate areas at least once each year during subsequent years of employment; and
3. Earn six semester hours of college course work each year as indicated below:

- a. Teachers who have not completed a teacher education program must

i. Within the first year of employment and prior to consideration for re-employment the second year, be officially admitted to a teacher education program; obtain a prescription or outline of course work required for certification; and achieve the required scores on the PRAXIS Pre-Professional Skills Tests in Reading, Writing, and Mathematics. The appropriate score(s) on the Communication skills and/or General Knowledge portions of the NTE may be substitutes only if the test(s) was (were) taken prior to September 1999.

ii. Prior to consideration for re-employment each year, complete at least six semester hours of college course work as prescribed by the college or university to complete a teacher education program.

b. Teachers who have completed a teacher education program but have not achieved the required scores on all parts of the PRAXIS/NTE prior to consideration for re-employment each year, must earn six semester hours appropriate to the area of the PRAXIS/NTE (Pre-Professional Skills Tests in Reading, Writing, and Mathematics, the Principles of Learning and Teaching K-6 or 7-12, and the subject assessments/specialty area tests) in which the score was not achieved. Appropriate scores achieved on portions of the NTE that were formerly required may be used, provided the score was achieved prior to the date the test(s) was (were) discontinued for use in Louisiana.

i. Successful completion of a university sponsored seminar, workshop or course specially designed for preparing for the PRAXIS/NTE may substitute once for three semester hours of the required course work. Documentation from the university must be provided to verify participation.

B. The following documentation, as appropriate, shall be kept on file in the LEA's Superintendent's/Personnel Office.

1. Official transcripts showing a minimum of a baccalaureate degree from a regionally accredited institution.

2. Documentation that the teacher has been officially admitted to a teacher education program, if applicable.

3. An outline by the college or university of the course work required for certification, or an outline of courses to help achieve the appropriate PRAXIS/NTE scores for persons who have completed a teacher education program.

4. Official transcripts showing successful completion of the six semester hours as prescribed by the college or university since the last employment under this policy.

5. Documentation to verify one-time participation in a university sponsored or state approved seminar/workshop/course for PRAXIS/NTE preparation for teachers who have completed a teacher education program.

6. An original PRAXIS/NTE score card showing the PRAXIS/NTE has been taken in all appropriate areas since the last employment under this policy.

7. Documentation that efforts for recruitment of certified teachers have been made (e.g. newspaper advertisements, letters, contacts with colleges, and so forth).

C. These individuals shall be employed at a salary that is based on the effective State salary schedule for a beginning teacher with a baccalaureate degree and a certificate with zero years of experience. Local salary supplements are optional.

D. The total number of years a person may be employed according to the provisions of this policy is five years.

E. To be eligible for re-employment under this policy, a teacher who has not met the requirement of having earned six semester hours of college credit or who has not taken the PRAXIS/NTE must meet one or more of the following conditions:

1. Medical Excuse. When serious medical problems of the teacher or immediate family in the same household exist, a doctor's statement is required with a letter of assurance from the teacher that six semester hours will be earned prior to the beginning of the next school year.

2. Required Courses not Available. A letter of verification from area universities is required stating that the required courses are not being offered.

3. Change of School, Parish, or School System. Re-employment is permitted only if the change is not part of a continuous pattern.

4. Change of Certification Areas. Re-employment is permitted with assurance that the requirements for continued employment under this policy will be met.

(These are the only conditions that may be used. Documentation that supports the above condition must be maintained in the teacher's personnel file.)

This policy does not apply to university laboratory schools.

Note: This interim emergency policy will remain in effect until July 1, 2002. Revised 7/26/01

Interested persons may submit comments until 4:30 p.m., November 9, 2001 to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Bulletin 746C Louisiana Standards for  
State Certification of School PersonnelC Full-Time/Part-  
Time Noncertified School Personnel**

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

The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.

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

This policy will have no effect on revenue collections.

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

The extension of this policy will allow local school systems to continue to employ noncertified school personnel when there is no certified teacher available.

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

The extension of this policy allows school systems to fill vacancies which exist due to the unavailability of certified teachers.

Marlyn J. Langley  
Deputy Superintendent  
Management and Finance  
0109#029

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Environmental Quality  
Office of Environmental Assessment  
Environmental Planning Division**

Emissions of Nitrogen Oxides Control  
(LAC 33:III.2201)(AQ215)

(Editor's Note: A portion of Section 2201 is being repromulgated to correct conversion errors. The full text of this Notice of Intent may be viewed in the August 20, 2001 edition of the *Louisiana Register* on pages 1406-1416.)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to adopt the Air Quality regulations, LAC 33:III.Chapter 22 (Log #AQ215).

This rule establishes requirements for reducing emissions of nitrogen oxides (NO<sub>x</sub>) to allow the Baton Rouge nonattainment area to come into compliance with the National Ambient Air Quality Standard for ozone by May of 2005. Five parishes are defined by EPA as nonattainment. They are the parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge. Livingston is included even though it has no NO<sub>x</sub> emissions sources greater than 50 tons per year (tpy). Modeling has demonstrated that the nonattainment area cannot be brought into attainment without including certain outlying parishes. Therefore, the parishes of East Feliciana, Pointe Coupee, St. Helena, and West Feliciana also have been included in the rule. The rule establishes emission factors for reducing emissions from boilers, heaters, furnaces, turbines, and internal combustion engines at affected facilities. The rule also establishes requirements for permits, compliance, recordkeeping and reporting. During the summer of 2000, Louisiana experienced many days of elevated ozone levels, especially in the Baton Rouge area, as a number of the monitored readings exceeded the one-hour standard. In addition, the five-parish Baton Rouge ozone nonattainment area did not meet the 1999 statutory deadline to comply with the one-hour ozone National Ambient Air Quality Standard (NAAQS). Urban Airshed Modeling (UAM) indicates that a reduction in NO<sub>x</sub> emissions and further reduction in VOC emissions are required to lower ozone levels. Therefore, it is necessary to identify and promulgate regulations to implement emission reduction controls. LDEQ is preparing a revision to the State Implementation Plan (SIP) that will specify emission reduction control strategies so that Louisiana can comply with the NAAQS. This rule to control emissions of NO<sub>x</sub> is only one measure identified to reduce emissions. The basis and rationale for this rule are to protect air quality in Louisiana and comply with the NAAQS for ozone.

This proposed rule meets an exception listed in R.S. 30:2019.D.2 and R.S.49:953.G.3; therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

**Title 33**

**ENVIRONMENTAL QUALITY**

**Part III. Air Quality**

**Chapter 22. Control of Emissions of Nitrogen Oxides (NO<sub>x</sub>)**

**§2201. Affected Facilities in the Greater Baton Rouge NO<sub>x</sub> Control Area**

\* \* \*

[See Proposed Text in A - E.1]

a. An owner or operator who elects to use a facility-wide averaging plan for compliance shall establish an emission limit for each applicable affected point source at the source such that if all affected point sources were operated at their averaging capacity, the cumulative emission rate of pounds NO<sub>x</sub>/MMBtu from these point sources would not exceed the facility-wide emission limit. The equations below shall be used to calculate the cumulative emission rate and the facility-wide emission limit.

$$FL = \sum_{i=1}^N ( R_{li} \times f_i ) \quad \text{Equation E-1}$$

where:

$$f_i = HI_i / \sum_{i=1}^N HI_i \quad \text{Equation E-2}$$

$$\sum_{i=1}^N ( R_{ai} \times f_i ) \leq FL \quad \text{Equation E-3}$$

where:

- f<sub>i</sub> = fraction of total system averaging capacity for point source i
- HI<sub>i</sub> = the averaging capacity of each point source (MMBtu/hour)
- i = each point source in the averaging group
- N = the total number of point sources in the averaging group
- R<sub>ai</sub> = the limit assigned by the owner to each point source in the averaging plan (pound NO<sub>x</sub>/MMBtu)
- R<sub>li</sub> = the limit for each point source from Subsection D of this Section (pound NO<sub>x</sub>/MMBtu)
- FL = facility-wide emission limit (pound NO<sub>x</sub>/MMBtu)

\* \* \*

[See Proposed Text in E.1.b - J.3]

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

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 27:

A public hearing will be held on September 25, 2001, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to

participate, contact Patsy Deaville at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Persons commenting should reference this proposed regulation by AQ215. Such comments must be received no later than October 2, 2001, at 4:30 p.m., and should be sent to Patsy Deaville, Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178 or to fax (225) 765-0389. Copies of this proposed regulation can be purchased at the above referenced address. Contact the Regulation Development Section at (225) 765-0399 for pricing information. Check or money order is required in advance for each copy of AQ215.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-First Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at <http://www.deq.state.la.us/planning/regs/index.htm>.

James H. Brent, Ph.D.  
Assistant Secretary

0109#064

## NOTICE OF INTENT

### Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

#### Waste Tire Fee Collection (LAC 33:VII.105)(SW032)

(Editor's Note: Appendix C. Waste Tire Fee Collection Schedule of this Chapter is being deleted in its entirety.)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Solid Waste regulations, LAC 33:VII.10505, 10507, 10519, 10525, 10533, and 10535 (Log #SW032).

The proposed rule will modify the current waste tire fee collection methodology from \$2 per tire weighing less than 100 pounds and \$1 per 20 pounds for tires weighing over 100 pounds to \$2 per passenger/light truck tires, \$5 per medium truck tires, and \$10 per off-road tire. Appendix C. Waste Tire Fee Collection Schedule of Chapter 105 is being deleted in its entirety. It is extremely difficult for tire retailers to collect, report, and remit the waste tire fee with the current 22 categories. The proposed rule reduces the number of categories to three. It also clarifies and cleans up the waste tire regulation revisions of December 20, 2000. The basis and rationale of this rule are to comply with Act 623 of the 2001 Regular Legislative Session.

This proposed rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed rule has no known impact

on family formation, stability, and autonomy as described in R.S. 49:972.

## Title 33 ENVIRONMENTAL QUALITY Part VII. Solid Waste Subpart 2. Recycling

### Chapter 105. Waste Tires

#### §10505. Definitions

The following words, terms, and phrases, when used in conjunction with the Solid Waste Rules and Regulations, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning.

\* \* \*

[See Prior Text]

*Medium Truck Tire* Ca tire weighing one hundred pounds or more and normally used on semi-trailers, truck-tractor, semi-trailer combinations or other like vehicles used primarily to commercially transport persons or property on the roads of this state or any other vehicle regularly used on the roads of this state.

\* \* \*

[See Prior Text]

*Off-Road Tire* Ca tire weighing one hundred pounds or more and that is normally used on off-road vehicles.

\* \* \*

[See Prior Text]

*Passenger/Light Truck/Small Farm Service Tire* Ca tire weighing less than one hundred pounds and normally used on automobile, pickup trucks, sport utility vehicles, front steer tractors, and farm implement service vehicles.

\* \* \*

[See Prior Text]

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2411-2422.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:37 (January 1992), LR 20:1001 (September 1994), LR 22:1213 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2773 (December 2000), LR 27:829 (June 2001), LR 27:

#### §10507. Exemptions

A. Any persons, facilities, or other entities subject to these regulations may petition the department for exemption from these regulations or certain portions thereof in accordance with LAC 33:VII.307.

B. A vehicle operated by a local governmental body that is engaged in the collection of waste tires that are located on governmental property or on road rights of way with the tires to be taken to an authorized waste tire collection center or permitted processing facility may be granted an exemption to the transporter authorization application fee and the transporter maintenance and monitoring fee specified in LAC 33:VII.10535. A maximum of one vehicle is allowed for each governmental body under this exemption. In order to be recognized as exempt under this Subsection, the local governmental body shall submit a transporter notification form to the administrative authority indicating the governmental body's desire to take advantage of this exemption.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2411-2422.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid

Waste Division, LR 18:38 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2774 (December 2000), LR 27:

**§10519. Standards and Responsibilities of Generators of Waste Tires**

\* \* \*

[See Prior Text in A - B]

C. Each tire dealer doing business in the state of Louisiana shall be responsible for the collection of the \$2 waste tire fee upon the sale of each new passenger/light truck tire, \$5 waste tire fee upon the sale of each new medium truck tire, and \$10 waste tire fee upon the sale of each new off-road tire. No fee shall be collected on tires weighing more than 500 pounds or solid tires. "Tire dealers" includes any dealer selling new tires in Louisiana.

D. All tire dealers shall remit the waste tire fee, as specified in LAC 33:VII.10535.B and C, to the department on a monthly basis on or before the twentieth day following the month covered. The fee shall be submitted to the Office of Management and Finance, Financial Services Division, along with the Monthly Waste Tire Fee Report Form WT01 obtained from the Office of Management and Finance, Financial Services Division. Until December 31, 2001, the fee shall be reported on Form WT01 in the following tire categories: passenger/light truck, medium truck, and off-road. On January 1, 2002, the fee shall be reported on Form WT02. Every tire dealer required to make a report and remit the fee imposed by this Section shall keep and preserve records as may be necessary to readily determine the amount of fee due. Each dealer shall maintain a complete record of the quantity of tires sold, together with tire sales invoices, purchase invoices, inventory records, and copies of each Monthly Waste Tire Fee Report for a period of no less than three years. These records shall be open for inspection by the administrative authority at all reasonable hours.

\* \* \*

[See Prior Text in E - E.1]

2. "All Louisiana tire dealers are required to collect a waste tire cleanup and recycling fee of \$2 for each passenger/light truck tire, \$5 for each medium truck tire, and \$10 for each off-road tire, upon sale of each new tire. Tire fee categories are defined in the Waste Tire Regulations. No fee shall be collected on tires weighing more than 500 pounds or solid tires. This fee must be collected whether or not the purchaser retains the waste tires. Tire dealers must accept from the purchaser, at the time of sale, one waste tire for every new tire sold, unless the purchaser elects to retain the waste tire."

\* \* \*

[See Prior Text in F - I]

1. the storage is solely for the purpose of accumulating such quantities as are necessary to facilitate proper processing;

2. documentation supporting the storage period and the quantity required for proper processing are available at the generator's facility for department inspection; and

3. no more than 150 tires shall be stored at the generator's place of business at one time.

\* \* \*

[See Prior Text in J - O]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:40 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2777 (December 2000), LR 27:830 (June 2001), LR 27:

**§10525. Standards and Responsibilities of Waste Tire Processors**

\* \* \*

[See Prior Text in A - D.14]

E. Mobile Processors

1. Only standard permitted processors shall be eligible to apply for mobile processor authorization certificates. Any mobile processor without a standard permit whose certificate expires after the effective date of these regulations may have the certificate renewed for a one-time period of 365 days upon request of the mobile processor.

\* \* \*

[See Prior Text in E.2 - F]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:41 (January 1992), amended LR 20:1001 (September 1994), LR 22:1213 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2779 (December 2000), LR 27:831 (June 2001), LR 27:

**§10533. Manifest System**

\* \* \*

[See Prior Text in A - C]

D. Completed manifests shall be maintained by all parties for a minimum of three years and shall be made available for audit at the place of business during regular business hours.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2780 (December 2000), LR 27:831 (June 2001), LR 27:

**§10535. Fees and Fund Disbursement**

\* \* \*

[See Prior Text in A - A.8]

B. Waste Tire Fee upon Promulgation of These Regulations. A waste tire fee is hereby imposed on each new tire sold in Louisiana, to be collected by the tire dealer from the purchaser at the time of retail sale. The fee shall be \$2 for each passenger/light truck tire, \$5 for each medium truck tire, and \$10 for each off-road tire. No fee shall be collected on tires weighing more than 500 pounds or solid tires.

\* \* \*

[See Prior Text in C - D.10]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 20:1001 (September 1994), amended LR 22:1213 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2781 (December 2000), LR 27:832 (June 2001), LR 27:

A public hearing will be held on October 25, 2001, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Persons commenting should reference this proposed regulation by SW032. Such comments must be received no later than November 1, 2001, at 4:30 p.m., and should be sent to Patsy Deaville, Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178 or to fax (225) 765-0389. Copies of this proposed regulation can be purchased at the above referenced address. Contact the Regulation Development Section at (225) 765-0399 for pricing information. Check or money order is required in advance for each copy of SW032.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at <http://www.deq.state.la.us/planning/regs/index.htm>.

James H. Brent, Ph.D.  
Assistant Secretary

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

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

There are no implementation costs or savings to state or local governments.

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

There is no anticipated direct material effect on governmental revenues as a result of this measure. LDEQ anticipates that this regulation will be revenue neutral. LDEQ has no definitive information as to the number of various types of tires. However, using actual number of tires sold in Louisiana each year (3.5 million) and EPA estimates as to the percentage of these tires that are truck tires (17%) and the percentage that are off-road tires (1%), LDEQ has estimated that total revenue generated pursuant to this regulation should approximate the current revenue generated from existing fees, or roughly \$9 million annually.

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

There will be no costs to directly affected persons or non-governmental groups. There will be a reduction in paperwork as a result of reducing the waste tire fee collection categories from 22 to 3, which should result in a small savings to tire dealers.

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

There is no estimated effect on competition or employment as the proposed rule would apply equally to all retailers.

James H. Brent, Ph.D.  
Assistant Secretary  
0109#045

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

**Certification Requirements for Basic Correctional Officers  
(LAC 22:III.4703)**

In accordance with the provision of R.S. 40:2401 et seq., the Peace Officer Standards and Training Act, and R.S. 49:950 et seq., the Administrative Procedure Act, the Commission on Law Enforcement and Administration of Criminal Justice hereby gives notice of its intent to promulgate rules and regulations relative to the training of peace officers.

**Title 22  
CORRECTIONS, CRIMINAL JUSTICE AND  
LAW ENFORCEMENT  
Part III. Commission on Law Enforcement and  
Administration of Criminal Justice**

**Subpart 4. Peace Officers  
Chapter 47. Standards and Training  
§4703. Basic Certification**

A. All full-time peace officers, as defined in R.S. 40:2402, shall complete a basic training course as prescribed and certified by the Council on Peace Officers Standards and Training (POST Council). Reserve or part-time officers or military police officers stationed in Louisiana may be eligible for certification if they successfully complete a basic training course prescribed for full-time peace officers and pass the POST statewide examination. There are three levels of POST certification.

1. ...  
2. Level 2 Certification for Basic Correctional Peace Officer

a. The student will complete a training course with a minimum of 218 hours and is limited to those peace officers whose duties are the care, custody, and control of inmates. The training course consists of the ACA core curriculum plus a sufficient number of hours to obtain POST certification. POST Firearm certification for Level 2 students is required (Effective March 26, 2001).

b. Correctional peace officers with Level 2 certification must meet the POST firearms requirements for annual requalification as outlined in §4721.B and §4721.C.

A.3. - E. ...

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 13:434 (August 1987), amended LR 25:663 (April 1999), LR 27:49 (January 2001), LR 27:

Interested persons may submit written comments on this proposed rule no later than November 1, 2001, at 5 p.m. to Aubrey Futrell, POST Program Manager, Commission on Law Enforcement and Administration of Criminal Justice, 1885 Wooddale Boulevard, Room 1230, Baton Rouge, LA 70806.

Michael A. Ranatza  
Executive Director

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

**RULE TITLE: Certification Requirements for Basic  
Correctional Officers**

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

It is estimated that implementation of the proposed rule will not cause an increase in expenditures. Sufficient funds are available in the POST budget to cover any possible expenditure.

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

It is estimated that implementation of the proposed rule will not increase revenue collections of state or local governmental units.

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

It is estimated that implementation of the proposed rule will have little or no effect on directly affected persons or non-governmental groups. The adoption of a passing standard for firearm certification of correctional peace officers should reduce the liability of both the officer and his agency.

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

If a correctional peace officer is unable to pass the firearms test, he/she could not be certified as Level 2 Correctional peace officer but could be employed in another capacity.

Michael A. Ranatza  
Executive Director  
0109#046

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Board of Pharmacy**

Prescriptions (LAC 46:LIII.1109)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Louisiana Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy hereby gives notice of its intent to repeal the entire contents of the current referenced section and adopt the proposed rule.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part LIII. Pharmacists**

**Chapter 11. Pharmacies**

**§1109. Prescriptions**

A. Definitions. As used in this Section, the following terms shall have the meaning ascribed to them in this Subsection.

*Electronic Prescription* Ca prescription transmitted in electronic form.

*Practice Affiliation* Ca practice relationship, collaboration, or practice under the supervision of a physician licensed to practice medicine.

*Prescription or Prescription Drug Order* Can order from a practitioner authorized by law to prescribe for a drug or device that is patient-specific and is communicated by any means to a pharmacist in a permitted pharmacy, and is to be preserved on file as required by law or regulation (R.S. 37:1164.44).

