

Emergency Rules

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of Agriculture and Environmental Sciences

Certification of Commercial Applicators (LAC 7:XXIII.125)

In accordance with the Administrative Procedure Act R.S. 49:953 and R.S. 3:3202.A, the Commissioner of Agriculture and Forestry is exercising the emergency provisions of the Administrative Procedure Act in implementing the following rules and regulations governing the spraying of mosquitoes in an effort to suppress and control the outbreak of the West Nile virus.

Since its introduction into the United States in 1999, the West Nile virus has spread to most, if not all, states east of the Mississippi river, and into Louisiana. The West Nile virus can cause serious illness or death in humans. The only known method of transmission is through the bite of mosquitoes. So far this year, the Center for Disease Control and Department of Health and Hospitals have confirmed at least 85 cases of West Nile virus in humans in Louisiana and five deaths.

Louisiana is experiencing an unprecedented outbreak of West Nile virus. The outbreak is so severe that the Governor has declared a state of emergency. The primary means of suppressing this outbreak is to control the mosquito population by spraying pesticides intended for that purpose. Therefore, the Commissioner of Agriculture and Forestry has determined that the West Nile virus constitutes an imminent peril to the health and safety of Louisiana citizens.

The Louisiana Department of Agriculture and Forestry (LDAF) will exempt, for the next 30 days, a certified aerial commercial applicator from having to obtain a certification as a mosquito control applicator if the requirements for an exemption, as stated herein, are met.

This Emergency Rule will become effective upon signature (August 26, 2002) and will remain in effect for 30 days.

Title 7

AGRICULTURE AND ANIMALS

Part XXIII. Pesticide

Chapter 1. Advisory Commission on Pesticides

§125. Certification of Commercial Applicators

A. - B.2.h.vi. ...

(a.) Any aerial commercial applicator previously certified by the Department shall be exempt from also being certified as a mosquito control applicator, as required by subsection B.2.h.i. if the following requirements are met.

(i.) A written request for an exemption is filed with the Department's Director of the Division of Pesticides and Environmental Programs. The written request may be filed by facsimile to (225) 925-3760.

(ii.) The applicator's written request shall state his intent to operate under this exemption. The request shall also include the applicator's name, address, certification

category, and pesticide certification number. The written request shall include the name and license number of the owner-operator for which the applicator is working for. The written request shall be signed and dated by the applicator.

(b.) The department shall review any written request received and notify the applicator as soon as possible if the request is approved or denied. The applicator, upon receipt of written approval from the department, shall then be eligible to spray for mosquitoes under the supervision of the department without the necessity of being certified as a mosquito control applicator. This exemption, however, shall expire upon the date that this regulation ceases to have any force or effect.

(c.) No certified aerial commercial applicator who has received an exemption under this subsection shall make any application for mosquito control unless such application is made in accordance with a written contract between the owner-operator the applicator is working for and a governmental agency or political subdivision of the state of Louisiana. Prior to any application being made in accordance with any such contract the owner-operator must file the contract with the Department. The contract may be filed by facsimile sent to (225) 925-3760.

B.2.i. - G ...

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

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 28:

Bob Odom
Commissioner

0209#010

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of Agriculture and Environmental Sciences

Fixed Wing Aircraft Standards for Commercial Aerial Pesticide Applications (LAC 7:XXIII.145)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953.B., and under the authority of R.S. 3:3203, the Commissioner of Agriculture and Forestry declares an emergency to exist and adopts by emergency process the attached rules and regulations for the application of an ultra low volume insecticide to be applied to cotton fields infested with plant bugs.

The application of insecticides in accordance with the current concentration regulations has not been sufficient to control plant bugs. Failure to allow the concentrations in ultra low volume (ULV) malathion applications will allow

the plant bugs the opportunity to destroy the cotton during the growing season. The destruction of the cotton crop or a substantial portion of the cotton crop will cause irreparable harm to the economy of Northern Louisiana and to Louisiana Agricultural producers thereby creating an imminent peril to the health and safety of Louisiana citizens.

This Emergency Rule will become effective upon the signature of the Commissioner (August 21, 2002) and shall remain in effect through September 19, 2002.

Title 7

AGRICULTURE AND ANIMALS

Part XXIII. Pesticide

Chapter 1. Advisory Commission on Pesticides

§145. Fixed Wing Aircraft Standards for Commercial Aerial Pesticide Applications

A. – A.5.b.xxxvi. ...

c. malathion insecticide applied with the following conditions to control plant bugs in cotton.

i. The Commissioner hereby declares that prior to making any aerial application of ULV malathion to cotton, the aerial owner/operator must first register such intent by notifying the Division of Pesticides and Environmental Programs ("DPEP") in writing. Upon notification, LDAF shall inspect the aircraft prior to any ULV applications.

ii. Spray shall be applied, handled, and stored in accordance with all conditions specified by state or federal regulations, including the strict observance of any buffer zones that may be implied.

iii. Aerial applicators shall strictly comply with any and all restrictions or mitigative factors, in regard to sensitive areas, including occupied buildings (churches, schools, hospitals, and homes), lakes, reservoirs, farm ponds, parks, and recreation areas that may be identified by commissioner, and such restriction and mitigation are to be strictly complied with and observed by said aerial applicators.

iv. Aerial applicators will adjust flight patterns, to the degree possible, to avoid or minimize flying over sensitive areas. This restriction does not apply to overflight between take-off and the commencement of spray operations, or overflight between termination of spray operations and landing.

v. Aerial applicators shall be alert to all conditions that could cause spray deposit outside field boundaries and use their good faith efforts, including adjustment or termination of operations, to avoid spray deposit outside field boundaries.

vi. There shall be no aerial spraying when wind velocity exceeds 10 m.p.h.

vii. Aerial applicators will terminate application if rainfall is imminent.

viii. Insecticide spray will not be applied in fields where people or animals are present. It is the applicators responsibility to determine if people are present prior to initiating treatment.

ix. Spraying will not be conducted in fields where other aircraft are working.

x. All mixing, loading, and unloading will be in an area where an accidental spill can be contained and will not contaminate a stream or other body of water.

xi. All aerial applications of insecticide shall be at an altitude not to exceed 5 feet above the cotton canopy.

However, in fields that are not near sensitive areas, if infield obstructions make the 5-foot aerial application height not feasible, then the aerial height may be extended to such height above the cotton canopy as is necessary to clear the obstruction safely.

xii. The aircraft tank and dispersal system must be completely drained and cleaned before loading. All hoses shall be in good condition and shall be of a chemical resistant type.

xiii. Insecticide tank(s) shall be leak-proof and spray booms of corrosion resistant materials, such as stainless steel, aluminum, or fiberglass. Sealants will be tested before use.

xiv. The tank(s) in each aircraft shall be installed so the tank(s) will empty in flight. Sight gauges or other means shall be provided to determine the quantity contained in each tank before reloading.

xv. A drain valve shall be provided at the lowest point of the spray system to facilitate the complete draining of the tanks and system while the aircraft is parked so any unused insecticide can be recovered.

xvi. A pump that will provide the required flow rate at not less than 40 pounds per square inch (psi) during spraying operation to assure uniform flow and proper functioning of the nozzles. Gear, centrifugal or other rotary types, will be acceptable on aircraft with a working speed above 150 miles per hour.

xvii. ULV spraying systems with a pumping capacity that exceeds the discharge calibration rate shall have the bypass flow return to the tank bottom in a manner that prevents aeration and/or foaming of the spray formulation. Pumps utilizing hydraulic drive or other variable speed drives are not required to have this bypass, provided the pump speed is set to provide only the required pressure and the system three-way valve is used for on/off control at full throw position. Any bypass normally used to circulate materials other than the ULV will be closed for ULV spraying.

xviii. Spray booms will be equipped with the quantity and type of spray nozzles specified by the Boll Weevil Eradication Program. The outermost nozzles (left and right sides) shall be equal distance from the aircraft centerline and the distance between the two must not exceed three-fourths of the overall wing span measurement. For helicopters, the outermost nozzles must not exceed three-fourths of the rotorspan. For both fixed wing and helicopters, the program will accept the outermost nozzles between 60 percent and 75 percent of the wingspan/rotorspan. Longer spray booms are acceptable provided modifications are made to prevent the entrapment of air in the portion beyond the outermost nozzle. Fixed wing aircraft not equipped with a drop type spray boom may require drop nozzles in the center section that will position the spray tips into smoother air to deliver the desired droplet size and prevent spray from contacting the tail wheel assembly and horizontal stabilizer. Most helicopters will be required to position the center nozzles behind the fuselage and dropped into smooth air in order to achieve the desired droplet size.

xix. Nozzles, diaphragms, gaskets, etc. will be inspected regularly and replaced when there is evidence of wear, swelling, or other distortion in order to assure optimum pesticide flow and droplet size. Increasing pressure

to compensate for restricted flow is unacceptable. A positive on/off system that will prevent dribble from the nozzles is required.

xx. A positive emergency shut-off valve between the tank and the pump, as close to the tank as possible. This valve shall be controllable from the cockpit and supplemented by check valves and flight crew training which will minimize inadvertent loss of insecticide due to broken lines or other spray system malfunction.

xxi. Bleed lines in any point that may trap air on the pressure side of the spraying system.

xxii. An operational pressure gauge with a minimum operating range of 0 to 60 psi and a maximum of 0 to 100 psi visible to the pilot for monitoring boom pressure.

xxiii. A 50-mesh in-line screen between the pump and the boom and nozzle screens as specified by the nozzle manufacturer.