B. Written Prescriptions. A written prescription shall conform to the following format.

1. The prescription form shall not be less than 4 inches by 5 inches.

2. The prescription form shall clearly indicate the authorized prescriber's name, licensure designation, address, telephone number, and, if applicable, DEA registration number. In the event that multiple practitioners are identified on the prescription form, the authorizing prescriber's specific identity shall be clear and unambiguous. This identification may be indicated by any means, including, but not limited to, a marked check box next to, or circling the authorizing prescriber's printed name.

3. The prescription form shall clearly indicate the authorized prescriber's practice affiliation, if the prescriber is a non-physician. The affiliated physician's name, address, and telephone number shall appear on the prescription form.

4. No prescription form shall contain more than four prescription drug orders. Each prescription drug order on the form shall provide the following:

a. check box labeled "Dispense as Written," or "DAW", or both;

b. the number of refills, if any.

5. Forms used by pharmacists to record telephoned or transferred prescriptions are exempt from the format requirements listed above.

6. Equivalent Drug Product Interchange

a. The pharmacist shall not select an equivalent drug product when the prescriber handwrites a mark in the check box labeled "Dispense as Written", or "DAW," or both, and personally handwrites his signature on a printed single signature line. Otherwise, the pharmacist may select an equivalent drug product, provided the patient has been informed of, and has consented to, the proposed cost saving interchange.

b. In the event an authorized prescriber has indicated that an equivalent drug product interchange is prohibited by handwriting a mark in the check box labeled "Dispense as Written", or "DAW," or both, then a non-licensed, non-certified, or non-registered agent of the pharmacy shall not inquire as to a patient's desire for an equivalent drug product interchange.

c. For prescriptions reimbursable by Medicaid or Medicare, the authorized prescriber may only prohibit equivalent drug product interchange by handwriting the words "brand necessary" or "brand medically necessary" on the face of the prescription order or on a sheet attached to the prescription order.

C. Oral Prescriptions

1. Upon the receipt of an oral prescription from an authorized prescriber, the pharmacist shall reduce the order to a written form prior to dispensing the medication.

2. The pharmacist shall not select an equivalent drug product when the authorized prescriber or his agent has verbally indicated a specific brand name drug or product is ordered.

3. The pharmacist may select an equivalent drug product if the authorized prescriber or his agent has given his approval to the equivalent drug interchange. The patient shall be informed of, and consent to, the proposed cost saving interchange.

D. Electronic Prescriptions

1. The prescription shall clearly indicate the authorized prescriber's name, licensure designation, address, telephone number, and, if applicable, DEA registration number.

2. The prescription form shall clearly indicate the authorized prescriber's practice affiliation, if the prescriber is a non-physician. The affiliated physician's name, address, and telephone number shall appear on the prescription form.

3. Unless the prescription clearly indicates "Dispense as Written", or "DAW", or both, equivalent drug product interchange is permissible.

4. Facsimile Prescription

a. The receiving facsimile machine of a prescription transmitted by facsimile shall be located within the pharmacy department.

b. The prescription transmitted by facsimile shall be on a non-fading, legible medium.

c. All requirements applicable to written prescriptions in Subsection B shall apply to facsimile prescriptions except §1109.B.6.c.

E. Exclusion. The provisions of this section shall not apply to medical orders written for patients in facilities licensed by the Louisiana Department of Health and Hospitals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.A.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1311 (October 1997), amended LR 27:

Interested persons may submit written comments to Malcolm J. Broussard, Louisiana Board of Pharmacy, 5615 Corporate Boulevard, Suite 8-E, Baton Rouge, LA 70808-2537. He is responsible for responding to inquiries regarding this proposed rule. A public hearing on this proposed rule is scheduled for Thursday, October 25, 2001, at 9 a.m. in the board office. At that time, all interested persons will be afforded an opportunity to submit data, views, or arguments, either orally or in writing. The deadline for receipt of all written comments is 4 p.m. that day.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed rule on the family has been considered. This proposed rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

Malcolm J. Broussard, RPh  
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES

RULE TITLE: Prescriptions

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

The cost to the agency to implement the proposed rule, which consists of printing and distributing the rule to the 2,000 holders of the *Louisiana Board of Pharmacy Law Book*, is estimated to be \$4,400 in FY 01-02. The agency has sufficient self-generated funds budgeted and available to implement this proposed rule.

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

The board is unable to discern any effect on revenue collections by state or local governmental units.

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

The only persons directly affected by this proposed rule are licensed medical practitioners authorized by law to prescribe legend drugs and devices. To the extent that prescribers purchase their prescription pads, this proposed rule may change the format of some of the pads, but will not have any measurable impact on the cost of the pads. The board is unable to determine any other impact on income or receipts as a result of the proposed rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The board is unable to discern any effects on competition or employment.

Malcolm J. Broussard, RPh  
Executive Director  
0109#037

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals  
Office of Addictive Disorders

OAD Resource Allocation Formula

The purpose for a statewide resource allocation formula is to provide a rational, objective, and fair basis to use in evaluating equitable access to services by persons in all areas of the state. The intent is to use the formula as a management tool to increase service availability to residents living in regions with the least access. Given the limited availability of services in Louisiana, no region is over-served, thus it is important to bring up the under-served regions without reducing the limited service infrastructure anywhere else in the state.

A Resource Allocation Task Force representing all regions of the state was convened in Baton Rouge in August, 1999 to discuss options and to develop a consensus list of formula elements. From a long list of potential data elements, approximately 40 separate recommendations were made by task force members. Taking the areas of strongest consensus, the recommendations were analyzed and grouped, representative measures were chosen for each group, and weights were chosen to represent the relative importance of each element. The results comprise the elements and weights of the formula as follows.

**Formula Elements**

**PovertyC20 Percent.** Poverty was the element with the most support, with all 10 regions recommending inclusion. This is measured as the number of persons residing in the region who have incomes below the poverty level as defined by the U.S. Census. Poverty is a barrier to service access and is also a risk factor associated with substance abuse problems.

**PopulationC20 Percent.** The total population of persons from 15 to 34 years of age living in the region. The effect of this measure will be to give emphasis on the population density and the number of people in the age range of most potential service recipients.

**Treatment NeedC 20 Percent.** This is the estimated number of adults needing alcohol or drug treatment in each region. These estimates were developed by researchers at the Research Triangle Institute under contract with the state. This element is important because it is a direct measure of alcohol and drug services need.

**ArrestsC15 Percent.** Arrest recommendations had more variation than other domains. Recommendations varied as to juvenile versus adult, alcohol versus drug, property and violence versus alcohol and drug offenses. Arrests are thought to reflect a dimension of equity that is not well reflected in other elements. The chosen element is the total number of adult and juvenile arrests for alcohol and drug offenses.

**RuralityC15 Percent.** This element is closely related to transportation deficits, which were articulated as particular problems for rural areas. The actual measure is the number of persons living in rural places. This is defined by the U.S. Census as places with less than 2,500 residents.

**Teenage MothersC10 Percent.** From birth certificate data provided by the Vital Records Registry has been obtained the number of persons below 20 years of age who gave birth. These young families have multiple risk factors and service access barriers.

The following data for the formula are obtained from state and federal government agencies, and from a documented research study of the Research Triangle Institute (Round 1 State Treatment Needs Assessment Studies). The most available data available is used at the time the formula is compiled; the data will be updated only when the entire formula is reconsidered on an annual or biennial basis. It is understood that each type of data used in the formula has limitations and weaknesses. Some of the elements are more recent than others, some may not be faithfully reported in all regions by the various agency reporting systems, one is based on a survey, which has limitations, and some are indirect indicators instead of direct measures. The use of multiple elements mitigates the influence of any one element and the use of public data makes this an objective and rational system that treats all regions fairly.

**Formula Tables**

Regional Data						
Region	Poverty	Population Age15-34	Alcohol & Drug Treatment Need	Alcohol & Drug Arrests	Rurality	Teenage Parents
1	167,521	192,257	52,223	8,984	7,609	1,943
2	108,353	190,521	36,626	7,194	161,060	1,319
3	83,028	120,700	22,574	4,026	123,889	1,006
4	131,733	159,291	39,741	4,882	230,395	1,551
5	51,416	80,167	22,036	4,469	93,337	771
6	73,896	103,731	24,074	4,122	167,011	959
7	120,692	151,082	34,286	7,276	179,874	1,419
8	95,346	111,622	22,134	3,786	161,800	1,150
9	72,190	107,999	36,287	5,341	216,287	1,067
10	62,827	145,880	43,810	4,759	6,673	1,013
Total	967,002	1,363,250	333,791	54,839	1,347,935	12,198

The final step in constructing the formula is to convert the data into percentages and to adjust each percentage according to the weight for that element. The resulting

formula table as shown below indicates in the far right column the percent of total state service resources that should be available to the residents of each region.

FY 2001 Resource Allocation Formula							
Weights	20%	20%	20%	15%	15%	10%	**
Region	Poverty	Population Age 15-34	Alcohol & Drug Treatment Need	Alcohol & Drug Arrests	Rurality	Teenage Parents	Regional Formula Allocation
1	17.3%	14.1%	15.6%	16.4%	0.6%	15.9%	<b>13.5%</b>
2	11.2%	14.0%	11.0%	13.1%	11.9%	10.8%	<b>12.1%</b>
3	8.6%	8.9%	6.8%	7.3%	9.2%	8.2%	<b>8.1%</b>
4	13.6%	11.7%	11.9%	8.9%	17.1%	12.7%	<b>12.6%</b>
5	5.3%	5.9%	6.6%	8.1%	6.9%	6.3%	<b>6.5%</b>
6	7.6%	7.6%	7.2%	7.5%	12.4%	7.9%	<b>8.3%</b>
7	12.5%	11.1%	10.3%	13.3%	13.3%	11.6%	<b>11.9%</b>
8	9.9%	8.2%	6.6%	6.9%	12.0%	9.4%	<b>8.7%</b>
9	7.5%	7.9%	10.9%	9.7%	16.0%	8.7%	<b>10.0%</b>
10	6.5%	10.7%	13.1%	8.7%	0.5%	8.3%	<b>8.3%</b>
Total	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	<b>100.00%</b>

### Formula Applications

The formula provides a measurement tool to assist in working toward equitable access to services in the state. Application of this method requires policy decisions concerning various categories of program funding. For the coming year the following policy decisions are in effect and they will be reconsidered periodically.

**Hold Harmless.** Funding will not be reduced for any region in order to shift funds to under-served regions. The reason for this policy is to protect the state's investment in programs that have been built up over time. Also, it is recognized that many programs provide services to clients who are residents of other regions.

**Dollars Follow Clients.** Costs will be tracked to the region of residence of clients and this will be the primary comparison made to determine equitable access to services. This is a distinctly different method than tracking expenditures by service location.

**Drug Courts and Cross-Regional Programs.** The "Dollars Follow Clients" policy applies to all regional programs included under formula funding and specifically includes Drug Courts and programs that are cross-regional in nature.

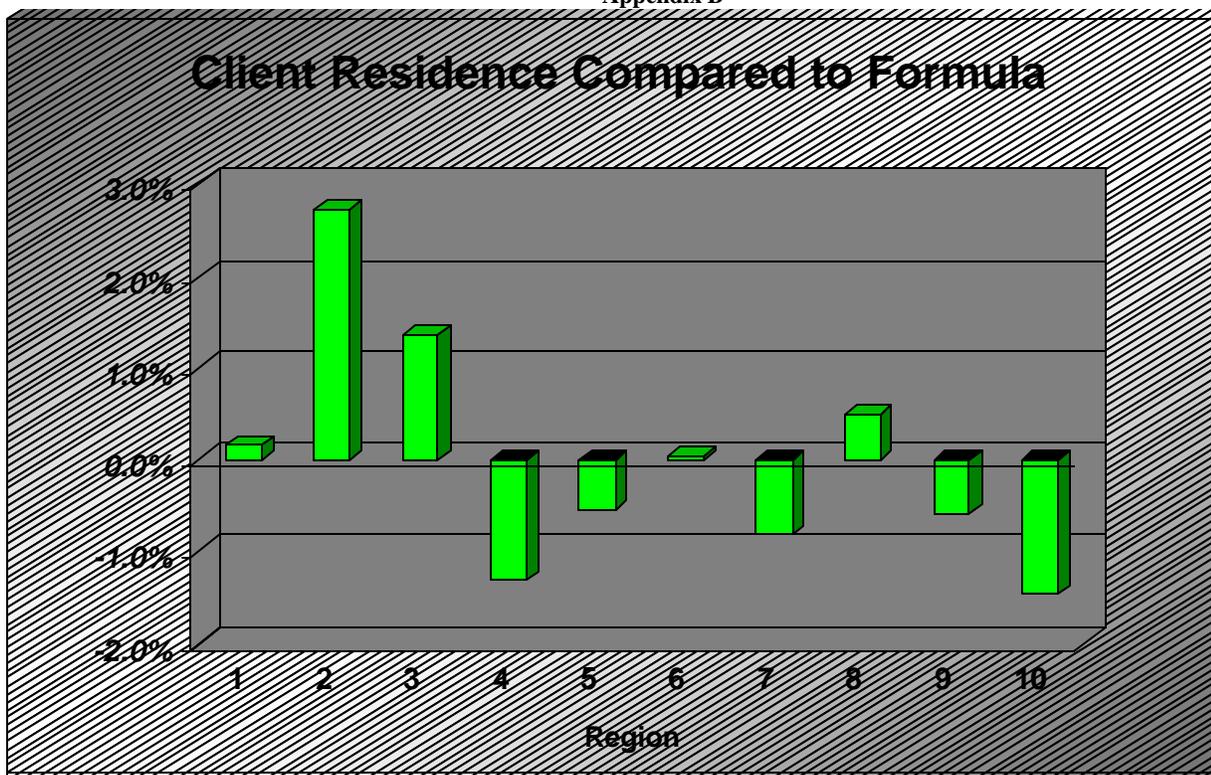
**Categoricals and Statewides.** The "Dollars Follow Clients" policy does not apply to categorical federal grant funded programs or other programs that are statewide in nature. Funding for both of these types of programs is not included in formula funding comparisons.

**Expand Toward Equity.** The primary use of the formula will be to identify under-served regions of the state and to target them with new or underutilized funds. During budget cycles in which there is a reduction in overall state funding available, the "hold harmless" policy means that the "dollars follow clients" policy will not be followed. Instead, the location of service expenditures will be the primary comparison method to plan for resource allocation.

Appendix A Formula Comparisons Using Current Budget Expenditures and Residents Utilization				
Region	Current Budget Expenditures	Adjusted Budget Based on Client Residence	Formula	Over/(Under) Formula (Res)
1	\$5,259,422	\$5,562,819	\$5,500,480	\$62,339
2	\$4,914,477	\$6,032,089	\$4,930,060	\$1,102,029
3	\$3,913,825	\$3,885,346	\$3,300,288	\$585,058
4	\$3,265,333	\$4,592,650	\$5,133,781	(\$541,131)
5	\$2,265,151	\$2,390,732	\$2,648,379	(\$257,647)
6	\$5,299,292	\$3,396,466	\$3,381,776	\$14,690
7	\$5,241,339	\$4,539,443	\$4,848,571	(\$309,128)
8	\$3,071,759	\$3,734,957	\$3,544,754	\$190,203
9	\$5,119,743	\$3,826,785	\$4,074,429	(\$247,644)
10	\$2,393,953	\$2,783,007	\$3,381,776	(\$598,769)
Total	\$40,744,294	\$40,744,294	\$40,744,294	(\$0)

Region	Current % of Budget Expenditures	% Based on Client Residence	% Per Formula	Over/(Under) Formula(Res)
1	12.9%	13.7%	13.5%	0.2%
2	12.1%	14.8%	12.1%	2.7%
3	9.6%	9.5%	8.1%	1.4%
4	8.0%	11.3%	12.6%	-1.3%
5	5.6%	5.9%	6.5%	-0.6%
6	13.0%	8.3%	8.3%	0.0%
7	12.9%	11.1%	11.9%	-0.8%
8	7.5%	9.2%	8.7%	0.5%
9	12.6%	9.4%	10.0%	-0.6%
10	5.9%	6.8%	8.3%	-1.5%
Total	100.0%	100.0%	100.0%	0.0%

Appendix B



Interested persons may submit comments on the proposed changes to Michael Duffy, Acting Assistant Secretary, Office for Addictive Disorders, Department of Health and Hospitals, PO Box 2790, Baton Rouge, LA 70821. He is responsible for responding to inquiries regarding this proposed rule. The deadline for all written comments is 4:30 pm on Thursday, October 19, 2001.

David W. Hood  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: OAD Resource Allocation Formula**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)  
There are no estimated implementation costs to state or local governmental units other than printing costs, which are estimated to be \$120 in FY 2001/02.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There is no estimated effect on revenue collections of state or local governmental units.

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

Utilization of the formula will allow the Office for Addictive Disorders to identify underserved regions of the state and to target those regions with new or underutilized funds.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Michael Duffy  
Acting Assistant Secretary  
0109#059

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

**Organ Procurement Agency Coordination**

The Department of Health and Hospitals, Office of the Secretary, proposes to adopt the following rule in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Anatomical Gift Act, R.S. 17:2354.4(J), and 42 CFR Part 482.45. This proposed rule is being submitted to fulfill the secretary's responsibility to establish rules to implement appropriate procedures to facilitate proper coordination among hospitals, the Louisiana-designated organ procurement organization, and tissue and eye banks.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. This proposed Rule has no known impact on family formation, stability, or autonomy as described in R.S. 49:972.

**Proposed Rule**

**Definitions**

*Tissue Bank or Storage Facility*Ca nonprofit facility licensed or approved under the laws of any state for storage of human bodies or parts thereof for use in transplantation to individuals, medical education, research, or therapy.

*Department*Cthe Department of Health and Hospitals.

*Hospital*Ca hospital licensed, accredited, or approved under the laws of any state and includes a hospital operated by the U.S. government, a state, or subdivision thereof, although not required to be licensed under state laws.

*Organ Procurement Organization (OPO)*Can organization that is designated by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), formerly Health Care Financing Administration, or its successor, to perform or coordinate the performance of surgical recovery, preservation, and transportation of organs, and that maintains a system for locating perspective recipients for available organ transplantation.

*Louisiana/Designated Organ Procurement Organization*Cthe organ procurement organization designated by CMS and recognized by the secretary of the Department of Health and Hospitals of Louisiana under R.S.17:2354.4(J).

A *Designated Requestor*Can individual who has completed a course offered or approved by the OPO and designed in conjunction with the tissue and eye bank community in the methodology for approaching potential donor families and requesting organ and tissue donation.

**Conditions for Participation**

In order to insure that the family of each potential donor is informed of its options to donate organs, tissues, or eyes or to decline to donate, the department adopts the procedures specified in the federally approved Medicare Conditions for Participation for Hospitals (42 CFR Part 482.45) to be followed by all hospitals in Louisiana. The individual designated by the hospital to initiate the request to the family must be an organ procurement representative or a designated requestor.

The Department of Health and Hospitals shall recognize the federally designated organ procurement organization. A letter by the CMS shall be presented to the secretary of the Department of Health and Hospitals upon certification of the organ procurement organization. Any changes between certification periods shall be reported to the secretary within 30 working days.

The secretary shall compile and disseminate a list of those nonprofit organ and tissue banks that, in addition to the Louisiana designated OPO, shall be authorized to receive donations under this section. The organ procurement organization shall be authorized upon designation by the Health Care Finance Administration. The nonprofit tissue bank or eye bank must submit copies of the following to the Secretary for authorization:

1. Proof that a nonprofit tissue bank or eye bank registered in this state or any state as a 501-C-3 charitable organization with no direct ties to any for-profit tissue processor unless an approved nonprofit vehicle is unavailable.

2. A copy of the current accreditation letter by the American Association of Tissue Banking for those nonprofit tissue banks, and a current accreditation letter by the Eye Banks of America Association for the nonprofit eye banks.

Under the Medicare Conditions for Participation for Hospitals, the following procedures are to be implemented to facilitate proper coordination among hospitals, Louisiana designated OPO, and tissue and eye banks:

1. All hospitals will incorporate an agreement with the Louisiana designated OPO, under which it must notify in a timely manner, the OPO of individuals whose death is imminent or who have died in the hospital.

2. The OPO will determine medical suitability for organ donation under this agreement.

3. The hospital will incorporate an agreement with at least one nonprofit tissue bank and at least one non-profit eye bank to cooperate in the retrieval, processing, preservation, storage, and distribution of tissues and eyes, as may be appropriate to assure that all useful tissues and eyes are obtained from potential donors, insofar as such an agreement does not interfere with organ procurement.

4. The Louisiana designated OPO will refer all appropriate referrals to the appropriate nonprofit tissue or eye bank which the OPO and hospital have incorporated an agreement with for those purposes.

Interested persons may submit written comments for 30 days from the date of this publication to Patricia A. Faxon, Program Manager, P.O. Box 629, Baton Rouge, LA 70821. She is responsible for responding to inquiries.

David W. Hood  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Organ Procurement Agency  
Coordination**

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

It is anticipated that the adoption of this rule will result in implementation costs for publication of approximately \$120 for FY 2001, with no additional costs in any other year.

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

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

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

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups. This proposed rule clarifies that there should be a clear separation from the "nonprofit" tissue recovery program and the for-profit company with which it has a business relationship. It should not have an effect, as it merely puts in rule what is current practice.

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

There is no estimated effect on competition and employment.

David W. Hood  
Secretary  
0109#060

John R. Rombach  
Legislative Fiscal Officer

**NOTICE OF INTENT**

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

**Hospital ProgramCOutpatient Surgery  
ServicesCReimbursement Increase**

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a Rule in December of 1985 that established the criteria and reimbursement for certain surgical procedures when performed in an outpatient setting. Reimbursement for these surgical procedures was set at a flat fee per service if the procedure code is included in one of the four Medicaid established payment groups. Reimbursement for those surgical procedures not included in the Medicaid outpatient

surgery list was not changed from the established methodology (*Louisiana Register*, Volume 11, Number 12). A Rule was subsequently adopted in January of 1996 which established the reimbursement methodology for outpatient hospital services at an interim rate of 60 percent of billed charges, except for those outpatient surgeries subject to the Medicaid outpatient surgery list (*Louisiana Register*, Volume 22, Number 1).

As a result of a budgetary shortfall, the bureau assigned the highest flat fee in the four Medicaid established payment groups for outpatient surgery to those surgical procedures that are not included in the Medicaid outpatient surgery list (*Louisiana Register*, Volume 26, Number 12).

As a result of the allocation of funds by the Legislature during the 2001 Regular Session, the Bureau increased the reimbursement rates paid to hospitals for outpatient surgery services (*Louisiana Register*, Volume 27, Number 7). The bureau now proposes to adopt a rule to continue the provisions contained in the July 1, 2001 Emergency Rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed rule on the family has been considered. This proposed rule has no known impact on family functioning, stability, and autonomy as described in R.S. 49:972.

**Proposed Rule**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the reimbursement paid to hospitals for those outpatient surgical procedures included in the four payment groups on the Medicaid outpatient surgery list to the following rates:

Group 1	\$444.25
Group 2	\$528.92
Group 3	\$569.32
Group 4	\$646.25

Reimbursement paid to hospitals for those surgical procedures not included on the Medicaid outpatient surgery list shall be the highest flat fee assigned to the outpatient surgery payment groups.

Implementation of this proposed rule shall be contingent upon the certification of matching funds by non-state public hospitals (except small rural hospitals as defined in R.S. 40:1300.143) as set forth in the Appropriations Act of the 2001 Regular Session of the Louisiana Legislature and the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed rule. A public hearing on this proposed rule is scheduled for Monday, October 29, 2001 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood  
Secretary

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

**RULE TITLE: Hospital ProgramC Outpatient Surgery  
ServicesC Reimbursement Increase**

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

It is anticipated that the implementation of this proposed rule will increase state program costs by approximately \$4,101,050 for SFY 2001-02, \$4,224,020 for SFY 2002-03, and \$4,350,741 for SFY 2003-04. It is anticipated that \$120 (\$60 SGF and \$60 FED) will be expended in SFY 2001-2002 for the state's administrative expense for promulgation of this proposed rule and the final rule.

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

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$9,735,070 for SFY 2001-02, \$10,027,060 for SFY 2002-03, and \$10,327,871 for SFY 2003-04.

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

Implementation of this proposed rule will increase payments to hospitals for outpatient surgery services provided to Medicaid recipients by approximately \$13,836,000 for SFY 2001-02, \$14,251,080 for SFY 2002-03, and \$14,678,612 for SFY 2003-04.

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

Implementation of this proposed rule could result in some outpatient surgery providers remaining in the Medicaid program and continuing to provide outpatient surgery services and could possibly increase participation in the program.

Ben A. Bearden  
Director  
0109#068

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

**Inpatient Psychiatric ServicesC Reimbursement Increase**

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule which established the prospective reimbursement methodology for inpatient psychiatric hospital services provided in either a free-standing psychiatric hospital or distinct part psychiatric unit of an acute care general hospital (*Louisiana Register*, Volume 19, Number 6). This rule was subsequently amended by a rule adopted to discontinue the practice of automatically applying an inflation adjustment to the reimbursement rates for inpatient psychiatric services in those years when the rates are not rebased (*Louisiana Register*, Volume 25, Number 5).

As a result of the allocation of additional funds by the Legislature during the 2000 Second Special Session, the Bureau adopted a rule in August 2000 to restore the 7 percent reduction previously made to the reimbursement rates for inpatient psychiatric services (*Louisiana Register*, Volume 26, Number 8).

As a result of the allocation of funds by the Legislature during the 2001 Regular Session, the Bureau increased the reimbursement rate for inpatient psychiatric services provided to recipients up to the age of 21 (*Louisiana Register*, Volume 27, Number 7). The Bureau now proposes to adopt a rule to continue the provisions contained in the July 3, 2001 emergency rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed rule on the family has been considered. This proposed rule has no known impact on family functioning, stability, and autonomy as described in R.S. 49:972.

**Proposed Rule**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the current per diem rate for inpatient psychiatric services by \$50 to \$394.85 for services provided to recipients up to the age of 21.

Implementation of this proposed rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, Louisiana 70821-9030. He is responsible for responding to inquiries regarding this proposed rule. A public hearing on this proposed rule is scheduled for Monday, October 29, 2001 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, Louisiana. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood  
Secretary

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

**RULE TITLE: Inpatient Psychiatric Services  
Reimbursement Increase**

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

It is anticipated that the implementation of this proposed rule will increase state program costs by approximately \$444,660 for SFY 2001-02, \$457,938 for SFY 2002-03, and \$471,676 for SFY 2003-04. It is anticipated that \$120 (\$60 SGF and \$60 FED) will be expended in SFY 2001-2002 for the states administrative expense for promulgation of this proposed rule and the final rule.

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

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately

\$1,055,460 for SFY 2001-02, \$1,087,062 for SFY 2002-03, and \$1,119,674 for SFY 2003-04.

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

This rule proposes to increase the current per diem rate for inpatient psychiatric services by \$50 from \$344.85 to \$394.85 for services provided to Medicaid recipients up to the age of 21.

Implementation of this proposed rule will increase payments for inpatient psychiatric services provided to Medicaid recipients up to the age of 21 by approximately \$1,500,000 for SFY 2001-02, \$1,545,000 for SFY 2002-03, and \$1,591,350 for SFY 2003-04.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Ben A. Bearden  
Director  
0109#065

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

Mental Health Rehabilitation Program  
Enrollment and Certification Criteria

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule that restructured the Mental Health Rehabilitation Program and established provisions governing recipient eligibility, service delivery requirements, and reimbursement methodology (*Louisiana Register*, Volume 22, Number 6). Subsequent rules were promulgated to amend the provisions governing administrative requirements by adding staffing definitions and training requirements (*Louisiana Register*, Volume 24, Number 2) and enrollment and certification criteria (*Louisiana Register*, Volume 24, Number 7). The July 20, 1998 rule was amended to revise the administrative requirements for Clinical Managers and staffing definitions for Licensed Professional Counselors, Mental Health Specialists and Mental Health Assistants (*Louisiana Register*, Volume 27, Number 6).

House Concurrent Resolution (HCR) 87 of the 2001 Regular Session of the Louisiana Legislature directed the Department to amend the provision of July 20, 1998 rule that prohibits suspended Mental Health Rehabilitation agencies from admitting new clients until all appeal rights have been exhausted. The Bureau now proposes to adopt a rule to amend this provision of the July 20, 1998 rule in compliance with HCR 87 and to repeal the provider participation requirement for submission of an annual audit by Mental

Health Rehabilitation agencies that is also contained in the July 20, 1998 rule. In addition, the Bureau proposes to amend a provision in the administrative requirements governing Clinical Managers contained in the February 20, 1998 rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed rule on the family has been considered. This proposed rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

**Proposed Rule**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends designated provisions of the July 20, 1998 and February 20, 1998 rules to adopt the following revisions in provider certification requirements, suspension and/or termination of certification, and administrative requirements for clinical managers under the Mental Health Rehabilitation Program.

I. ...

II. Provider Participation

A. - B.2.c. ...

Repeal B.2.d. which states:

"submit a copy of an annual audit of the MHR agency conducted by an independent certified public accountant, in accordance with generally accepted accounting principles, within ninety days of the close of the agency's first year of business and annually thereafter.@"

B.3. - G.1.o. ...

2. The suspensive action will be effective as of the date indicated in the written notice issued by the Bureau or its designee. Suspended agencies may continue to admit new clients until all appeal rights have been exhausted and a final decision has been rendered.

G.3. ...

III. Administrative Requirements

A. - B.1. ...

2. The clinical managers shall provide clinical management as follows: at least 12 hours for children and 5 hours for adults per quarter for high need clients, at least 6 hours for children and 3 hours for adults per quarter for moderate need clients, and at least 2 hours for children and adults per quarter for low need clients.

B.3. - D.e. ...

IV. - X. ...

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed rule. A public hearing on this proposed rule is scheduled for Monday, October 29, 2001 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, Louisiana. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood  
Secretary

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

**RULE TITLE: Mental Health Rehabilitation Program  
Enrollment and Certification Criteria**

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

It is anticipated that the implementation of this proposed rule will have no programmatic fiscal impact for SFY 2001-02, 2002-03, and 2003-04. It is anticipated that \$160 (\$80 SGF and \$80 FED) will be expended in SFY 2001-2002 for the state's administrative expense for promulgation of this proposed rule and the final rule.

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

It is anticipated that the implementation of this proposed rule will not impact federal revenue collections.

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

Implementation of this proposed rule may have economic benefits for Medicaid providers of Mental Health Rehabilitation (MHR) services. MHR providers may realize savings from the elimination of the annual audit requirement and suspended MHR agencies may benefit because they may continue to admit new clients until all appeal rights have been exhausted and a final decision has been rendered.

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

There is no known effect on competition and employment.

Ben A. Bearden  
Director  
0109#066

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

**Minimum Standards for Home Health Agencies  
(LAC 48:I:Chapter 91)**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following rule as authorized by R.S. 40:2116.31-2116.40. This proposed rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule revising the regulations governing the licensure of home health agencies in February of 1995 (*Louisiana Register*, volume 21, number 2). This rule was subsequently amended by a rule adopted in November of 1996 to revise the provisions contained in §§9165 through 9169, 9173, 9177 and 9193 (*Louisiana Register*, volume 22, number 11). There continues to be substantial growth in the home health industry and in the utilization of these services by the citizens of Louisiana. In order to ensure that these licensure standards continue to protect and promote the health and welfare of all consumers of home health services, the Department proposes to amend the designated provisions of the February 20, 1995 and November 20, 1996 rules in an effort to provide clarification of the regulations.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed rule on the family has been considered. This proposed rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

**Title 48**

**PUBLIC HEALTH**

**Part I. General Administration**

**Subpart 3. Licensing and Certification**

**Chapter 91. Minimum Standards for Home  
Health Agencies**

**§9165. Definitions**

A. The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

*Activities of Daily Living (ADL)* Cthe functions or tasks which are performed either independently or with supervision or assistance-mobility; transferring; walking; grooming; bathing; dressing and undressing; eating, and toileting.

*Administrator* Ca person who is designated in writing as administratively responsible and available in person or by telecommunication at all times for all aspects of an agency's operations.

*Advisory Board* Ca group of persons who meet with agency staff and/or owners as frequently as needed, but at least once every year, to evaluate the overall functions of the agency.

*Allied Health Personnel* Cnursing assistants, licensed practical nurses, licensed physical therapy assistants, and other health care workers who require supervision by other health care professionals.

*Branch* Can office from which a home health agency provides services within a portion of the total geographic service area served by the parent agency. The branch office is part of the parent home health agency; is located within a 50-mile radius of the parent agency; and shares administration and supervision. See §9183: Branches.

*Bureau* CBureau of Health Services Financing.

*Change of Ownership (CHOW)* Cthe sale or transfer of all or a portion of the assets or other equity interest in a home health agency. Examples of actions that constitute a change of ownership include:

a. unincorporated sole proprietorship. Transfer of title and property of another party constitutes change of ownership;

b. corporation. The merger of the provider corporation into another corporation, or the consolidation of two or more corporations, resulting in the creation of a new corporation constitutes change of ownership. Transfer of corporate stock or the merger of another corporation into the provider corporation does not constitute a change of ownership. Admission of a new member to a non-profit corporation is not a change of ownership;

c. limited liability company. The removal, addition or substitution of a member in a limited liability company does not constitute a change of ownership;

d. partnership. In the case of a partnership, the removal, addition, or substitution, of a partner, unless the partners expressly agree otherwise as permitted by applicable state law, constitutes a change of ownership.

**Clinical Records**—those documents maintained on all patients accepted for care by a home health agency. The records shall be retained in accordance with existing state law.

**Clinical Note**—a written notation of each visit with a patient, which shall include the date and time of the visit, services rendered, and the signature of person providing services. The note may also include any pertinent information related to the visit. See §9193.B. Clinical Records.

**Controlling Ownership or Controlling Interest**—equity or voting interest possessed by a person or entity that:

a. has a direct or indirect equity interest equal to 5 percent or more in the capital, the stock, or the profits of a home health agency; or

b. is an officer or director of a home health agency which is organized as a corporation; or

c. is a partner in a home health agency which is organized as a partnership; or

d. is a member or manager of a home health agency that is organized as a limited liability company. The term *controlling ownership* is synonymous with the terms *controlling interest* or *control interest* as defined by the Department of Health and Human Services (DHHS), Centers for Medicare and Medicaid Services (CMS).

**Department**—the Department of Health and Hospitals (DHH).

**Director of Nurses (DON)**—a person designated in writing to supervise all aspects of patient care, all activities of professional staff and allied health personnel, and be responsible for compliance with regulatory requirements.

**Full Licensure**—issued only to those agencies that meet all criteria for licensure. It is valid for one year unless specified otherwise (the expiration date is on the license).

**Geographic Service Area**—area within a fifty statute mile radius of the parent agency.

**Governing Body**—the person or group of persons who have legal authority for and/or ownership of the corporation of the home health agency and responsibility for agency operations. A governing body assumes full legal authority and responsibility for the operation of the agency.

**Home Health Agency**—a state-owned and operated agency, or a subdivision of such an agency or organization; or a private nonprofit organization; or a proprietary organization which provides skilled home health care and support services to the public. Skilled home health care is provided under the order of a physician, in the place of residence of the person receiving the care, and includes skilled nursing and at least one of the following services: physical therapy, speech therapy, occupational therapy, medical social services, or home health aide services.

**Home Health Agency Premises**—the physical site where the home health agency maintains staff to perform administrative functions, and maintains its personnel records, or maintain its patient service records, or holds itself out to the public as being a location for receipt of patient referrals. The home health agency shall be a separate entity from any other entity, business, or trade. If office space is shared with another health related entity, the home health agency must operate independently and have a clearly defined scope of services. The home health agency may not share office space with a non-health-related entity.

**Home Health Aide**—a qualified person who provides direct patient care in the home under the direct supervision of a registered nurse to assist the patient with the activities of daily living.

**Home Health Packet**—the collection of appropriate forms for licensure that may be obtained from the Department for an established fee. This packet is to be completed by all initial applicants before the licensure process can begin.

**Jurisdiction**—call home health agencies shall be under the jurisdiction of the Department of Health and Hospitals, which promulgates and enforces the rules and regulations governing the operation of such agencies or organizations. However, nothing in this Part shall be construed to prohibit the delivery of personal care, homemaker, respite, and other in-home services by a person or entity not licensed under this rule unless provided with other home health services.

**Licensed Practical Nurse**—a person who works under the supervision of a registered nurse.

**Life-Threatening**—causes or has the potential to cause serious bodily harm or death of an individual.

**Physician**—a doctor of medicine, a doctor of osteopathy, or a podiatrist who is currently authorized to practice in Louisiana.

**Professional Staff**—health care providers who are required to possess current licensure and/or board certification and are authorized to supervise other health professionals as indicated.

**Provisional License**—a license issued to those agencies that do not meet criteria for full licensure. It is issued by the Department and is valid for six months or until the termination date.

**Skilled Care**—services provided by an agency for patients who are not medically stable or have not attained a satisfactory level of rehabilitation. These patients require frequent monitoring by licensed professional health care personnel.

**Supervision**—authoritative procedural guidance by a qualified person who assumes the responsibility for the accomplishment of a function or activity and who provides direction, ongoing monitoring and evaluation of the actual act of accomplishing the function or activity.

**Support Services**—services provided to assist the ill, disabled or infirmed person with household tasks essential to achieving adequate household and family management. Support services may include, but are not limited to housekeeping, shopping, maintenance of premises, sitter or companion services. Home health agencies that choose to provide support services must have written policies and procedures outlining the delivery, training, assignment, supervision and complaint resolution processes for these services. Support services are strictly supportive in nature and are not part of the patient's medical plan of care; therefore, a physician's order is not required.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 40:2009.31-40.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, amended LR 21:177 (February 1995), amended LR 22:1135 (November 1996), LR 27:

## §9167. Personnel Qualifications and Responsibilities

A. Administrator. The administrator shall be appointed by and answer directly to the governing body of the agency. The administrator and the director of nursing or the alternate director of nursing may be the same individual if dually qualified. If an individual is designated as the administrator for more than one agency, then he/she must designate an alternate who is a full-time, on-site employee of each agency and meets the qualifications for an administrator.

### 1. Qualifications

a. The administrator must have three years of management experience in the delivery of health care service and meet one of the following criteria:

- i. is a licensed physician; or
- ii. is a registered nurse; or
- iii. is a college graduate with a bachelor's degree;

or

- iv. has an associate degree; or
- v. has had three additional years of documented experience in health care delivery services; or

vi. has had six additional years of documented administrative and managerial experience in a governmental or corporate setting, other than in health care delivery services; supervised at least twenty employees; and handled administration of the daily operations of the organization, including the budget process. The person shall have held no more than three positions during the six-year time period.

b. In addition to the qualifications listed above, those individuals who meet the qualifications contained in §9167.A.1.a.iii - vi must have one additional year of home health management experience.

### 2. Responsibilities. The administrator shall:

- a. be available in person or by telecommunication at all times for all aspects of agency operation;
- b. designate in writing an individual, who meets the qualifications for an administrator, to assume the authority and the control of the agency if the administrator is unavailable;
- c. direct the operations of the agency;
- d. be responsible for compliance with all regulations, laws, policies and procedures applicable to home health and Medicare (when applicable) issues;
- e. employ qualified individuals and ensure adequate staff education and evaluations;
- f. ensure the accuracy of public information materials and activities;
- g. act as liaison between staff, the group of professional personnel, and the governing body; and
- h. implement an ongoing accurate and effective budgeting and accounting system.

### B. Advisory Board

1. Qualifications. The advisory board shall be composed of the following individuals:

- a. at least three health care professionals of which one must be an R.N. and one must be a physician; and
- b. at least two non-health care professionals from the community who are not connected financially or by family to the agency or the governing body; one of these professionals may be a member of a patient's family.

### 2. Responsibilities. The advisory board shall:

a. conduct an annual documented review of the policies and procedures, the budget, overall program evaluation, statistical information, complaint resolutions and any projected changes;

b. maintain written minutes of meetings with the signatures of all attendees, dates, and times; and

c. receive written notification of any of the following:

i. the agency's administrator or director of nurses is fired, resigns, or becomes incapacitated to the extent that he/she can no longer perform his/her duties;

ii. the agency is surveyed and found to be in violation of the state law, minimum standards, rules, or regulations of the Department of Health and Hospitals;

iii. any other grounds which adversely affect the agency's operation.

### C. Director of Nurses

1. Qualifications. The director of nurses (DON) must be a registered nurse who is currently licensed to practice in the State of Louisiana and has at least three years of experience as a registered nurse. One of these years must consist of full-time experience in providing direct patient care in a home health setting. The DON must be a full-time employee of only one agency.

NOTE: The director of nurses may never serve more than one agency.