xxiv. Aircraft equipped so nozzle direction can be changed from 45 degrees down and back to straight back when it is necessary to change droplet size.

xxv. All nozzles not in use must be removed and the openings plugged.

xxvi. Nozzle tips for all insecticides shall be made of stainless steel.

xxvii. Aircraft shall have an operational Differentially Corrected Global Positioning System (DGPS) and flight data logging software that will log and display the date and time of the entire flight from take-off to landing and differentiate between spray-on and spray-off.

xxviii. Aircraft shall have a DGPS with software designed for parallel offset in increments equal to the assigned swath width of the application aircraft. Fixed towers, portable stations, satellite, Coast Guard, or other acceptable methods may provide differential correction. However, the differential signal must cover the entire project area. In fringe areas from the generated signal, an approved repeater may be used. The system shall be sufficiently sensitive to provide immediate deviation indications and sufficiently accurate to keep the aircraft on the desired flight path with an error no greater than 3 feet. Systems that do not provide course deviation updates at one-second intervals or less will not be accepted.

xxix. A course deviation indicator (CDI) or a course deviation light bar (also CDI) must be installed on the aircraft and in a location that will allow the pilot to view the indicator with direct or peripheral vision without looking down. The CDI must be capable of pilot selected adjustments for course deviation indication with the first indication at 3 feet or less.

xxx. The DGPS must display to the pilot a warning when differential correction is lost, the current swath number, and cross-track error. The swath advance may be set manually or automatically. If automatic is selected, the pilot must be able to override the advance mode to allow respraying of single or multiple swaths.

xxxi. The DGPS must be equipped with a software for flight data logging that has a system memory capable of storing a minimum of 3 hours of continuous flight log data with the logging rate set at one second intervals. The DGPS shall automatically select and log spray on/off at one-second intervals while ferry and turnaround time can be two second intervals. The full logging record will include position, time,

date, altitude, speed in M.P.H., cross-track error, spray on/off, aircraft number, pilot, job name or number, and differential correction status. The flight data log software shall be compatible with DOS compatible PC computers, dot matrix, laser, or ink jet printers and plotters. The system must compensate for the lag in logging spray on/off. The system will display spray on/off at the field boundary without a sawtooth effect. Must be capable to end log files, rename, and start a new log in flight.

xxxii. The software must generate the map of the entire flight within a reasonable time. Systems that require 5 minutes or more to generate the map for a 3-hour flight on a PC (minimum a 386 microprocessor with 4 MB of memory) will not be accepted. When viewed on the monitor or the printed hard copy, the flight path will clearly differentiate between spray on and off. The software must be capable of replaying the entire flight in slow motion and stop and restart the replay at any point during the flight. Must be able to zoom to any portion of the flight for viewing in greater detail and print the entire flight or the zoomed-in portion. Must have a measure feature that will measure distance in feet between swaths or any portion of the screen. Must be able to determine the exact latitude/longitude at any point on the monitor.

xxxiii. Flight information software provided by the applicator must have the capability to interface with MapInfo (version 3.0 or 4.0). The interface process must be "user friendly", as personnel will be responsible to operate the system in order to access the information.

xxxiv. Application of ULV malathion shall be at an application rate of 16 oz. per acre with no dilutions or tank mixes.

xxxv. Applications of ULV malathion shall not be made prior to sunrise on August 21, 2002 and shall not be made after sunset on September 19, 2002.

xxxvi. Applications of ULV malathion shall be restricted to 7 day intervals.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:953 (September 1992), amended LR 21:927 (September 1995), LR 26:1964 (September 2000), LR 28:

Bob Odom
Commissioner

0209#011

DECLARATION OF EMERGENCY

Department of Health and Hospitals Board of Certification for Substance Abuse Counselors

Fees (LAC 46:LXXX.501)

The Louisiana State Board of Certification for Substance Abuse Counselors has adopted the following Emergency Rule effective August 24, 2002, in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B), and the Substance Abuse Counselor Certification Act, R.S. 37:3371 et seq., and it shall be in effect for the maximum period allowed under law or until adoption of the Rule, whichever occurs first. The proposed Emergency Rule

has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Due to imminent peril to the health, safety and welfare of the public, the Members of the Louisiana State Board of Certification for Substance Abuse Counselors has adopted this Emergency Rule amendment to increase fees to alleviate financial problems immediately facing the Board. Such increases in fees do not exceed the "cap" established in the Substance Abuse Counselor Certification Act, R.S. 37:3377.A, as enacted by the State Legislature. As a professional regulatory board, the Louisiana State Board of Certification for Substance Abuse Counselors must function totally on self-generated fees and is financially autonomous from the State.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS

Part LXXX. Substance Abuse Counselors

Chapter 5. Fees and Board Documents

§501. Fees

A. - C. ...

D. In accordance with Section LSA R.S. 37:3377.A of the Substance Abuse Counselor Certification Act the fee schedule shall be as follows.