### 2. Responsibilities. The director of nursing shall:

a. be a full time employee of only one home health agency;

b. supervise all patient care activities to assure compliance with current standards of accepted nursing and medical practice;

c. establish personnel and employment policies to assure that only qualified personnel are hired; employ qualified personnel by verifying licensure and/or certification (as required by law) prior to employment and annually thereafter; and certify and maintain records to support competency of all allied health personnel;

d. develop and maintain agency policy and procedure manuals that establish and support the highest possible quality of patient care, cost controls, quality assurance, and mechanisms for disciplinary action for infractions;

e. supervise employee health program;

f. assure compliance with local, state, and federal laws as well as promote the health and safety of employees, patients and the community with the following non-exclusive methods:

i. resolve problems;

ii. perform complaint investigations;

iii. refer impaired personnel to proper authorities;

iv. provide for orientation and in-service to personnel to promote the health and safety of the patient as well as to familiarize staff with regulatory issues and agency policy and procedures;

v. ensure orientation of health care personnel who provide direct patient care;

vi. ensure timely annual evaluation of health care personnel;

vii. assure regularly scheduled appropriate continuing education for all health professionals and home health aides;

viii. assure that the care provided by the health care personnel promotes the health and safety of the patient; and

ix. assure that agency policies are enforced;

g. be on-site or immediately available to be on-site and available by telecommunications during normal operating hours. The agency shall designate in writing a registered nurse who will assume the responsibilities of the DON during his/her absence, i.e., on vacation, ill time, at a workshop, etc.

#### D. Home Health Aide

1. Qualifications. A home health aide must meet the following criteria:

a. successfully complete a competency evaluation; and

b. have current nursing assistant certification; or

c. have successfully completed a training program; and

d. exhibit a sympathetic attitude toward the patient, an ability to provide care to the sick, and the maturity and ability to deal effectively with the demands of the job;

e. have the ability to read, write, and carry out directions promptly and accurately; and

f. must inform all employers when employed with one or more agencies; cooperate and coordinate to assure highest performance of quality when providing services to the patient.

2. Responsibilities. The home health aide:

a. shall obtain and record vital signs during each visit in addition to notifying the primary registered nurse of deviations according to standard practice;

b. may provide assistance with the following ADL's during each visit: mobility, transferring, walking, grooming, bathing, dressing or undressing, eating, or toileting. Some examples of assistance include:

i. helping the patient with a bath, care of the mouth, skin and hair;

ii. helping the patient to the bathroom or in using a bedpan or urinal;

iii. helping the patient to dress and/or undress;

iv. helping the patient in and out of bed, assisting with ambulation;

v. helping the patient with prescribed exercises which the patient and the health aide have been taught by appropriate personnel; and

vi. performing such incidental household services essential to the patient's health care at home that are necessary to prevent or postpone institutionalization;

c. may perform care assigned by a registered nurse if the delegation is in compliance with current standards of nursing practice;

d. may administer over the counter disposable enemas, saline or vinegar douches, and glycerine or ducolax suppositories; and

e. shall complete a clinical note for each visit, which must be incorporated into record at least on a weekly basis.

3. Restrictions. The home health aide shall not:

a. perform any intravenous procedures, procedures involving insertion of feeding tubes or urinary catheters, the

administration of tube feedings, or any other sterile or invasive procedures;

b. administer medications to any patient; and

c. perform any of the following tasks that are not home health aide services: transporting the patient, general housekeeping duties, or shopping.

4. Training. A home health agency that offers a training program must, at a minimum, include the following in the training program:

a. communication skills;

b. observation, reporting and documentation of patient status and the care or service furnished;

c. reading and recording temperature, pulse, and respiration;

d. basic infection control procedures;

e. basic elements of body functioning and changes in body function that must be reported to an aide's supervisor;

f. maintenance of a clean, safe, and healthy environment;

g. recognizing emergencies and knowledge of emergency procedures;

h. the physical, emotional, and developmental needs of the patient and methods for working with the populations served by the agency, including the need to respect the patient, his/her privacy and his/her property;

i. safe transfer techniques and ambulation;

j. appropriate and safe techniques in personal hygiene and grooming that include:

i. bed bath;

ii. sponge, tub, or shower bath;

iii. sink, tub, bed or shampoo;

iv. nail and skin care;

v. oral hygiene; and

vi. toileting and elimination;

k. normal range of motion and positioning;

l. adequate nutrition and fluid intake;

m. any other task, within state regulations, that the agency may choose to have the home health aide perform.

5. Orientation. The content of the basic orientation provided to home health aides shall include the following:

a. policies and objectives of the agency;

b. duties and responsibilities of a home health aide;

c. the role of the home health aide as a member of the health care team;

d. ethics and confidentiality;

e. record keeping;

f. information on the process of aging and behavior of the aged;

g. information on the emotional problems accompanying illness; and

h. principles and practices of maintaining a clean, healthy and safe environment.

6. Assignment. The home health aide is assigned to a patient by a registered nurse in accordance with the plan of care. Specific written instructions for patient care are prepared by a registered nurse or therapist as appropriate. All personal care services are described to the patient, in writing, by the registered nurse in charge of that patient.

7. Supervision. A registered nurse or licensed therapist shall provide direct supervision to the home health aide as follows.

a. A registered nurse shall supervise and evaluate the home health aide's ability to perform assigned duties, relate to the patient, and work effectively as a member of the health care team.

b. Periodic on site supervision with the home health aide present shall be established as part of the agency's policies and procedures.

c. If the patient is receiving a skilled service (nursing, physical therapy, occupational therapy, or speech-language pathology), the supervisory visits shall be made to the patient's residence at least once every two weeks (not to exceed 20 days) by the registered nurse or appropriate therapist to assess relationships and determine whether goals are being met.

d. If the patient is not receiving skilled services, a registered nurse must make a supervisory visit to the patient's residence at least once every 62 days. In order to ensure that the aide is properly caring for the patient, the supervisory visit must occur while the home health aide is providing patient care.

e. Documentation of supervision shall include the aide-patient relationships, services provided, and instructions and comments given as well as other requirements of the clinical note.

f. Annual performance review for each aide shall be documented in the individual's personnel record.

8. In-service. The agency must offer a minimum of twelve hours of appropriate in-service training to each home health aide every calendar year. The in-service may be furnished while the aide is providing service to the patient, but must be documented.

a. These in-service sessions should include, but are not limited to: care of the body, communication, infection control, safety and documentation.

b. In-service training may be prorated for employees who only worked a portion of the year; however, part-time employees who work throughout the year must attend 12 hours of in-service training.

c. Documentation should include the outline and length of the in-service training.

#### E. Licensed Practical Nurse

1. Qualifications. A licensed practical nurse (LPN) must:

a. be currently licensed by the Louisiana State Board of Practical Nurse Examiners with no restrictions;

b. have worked at least one year as an LPN prior to being employed by a home health agency; and

c. inform all employers when employed with one or more agencies and cooperate and coordinate to assure highest performance of quality when providing services to the patient.

2. Responsibilities. The LPN shall:

a. perform skilled nursing services under the supervision of a registered nurse in accordance with the laws governing the practice of practical nursing.

b. observe and report the patient's response to treatment and any changes in the patient's condition to the physician and supervising registered nurse;

c. administer prescribed medications and treatments as permitted by the laws governing the practice of practical nursing;

d. prepare clinical and/or progress notes and incorporate them into the clinical record at least weekly;

e. perform wound care as ordered in accordance with the plan of care; and

f. perform routine venipuncture (phlebotomy) if written documentation of competency is in personnel record. Competency must be evaluated by an RN even if LPN has completed a certification course.

3. Restrictions. The LPN shall not:

a. access any intravenous appliance for any reason;

b. perform supervisory visit for a home health aide;

c. develop and/or alter the plan of care;

d. make initial assessment visit;

e. prepare the recertification;

f. make aide assignments; or

g. function as a supervisor of the nursing practice of any registered nurse.

#### F. Medical Social Services

1. Qualifications. A medical social worker must:

a. be currently licensed by the Louisiana Board of Certified Social Work Examiners; or

b. have a master's degree from a school of social work accredited by the Council on Social Work Education.

2. Responsibilities. The medical social worker shall:

a. assist the physician and other members of the health care team in understanding significant social and emotional factors related to the patient's health problems;

b. assess the social and emotional factors having an impact on the patient's health status, and assist in the formulation of the plan of care;

c. provide services within the scope of practice, as defined by state law, in accordance with the plan of care and in coordination with other members of the health care team;

d. prepare clinical and/or progress notes and incorporate them into the clinical record at least weekly;

e. participate in discharge planning and in-service programs related to the needs of the patient; acts as a consultant to other members of the health care team; and

f. submit a written assessment and summary of services provided when medical social work services are discontinued, including an assessment of the patient's current status that will be retained in the patient's clinical record.

3. Restrictions. An unlicensed medical social worker may not contract directly with the home health agency for clinical services, consultation, supervision or educational services.

#### G. Nutritional Guidance Services

1. Qualifications. If an agency provides or arranges for nutritional guidance, the staff member or consultant must be a professional dietitian who meets the qualification standards of the Commission on Dietetic Registration of the American Dietetic Association.

2. Responsibilities. The dietitian must:

a. document each visit made to the patient and incorporates notes into the clinical record on a weekly basis;

b. prepare initial nutritional dietary assessment;

c. communicates with the Director of Nurses, the nurse supervisor and/or the primary nurse assigned to the patient regarding the need for a continuation of services for each patient;

d. evaluate compliance with physician ordered therapeutic diet and makes recommendations as needed;

e. evaluate patient's socio-economic factors to develop recommendations concerning food purchasing, preparation and storage;

f. train those persons who are responsible for purchasing and storing food;

g. evaluate food preparation methods to ensure that nutritive value is conserved in addition to flavor, texture and temperature principles being adhered to in meeting the individual patient's needs;

h. participate in all related case conferences with agency staff. Minutes of case conferences are retained in patient's clinical record;

i. prepare a written discharge summary and ensure that a copy is retained in patient's clinical record and a copy is forwarded to the attending physician;

j. assess and evaluate the food and nutritional needs of the patient in accordance with the plan of treatment and the Recommended Daily Dietary Allowances established by the Food and Nutrition Board, National Academy of Sciences-National Research Council;

k. participate in discharge planning and in-service training programs related to the needs of the patient and acts as a consultant to the other members of the health care team; and

l. ensure that a current diet manual (within five years of publication) is readily available to agency staff where applicable.

#### H. Occupational Therapist

1. Qualifications. An occupational therapist must be registered by the American Occupational Therapy Association, and currently licensed by the Louisiana Board of Medical Examiners.

2. Responsibilities. The occupational therapist shall:

a. assist the physician in evaluating the patient's functional status and occupational therapy needs, and assist in the development of the plan of care;

b. provide services within the scope of practice as defined by the state laws governing the practice of occupational therapy, in accordance with the plan of care, and in coordination with other members of the health care team;

c. observe and report the patient's response to treatment and any changes in his/her condition to the physician and the supervising registered nurse;

d. instruct and inform participating members of the health care team, the patient, and the family/caregivers regarding the plan of care, functional limitations and progress towards goals;

e. prepare clinical and/or progress notes for each visit and incorporate them into the clinical record at least weekly;

f. when occupational therapy services are discontinued, submit a written summary of services provided, including an assessment of patient's current status, for retention in the patient's clinical record; and

g. provide supervision of the occupational therapy assistant (OTA) as follows:

i. be readily available to the OTA by telecommunications;

ii. assess the competency and experience of the OTA;

iii. establish the type, degree and frequency of supervision that is required for an OTA in a home health setting; and

iv. conduct a face-to-face patient care conference with each OTA once every two weeks, or once every four to six treatment sessions, to review progress and modification of treatment programs for all patients.

#### I. Occupational Therapy Assistant

1. Qualifications. The Occupational Therapy Assistant (OTA) must:

a. be currently licensed by the Louisiana Board of Medical Examiners to assist in the practice of occupational therapy under the supervision of a licensed Registered Occupational Therapist; and

b. have, at a minimum, 2 years experience as a licensed OTA before starting a home health caseload.

#### J. Physical Therapist

1. Qualifications. The physical therapist must be currently licensed by the Louisiana State Board of Physical Therapy Examiners and have graduated from a school with a physical therapy curriculum approved by:

a. the American Physical Therapy Association; or

b. the Council on Medical Education and Hospitals of the American Medical Association; or

c. the Council on Medical Education of the American Medical Association and the American Physical Therapy Association.

2. Responsibilities. The physical therapist shall:

a. assist the physician in evaluating the patient's functional status and physical therapy needs, and assist in the development of the plan of care;

b. provide services within the scope of practice as defined by the state laws governing the practice of physical therapy, in accordance with the plan of care, and in coordination with other members of the health care team;

c. observe and report the patient's reaction to treatment and any changes in his/her condition to the physician and the supervising registered nurse;

d. instruct and inform participating members of the health care team, the patient, and the family/caregivers regarding the plan of care, functional limitations and progress towards goals;

e. prepare clinical and/or progress notes for each visit and incorporate them into the clinical record at least weekly.

f. when physical therapy services are discontinued, prepare a written discharge summary and ensure that a copy is retained in the patient's clinical record and a copy is forwarded to the attending physician;

g. may supervise home health aides in lieu of a registered nurse if physical therapy is the only skilled service being provided;

h. provide supervision to a physical therapy assistant (PTA) as follows:

i. be readily accessible by telecommunications;

ii. evaluate and establish a written treatment plan on the patient prior to implementation of any treatment program;

- iii. treat and reassess the patient on at least every sixth visit, but not less than once per month;
- iv. conduct a face to face patient care conference once a week with each PTA to review progress and modification of treatment programs for all patients; and
- v. assess the final treatment rendered to the patient at discharge and write a discharge summary.

**K. Physical Therapy Assistant**

1. **Qualifications.** The physical therapy assistant (PTA) must be currently licensed by the Louisiana State Board of Physical Therapy Examiners and be supervised by a licensed physical therapist. The PTA must have, at a minimum, one year of experience as a licensed PTA before assuming responsibility for a home health caseload.

2. **Restrictions.** The PTA's duties shall not include interpretation and implementation of referrals or prescriptions, performance evaluations, or the determination or major modifications of treatment programs.

**L. Registered Nurse**

1. **Qualifications.** The registered nurse (RN) must be currently licensed by the Louisiana State Board of Registered Nurse Examiners without restrictions and have, at a minimum, one year of clinical experience as a registered nurse. This requirement may be waived for a registered nurse with recent clinical experience as a LPN or an RN currently working for a home health agency at the time this rule takes effect.

a. **Special Qualifications.** In addition to the above qualifications, a RN must have one of the following credentials in order to provide psychiatric nursing services. Work experience must have been obtained within the last five years. If experience is not within the five year time period, then documentation must be provided to support either psychiatric retraining, classes, or CEUs to update psychiatric knowledge:

- i. a master's degree in psychiatric or mental health nursing; or
- ii. a bachelor's degree in nursing and one year of work experience in an active treatment unit in a psychiatric or mental health facility or outpatient mental health clinic; or
- iii. a diploma or associate degree and two years of work experience in an active treatment unit in a psychiatric or mental health hospital or outpatient clinic.

2. **Responsibilities.** The registered nurse shall:

- a. provide or supervise skilled nursing services in accordance with physicians orders;
- b. assess and regularly re-evaluate the nursing needs of the patient;
- c. develop, initiate, implement, and update the plan of care as needed or at least every 62 days, or as needed;
- d. provide specialized nursing services, which may include treatments and diagnostic and preventive procedures;
- e. initiate preventive and rehabilitative nursing procedures as appropriate for the patient's care and safety;
- f. coordinate services and inform the physician and other personnel of changes in the patient's condition and needs;
- g. teach, supervise and counsel the patient, family members and other members of the health care team regarding the nursing care needs and other related problems of the patient at home;

h. prepare clinical and/or progress notes and incorporate them into the clinical record at least weekly;

i. observe and report the patient's response to treatment and any changes in his/her condition to the physician and supervising registered nurse;

j. conduct on-site supervisory evaluations at least every six months of each licensed practical nurse while he/she is providing care and document such supervision in the LPN's personnel file;

k. conduct on-site supervision of patient care provided by the home health aide; and

l. function as patient advocate in all medical decisions affecting the patient.

3. **Restrictions.** A registered nurse applicant may not work in the home health setting as a registered nurse.

**M. Speech Pathology Services.**

1. **Qualifications.** The speech pathologist must be currently licensed by the Louisiana State Board of Examiners of Speech Pathology & Audiology and certified by the American Speech and Hearing Association, or has completed the academic requirements and is in the process of accumulating the necessary supervised (as directed by the state agency certifying body) work experience required for certification.

2. **Responsibilities.** The speech pathologist shall:

- a. assist the physician and other members of the health care team in evaluating the patient's speech or language needs and formulating the plan of care;
- b. provide services within the scope of practice as defined by the state law governing the practice of speech pathology, in accordance with the plan of care and in coordination with other members of the health care team;
- c. observe and report the patient's response to treatment and any changes in the patient's condition to the physician and supervising registered nurse;
- d. instruct and inform participating members of the health care team, the patient, and the family/caregivers regarding the plan of care, functional limitations and progress towards goals;
- e. prepare clinical and or progress notes for each visit and incorporate them into the clinical record at least weekly; and
- f. submit a written summary of the services provided when speech therapy services are discontinued, including an assessment of the patient's current status, which shall be retained in the patient's clinical record.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 40:2009.31-40.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, amended LR 21:177 (February 1995), amended LR 22:1135 (November 1996), LR 27:

**§9169. State Licensure**

**A. Procedures for Initial Licensure**

1. The Department of Health and Hospitals is the only licensing authority for home health agencies in the State of Louisiana. To initiate the review process for licensure as a home health agency, the applicant must submit the following:

- a. a completed home health application form;
- b. the required fee for licensure by corporate check, certified check or money order. This fee is non-refundable;

c. documentation of a line of credit from a licensed lending agency for at least \$75,000 as proof of adequate finances to sustain an agency for at least six months;

d. proof of general and professional liability insurance as well as worker's compensation insurance. The general and professional liability coverage shall be for at least \$300,000. The agency must maintain these insurance requirements at all times, and be able to provide proof of insurance upon request;

e. résumés and documentation of qualifications for administrator and director of nursing. Additional information may not be submitted after the original résumé is submitted for review, except for changes in the designated positions or with approval of the Health Standards Section;

f. proof of criminal background investigations on the owners and administrative personnel. If the agency is a corporation, proof of criminal background investigations on all directors and officers shall also be submitted;

g. written documentation of any financial or familial relationship with any other entity providing home health care services in the state;

h. proof of citizenship or a valid green card for all administrative personnel, officers, directors and owners; and

i. any other forms for initial licensure as required by the Health Standards Section.

2. An application will not be reviewed until payment of application fee has been received. All requirements of the application process must be completed by the applicant within ninety days of the date of the initial submission of the home health license application. Upon approval of the application by DHH, the applicant must agree to become fully operational and prepared for initial survey within ninety days. Any application not completed within ninety days after the initial submission will be closed.

3. The applicant will be notified in writing when the application process is completed and the application is approved. The applicant will receive instructions regarding requesting an initial licensing survey.

4. Approved applicants must be fully operational, in compliance with all licensing standards and providing care to only two patients at the time of the initial survey.

5. If an applicant requests to be certified for Medicare and/or enrolled in Medicaid prior to the initial survey, the applicant must also be in compliance with the Medicare Conditions of Participation for home health agencies (42 CFR Part 484) at the time of the licensing survey.

B. Types of Licenses. The Department of Health and Hospitals shall have the authority to issue the three types of licenses described below:

1. Full LicenseCissued to those agencies that have achieved substantial compliance with the Minimum Standards.

2. Administrative Provisional LicenseCmay be issued to an existing agency that has paid the annual renewal fee, but the survey process was not completed before the expiration of its license.

3. Provisional LicenseCmay be issued to those existing agencies that do not meet criteria for full licensure. Such licenses may be issued to any agency by the department when the agency:

a. receives more than five violations of the minimum standards in a one-year period;

b. receives more than three valid complaints in a one-year period;

c. has placed a patient at risk according to a documented incident;

d. fails to correct deficiencies within 60 days of being cited;

e. fails to submit assessed fees after notification by the department;

f. has an owner, administrator, or director of nurses who has pled guilty or nolo contendere to a felony, or been convicted of a felony as documented by a certified copy of the record of the court of conviction. If the applicant is a firm or corporation, a provisional license may also be issued when any of the members, officers, or the person designated to manage or supervise the agency has been convicted of a felony; or

g. fails to notify the department in writing within thirty days of the occurrence of a change in any of the following:

1. controlling ownership;
2. administrator;
3. director of nursing or alternate;
4. address/telephone number; either parent or branch;
5. hours of operation;
6. after-hours contact procedures.

#### C. Licensure Renewal

##### 1. Full License

a. A full license shall be for a term of one year and shall expire on the date shown on the license unless it is renewed.

b. It is the responsibility of the agency to ensure that a renewal application and appropriate fees are submitted to the Department at least 30 days prior to the expiration of the existing license.