Application	\$100
Initial Certification	200
Certification by Reciprocity from Another State	200
Renewal of Certification	200
Late Fee for Renewal of Certification	150
Reinstatement of Certification	200
Appeal/Evaluation of Exam Decision	150
Registration as Counselor in Training or Prevention Specialist in Training	75
Renewal of Registration as Counselor in Training or Prevention Specialist in Training	75
Registration as Registered Counselor Supervisor	150
Renewal of Registration as Registered Counselor Supervisor	150
Registration as Approved Training Institution	200
Renewal of Registration as Approved Training Institution	200
Registration as Approved Education Provider	200
Renewal of Registration as Approved Education Provider	200
Registration for Approved Educational Provider Single Course	60
Registration as Approved Institution of Higher Education	200
Renewal of Registration as Approved Inst. of Higher Educ.	200
Late Fee for Renewal of Any Registration	150

E. All fees are non-refundable.

AUTHORITY NOTE: Promulgated in accordance with LSA R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1074 (December, 1989), amended LR 28:

Ellen R. Calvert
Chairman

0209#016

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Licensed Professional Counselors Board of Examiners

Licensed Marriage and Family Therapists
(LAC 46:LX.Chapters 27 - 47)

In accordance with the emergency provisions of the Administrative Procedures Act, R.S. 49:953(B) et seq., the Louisiana Board of Examiners is declaring an Emergency Rule relative to the licensing of marriage and family therapists, and the "grandfathering" licensure of certain marriage and family therapists who meet certain statutory requirements.

The effective date of this Emergency Rule is August 5, 2002, and it shall be in effect for 120 days or until the final rule takes effect through the normal rulemaking process, whichever occurs first.

The Emergency Rule is necessary to allow for the licensing "grandfathering" process to be completed within deadlines specified by the Legislature. Implementation of this process, mandated by Act 1195 of 2001, was necessarily delayed pending clarification by the Attorney General of certain apparent statutory conflicts.

This Emergency Rule is further necessary to begin the licensing of marriage and family therapists, in accordance with the expressed legislative intent to regulate such practice.

There will be no adverse fiscal impact on the state as a result of this rule

Inasmuch as the LPC Board operates solely on self-generated funds. Individuals wishing to be licensed through the "grandfathering" process will enjoy an economic advantage by not having to comply with more stringent licensing qualifications.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS

Part LX. Licensed Professional Counselors
Subpart 2. Professional Standards for Licensed
Marriage and Family Therapists

Chapter 27. General Provisions

§2701. Statement of Purpose

A. "The legislature does further hereby find and declare that marriage and family therapy in this state is a professional practice which affects the public safety and welfare of the citizens of the state and requires appropriate regulation and control in the public interest. It is a purpose of this Chapter to establish a regulatory structure and procedures that will ensure that the public is protected from the unprofessional, improper, unauthorized, and unqualified practice of marriage and family therapy" (R.S. 37:1102).

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§2703. Statutory Authority of the Marriage and Family Therapy Advisory Committee

A. The Marriage and Family Therapy Advisory Committee was created and empowered by Act 1195 of the 2001 Legislature to provide for the regulation of the use of the title "Licensed Marriage and Family Therapist" (R.S. 37:1101-1122). Therefore, the Louisiana Licensed Professional Counselors Board of Examiners, hereafter referred to as the board, establishes the Marriage and Family Therapy Advisory Committee as directed by the 2001 Legislature. The Marriage and Family Therapy Advisory Committee shall develop the rules and regulations herein pursuant to the authority granted to, and imposed upon said advisory committee under the provisions of the Louisiana Revised Statutes, Title 37, Chapter 13: §1101-1122. The Health and Welfare Committees in the House and Senate shall jointly approve these rules and regulations. The board shall promulgate these rules and regulations [R.S. 37:1104.B.(2)(b)]. The board shall approve, revoke, suspend, and renew the license of applicants for licensure as licensed marriage and family therapists upon recommendation of the Marriage and Family Therapy Advisory Committee. [R.S. 37:1105(G)]

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§2705. Description of Organization

A. The Marriage and Family Therapy Advisory Committee, hereafter referred to as the advisory committee, consists of three members, who shall be residents of the state of Louisiana. All candidates and advisory committee members shall be licensed marriage and family therapists except for the first three members who shall be members of the American Association for Marriage and Family Therapy. These first three advisory committee members shall be eligible for licensure as licensed marriage and family therapists under Title 37, Chapter 13 as soon as these rules and regulations are approved. Two advisory committee members shall be members of the board.

B. The governor shall make appointments to the board and the advisory committee from a list of qualified candidates submitted by the board of the Louisiana Association of Marriage and Family Therapy, hereinafter referred to as LAMFT. LAMFT shall specify which candidates are to be appointed to the board. Each appointment by the governor shall be submitted to the Senate for confirmation.