##### 2. Provisional License

a. A provisional license shall be valid for six months or until its expiration date.

b. Any agency issued a provisional license shall pay an additional amount equal to the annual fee for each follow-up survey. Fees shall be paid to the Department prior to the survey being performed and shall be non-refundable.

D. Display of License. The agency's current license shall be displayed in a conspicuous place in the agency at all times.

#### E. Survey Process

1. Initial. An on-site survey will be conducted to assure compliance with the Minimum Standards. The request for initial licensing survey will be accepted after the applicant has been notified in writing by the Department that the application process is completed and the applicant is approved for an initial survey. This survey will be unannounced and the agency will have only one opportunity to be in compliance with the Minimum Standards. If the initial survey finds that the agency is not in substantial compliance with the Minimum Standards, then the agency shall transfer all patients and close.

2. Renewal. An unannounced, on-site visit will be conducted to assure compliance with the Minimum Standards. This annual survey may be conducted in conjunction with a survey for Medicare re-certification or other reasons.

3. Follow-up. An unannounced survey may be conducted following an annual, complaint, or previous follow-up survey when the agency is not in substantial compliance with the Minimum Standards.

4. Complaint Investigation. The Department of Health and Hospitals has the authority to conduct investigations regarding home health agencies. A complaint investigation may be conducted during an unannounced on-site visit or by telephone, as appropriate.

5. Violations of Minimum Standards. If the agency is found to be in violation of the Minimum Standards during any survey, a statement of deficiencies listing those violations will be issued to the agency. The agency must respond to these violations with an acceptable plan of correction, which must be submitted to the Department. The plan of correction must be received by the Department within ten days of receipt of the statement of deficiencies by the agency. A follow-up survey may be conducted to assure that the agency has achieved substantial compliance with the Minimum Standards. If the follow-up survey reveals that the agency is still not in substantial compliance with the Minimum Standards, then a provisional license may be issued or a revocation action may be initiated in accordance with R.S.40:2116.32 and R.S. 40:2116.36. The agency has one opportunity to question allegations of deficient practice through an informal dispute resolution process. The agency receives a notice of its right to request the informal dispute resolution process with the statement of deficiencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, amended LR 21:177 (February 1995), amended LR 22:1135 (November 1996), LR.

#### **§9171. Fees**

A. Licensing Fee. A licensing fee, in the amount determined by DHH, is required to be submitted with the initial application. The Department will not consider an application as complete without the required licensing fee.

B. Renewal Fee. A license renewal fee is required to be submitted annually to the Department prior to the expiration of the license.

C. Change Fee. A fee is required to be submitted for any change involving the agency business name or address, including branch offices.

D. Change of Ownership Fee. A fee equal to the amount of licensing fee is to be paid to the department by the new owner when a change of ownership occurs.

E. Branch Fee. A fee shall be paid when a new branch office is established. The branch fee shall be submitted annually with the license renewal fee.

F. Provisional License Fee. Any agency issued a provisional license shall pay an additional amount equal to the annual fee for each follow-up survey. Fees shall be paid to the department prior to the survey being performed and shall be non-refundable.

Note: All fees submitted to the department must be in the form of a certified check, company check, or money order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, amended LR 21:177 (February 1995), LR 27:

#### **§9173. Changes**

A. Notice of Changes. The Department shall be notified in writing or by facsimile within 24 hours of the occurrence of any of the following changes:

1. geographic address of the parent or branch office (change fee required);
2. name of the agency (change fee required);
3. mailing address (if different from geographic address);
4. telephone number or fax number of the parent or branch office;
5. hours of operation;
6. 24 hour contact procedures;
7. administrator or DON;
8. controlling ownership;
9. closure of the agency or a branch.

B. Change of Ownership. The department shall be notified in writing of a change of ownership or change of controlling interest.

1. A change of ownership (CHOW) packet is required to be submitted with required fees.

2. When a change in controlling interest occurs, written documentation and disclosure of the change must be submitted.

3. The purchaser of the agency must meet all criteria for an initial application for licensure. See §9169. State Licensure.

C. Voluntary Termination of License. If at any time the agency ceases to operate, the agency shall notify the department in writing and surrender its license to the department within five working days of the cessation of business.

D. Relocation of an Agency. The department shall be notified in writing of any relocation of an agency. An agency may only relocate within its geographic service area in effect on August 15, 1995, or for an agency licensed after that date, a 50-mile radius of the location where the agency was originally licensed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, amended LR 21:177 (February 1995), amended LR 22:1135 (November 1996), LR 27:

#### **§9175. Denial of Initial Licensure**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, repealed LR 27:

#### **9177. Denial, Revocation or Nonrenewal of License**

A. Denial of Licensure Applications. If an agency's license is revoked or denied renewal, no other home health agency license application will be accepted from that agency for approval by the Department for two years from the date of the revocation or denial of renewal of the license.

B. Grounds for Denial or Revocation of License. The Department of Health and Hospitals may deny an application for a license, refuse to renew a license or revoke a license in accordance with R.S. 40:2116.36 and 40:2116.37.

C. Grounds for Immediate Denial or Revocation. A license shall be immediately denied or revoked if the department determines that the agency either knowingly and willfully or through gross negligence allowed or directed actions which resulted in:

1. cruelty to patients;
2. failure to uphold patient rights resulting in actual or potential harm or injury;
3. failure to protect patients or persons in the community from the harmful actions of the agency employees including, but not limited to: coercion, threat, intimidation, solicitation and harassment;
4. failure to notify an appropriate governmental agency of any suspected cases of neglect, criminal activity, or mental or physical abuse that could potentially cause harm to the patient;
5. acceptance of a patient when the agency has insufficient capacity to provide care for that patient;
6. misrepresentation or other fraudulent conduct in any aspect of the conduct of home care business;
7. bribery, harassment, or intimidation of any person designed to cause that person to use the services of any particular home health agency;
8. pleading guilty or nolo contendere to a felony, or being convicted of a felony by an owner, administrator, or director of nursing as documented by a certified copy of the record of the court of conviction. If the applicant is a firm or corporation, a license may also be immediately denied or revoked when any of its members, officers, or the person designated to manage or supervise the home care has been convicted of a felony. For purposes of this Paragraph, "conviction of a felony" means and includes:

- a. conviction of a criminal offense related to that person's involvement in any program under Medicare, Medicaid, or Title XX services program since the inception of those programs;
- b. conviction of a felony relating to violence, abuse, and/or negligent of a person; or
- c. conviction of a felony related to the misappropriation of property belonging to another person.

D. Additional Grounds for Denial or Revocation. A license may be denied, revoked or not renewed for failure to correct any violation of law and regulation for which a provisional license may have been issued under R.S. 40:2116.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, amended LR 21:177 (February 1995), amended LR 22:1135 (November 1996), LR 27:

### **§9179. Informal Dispute Resolution Process, Notice and Appeal Procedure**

A. Informal Dispute Resolution Process. An agency has one opportunity to question citations of deficient practice through an informal dispute resolution process. To request an informal dispute resolution discussion, the agency must submit a written request specifying the deficient practice(s) that are being disputed and why the agency is questioning the deficient practice(s). The request must be made within 10 days of the date of the agency's receipt of the notice of the deficient practice(s). Reconsideration shall be made solely on the survey report, statement of violations and all

documentation the agency submits to the Department at the time of its request for reconsideration. Correction of a violation shall not be a basis for reconsideration. Since this is an informal dispute resolution discussion, it is not necessary for the agency's attorney to be present. However, if the agency wishes to include their attorney in the informal dispute resolution discussion, the agency must indicate this in their written request. The informal dispute resolution process is not in lieu of the appeals process and does not extend the time limits for filing an administrative appeal.

B. Notice. Notice of reasons for nonrenewal or revocation of a license shall be given in accordance with the current Louisiana Revised Statutes.

C. Administrative Appeal Process. When an administrative appeal is requested in a timely and proper manner, the Department of Health and Hospitals shall provide an administrative hearing in accordance with the provisions of the Louisiana Administrative Procedure Act and the current Louisiana Revised Statutes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, amended LR 21:177 (February 1995), LR 27:

### **§9181. Agency Operations**

A. Hours of Operation. An agency shall be required to have regular posted business hours and be fully operational at least eight hours a day, five days a week between 7:00 a.m. and 6:00 p.m. Patient care services shall be made available as needed 24 hours a day, 7 days a week.

B. Operational Requirements.

1. A home health agency shall:
  - a. be open for the business of providing home health care services;
  - b. post its hours of operation and emergency contact procedures in a prominent and easily accessible manner;
  - c. have a registered nurse immediately available by telecommunications at all times;
  - d. respond to patient care needs and physician orders in a timely manner;
  - e. be able to accept referrals at all times;
  - f. have at least 2 patients at all times;
  - g. have adequate staff to provide for patient care needs according to accepted standards of practice;
  - h. have policies and procedures specific to the agency which address staff responsibilities and qualifications; agency operations; patient care standards; problem and complaint resolution; purpose and goals of operation; and regulatory and compliance subjects;
  - i. have policies and procedures that are written, current, and annually reviewed by appropriate personnel;
  - j. accept medical orders only from a physician or authorized physician representative (e.g., hospital discharge planner);
  - k. use only factual information in advertising;
  - l. have an emergency preparedness plan (which conforms to the Louisiana Model Home Health Emergency Preparedness Plan) designed to manage the consequences of natural disasters or other emergencies that disrupt the home health agency's ability to provide home health services;
  - m. limit the geographic service area of the agency to a 50-mile radius of the parent agency;

- n. act as the patient advocate in medical decisions affecting the patient;
- o. protect the patient from unsafe clinical practices;
- p. ensure that staff is competent in the treatments and procedures provided to patients prior to the treatments or procedures being provided;
- q. operate within the laws and regulations of all local, Federal and State agencies that have authority over the operations of such businesses;
- r. notify the Department of any change of address, services added or ceased, and change of all key employees in accordance with §9173;
- s. maintain general and professional liability insurance with minimum limits of \$300,000 and workers' compensation insurance in the minimum statutory amount.

2. A home health agency may:

a. participate as educators in public health fairs and may provide free non-invasive services, such as blood pressure screenings; and

b. advertise its services and provide truthful and accurate informational material to the public in so doing.

3. A home health agency shall not:

a. harass, bribe, coerce, or intimidate any patient to change agencies or to select an agency;

b. allow, permit, or encourage any employee or volunteer representing the agency to harass, bribe, coerce, or mistreat any patient in any manner or form; and

c. advertise untruthfully regarding the services provided, professional credentials of any employee, accreditation awards, or other such information that misleads and misinforms the public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, amended LR 21:177 (February 1995), LR:

**§9183. Operation of Branch Offices**

A. Branch Office Approval. No branch office may be opened without written approval from the Department. In order for a branch office to be approved, the parent agency must have full licensure for at least one year. Branch office approval will be renewed at the time of renewal of the parent agency's license if the parent agency meets the requirements for licensure.

B. Identification. The branch shall be held out to the public as a branch or division of the parent agency, so that the public will be aware of the identity of the agency operating the branch. Reference to the name of the parent agency shall be contained in any written documents, signs, or other promotional materials relating to the branch.

C. Personnel Records. Original personnel files shall not be maintained at the branch office.

D. Survey. A branch office is subject to survey by the Department at any time to determine compliance with the Minimum Standards that apply to branches.

E. Operational Requirements. A branch office shall:

- 1. serve a part of the geographic service area approved for the parent agency;
- 2. offer all home health services provided by the parent agency;
- 3. retain all original clinical records for its patients. Duplicate records need not be maintained at the parent

agency, but shall be made available to federal/state surveyors during any review upon request; and

4. maintain a statement of personnel policies on site for staff usage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, amended LR 21:177 (February 1995), LR 27:

**§9185. Personnel Policies and Records**

A. Personnel Policies. Each home health agency will formulate and adhere to personnel policies. The policies will be reviewed on an annual basis and must specify agency requirements with regard to the following:

- 1. hours of work;
- 2. an organizational chart down to the patient care level;
- 3. job description and realistic performance expectations for each category of personnel;
- 4. an annual employee health screening in accordance with current local, federal, and state laws;
- 5. an outline of the planned orientation to be provided to each employee, including the length of the orientation;
- 6. annual personnel evaluations as well as annual verification of current Louisiana licensure and certification of applicable health professionals;
- 7. continuing education related to health care activities:
  - a. health professionals must attend in-service training as required by respective licensing boards.
  - b. home health aides must attend in-service training 12 hours per calendar year;
- 8. disciplinary actions;
- 9. grievance proceedings;
- 10. specifications for employee health/safety;
- 11. payroll; and
- 12. criminal background investigations ("history check"), if applicable.

B. Personnel Records. Original personnel files must be maintained either at the parent agency or integrated with the human resources department of a hospital, agency home office or the parent corporation of the agency. Personnel records must be made available to surveyors on request. There shall be a personnel record on file for each employee and contract staff member including, but not limited to the following information:

- 1. name, address and telephone number;
- 2. job application/resume';
- 3. the results of an annual employee health screening in accordance with current local, federal, and state laws;
- 4. current license or certification verification, if applicable;
- 5. current job description, including duties to be performed;
- 6. documentation of orientation;
- 7. current contract, if applicable;
- 8. annual personnel evaluations;
- 9. documentation of continuing education; and
- 10. criminal background investigation ("history check"), if applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, amended LR 21:177 (February 1995), LR 27:

**§9186. Emergency Preparedness**

A. The home health agency shall have an emergency preparedness plan which conforms to the current Office of Emergency Preparedness model plan and is designed to manage the consequences of natural disasters or other emergencies that disrupt the home health agency's ability to provide care and treatment or threaten the lives or safety of its clients. The home health agency is responsible for obtaining a copy of the current Home Health Emergency Preparedness Model Plan from the Louisiana Office of Emergency Preparedness.

B. At a minimum, the agency shall have a written plan that describes:

1. the evacuation procedures for agency clients who require community assistance as well as for those with available caregivers to another location;
2. the delivery of essential care and services to agency clients, whether they are in a shelter or other locations;
3. the provisions for the management of staff, including distribution and assignment of responsibilities and functions;
4. a plan for coordinating transportation services required for evacuating agency clients to another location; and
5. assurance that the agency will notify the client's family or caregiver, if client is evacuated to another location.

C. The home health agency's plan shall be activated at least annually, either in response to an emergency or in a planned drill. The home health agency's performance during the activation of the plan shall be evaluated and documented. The plan shall be revised if the agency's performance during an actual emergency or a planned drill indicates that it is necessary.

D. Any updates or revisions to the plan shall be submitted to the parish Office of Emergency Preparedness for review. The parish Office of Emergency Preparedness shall review the home health agency's plan by utilizing community wide resources.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, amended LR 21:177 (February 1995), LR 27:

**§9187. Patient Care Standards**

A. Admission Criteria. The home health agency shall follow written policies in making decisions regarding the acceptance of patients for care. Decisions must be based upon medical and social information provided by the patient's attending physician, and the patient and/or the family as well as the agency resources available to meet the needs of potential patients. The home health agency shall accept patients for care without regard to age, color, creed, sex, national origin or handicap. Patients shall be admitted to an agency based on the following written criteria:

1. the ability of the agency and its resources to provide services on a timely basis (within 24 hours unless specified otherwise by physician's order);
2. the willingness of the patient and caregiver to participate in the plan of care;

3. the patient's medical, nursing or social needs can be adequately met in his/her residence; and

4. all other criteria required by any applicable payor source(s).

B. Admission Procedure. Patients are to be admitted only upon the order of the patient's physician. The patient shall have the right to choose a physician and a home health agency without interference. Admission procedures are as follows:

1. an initial visit shall be made by a registered nurse or an appropriate therapist who will perform the assessment and instruct the patient regarding home care services. This visit shall be made within 24 hours of referral unless otherwise ordered by physician;

2. an initial Plan of Care (POC) must be completed by a R.N. or an appropriate therapist and incorporated into the patient's clinical record within seven days from the start of care; and

3. documentation shall be obtained at admission and retained in the clinical record including:

- a. the referral for home care and/or physician's order to assess patient;
- b. a history;
- c. a physical assessment;
- d. a functional assessment, including a listing of all ADL's;
- e. current problems, needs, and strengths;
- f. prescribed and over-the-counter medications currently used by the patient;
- g. services needed, including frequency and duration expected;
- h. defined expected outcomes, including estimated date of resolution;
- i. ability, availability, and willingness of potential care-givers;
- j. barriers to the provision of care;
- k. orientation, which includes:
  - i. advanced directives;
  - ii. agency services;
  - iii. patient's rights and responsibilities, including the telephone number for the home health hotline;
  - iv. agency contact procedures; and
  - v. conflict resolution;

l. freedom of choice statement signed by patient or patient representative; and

m. other pertinent information.

C. Plan of Care. The plan of care (POC) for each patient must be individualized to address the patient's problems, goals, and required services.

1. The POC, telephone and/or verbal orders must be signed by the physician within a timely manner, not to exceed 30 days.

a. The physician's verbal orders may be accepted by a registered nurse, a qualified therapist or a licensed practical nurse as authorized by State and Federal laws and regulations.

b. Verbal orders taken by an LPN must be cosigned by an RN or appropriate therapist.

2. Agency staff shall administer services and treatments only as ordered by the physician.

3. A POC for continuation of services must be completed by a R.N. or an appropriate therapist and

incorporated into the patient's clinical record within seven days from the date of the development of the POC.

D. Review of the Plan of Care. The total plan of care must be reviewed by the patient's attending physician in consultation with the agency's professional personnel at such intervals as required by the severity of the patient's illness, but at least once every two months.

E. Drugs and Biologicals. The agency shall institute procedures that protect the patient from medication errors. Agency policy and procedures shall be established to insure that agency staff have adequate information regarding the drugs and treatments ordered for the patient.

1. Agency staff will only administer drugs and treatments as ordered by the physician.

2. Only medications dispensed, compounded or mixed by a licensed pharmacist and properly labeled with the drug name, dosage, frequency of administration and the name of the prescribing physician shall be administered.

3. The agency will provide verbal and written instruction to patient and family as indicated.

F. Coordination of Services. Patient care goals and interventions must be coordinated in conjunction with providers, patients and/or caregivers to ensure appropriate continuity of care from admission through discharge.

1. All agencies shall provide for nursing services at least eight hours a day, five days a week and be available on emergency basis 24 hours a day, seven days a week. Agencies must maintain an on-call schedule for R.N.s.

2. The agency must maintain a system of communication and integration of services, whether provided directly or under arrangement, that ensures identification of patient needs and barriers to care, the ongoing coordination of all disciplines providing care, and contact with the physician regarding for relevant medical issues.

#### G Discharge Policy and Procedures

1. The patient may be discharged from an agency when any of the following occur:

- a. the patient care goals of home care have been attained or are no longer attainable;
- b. a caregiver has been prepared and is capable of assuming responsibility for care;
- c. the patient moves from the geographic service area served by the agency;
- d. the patient and/or caregiver refuses or discontinues care;
- e. the patient and/or caregiver refuses to cooperate in attaining the objectives of home care;
- f. conditions in the home are no longer safe for the patient or agency personnel. The agency shall make every effort to satisfactorily resolve problems before discharging the patient;
- g. the patient's physician fails to renew orders for the patient;
- h. the patient, family, or third-party payor refuses to meet financial obligations to agency;
- i. the patient no longer meets the criteria for services established by the payor source;
- j. the agency is closing out a particular service or any of its services;
- k. death of the patient.

2. The agency must have discharge procedures that include, but are not limited to:

- a. notification of the patient's physician;
- b. documentation of discharge planning in the patient's record;
- c. documentation of a discharge summary in the patient's record; and
- d. forwarding of the discharge summary to the physician, if requested.

3. The following procedures shall be followed in the event of the death of a patient in the home:

- a. the proper authorities shall be notified immediately in accordance with state and local ordinances;
- b. the home health agency parent office shall be notified;
- c. the home health agency personnel in attendance shall offer whatever assistance they can to the family and others present at scene; and
- d. progress notes shall be completed in detail and must include observations of the patient, any treatment provided, individuals notified, and time of death, if established by the physician.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, amended LR 21:177 (February 1995), LR 27:

#### **§9189. Patient Rights**

A. The patient must be informed of his or her rights in receiving home care services. The patient has the right to exercise his/her rights as a patient of the home health agency. If the patient has been judged incompetent, the family or guardian may exercise the patient's rights. The agency must protect and promote the exercise of these rights.

1. Notice of Rights. The agency must provide the patient with a written notice of the patient's rights in advance of furnishing care to the patient or during the initial evaluation visit before the initiation of treatment. The agency must maintain documentation that it has complied with the requirements of this section.

2. Right to be Informed and to Participate in Planning Care and Treatment. The patient has the right to be informed, in advance, about the care to be furnished and of any proposed changes in the care being furnished. The patient also has the right to participate in the planning of care and to be informed regarding advance directives.

a. The agency must advise the patient, in advance, of the disciplines that will furnish care and the proposed frequency of visits to be furnished.

b. The agency must advise the patient of any proposed change in the plan of care before the change is made.

c. The agency must advise the patient, in advance, of his/her right to participate in the planning of care or treatment as well as in the planning of changes in care or treatment.

d. The agency must inform and distribute written information to the patient, in advance, concerning its policies on advance directives, including a description of applicable State law. The advance directives information may be given to a patient at the time of the first home visit,

as long as the information is furnished before care is provided. The agency must maintain written policies and procedures regarding advance directives.

3. Right to Respect for Person and Property. The patient has the right to be treated with respect and to have his/her property treated with respect. The patient also has the right to file a grievance regarding the treatment or care that is or is not being furnished, or regarding the lack of respect for property by anyone who is furnishing services on behalf of the agency. The patient shall not be subjected to discrimination or reprisal for filing a grievance.

a. The agency must investigate complaints made by a patient or the patient's family or guardian regarding the treatment or care that is or is not being furnished, or regarding the lack of respect for the patient's property by anyone furnishing services on behalf of the agency. The agency must document both the receipt and subsequent resolution of the complaint.

4. Right to Confidentiality of Medical Records. The patient has the right to expect the agency to maintain the confidentiality of his/her clinical records. The agency must advise the patient of its policies and procedures regarding disclosure of clinical records.

5. Right to be Informed about Patient liability for Payment.

a. The patient has the right to be advised, before care is initiated, of his/her liability for payment for services furnished by the agency. Before care is initiated, the agency must inform the patient, orally and in writing, of:

- i. the charges for services furnished by the agency;
- ii. those charges for services that will not be covered by the patient's payor source; and
- iii. the charges that the patient may be responsible for paying.

b. The patient has the right to be advised, orally and in writing, of any changes to the preceding requirements when they occur.

i. The agency must advise the patient of these changes orally and in writing as soon as possible, but no later than 30 calendar days from the date that the agency becomes aware of a change.

6. Home Health Hotline. The patient has the right to be advised of the availability of the state's toll-free home health hotline. When the agency accepts a patient for treatment or care, the agency must advise the patient, in writing, of the telephone number of the State's home health hotline, the hours of its operation, and that the purpose of the hotline is to receive complaints or questions about local home health agencies. The patient also has the right to use this hotline to lodge complaints concerning the implementation of advance directives requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, amended LR 21: 177 (February 1995), LR 27:

#### **§9191. Contract Services**

A. An agency may contract with other companies or individuals to provide services to a patient. However, the agency is responsible for the management of the patient's care and for all services provided by the contractor or its personnel.

1. Contract Requirements. Whenever services are provided by an outside agency or individual, there must be a written contract. The contract shall include all of the following items:

a. designation of the services that are being arranged for by contract;

b. specification of the period of time that the contract is to be in effect, if it is for a specified time period;

c. a statement that services provided to the patient are in accordance with a plan of care established by the patient's physician in conjunction with the home health agency staff and, when appropriate, others involved in the patient's care;

d. a statement that services are being provided within the scope and limitations set forth in the plan of care, and may not be altered in type, scope, or duration by the contractor;

e. assurance that the contractor meets the same requirements as those specified for home health agency personnel such as staff qualifications, functions, evaluations, orientation and inservice training. The agency shall be responsible for assuring the contractor's compliance with the personnel policies required for a home health agency during the contractual period;

f. assurance that the contractor completes the clinical record in the same timely manner as required by the staff personnel of the agency;

g. payment of fees and terms; and

h. assurance that reporting requirements are met.

B. Contract Review. The home health agency and contractor shall document review of their contract on an annual basis.

C. Coordination of Contract Services. The home health agency shall coordinate services with contract personnel to assure continuity of patient care.

Note: Administration and one other service must be provided directly by the agency at all times.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, amended LR 21:177 (February 1995), LR 27:

#### **§9193. Clinical Records**

A. Requirements. A clinical record containing past and current findings shall be maintained for every patient who is accepted by the agency for home health service. In addition, the agency must comply with the following requirements for clinical records.

1. The information contained in the clinical record must be accurate and immediately available to the patient's physician and appropriate home health agency staff. The record may be maintained electronically.

2. All entries must be legible, clear, complete, and appropriately authenticated and dated. Authentication must include signatures or a secured computer entry with the unique identifier of a primary author who has reviewed and approved the entry.

3. The original clinical records of active patients may be kept in the branch office for the convenience of the staff providing services. The records of patients whose services are provided by parent office staff must be kept in that office.

4. All clinical records shall be safeguarded against loss, destruction and unauthorized use.

5. A signed "consent for treatment" form must be obtained from the patient and/or the patient's family and retained in the record.

6. When applicable, a signed "release of information" form must be obtained from the patient and/or the patient's family and a copy must be retained in the record.

7. A written summary report for each patient must be sent to the attending physician every two months.

8. If a patient is transferred to another health facility, a copy of the records, a transfer form, or a discharge summary must be sent with the patient.

9. Records shall be made available to DHH staff upon request.

10. Records must be retained for five years from the date on which the record was established unless there is an audit or litigation, which involves the record.

11. The agency must have internal policies that provide for the retention of clinical records even if the agency discontinues operation.

B. Clinical Note. A clinical note shall be legibly written by the person making the visit and incorporated into the clinical record within one week of the visit. A patient care clinical note must be completed on each visit and must contain the following:

1. the date of the visit;
2. time of arrival;
3. time of exit;
4. services rendered and/or justification for the visit;
5. signature of the person making the visit;
6. vital signs, according to physician's order or accepted standards of practice; and
7. comments when indicated.

Note: The patient or a responsible person must sign the permanent record of visit that is retained by the agency. However, it is not necessary for the patient or a responsible person to sign on the clinical note.

C. Clinical Record Contents. An active clinical record shall contain all of the following documentation:

1. the initial assessment;
2. the current plan of care signed and dated by the physician. If the physician does not date the POC when it is signed, then the agency must date it when the signed POC is received from the physician;
3. the current comprehensive assessment;
4. the current clinical notes for at least the past 60 days, including a description of measurable outcomes relative to the goals in the POC that have been achieved;
5. identifying data, including:
  - a. name;
  - b. address;
  - c. date of birth;
  - d. gender;
  - e. agency case number; and
  - f. next of kin;
6. the date that care started;
7. attending physician data, including:
  - a. name;
  - b. address; and
  - c. telephone number;
8. the diagnoses, including all conditions relevant to the current plan of care;

9. the types of services rendered, including frequency, duration and the applicable clinical notes;

10. a list of current medications indicating the drug, dosage, frequency, route of administration if other than oral, dates that a drug was initiated and discontinued, drug allergies, dates that non-prescription remedies were initiated and discontinued, side effects and a tracking procedure, and any adverse reactions experienced by the patient;

11. the current medical orders;

12. diet;

13. functional status;

14. rehabilitation potential;

15. the prognosis;

16. durable medical equipment available and/or needed;

17. when applicable, a copy of the transfer form that was forwarded to the appropriate health care facility that will be assuming responsibility for the patient's care; and

18. the discharge summary which shall be available to physicians upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, amended LR 21:177 (February 1995), amended LR 22:1135 (November 1996), LR 27:

#### **§9195. Continuous Quality Improvement**

A. The agency shall have written policies requiring that an overall evaluation of the agency's total program be conducted at least once a year by a group of professional personnel (or a committee of this group), agency staff, and consumers or by a independent group of professionals outside the agency working in conjunction with consumers. The evaluation shall consist of an overall policy and administrative review and a clinical record review. The evaluation shall assess the extent to which the agency's program is appropriate, adequate, effective, and efficient. The results of the evaluation must be reported to and acted upon by those persons who are responsible for the operation of the agency. The evaluation results shall be maintained separately as administrative records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, amended LR 21:177 (February 1995), LR 27:

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, Louisiana 70821-9030. He is responsible for responding to inquiries regarding this proposed rule.

A public hearing on this proposed rule is scheduled for Monday, October 29, 2001 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, Louisiana. At that time, all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood  
Secretary

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

**RULE TITLE: Minimum Standards for Home  
Health Agencies**

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

It is anticipated that the implementation of this proposed rule will have no programmatic fiscal impact for SFY 2001-02, 2002-03, and 2003-04. It is anticipated that \$3,000 (\$1,500 SGF and \$1,500 FED) will be expended in SFY 2001-2002 for the state's administrative expense for promulgation of this proposed rule and the final rule.

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

It is anticipated that the implementation of this proposed rule will not impact federal revenue collections.

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

Home health agencies providing services to home health clients must provide documentation of a line of credit from a licensed lending agency for at least \$75,000 as proof of adequate finances to sustain the agency for at least six months. This requirement applies to the initial licensure process.

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

Home health agencies that provide services to home health clients must undergo an initial on-site licensing survey. If the initial survey finds that the agency is not in substantial compliance with the minimum standards, then the agency shall transfer all patients and close.

Ben A. Bearden  
Secretary  
9912#019

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

**Pharmacy Program Average Wholesale  
Price Reimbursement Increase**

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule in April 1990 to amend the reimbursement methodology for drugs under the Louisiana Medicaid Pharmacy Program (*Louisiana Register*, Volume 16, Number 4). In compliance with Act 10 of the 1999 Regular Session of the Louisiana Legislature, the Bureau amended the April 20, 1990 rule to limit payments for prescription drugs to the lower of: (1) average wholesale price (AWP) minus 10.5 percent for independent pharmacies and 13.5 percent for chain pharmacies; (2) Louisiana's maximum allowable cost (MAC) limitation plus the maximum allowable overhead

cost (MAOC); (3) federal upper limits plus the maximum allowable overhead cost; or (4) providers' usual and customary charges to the general public. In addition, the definition of chain pharmacies was established as five or more Medicaid enrolled pharmacies under common ownership (*Louisiana Register*, Volume 26, Number 6).

As a result of a budgetary shortfall, the Bureau adopted a rule amending the June 20, 2000 rule to limit payments for prescription drugs to the lower of (AWP) minus 15 percent for independent pharmacies and 16.5 percent for chain pharmacies. In addition, the definition of chain pharmacies was changed from five or more to more than fifteen Medicaid enrolled pharmacies under common ownership (*Louisiana Register*, Volume 26, Number 8). As a result of the allocation of funds by the Legislature during the 2001 Regular Session, the Bureau increased the reimbursement rate for prescription drugs under the Medicaid Program by amending the estimated acquisition cost formula from AWP minus 15 percent to AWP minus 13.5 percent for independent pharmacies and from AWP minus 16.5 percent to AWP minus 15 percent for chain pharmacies (*Louisiana Register*, Volume 27, Number 8). The Bureau now proposes to adopt a rule to continue the provisions contained in the August 6, 2001 emergency rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed rule on the family has been considered. This proposed rule has no known impact on family functioning, stability, and autonomy as described in R.S. 49:972.

**Proposed Rule**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the reimbursement rates for prescription drugs under the Medicaid Program by amending the estimated acquisition cost formula from average wholesale price (AWP) minus 15 percent to AWP minus 13.5 percent for independent pharmacies and from AWP minus 16.5 percent to AWP minus 15 percent for chain pharmacies. This adjustment applies to single source drugs, multiple source drugs that do not have a state maximum allowable cost (MAC) or federal upper limit and those prescriptions subject to MAC overrides based on the physician's certification that a brand name product is medically necessary.

Implementation of this proposed rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, Louisiana 70821-9030. He is responsible for responding to inquiries regarding this proposed rule. A public hearing on this proposed rule is scheduled for Monday, October 29, 2001 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, Louisiana. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Pharmacy Program Average Wholesale  
Price Reimbursement Increase**

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

It is anticipated that the implementation of this proposed rule will increase state program costs by approximately \$2,040,376 for SFY 2001-02, \$2,335,005 for SFY 2002-03, and \$2,405,056 for SFY 2003-04. It is anticipated that \$160 (\$80 SGF and \$80 FED) will be expended in SFY 2001-2002 for the state's administrative expense for promulgation of this proposed rule and the final rule.

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

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$4,843,375 for SFY 2001-02, \$5,542,882 for SFY 2002-03, and \$5,709,168 for SFY 2003-04.

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

Implementation of this proposed rule will increase payments to pharmacies for prescription drug services provided to Medicaid recipients by approximately \$6,883,591 for SFY 2001-02, \$7,877,887 for SFY 2002-03, and \$8,114,224 for SFY 2003-04.

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

Implementation of this proposed rule could result in some independent pharmacies remaining in the Medicaid program and continuing to provide prescription drug services to Medicaid recipients.

Ben A. Bearden  
Director  
0109#067

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

**Private Nursing Facilities Reimbursement Rate Increase**

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule on June 20, 1984 that established the reimbursement methodology for private nursing facilities (*Louisiana Register*, Volume 10, Number 6). The reimbursement methodology for private nursing facilities included provisions for interim adjustments to the reimbursement rates and automatic application of an inflation adjustment to the rates in those years when the rates are not rebased. The June 1984 rule was subsequently amended to discontinue the

practice of automatically applying an inflation adjustment to the rates in those years when the rates are not rebased (*Louisiana Register*, Volume 25, Number 6). As a result of the allocation of additional funds by the legislature during the 2000 Second Special Session, the bureau adopted an Emergency Rule to restore the 7 percent reduction previously made to the prospective per diem rates for private nursing facilities (*Louisiana Register*, Volume 26, Number 7).

As a result of the allocation of funds by the legislature during the 2001 Regular Session in order to continue initial year rebasing as provided for by R.S. 46:2691 through an approved state plan amendment to be in effect for state fiscal year 2001-2002 only and for cost increases as verified by the Department of Health and Hospitals, the bureau adjusted the per diem rates paid to private nursing facilities (*Louisiana Register*, Volume 27, Number 7). The bureau now proposes to adopt a rule to continue the provisions contained in the July 1, 2001 Emergency Rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed rule on the family has been considered. This proposed rule has no known impact on family functioning, stability, and autonomy as described in R.S. 49:972.

**Proposed Rule**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adjusts the percentile utilized for all cost components, except profit incentive, from the sixtieth to the sixty-second percentile.

The Bureau of Health Services Financing establishes the following reimbursement rates for private nursing facility services:

Level Of Care	Daily
Skilled Nursing	\$85.42
Intermediate Care I	\$81.50
Intermediate Care II	\$81.50
Skilled Nursing Infectious Disease	\$258.71
Skilled Nursing Technology Dependent Care	\$246.61

Implementation of this proposed rule shall be contingent on the approval of the U.S. Department of Health and Human Services, Center for Medicare and Medicaid Services.

Interested persons may submit written comments to the following address: Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed rule. A public hearing on this proposed rule is scheduled for Monday, October 29, 2001 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood  
Secretary

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

**RULE TITLE: Private Nursing  
FacilitiesC Reimbursement Rate Increase**

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

It is anticipated that the implementation of this proposed rule will increase state program costs by approximately \$2,847,242 for SFY 2001-02, \$3,199,197 for SFY 2002-03, and \$3,295,173 for SFY 2003-04. The source of the state funding for this proposed rule is the Medicaid Trust Fund for the Elderly. It is anticipated that \$120 (\$60 SGF and \$60 FED) will be expended in SFY 2001-2002 for the state's administrative expense for promulgation of this proposed rule and the final rule.

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

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$6,758,754 for SFY 2001-02, \$7,594,315 for SFY 2002-03, and \$7,822,144 for SFY 2003-04.

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

Implementation of this proposed rule will increase payments to private nursing facilities providing services to Medicaid recipients by approximately \$9,605,876 for SFY 2001-02, \$10,793,512 for SFY 2002-03, and \$11,117,317 for SFY 2003-04.

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

There is no known effect on competition as the nursing home moratorium remains in effect. However, increased payments to providers of nursing facility services may enable the providers to increase compensation to lower paid employees (i.e., nurses aides).

Ben A. Bearden  
Director  
0109#069

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Public Safety and Corrections  
Gaming Control Board**

Application after Denial  
(LAC 42:III.123, VII.2157, IX.2135, and XIII.2157)

The Louisiana Gaming Control Board hereby gives notice that it intends to adopt LAC 42:III.123, and to repeal LAC 42:VII.2157, 42:IX.2135, and 42:XIII.2157 in accordance with R.S. 27:15 and 24, and the Administrative Procedure Act, R.S. 49:950 et seq.

**Title 42**

**LOUISIANA GAMING**

**Part III. Gaming Control Board**

**Chapter 1. General Provisions**

**§123. Application after Denial**

A. Any person whose application for license, permit or finding of suitability has been denied with prejudice is not eligible to reapply for any approval authorized by Title 27 of the Revised Statutes for a period of five years from the date the decision becomes final.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 27:

**Part VII. Pari-Mutuel Live Racing Facility**

**§2157. Application after Denial**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:738 (April 2000), repealed LR 27:

**Part IX. Landbased Casino Gaming**

**§2135. Application after Denial**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1910 (October 1999), repealed LR 27:

**Part XIII. Riverboat Gaming**

**§2157. Application after Denial**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division LR 19:1176 (September 1993), amended LR 21:705 (July 1995), repealed by the Department of Public Safety and Corrections, Gaming Control Board LR 27:

**Family Impact Statement**

Pursuant to the provisions of R.S. 49:953.A, the Gaming Control Board, through its chairman, has considered the potential family impact of adopting LAC 42:III.123 and repealing VII.2157, IX.2135, XIII.2157.

It is accordingly concluded that adopting LAC 42:III.123 and repealing VII.2157, IX.2135, XIII.2157 would appear to have no impact on the following:

1. the effect on stability of the family;
2. the effect on the authority and rights of parents regarding the education and supervision of their children;
3. the effect on the functioning of the family;
4. the effect on family earnings and family budget;
5. the effect on the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed rule.

All interested persons may contact Tom Warner, Attorney General's Gaming Division, telephone (225) 342-2465, and may submit comments relative to these proposed rules, through October 10, 2001, to 339 Florida Street, Suite 500, Baton Rouge, LA 70801.

Hillary J. Crain  
Chairman

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

**RULE TITLE: Application after Denial**

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

It is anticipated that there will be no direct implementation costs or savings to state or local government units.

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

No effect on revenue collections is anticipated.

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

No costs to directly affected persons are expected. Some applicants will be prohibited from reapplying for permits or licenses for a period of five years in situations when an application is denied with prejudice. It is not anticipated that these rules will result in an actual economic cost to those directly affected persons.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition or employment is estimated.

Hillary J. Crain  
Chairman  
0109#038

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Public Safety and Corrections  
Liquefied Petroleum Gas Commission**

New Dealer Requirements; Transport/Delivery  
Truck Inspection; Supplement to NFPA  
(LAC 55:IX.107, 166, and 181)

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and R.S. 40:1846 relative to the authority of the Liquefied Petroleum Gas Commission to make and enforce reasonable rules and regulations governing the storage, sale, and transportation of liquefied petroleum gases, notice is hereby given that the commission proposes to amend existing rules and adopt new rules. The proposed rule changes and new adoptions have no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

The proposed rule changes and adoptions will do five things:

1. will amend its rules regarding permit fees that are based on a percentage of gross annual sales of liquefied petroleum gases from .1700 of 1 percent to .1500 of 1 percent of gross annual sales of liquefied petroleum gases with a minimum of \$75;

2. will adopt new rules requiring all Class I, Class VI, Class VI-X and Class VIII permit holders to accept, for proper disposal or requalification, all 4 lb. through 40 lb. liquefied petroleum gas capacity cylinders from consumers, when offered, that are not suitable for continued service in their present condition. Also will require all Class I permit holders who supply liquefied petroleum gas to Class VI, Class VI-X, or Class VIII permit holders, to accept and properly dispose of or requalify, all 4 lb. through 40 lb. liquefied petroleum gas capacity cylinders which are offered by their Class VI, Class VI-X, or Class VIII permit holders for disposal or requalification. Will make those cylinders transferred, the property of the Class I permit holder and the Class I permit holder responsible for the requalification or proper disposal of the cylinders;

3. will adopt new rules requiring all classes of permit holders who fill cylinders on their premises for the public, to post a "Reject and Do Not Fill" poster or sign approved by the Liquefied Petroleum Gas Commission at each filling location;

4. will amend its rules regarding transport/delivery inspections and allow reimbursement to the commission, for travel expenses for out of state inspections made, at the request of the out of state permit holder. Out of state inspections will be solely at the discretion of the commission; and

5. will amend its rules regarding overfilling prevention devices, deleting the requirement that all 4 lb. to 40 lb. propane capacity cylinders must be equipped with an overfilling prevention device (OPD) by April 1, 2002 to September 30, 2010 and making it against its rules to fill these cylinders after September 30, 2010, if not so equipped.