C. Board member terms shall be for four years; non-board member terms shall be for three years. No advisory committee member shall serve more than two full consecutive terms.

D. Any vacancy occurring in advisory committee membership, other than by expiration of term, shall be filled for the remainder of the unexpired term by the governor within 30 days from a list of qualified candidates supplied by the LAMFT Board as prescribed in §1104 of R.S. 37:1101-1122.

E. No advisory committee member shall be liable in any civil action for any act performed in good faith in the execution of his or her duties under Chapter 13 of Title 37.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§2707. Reimbursement

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§2709. Notification of Change

A. Licensed marriage and family therapists/interns and LMFT-approved supervisors/supervisors-in-training shall notify the Licensed Professional Counselors Board of Examiners in writing of any and all changes in name, address, and phone number within 30 days. Failure to do so will result in a fine as set forth in §901.D.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

Chapter 29. Advisory Committee Meetings, Procedures, Records, Powers and Duties

§2901. Officers

A. The advisory committee shall elect from its membership a chair, vice chair, and secretary. The chair shall preside at all meetings at which he or she is in attendance and perform all duties prescribed by Chapter 13 of Title 37 and these rules. The chair is authorized by the board to make day-to-day decisions regarding advisory committee activities to facilitate its responsiveness and effectiveness. The vice chair shall perform the duties of the chair if the chair is absent or disabled. If the office of chair becomes vacant, the vice chair shall serve as chair until a successor is named. The secretary shall keep the minutes of the advisory committee meetings and send them to the advisory committee members and the clerical secretary before the next meeting of the advisory committee.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Professional Counselors, LR 28:

§2903. Meetings

A. The advisory committee shall be domiciled in Baton Rouge and shall hold its meetings in places to be designated by the advisory committee. Advisory committee meetings shall be held at least semiannually. The advisory committee shall hold meetings regularly, with prior approval from the board, to conduct its business. Reasonable notice of all advisory committee meetings will be given by posting the meeting place, time, and agenda 24 hours before the meeting on the door and in two places in the building housing the office of the board and on the door of the location of the meeting, if different from the board office.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Professional Counselors, LR 28:

§2905. Quorum

A. Two members of the advisory committee shall constitute a quorum at any meeting or hearing for the transaction of business.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Professional Counselors, LR 28:

§2907. Procedures

A. The advisory committee shall develop such rules and regulations as it deems necessary to effect the provisions of Act 1195 (Chapter 13, R.S. 37:1101-1122). The board shall promulgate these rules and regulations. The House and Senate Health and Welfare Committees shall jointly approve these rules and regulations.

B. The advisory committee shall review applications for examination, licensure, and renewal for recommended approval to the board. The advisory committee shall recommend to the board to withhold, deny, revoke, or suspend any license of an applicant, or impose any other sanctions on licensed marriage and family therapists.

C. The advisory committee shall submit an annual report to the board containing its professional actions during the year. The advisory committee hereby adopts Robert's Rules of Order Revised as the basis of its parliamentary decisions except as otherwise provided by advisory committee rules.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Professional Counselors, LR 28:

§2909. Code of Ethics

A. The advisory committee has adopted the Code of Ethics of the American Association for Marriage and Family Therapy (AAMFT), including any revisions or additions deemed appropriate or necessary by the board as recommended by advisory committee. AAMFT has given its written permission to use its code of ethics.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Professional Counselors, LR 28:

§2911. Records

A. The advisory committee shall maintain records of pertinent matters relating to application, licensure, and discipline. Registers of approved supervisors and supervisors-in-training and a register of licensed marriage and family therapists shall be made available to the public.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Professional Counselors, LR 28:

Chapter 31. License of Title for Marriage and Family Therapy

§3101. License of Title for Marriage and Family Therapy

A. As stated in R.S. 37:1122(A), no person, unless licensed as a marriage and family therapist, shall advertise as

being a "licensed marriage and family therapist" or hold themselves out to the public or make use of any title, words, letters or abbreviations that may reasonably be confused with the title "Licensed Marriage and Family Therapist."

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§3103. Practice of Marriage and Family Therapy by Other Licensed Mental Health Professionals

A. Nothing in this subpart shall be construed as prohibiting qualified members of other professional groups including but not limited to clinical social workers, psychiatric nurses, psychologists, physicians, licensed professional counselors, or members of the clergy, including Christian Science practitioners, from doing or advertising that they perform work of a marriage and family therapy nature consistent with the accepted standards of their respective professions. No such person, however, shall use the title, or use any words or abbreviations that may reasonably be confused with the title, "Licensed Marriage and Family Therapist."

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§3105. Definitions for Licensed Marriage and Family Therapists

Advisory Committee—the Marriage and Family Therapy Advisory Committee.