The proposed rule changes comply with the statutory authority granted the commission under R.S.40:1846.

**Title 55**

**PUBLIC SAFETY**

**Part IX. Liquefied Petroleum Gas**

**Chapter 1. General Requirements**

**Subchapter A. New Dealers**

**' 107. Requirements**

A.1. - 5.c. ...

6. Applicant must have paid a permit fee in the amount of \$75, except for Class VII-E, which shall be \$100, and R-1, R-2 registrations, which shall be \$37.50 and Class VI-X shall be in the amount of \$75 for the first location, plus \$50 for each 2-11 locations, plus \$25 for each 12-infinity locations. For succeeding years the permit fee shall be .1500 of 1 percent of annual gross sales of liquefied petroleum gas with a minimum of \$75, except in the case of Class VI-X which the minimum permit fee shall be \$75 for the first location, plus \$50 for each 2-11 locations, plus \$25 for each 12-infinity locations; or .1500 of 1 percent of annual gross sales of liquefied petroleum gases of all locations whichever is greater. For classes not selling liquefied petroleum gases in succeeding years the permit fee shall be \$75, except registrations shall be \$37.50 per year.

6.a. - 13. ...

14. All Class I, Class VI, Class VI-X, and Class VIII permit holders are required to accept, for proper disposal or requalification, all 4 lb. through 40 lb. liquefied petroleum gas cylinders from consumers, when offered, which are not suitable for continued service in their present condition. Class I permit holders, who supply liquefied petroleum gas to Class VI, Class VI-X and Class VIII permit holders are required to accept and properly dispose of or requalify, all 4 lb. through 40 lb. liquefied petroleum gas capacity cylinders when offered by their Class VI, Class VI-X, or Class VIII permit holders for disposal or requalification. Those cylinders offered for disposal or requalification become the property of the permit holders accepting the cylinder. It is the responsibility of the Class I permit holders to properly dispose of the cylinders which are not or can not be requalified.

15. All classes of permit holders who fill cylinders on their premises for the public shall have a "Reject and Do Not Fill" poster or sign approved by the Liquefied Petroleum Gas Commission at each filling location.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972,

amended December 1974, LR 1:315 (July 1975), LR 4:86 (March 1978), LR 7:633 (December 1981), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 11:557 (May 1985), LR 15:854 (October 1989), LR 16:1063 (December 1990), LR 20:1400 (December 1994), LR 24:461 (March 1998), LR 24:2311 (December 1998), LR 25:1262 (July 1999), LR 25:2410 (December 1999), LR 26:1487 (July 2000), LR 27:

#### **Subchapter F. Tank Trucks, Semi-Trailers and Trailers**

#### **§166. Transport/Delivery Truck Registration Decals and Inspections**

A. - C.2.a. ...

b. a qualified agency acceptable to the commission with acceptable documentation, that a safety inspection has been performed by that qualified agency.

3. Safety inspections performed by a commission inspector within the State of Louisiana shall be free of charge.

4. Safety inspections performed by a commission inspector outside of the State of Louisiana shall be subject to travel reimbursement to the commission from the permit holder(s) for which the travel was performed in accordance with Policy and Procedure Memorandum 49 guidelines. This travel must be requested by the out of state permit holder and out of state travel will be solely at the discretion of the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 24:467 (March 1998), LR 25:2412 (December 1999), LR 27:

#### **Subchapter I. Adoption of Standards**

#### **§181. National Fire Protection Association Pamphlet Numbers 54 and 58**

A. - E.10. ...

11. Adding as a supplement to NFPA 58-1995C in Louisiana all new cylinders from 4 lbs. through 40 lbs. propane capacity fabricated after August 1, 1999 shall be equipped with a listed overfilling prevention device (OPD) and a fixed maximum liquid level gauge. All DOT cylinders now in use must be retrofitted with the overfilling prevention device (OPD) either when the cylinder is requalified under Louisiana regulations or by September 30, 2010. No cylinder shall be filled in Louisiana after September 30, 2010 unless equipped with an overfilling prevention device (OPD). Lift truck cylinders and cylinders marked, identified and used for welding and cutting gases are exempt from these provisions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 20:1404 (December 1994), amended LR 24:2412 (December 1999), LR 27:

The commission will hold a public hearing October 25, 2001, 1723 Dallas Drive, Baton Rouge, LA, at 8:30 a.m. in regard to these changes.

Written comments will be accepted through October 19, 2001 and should be sent to Charles M. Fuller, P.O. Box

66209, Baton Rouge, LA 70896. All interested persons will be afforded an opportunity to be heard at the public hearing. A preamble has not been prepared for the intended action.

Charles M. Fuller  
Director

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

#### **RULE TITLE: New Dealer Requirements; Transport/Delivery Truck Inspection; Supplement to NFPA**

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

There will be an estimated \$3,000 per year decrease in costs to the agency for in-state travel and a corresponding increase in out-of-state travel having an estimated net effect of zero. The only other cost increase to the agency will be the cost of publishing in the *Louisiana Register* which will be insignificant. There will be no increase or decrease in costs to any local governmental unit.

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

There will be a calculated net revenue decrease to the agency of \$8,290 in FY 01-02, \$32,280 in FY 02-03, and succeeding fiscal years. There will be no effect on revenues for any local governmental units.

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

There will be an economic benefit to approximately 100-125 permit holders, who pay in excess of the minimum in permit fees, in the reduction of permit fees calculated to be \$11,290 in FY 01-02, \$35,280 in FY 02-03 and succeeding fiscal years. There will be no economic benefit to any other person or non-governmental group.

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

There will be no effect on competition and employment.

Charles M. Fuller  
Director  
0109#033

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

#### **NOTICE OF INTENT**

#### **Department of Public Safety and Corrections Office of State Police**

Hazardous Materials CRight to Know  
(LAC 33:V.10117 and 10121)

The Department of Public Safety and Corrections, Office of State Police, in accordance with R.S. 49:950 et seq., and R.S. 30:2361 et seq., gives notice of its intent to amend its rules regulating chemical inventory fling fees and those entities subject to civil penalties all in accordance with statutory changes in these areas.

**Title 33**  
**ENVIRONMENTAL QUALITY**  
**Part V. Hazardous Wastes and Hazardous Materials**  
**Subpart 2. Department of Public Safety and**  
**Corrections Hazardous Materials**  
**Chapter 101. Hazardous Material Information**  
**Development, Preparedness**  
**and Response Act**

**§10117 Failure to Report: Penalties**

A. - D.1. ....

2. R.S. 30:2373(D)(2) provides that for any person, owner, operator, or facility that violates R.S. 30:2373(D) the department may levy a civil penalty not to exceed \$25,000 per violation.

E. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2361 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 12:327 (May 1986), amended LR 13:184 (March 1987), LR 13:762 (December 1987), repromulgated LR 14:804 (November 1988), amended LR 16:975 (November 1990), LR 27:864 (June 2001), LR 27:

**§10121 Fees**

A. ...

B. 1. Until June 30, 2003, the fees for facilities not meeting the definition of "small business" in R.S. 30:2363 shall be assessed as follows:

Number of Hazardous Materials Present at Facility	Amount of Fees Charges
01 to 25	\$ 65
26 to 75	\$ 85
76 to 100	\$170
Over 100	\$255

B.2. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2361 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 12:327 (May 1986), amended LR 13:184 (March 1987), LR 13:762 (December 1987), repromulgated LR 14:804 (November 1988), amended LR 16:975 (November 1990), LR 27:864 (June 2001), LR 27:

**Family Impact Statement**

1. The Effect of these Rules on the Stability of the Family. These rules will have no effect on the stability of the family.

2. The Effect of these Rules on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. These rules will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect of these Rules on the Functioning of the Family. These rules will have no effect on the functioning of the family.

4. The Effect of these Rules on Family Earnings and Family Budget. These rules will have no effect on family earnings and family budget.

5. The Effect of these Rules on the Behavior and Personal Responsibility of Children. These rules will have no effect on the behavior and personal responsibility of children.

6. The Effect of these Rules on the Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rules. These rules will have no effect on the ability of the family or local government to perform the function as contained in the proposed rules.

Interested persons may submit written comments to Paul Schexnayder, P. O. Box 66614, Baton Rouge, LA 70896. Written comments will be accepted through October 15, 2001.

Jerry Jones  
Undersecretary

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

**RULE TITLE: Hazardous Materials Right to Know**

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

There should be no costs incurred and no savings realized as a result of the implementation of these rules.

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

There will be a negative impact on revenue collections of the state, with no effect on revenue collections of local government units. Tier Two chemical inventory filing fees which are paid to the Louisiana State Police will be reduced by roughly 15 percent, which equates to an annual revenue loss of \$80,000 (\$540,000 - \$460,000).

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

Facilities that manufacture, use, or store hazardous materials will benefit by paying approximately 15 percent less in Tier Two chemical inventory filing fees.

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

These rules will have no effect on competition or employment.

Jerry W. Jones  
Undersecretary  
0109#047

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Public Safety and Corrections  
Office of State Police**

Motor Vehicle Inspection  
(LAC 55:III.Chapter 8)

The Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section, in accordance with R.S. 49:950 et seq. and R.S. 32:1301 et seq. gives notice of its intent to amend its rules regulating vehicle inspections by now requiring the performance of an on-board diagnostic systems test as well as providing for immediate suspension of any inspection station which fails to perform such test.

**Title 55  
PUBLIC SAFETY**

**Part III. Motor Vehicles**

**Chapter 8. Motor Vehicle Inspection**

**Subchapter B. Safety Inspections**

**§805 Requirements, Duties, Responsibilities**

A. - E.1.i. ...

j. on board diagnostic systems test equipment and evaporative system test equipment which includes gas cap pressure test equipment as per the United States Environmental Protection Agency (US EPA) specifications. Stations must have approved equipment readily accessible and in good working order. This equipment must be in or near the inspection area. The provisions of LAC 55:III.805.E.1.j shall only apply to inspection stations located in the non-attainment area;

E.1.k. - I. ....

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1304 - 1310.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section, LR 25:2434 (December 1999), amended LR 27:

**§807. Operation as an Official Motor Vehicle Inspection Station**

A. - E.8. ...

9. Until electronic submittal of data is implemented, the Louisiana Vehicle Inspection/Maintenance Parameter Form must be properly filled out by stations in the five parish non-attainment area for every vehicle which requires an emissions test. Parameter Forms should be mailed directly to the Department of Public Safety, Safety Enforcement, 527 Florida Boulevard, Room 303, Denham Springs, LA 70726. In the non-attainment area there may be separate and additional reports required as mandated by the Department of Environmental Quality. Stations within this area are to properly complete all required reports and they must be postmarked no later than Saturday, 12 noon each week.

F. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1304 - 1310.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section, LR 25:2434 (December 1999), amended LR 27:

**Subchapter C. Vehicle Emission Inspection and Maintenance Program**

**§819. Anti-Tampering and Inspection and Maintenance Parameters**

A. ...

B. Effective January 1, 2000, and in addition to the anti-tampering parameter checks listed in subsection A of this section, a vehicle inspection and maintenance program consisting of evaporative system pressure checks a gas cap pressure test is required on all subject vehicles 1980 and newer model year gasoline-fueled passenger cars and gasoline-fueled trucks (10,000 pounds gvwr or less) registered within the five parish non-attainment area. The non-attainment area is comprised of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge parishes.

C. Effective January 1, 2002, and in addition to the requirements outlined in Subsections A and B of this section, the performance of Onboard Diagnostic (OBD II) system checks will be required on all 1996 and newer model year gasoline-fueled passenger cars and gasoline-fueled trucks (10,000 pound gvwr or less) registered in the five parish non-attainment area. These mandatory OBD II checks are to be performed in accordance with the federal Amendments to Vehicle Inspection Maintenance Program Requirements Incorporating the Onboard Diagnostic Check, Final Rule at 40 CFR Parts 51 and 85 as published in *Federal Register*, Thursday, April 5, 2001 (Volume 66, pages 18156 - 18179).

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1304 -1310.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section, LR 25:2434 (December 1999), amended LR 27:

**Subchapter E. Administrative and Audit Procedures**

**§833. Investigations; Administrative Actions; Sanctions**

A. - B. ...

C. The Department may immediately and temporarily suspend the license of a Motor Vehicle Inspection station prior to providing an administrative hearing when it is determined that the station has violated any of the provisions of LAC 55:III.819. In the event of such an immediate and temporary suspension of its license, the station is entitled to an administrative hearing to be held within 14 days of the initial date of suspension.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1304 - 1310.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section, LR 25:2434 (December 1999), amended LR 27:

**Family Impact Statement**

1. The Effect of these Rules on the Stability of the Family. These rules will have no effect on the stability of the family.

2. The Effect of these Rules on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. These rules will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect of these Rules on the Functioning of the Family. These rules will have no effect on the functioning of the family.

4. The Effect of these Rules on Family Earnings and Family Budget. These rules will have no effect on family earnings and family budget.

5. The Effect of these Rules on the Behavior and Personal Responsibility of Children. These rules will have no effect on the behavior and personal responsibility of children.

6. The Effect of these Rules on the Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rules. These rules will have no effect on the ability of the family or local government to perform the function as contained in the proposed rules.

Interested persons may submit written comments to Paul Schexnayder, P. O. Box 66614, Baton Rouge, LA 70896. Written comments will be accepted through October 15, 2001.

Jerry Jones  
Undersecretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Motor Vehicle Inspection**

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

There should be minimal costs incurred and no savings regarding the adoption of these rules. The only cost will be to state and local governmental units in the five parish non-attainment area that inspect their own vehicles, as they will have to purchase the testing equipment required by these rules at an estimated cost of \$1,700.

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

There should be no effect on revenue collections of state or local governmental units.

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

The only cost will be to inspection stations in the five parish non-attainment area who will pay an estimated \$1,700 to purchase the equipment required by these rules as well as possibly having to purchase a computer, printer, monitor, and Internet access if the station does not already have such. In addition, there may be possible ancillary costs for maintenance and upgrades of this equipment. Benefits to the affected stations include less paperwork, reduction in time required to perform an inspection, and less postage costs.

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

The cost of the testing equipment by these rules may result in some inspection stations finding it cost prohibitive to remain in the Motor Vehicle Inspection program.

Jill P. Boudreaux  
Deputy Undersecretary  
0109#031

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT  
Department of Revenue  
Policy Services Division**

Manufactured and Mobile Home Settlement Fund  
(LAC 61:I.4313)

Under the authority of Act 1212 of the 2001 Regular Legislative Session and in accordance with the provisions of the Administrative Procedure Act, R.S. 47:950 et seq., the Department of Revenue, Policy Services Division, proposes to enact LAC 61:I.4313 to establish procedures for the administration of the Manufactured and Mobile Home Settlement Fund.

This rule is necessary to allow the Department of Revenue to carry out the requirements of Act 1212 of the 2001 Regular Legislative Session, which was enacted to resolve

certain suits against the state related to the state sales and use taxes assessed on the purchase of certain manufactured and mobile homes. This Act requires the secretary to promulgate rules and regulations to process claims against the state regarding state sales tax paid on the purchase of manufactured and mobile homes. This rule supplements the Declarations of Emergency regarding the Manufactured and Mobile Home Settlement Fund that were effective September 1, 2001, and September 10, 2001.

The full text of this proposed rule may be viewed in the Emergency Rule Section of this issue of the *Louisiana Register*.

**Family Impact Statement**

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature the following Family Impact Statement is submitted to be published with the Notice of Intent in the *Louisiana Register*. A copy of this statement will also be provided to our legislative oversight committees.

1. The Effect on the Stability of the Family. Implementation of this proposed rule will have no effect on the stability of the family.

2. The Effect on the Authority and Rights of Parents regarding the Education and Supervision of their Children. Implementation of this proposed rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect on the Functioning of the Family. Implementation of this proposed rule will have no effect on the functioning of the family.

4. The Effect on Family Earnings and Family Budget. Implementation of this proposed rule will benefit families that purchased a manufactured or mobile home between January 1, 1998, and July 1, 2001, and are not party to any of the lawsuits against the state related to the purchase of manufactured or mobile homes. These families could qualify for a rebate for state sales taxes paid on these purchases.

5. The Effect on the Behavior and Personal Responsibility of Children. Implementation of this proposed rule will have no effect on the behavior and personal responsibility of children.

6. The Ability of the Family or a local Government to Perform the Function as contained in the proposed Rule. Implementation of this proposed rule will have no effect on the ability of the family or a local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Raymond E. Tangney, Senior Policy Consultant, Policy Services Division, P.O. Box 15409, Baton Rouge, LA 70895-5409 or by fax to (225) 925-3855. All comments must be submitted by 4:30 p.m., Friday, October 26, 2001. A public hearing will be held on Tuesday, October 30, 2001, at 9:00 a.m. in the First Floor Auditorium (Room 153) at the United Plaza Twelve Building, 8549 United Plaza Boulevard, Baton Rouge, Louisiana.

Cynthia Bridges  
Secretary

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

**RULE TITLE: Manufactured and Mobile Home  
Settlement Fund**

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

The cost to implement this proposed regulation, which establishes procedures for administering the Manufactured and Mobile Home Settlement Fund created by Act 1212 of the 2001 Regular Legislative Session, will be approximately \$172,000 for printing, mailing, programming, and operational costs. However, all expenses for administering the fund will be paid from the fund.

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

There should be no effect on revenue collections of state or local governmental units as a result of this proposed regulation. However, any residual money in the Manufactured and Mobile Home Settlement Fund after distributions and reimbursement for administering the fund will be deposited into the state general fund.

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

This proposed regulation benefits persons that purchased a manufactured or mobile home from January 1, 1998, through June 30, 2001, and are not a party to any to the legal cases associated with the purchase of a manufactured or mobile home. The state has approximately \$28 million in escrow that will be used to pay judgments in lawsuits related to manufactured and mobile homes and then distributed to other purchasers of manufactured and mobile homes who made such purchases from January 1, 1998, to June 30, 2001.

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

This proposed regulation should have no effect on competition or employment.

Cynthia Bridges  
Secretary  
0109#035

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

FITAPCTime Limit Exemptions  
(LAC 67:III.1223 and 1247)

The Department of Social Services, Office of Family Support, proposes to amend the Louisiana Administrative Code, Title 67, Part III, Subpart 2, the Family Independence Temporary Assistance Program (FITAP).

Pursuant to the authority granted to the Department by the Louisiana Temporary Assistance for Needy Families (TANF) Block Grant, the agency proposes to amend §1247 by allowing certain exceptions to the 60-month time limit for FITAP benefits. Whereas federal regulations establish a lifetime limit of 60 months for TANF assistance to families that include an adult or minor parent head of household with exceptions for certain hardship situations. The agency now proposes to provide for such hardship exemptions that can be applied to the 60-month limit which are also applicable to the state 24-month limit. Alignment of the hardship exemptions for the 60-month time limit with those for the

24-month time limit will simplify administration of the program and allow FITAP recipients an extended period of time to gain the skills, training, and/or education necessary to become self-sufficient. Specification of hardship exemptions for the 60-month time limit is needed at this time because families who have been receiving FITAP continuously since implementation of the federal 60-month time limit policy will have exhausted their 60th month time limit by January, 2002. §1223 is being updated to include non-citizen nationals.

**Title 67**

**SOCIAL SERVICES**

**Part III. Office of Family Support**

**Subpart 2. Family Independence Temporary Assistance  
Program (FITAP)**

**Chapter 12. Application, Eligibility, and Furnishing  
Assistance**

**Subchapter B. Conditions of Eligibility**

**§1223. Citizenship**

A. Each FITAP recipient must be a United States Citizen, a non-citizen national, or a qualified alien. A non-citizen national is a person born in an outlying possession of the United States (American Samoa or Swain's Island) on or after the date the U.S. acquired the possession, or a person whose parents are U.S. non-citizen nationals. A qualified alien is:

A.1. - B.7. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2448 (December 1999), amended LR 26:1342 (June 2000), LR 27:

**§1247. Time Limits**

A. - C. ...

D. Eligibility for cash assistance under a program funded by Part IV of the Social Security Act is limited to a life-time limit of 60 months. No cash assistance will be provided to a family that includes an adult who has received assistance for 60 months (whether or not consecutive) unless one of the following hardship exemptions apply (in households with two caretaker relatives, both caretaker relatives must meet at least one of these criteria):

1. the caretaker relative is incapacitated or disabled;
2. the caretaker relative has been actively seeking employment by engaging in job-seeking activities and is unable to find employment;
3. factors relating to job availability are unfavorable;
4. the caretaker relative loses his job as a result of factors not related to his job performance;
5. an extension of benefits of up to one year will enable the adult to complete employment-related education or training; or
6. hardships have occurred which affect the caretaker relative's ability to obtain employment.