Assessment—

1. the evaluation through the use of systems oriented methods and processes of:
 - a. individual;
 - b. couple;
 - c. family; and
 - d. larger systems.
2. for the purpose of
 - a. developing treatment plans;
 - b. monitoring psychotherapeutic processes;
 - c. measuring psychotherapeutic progress; and
 - d. measuring psychotherapeutic outcomes.
3. Such evaluation may include the use of
 - a. informal; or
 - b. formal instruments.
4. for which the licensed marriage and family therapist has received:
 - a. appropriate training; and
 - b. supervision in:
 - i. individual settings; and
 - ii. group settings.

Board—the Louisiana Licensed Professional Counselors Board of Examiners.

Marriage and Family Therapy—the professional application of psychotherapeutic and family systems theories and techniques in the assessment and treatment of:

1. individuals;
2. couples; and
3. families.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

Chapter 33. Requirements for Licensure

§3301. General Provisions

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§3303. Definitions

Allied Mental Health Discipline—includes, but may not be limited to, mental health counseling, social work, psychology, psychiatric nursing, and psychiatry.

Applicant—any individual seeking licensure who has submitted an official application and paid the application fee.

Appropriate Graduate Degree—a master's or doctoral degree from a college or university accredited by the Southern Association of Colleges and Schools (SACS), or a comparable accrediting body. If a discipline requires a specific terminal degree, that degree will be considered the appropriate degree.

Client Contact Hour—a 50-minute period a therapist spends working face-to-face with an individual, couple, family, or group.

Direct Client Contact—face-to-face (therapist and client) therapy with individuals, couples, families, and/or groups from a relational perspective. Activities such as telephone contact, case planning, observation of therapy, record keeping, travel, administrative activities, consultation with community members or professionals, or supervision, are not considered direct client contact. Assessments done face-to-face and more than clerical in nature and focus may be counted as direct client contact. Psychoeducation may be counted as direct client contact.

Licensed Marriage and Family Therapist Intern or MFT Intern—a person who has earned a qualifying graduate degree and is receiving MFT approved postgraduate supervision.

Recognized Educational Institution—a postgraduate training institute or any regionally accredited educational institution that grants a master's or doctoral degree that meets the standards established by the Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE) as determined by the advisory committee or, until June 30, 2003, the standards for marriage and family counseling or therapy established by the Council on Accreditation of Counseling and Related Educational Programs (CACREP) as determined by the ad hoc committee on licensure and supervision.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§3305. General Licensing Requirements

A. To become licensed, an applicant must:

1. be of good moral character;
2. never have engaged in any practice or conduct that would be grounds for refusing to issue a license;
3. be qualified for licensure pursuant to the requirements provided for in this Subpart;
4. file a completed application form, accompanied by the required fee;
5. ask that official transcripts be sent directly from the education institution for the applicants' files;
6. provide a statement of practice (refer to the Appendix) for review and approval by the advisory committee. Applicants also licensed by one or more other allied mental health professions may integrate the requirements specific to licensed marriage and family therapy as determined by the advisory committee into any similar informed consent document required for licensure by such allied mental health professions.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§3307. Specific Licensing Requirements for

Applications Made on or before January 1, 2003

A. On applications postmarked on or before January 1, 2003, the board upon recommendation of the advisory committee shall issue licenses to applicants who meet the requirements in this Section.

1. Specific requirements for §3307 may be met in one of four ways:
 - a. an appropriate graduate degree and two years of supervised clinical experience:
 - i. the applicant must have an appropriate graduate degree in:
 - (a) marriage and family therapy; or
 - (b) an allied mental health discipline; and
 - ii. have completed, after the receipt of a qualifying degree:
 - (a) at least two years of supervised clinical experience; and
 - (b) a minimum of 1000 hours of direct client contact:
 - (i) in the practice of marriage and family therapy; or
 - (ii) as part of the scope of practice of an allied mental health discipline;
 - b. persons with appropriate graduate degrees who do not meet the two years of supervised clinical experience may apply to become MFT interns:
 - i. the minimum of 1000 hours of direct client contact may be met by:
 - (a) supervised clinical experience obtained in the degree program beyond that required for the degree; and
 - (b) supervision recommended for approval by the advisory committee;
 - ii. applicants may not become licensed without two years of post-degree clinical experience;

c. current clinical membership in the Association for Marriage and Family Therapy (AAMFT):

i. verification of such membership sent directly from AAMFT will be accepted as a presumption of having met both the educational and clinical experience required;

d. a valid license from a licensing body that requires standards substantially equivalent to the licensing requirements for licensed marriage and family therapists in Louisiana as specified in Subparagraph A.1.a.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§3309. Specific Licensing Requirements for Applications Made after January 1, 2003

A. For applications postmarked after January 1, 2003, the board upon recommendation of the advisory committee shall issue licenses to applicants who meet the requirements in this Section.

1. Summary of Specific Requirements for §3309

a. Academic Requirements:

i. a master's or doctoral degree from a marriage and family therapy program that meets the standards established by the Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE) as determined by the advisory committee in a regionally accredited educational institution or training from a postgraduate training institute that meets the standards established by COAMFTE as determined by the advisory committee; or

ii. until June 30, 2003, a master's or doctoral degree in mental health counseling with a specialization in marriage and family counseling that substantially meets the standards established by the Council on Accreditation of Counseling and Related Educational Programs (CACREP) as determined by the ad hoc committee on licensure and supervision from a regionally accredited educational institution or training from a postgraduate training institute that meets the standards established by CACREP as determined by the ad hoc committee on licensure and supervision; or

iii. an appropriate graduate degree in an allied mental health field from a regionally accredited educational institution with graduate level coursework equivalent to:

(a). a master's degree in marriage and family therapy that meets the standards established by COAMFTE as determined by the advisory committee and specified in §3311 Academic Requirements for Equivalency; or

(b). until June 30, 2003, the standards for marriage and family counseling or therapy established by CACREP as determined by the ad hoc committee on licensure and supervision and specified in §3311. Academic Requirements for Equivalency;

b. Supervision Requirements:

i. applicants must complete a minimum of two years of supervised work experience in marriage and family therapy as specified in §3315 Supervision Requirements after receipt of a qualifying degree;

c. Examination Requirements:

i. applicants must pass the national examination in marriage and family therapy as specified in §3313 Examination Requirements.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§3311. Academic Requirements for Equivalency after January 1, 2003

A. General

1. An applicant must have completed a minimum of 48 semester hours or its equivalent of graduate coursework.

2. One course is defined as three semester credits, four quarter credits, or 45 didactic contact hours (i.e., lecture hours).

3. If titles of academic courses are not self-explanatory, their content and relevance must be substantiated by the applicant through course descriptions in official school catalogs, bulletins, syllabi, or by other means approved by the advisory committee.

4. Undergraduate level courses will not meet academic requirements unless the applicant's official transcript clearly shows that the course was given graduate credit.

5. Only coursework taken for credit and receiving a passing grade will be accepted.

6. Coursework taken outside of a program of studies for which a degree was granted must receive an "A," "B," or "pass."

7. In a postgraduate training program, a minimum of 45 contact hours will be considered equivalent to a three-hour semester credit course.

8. An applicant who wishes to make up academic deficiencies may propose a plan of additional coursework to the advisory committee.

9. An applicant who has completed a master's degree program in marriage and family therapy or counseling that was accredited by the Council on the Accreditation of Counseling and Related Educational Programs (CACREP) and has a minimum of six graduate courses in Marriage and Family Therapy, will be determined by the advisory committee and the board to have met the equivalency of standards established by the Commission on Accreditation for Marriage and Family Education (COAMFTE).

B. Specific equivalency requirements that meet the standards for marriage and family therapy established by COAMFTE as determined by the advisory committee.

1. Academic Course Content. An applicant with a graduate degree in an allied mental health field must have coursework in each of the following areas (one course equals three semester hours):

a. Theoretical Knowledge of Marriage and Family Therapy—a minimum of two courses.

i. Courses in this area shall contain such content as the historical development, theoretical and empirical foundations, and contemporary conceptual directions of the field of marriage and family therapy and will be related conceptually to clinical concerns. Students will be able to conceptualize and distinguish the critical epistemological issues in the profession of marriage and family therapy. Materials covered will provide a comprehensive survey and substantive understanding of the major models of marriage, couple, and family therapy.

b. Clinical Knowledge of Marriage and Family Therapy—a minimum of four courses.

i. Courses in this area shall contain such content as:

(a). couple and family therapy practice and be related conceptually to theory;

(b). contemporary issues, which include but are not limited to gender, violence, addictions, and abuse, in the treatment of individuals, couples, and families from a relational/systemic perspective;

(c). a wide variety of presenting clinical problems;

(d). issues of gender and sexual functioning, sexual orientation, and sex therapy as they relate to couple, marriage and family therapy theory and practice;

(e). diversity and discrimination as it relates to couple and family therapy theory and practice.

c. Assessment and Treatment in Marriage and Family Therapy—a minimum of two courses.

i. Courses in this area shall contain such content from a relational/systemic perspective as:

(a). psychopharmacology, physical health and illness, traditional psychodiagnostic categories, and the assessment and treatment of major mental health issues; One course must be in psychopathology.

d. Individual, Couple, and Family Development—a minimum of one course.

i. Courses in this area shall contain such content as individual, couple, and family development across the lifespan.

e. Professional Identity and Ethics—a minimum of one course.

i. Courses in this area shall contain such content as:

(a). professional identity, including professional socialization, scope of practice, professional organizations, licensure, and certification;

(b). ethical issues related to the profession of marriage and family therapy and the practice of individual, couple, and family therapy. A generic course in ethics does not meet this standard;

(c). the AAMFT Code of Ethics, confidentiality issues, the legal responsibilities and liabilities of clinical practice and research, family law, record keeping, reimbursement, and the business aspects of practice;

(d) the interface between therapist responsibility and the professional, social, and political context of treatment.

f. Research—a minimum of one course.

i. Courses in this area shall include significant material on research in couple and family therapy; focus on content such as research methodology, data analysis and the evaluation of research, and include quantitative and qualitative research.

g. Additional Learning—a minimum of one course.

i. Courses in this area will augment students' specialized interest and background in individual, couple, and family therapy and may be chosen from coursework offered in a variety of disciplines.