E. Any month for which such assistance was provided will be disregarded with respect to the individual, if the individual was:

1. a minor child; and
2. not the head of a household or married to the head of a household.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.6., R.S. 46:460.5(A)(3).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2453 (December 1999), amended LR 26:349 (February 2000), LR 27:

### Family Impact Statement

1. What effect will this rule have on the stability of the family? This rule should have no effect on family stability.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? This rule will have no effect on the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this have on the functioning of the family?

This rule could improve the functioning of the family by allowing some families who meet the criteria for exemptions to continue receiving cash assistance after they have reached the 60-month lifetime limit.

4. What effect will this have on family earnings and family budget? This rule could have a positive impact on the family budget if the household continues to receive cash assistance after reaching the 60-month time limit as a result of meeting one of the listed criteria for exemptions. This assistance may benefit families in financial distress.

5. What effect will this have on the behavior and personal responsibility of children? This rule should have no effect on the behavior and personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed rule? No, this program is strictly an agency function.

Interested persons may submit written comments by October 30, 2001 to Ann S. Williamson, Assistant Secretary, Office of Family Support, P. O. Box 94065, Baton Rouge, LA, 70804-9065. She is responsible for responding to inquiries regarding this proposed rule.

A public hearing on the proposed rule will be held on October 30, 2001 at the Department of Social Services, A.Z. Young Building, Second Floor Auditorium, 755 Third Street, Baton Rouge, Louisiana beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call Area Code 225-342-4120 (Voice and TDD).

J. Renea Austin-Duffin  
Secretary

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: FITAPC Time Limit Exemptions

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

It is anticipated that the amended eligibility requirement at §1247.D will increase state costs by allowing certain Family Independence Temporary Assistance Program (FITAP) recipients to continue receiving cash assistance beyond the 60-month lifetime limit due to hardship. There is no available data on this specific area; however, the number of assistance units affected would be expected to be minimal and any associated Family Independence Temporary Assistance Program (FITAP) benefits would be paid from the Louisiana Temporary

Assistance for Needy Families (TANF) Block Grant which is federally funded. The amendment to §1223 regarding non-citizen nationals would not result in an increase or decrease in costs or savings as there is no known "non-citizen nationals" population in Louisiana at this time. The minimal cost of publishing the rule and printing policy changes is routinely included in the agency's annual budget.

There will be no costs to local governmental units.

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

There will be no impact on revenue collections for state or local governmental units.

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

FITAP recipients who meet one of the listed criteria will continue to receive benefits as a result of the exceptions to the 60-month time limit. There is no available data on which to project numbers of affected cases or the amount of FITAP benefits which could be involved. The amendment to §1223 regarding non-citizen nationals would not result in an increase or decrease in costs or savings as there is no known "non-citizen nationals" population in Louisiana at this time.

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

The proposed rule will have no impact on competition and employment.

Ann S. Williamson  
Assistant Secretary  
0109#056

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Department of Social Services Office of Family Support

Kinship Care Subsidy Program  
Custody and Citizenship Requirements  
(LAC 67:III.5323 and 5327)

The Department of Social Services, Office of Family Support, proposes to amend the LAC 67:III, Subpart 13, the Kinship Care Subsidy Program (KCSP).

Pursuant to Act 947 of the 2001 Regular Session of the Louisiana Legislature, the agency proposes to amend §5327 to allow a qualified relative care-giver up to one year in which to obtain legal custody or guardianship of a minor relative child who resides in the care-giver's home. §5323 is being updated to include non-citizen nationals.

#### Title 67

#### SOCIAL SERVICES

#### Part III. Office of Family Support

#### Subpart 13. Kinship Care Subsidy Program (KCSP) Chapter 53. Application, Eligibility, and Furnishing Assistance

#### Subchapter B. Conditions of Eligibility

#### §5323. Citizenship

A. Each KCSP recipient must be a United States Citizen, a non-citizen national, or a qualified alien. A non-citizen national is a person born in an outlying possession of the United States (American Samoa or Swain's Island) on or after the date the U.S. acquired the possession, or a person whose parents are U.S. non-citizen nationals. A qualified alien is:

A.1. - B.7. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B, R.S. 46:237.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:352 (February 2000), LR 27:

**§5327. Living in the Home of a Qualified Caretaker Relative**

A. A child must reside in the home of a qualified caretaker relative who is responsible for the day-to-day care of the child and who has legal custody or guardianship of the child. The child's parents may not reside in the home. Legal custody or guardianship must be obtained by the caretaker relative within one year of certification of benefits. Failure to obtain such custody within 12 months of certification will result in cessation of benefits. Benefits will not be denied when the qualified caretaker relative or the child is temporarily out of the home. Good cause must be established for a temporary absence of more than 45 days. The following relatives are qualified caretaker relatives:

A.1. - 7. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474 and R.S. 46:231.1.B, R.S. 46:237.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:353 (February 2000), LR 27:

**Family Impact Statement**

1. What effect will this rule have on the stability of the family? Implementation of this rule will have a positive impact on the stability of eligible families by allowing a qualified relative up to one year to obtain legal custody or guardianship of a minor relative thereby enabling more care givers to take advantage of the program rather than relying on Foster Care Services.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? There will be no effect on the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this have on the functioning of the family? The functioning of the family will be positively impacted due to a reduction in the financial strain created by the child's presence in the home of the qualified caretaker relative.

4. What effect will this have on family earnings and family budget? There will be no impact on family earnings. There will be a favorable impact on the family budget.

5. What effect will this have on the behavior and personal responsibility of children? This rule will not impact the behavior and personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed rule? No, this action is strictly a function of the state.

Interested persons may submit written comments by October 30, 2001, to Ann S. Williamson, Assistant Secretary, Office of Family Support, P.O. Box 94065, Baton Rouge, LA, 70804-9065. She is responsible for responding to inquiries regarding this proposed rule.

A public hearing on the proposed rule will be held on October 30, 2001, at the Department of Social Services, A.Z. Young Building, Second Floor Auditorium, 755 Third Street, Baton Rouge, Louisiana beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing.

Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (Voice and TDD).

J. Renea Austin-Duffin  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Kinship Care Subsidy  
ProgramC Custody and Citizenship Requirements**

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

This proposed rule will increase costs by making more applicants eligible; however, this number cannot be projected. Kinship Care Subsidy Program (KCSP) benefits are paid from the Louisiana Temporary Assistance for Needy Families (TANF) Block Grant which is federally funded. The minimal cost of publishing the rule and printing policy changes is routinely included in the agency's budget. KCSP currently serves 2835 recipients. The grant amount is \$222 per month per child. As of July 1, 2001, the agency has expended \$637,563 in program funds.

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

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

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

A number of applicants may become eligible for a KCSP grant as a result of being given additional time in which to obtain legal custody or guardianship of a minor relative. Since this is a new condition of eligibility, neither the number of applicants nor the economic benefit can be estimated. There is no known "non-citizen nationals" population in Louisiana at this time.

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

The proposed rule will have no impact on competition and employment.

Ann S. Williamson  
Assistant Secretary  
0109#055

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

Support Enforcement Services CSuspension of Licenses  
(LAC 67:III.2545)

The Department of Social Services, Office of Family Support, proposes to amend the LAC 67:III, Subpart 4, Support Enforcement Services (SES), the child support enforcement program.

Act 612 of the 2001 Regular Session of the Louisiana Legislature provides this program with the authority to suspend the professional, occupational, business, industrial, and motor vehicle or operator licenses of noncustodial parents who are seriously delinquent in payment of

court-ordered child support. Pursuant to this authority, SES proposes new §2545.

**Title 67**

**SOCIAL SERVICES**

**Part III. Office of Family Support**

**Subpart 4. Support Enforcement Services**

**Chapter 25. Support Enforcement**

**Subchapter L. Enforcement of Support Obligations**

**§2545. Administrative Suspension of Licenses Issued by the State of Louisiana**

A. SES may administratively suspend licenses of child support obligors who are not in compliance with an order for support. License suspension will be considered if income assignment is not effective, or if the obligor is not making payments or is making only sporadic payments. An obligor shall meet one of the following criteria to be considered for license suspension:

1. delinquent at least 90 days in the payment of support; or
2. has failed to provide and/or maintain health insurance ordered by a court.

B. SES will send a notice of the intent to suspend licenses to the obligor by certified mail with return receipt requested. If anyone in the obligor's household accepts the notice, it shall be considered as successfully served on the obligor. The notice will provide information concerning the following:

1. the municipal address and telephone number of the office that issued the notice;
2. the docket number and court which issued the order of support;
3. the amount of past-due support;
4. what the obligor must do to comply;
5. a summary of the obligor's right to file a written objection to the suspension of licenses and a description of the administrative hearing process; and
6. the right of an unobligated spouse to provide SES with a notarized affidavit in order to retain use of a shared vehicle.

C. Within 20 days of receipt of the notice, the obligor may act in the following manner to forestall license suspension. SES shall certify the obligor's non-compliance to the appropriate licensing authorities if the obligor fails to act as detailed in this matter.

1. The obligor may enter into a written agreement to pay current and past-due support. If an obligor fails to comply with the terms of a written agreement, SES may proceed with license suspension without further notice.

2. The obligor may file a written objection requesting an administrative hearing to determine whether the obligor is in compliance with an order of support. If the hearing authority rules that the obligor is in arrears with the support order and all legal delays have elapsed, SES shall proceed with license suspension without further notice.

3. The obligor may provide acceptable evidence of the inability to pay.

D. Upon timely receipt of written objection, the administrative hearing authority will schedule and notify obligor of the time and place of the hearing. Such hearing may be conducted by telephone or other electronic media. A decision shall be rendered within 90 days of receipt of the written objection.

E. For a driver's or vehicular license, SES shall be sensitive to the obligor's needs to retain the license for work purposes or to provide medical transportation to a dependent person. In some situations, SES may suspend driving privileges for specific times of the day or for specific days of the week.

F. SES shall issue a release certificate if an obligor becomes compliant with a support order and is eligible to have a license reissued. Such certificate will be sent to the agency or authority that suspended the obligor's license.

AUTHORITY NOTE: Promulgated in accordance with LA R.S. 9:315.40 et seq.; 42 U.S.C. 666.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, Support Enforcement Services, LR 27:

**Family Impact Statement**

1. What effect will this rule have on the stability of the family? The proposed rule will have a positive effect on the children in need of support from a noncustodial parent, as it is anticipated that the threat of suspending licenses will prompt the obligor to pay past-due child support that is owed to the children, as well as, meet current obligations. If the obligor has a current family to support, the effect of losing licenses for failure to pay court-ordered child support may impact that family negatively. However, consideration is given allowing the obligor to retain restricted use of a motor vehicle for work purposes. Also, any vehicle used by the unobligated spouse may be excluded from license suspension.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? The proposed rule will not affect the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this have on the functioning of the family? If the obligor does not sign a written agreement or fails to pay past due support, his/her current family would be affected by loss of licenses.

4. What effect will this have on family earnings and family budget? This rule may improve the family budget of certain child support recipients as they may receive support as ordered by the court.

5. What effect will this have on the behavior and personal responsibility of children? Receiving child support to help meet the needs of the children may indirectly have a positive effect on their behavior and/or personal responsibility.

6. Is the family or local government able to perform the function as contained in this proposed rule? SES is the sole state agency governing the collection of child support.

All interested persons may submit written comments through October 30, 2001, to Ann S. Williamson, Assistant Secretary, Office of Family Support, P.O. Box 94065, Baton Rouge, Louisiana, 70804-9065.

A public hearing on the proposed rule will be held on October 30, 2001, at the Department of Social Services, A.Z. Young Building, Second Floor Auditorium, 755 Third Street, Baton Rouge, Louisiana beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working

days in advance of the hearing. For assistance, call (225) 342-4120 (Voice and TDD).

J. Renea Austin-Duffin  
Secretary

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

**RULE TITLE: Support Enforcement  
Services CSuspension of Licenses**

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

The only immediate cost to state government is the minimal cost of printing policy revisions and publishing the rulemaking. License suspension represents another tool for the improved collection of court-ordered child support. No savings to the state are anticipated, and no costs or savings to local governmental units are anticipated.

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

This rule should increase child support collections by Support Enforcement Services since noncustodial parents should attempt to pay support to avoid having licenses suspended for delinquent payments; however, there is no way to anticipate or measure the effect. There will be no effect on local governmental units.

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

Increased payments will benefit the children of the obligor in child support matters; likewise, the obligor pays the cost of that support. No means are available to measure the anticipated benefits or costs that will result from this rule change. There is no effect on any non-governmental group.

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

There is no estimated impact on competition and employment.

Ann S. Williamson  
Assistant Secretary  
0109#053

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

**TANF Initiatives CStarting Points  
(LAC 67:III.5501)**

The Department of Social Services, Office of Family Support, proposes to amend LAC 67:III to establish Subpart 15, Temporary Assistance For Needy Families (TANF) Initiatives, and adopt new Section 5501, the Starting Points Early Childhood Development Program.

For the previous eight years the agency has funded the Starting Points Early Childhood Development Program from the Child Care and Development Fund. This school-year program is administered by the Department of Education. The agency has chosen to now include Starting Points as a TANF Initiative funded with monies from Louisiana's TANF Block Grant rather than child care monies. An emergency rule was necessary effective August 1, 2001, in order to use

the new funding source to continue the services of the program.

**Title 67**

**SOCIAL SERVICES**

**Part III. Office of Family Support**

**Subpart 15. Temporary Assistance to Needy Families  
(TANF) Initiatives**

**Chapter 55. TANF Initiatives**

**§5501. Starting Points Early Childhood Development  
Program**

A. The Office of Family Support will enter into a Memorandum of Understanding with the Department of Education, Office of Student and School Performance, to provide quality, early childhood education to certain four-year-old children.

B. These services meet the TANF goal of encouraging the formation and maintenance of two-parent families by providing at-risk families with quality early childhood education to four-year-old children, as well as providing support to the parents in obtaining higher literacy levels, crisis intervention, and positive parenting skills resulting in greater financial and familial stability. Children placed in quality education programs at an early age are more likely to become contributing members of society by developing responsible behaviors and an interest in learning that will eventually lead to graduation. High quality pre-school programs for at-risk children have been shown to result in more positive outcomes relative to academic achievement, resistance to substance abuse and other criminal activities, lower levels of teen pregnancy, and good mental health.

C. Eligibility for services is limited to at-risk families in which the child is one year younger than the eligible age for kindergarten and eligible to receive free or reduced school lunch meals pursuant to the Federal Child Nutrition Program as documented by a completed application for such meals, whether or not such meals are sought.

D. Services are considered by the agency as non-assistance.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:

**Family Impact Statement**

1. What effect will this rule have on the stability of the family? Family stability is the ultimate intent of this rule, that is, it represents an early childhood intervention to improve intellectual and social behavior of certain at-risk children.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? The program aims to involve and improve the parent's view of education and supervision of their children.

3. What effect will this have on the functioning of the family? The program strives to affect immediate and long-term improvement of the functioning of the family unit.

4. What effect will this have on family earnings and family budget? This rule has no immediate effect on either.

5. What effect will this have on the behavior and personal responsibility of children? Improvement in behavior and personal responsibility is a primary goal of this preschool, education program.

6. Is the family or local government able to perform the function as contained in this proposed rule? No, the program is specifically for a family that is considered to be functionally at-risk, and TANF funds to promote the formation and maintenance of two-parent families are administered by state government.

All interested persons may submit written comments through October 30, 2001, to Ann S. Williamson, Assistant Secretary, Office of Family Support, P.O. Box 94065, Baton Rouge, Louisiana, 70804-9065.

A public hearing on the proposed rule will be held on October 30, 2001, at the Department of Social Services, A.Z. Young Building, Second Floor Auditorium, 755 Third Street, Baton Rouge, Louisiana, beginning at 9:00 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (Voice and TDD).

J. Renea Austin-Duffin  
Secretary

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

##### **RULE TITLE: TANF Initiatives C Starting Points**

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

There are no new implementation costs for the Starting Points Early Childhood Development Program. This is an ongoing program that was previously funded by the Child Care and Development fund and will now be funded by the federal Temporary Assistance to Needy Families (TANF) Block Grant to Louisiana. \$5,019,000 per fiscal year will be provided to the Department of Education to continue the funding of Starting Points. The cost to publish rulemaking is routinely included in the agency's annual budget. There are no costs or savings to local governmental units.

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

This rule has no effect on revenue collections of state or local governmental units.

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

The proposed rule will not result in costs or economic benefits to any persons or non-governmental groups.

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

The proposed rule will have no impact on competition and employment

Ann S. Williamson  
Assistant Secretary  
0109#054

H. Gordon Monk  
Director  
Legislative Fiscal Officer

## **NOTICE OF INTENT**

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

#### **Black Bass C Daily Take and Size Limits (LAC 76:VII.149)**

The Wildlife and Fisheries Commission hereby advertises its intent to amend the following rule on black bass (*Micropterus spp.*) harvest restrictions on Concordia Lake located east of Ferriday in Concordia Parish, Louisiana.

#### **Title 76**

#### **WILDLIFE AND FISHERIES**

#### **Part VII. Fish and Other Aquatic Life**

#### **Chapter 1. Freshwater Sports and Commercial Fishing**

#### **§149. Black Bass Regulations C Daily Take and Size Limits**

A. The Wildlife and Fisheries Commission establishes a statewide daily take (creel limit) of 10 fish for black bass (*Micropterus spp.*). The possession limit shall be the same as the daily take on water and twice the daily take off water.

B. In addition, the commission establishes special size and daily take regulations for black bass on the following water bodies:

1. Caney Creek Reservoir (Jackson Parish)

a. Size limit: 15-inch to 19-inch slot. A 15 to 19-inch slot limit means that it is illegal to keep or possess a black bass whose maximum total length is between 15 inches and 19 inches, both measurements inclusive.

b. Daily take: 8 fish of which no more than 2 fish may exceed 19 inches maximum total length.\*

c. Possession limit:

i. on water-same as daily take;

ii. off water-twice the daily take.

2. Black Bayou Lake (Bossier Parish), Chicot Lake

(Evangeline Parish), Cross Lake (Caddo Parish), John K. Kelly-Grand Bayou Reservoir (Red River Parish), Lake Rodemacher (Rapides Parish) and Vernon Lake (Vernon Parish):

a. Size Limit: 14-inch to 17-inch slot. A 14- to 17-inch slot limit means that it is illegal to keep or possess a black bass whose maximum total length is between 14 inches and 17 inches, both measurements inclusive.

b. Daily Take: eight fish of which no more than four fish may exceed 17 inches maximum total length.\*

c. Possession limit:

i. on water-same as daily take;

ii. off water-twice the daily take.

3. False River (Pointe Coupee Parish)

a. Size limit: 14-inch minimum size limit.

b. Daily Take: 5 fish.

c. Possession limit:

i. on water-Same as daily take;

ii. off water-twice the daily take.

\*Maximum total length-the distance in a straight line from the tip of the snout to the most posterior point of the depressed caudal fin as measured with mouth closed on a flat surface.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6 (25)(a), R.S. 56:325(C), R.S. 56:326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 14:364 (June 1988), amended LR 17:278 (March 1991), repromulgated LR 17:488 (May 1991), amended LR 17:1122 (November 1991), LR 20:796 (July 1994), LR 23:1168 (September 1997), LR 24:505 (March 1998), LR 26:97 (January 2000), LR 27:

Interested persons may submit written comments on the proposed rule to Bennie Fontenot, Administrator, Inland Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 no later than 4:30 p.m., November 7, 2001.

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this notice of intent and the final rule, including but not limited to, the filing of the fiscal and economic impact statements, the filing of the notice of intent and final rule and the preparation of reports and correspondence to other agencies of government.

In accordance with Act 1183 of 1999, the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent: This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Dr. H. Jerry Stone  
Chairman

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: **Black Bass Daily Take and Size Limits**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)  
The proposed rule will have no implementation costs. Enforcement of the proposed rule will be carried out using existing staff.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
The proposed rule will have no effect on revenue collections of state and local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
Sport fishermen who fish in Concordia Lake will be affected by the proposed action, since they will no longer have to release black bass between 15 and 19 inches. Biologists' investigations of the fishery shows that angler pressure on this lake has never reached levels needed to produce results that were expected from the Black Bass Management Plan. The proposed rule will have no effect on costs and/or economic benefits to sport fishermen at Concordia Lake.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
The proposed rule should have no impact on competition and employment in the public and private sectors.

James L. Patton  
Undersecretary  
0109#043

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office