2. Supervised Clinical Practicum—five hundred supervised direct client contact hours with 100 hours of face-

to-face supervision. At least 250 of these hours will be with couples or families present in the therapy room.

a. The training of the supervisor must be equivalent to that of an AAMFT approved supervisor or AAMFT supervisor candidate.

b. If a student is simultaneously being supervised and having direct client contact, the time may be counted as both supervision time and direct client contact time.

C. Until June 30, 2003, specific equivalency requirements that meet the standards for marriage and family counseling/therapy established by CACREP as determined by the committee on mental health counseling licensure/supervision for the advisory committee.

1. Academic Course Content. To fulfill the CACREP requirements of the academic component for eligibility, the applicant must have completed a minimum of four courses from the following areas.

a. Foundations of Marital, Couple, and Family Counseling/Therapy:

i. the history of marital, couple, and family counseling/therapy including philosophical and etiological premises that define the practice of marital, couple, and family counseling/therapy;

ii. the structure and operations of professional organizations, preparation standards, and credentialing bodies pertaining to the practice of marital, couple, and family counseling/therapy (e.g., the International Association of Marriage and Family Counselors);

iii. the ethical and legal considerations specifically related to the practice of marital, couple, and family counseling/therapy (e.g., the *ACA* and *IAMFC Code of Ethics*);

iv. the implications of professional issues unique to marital, couple, and family counseling/therapy including recognition, reimbursement, and right to practice;

v. the role of marital, couple, and family counselors/therapists in a variety of practice settings and in relation to other helping professionals; and

vi. the role of racial, ethnic, and cultural heritage, nationality, socioeconomic status, family structure, age, gender, sexual orientation, religious and spiritual beliefs, occupation, physical and mental status, and equity issues in marital, couple, and family counseling/therapy.

b. Contextual Dimensions of Marital, Couple, and Family Counseling/Therapy:

i. marital, couple, and family life cycle dynamics, healthy family structures, and development in a multicultural society, family of origin and intergenerational influences, cultural heritage, socioeconomic status, and belief systems;

ii human sexuality issues and their impact on family and couple functioning, and strategies for their resolution; and

iii. societal trends and treatment issues related to working with diverse family systems (e.g., families in transition, dual-career couples, and blended families).

c. Knowledge and Skill Requirements for Marital, Couple, and Family Counselor/Therapists:

i. family systems theories and other relevant theories and their application in working with couples and families, and other systems (e.g., legal, legislative, school and community systems) and with individuals;

ii. interviewing, assessment, and case management skills for working with individuals, couples, families, and other systems; and implementing appropriate skill in systemic interventions;

iii. preventive approaches for working with individuals, couples, families, and other systems such as pre-marital counseling, parenting skills training, and relationship enhancement;

iv. specific problems that impede family functioning, including issues related to socioeconomic disadvantage, discrimination and bias, addictive behaviors, person abuse, and interventions for their resolution; and

v. research and technology applications in marital, couple, and family counseling/therapy.

2. The supervised CACREP clinical practice must include:

a. a 100-hour practicum, of which forty hours must be direct client contact; and

b. a 600-hour internship, of which 240 hours must be direct hour contact. The requirements for this internship are:

i. it must occur in a counseling setting, under the clinical supervision of a site supervisor;

ii. direct service clock hours are defined as work with couples, families, and individuals from a systems perspective;

iii. at least half of the direct service clock hours must be with couples and family units.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§3313. Examination Requirements

A. The examination for licensure shall be the national marriage and family therapy examination as determined by the advisory committee.

B. Applicants for licensure are not eligible for examination until approved by the advisory committee.

C. Passing scores on the examination are determined by the testing agency.

D. Any person who fails an examination shall not be admitted to a subsequent examination for at least six months.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§3315. Supervision Requirements

A. General Provisions

1. Applicants who apply before January 1, 2003, who meet the degree requirements but do not meet the experience requirements and applicants who apply after January 1, 2003, who meet the degree requirements must successfully complete two years of work experience in marriage and family therapy under qualified supervision in accordance with COAMFTE supervision standards as described in this Section.

B. Definitions for Supervision

Co-Therapy Supervision—supervision outside the session on cases in which the supervisor is a co-therapist.

Consultation—a voluntary relationship between professionals of relative equal expertise or status wherein the

person being consulted offers his/her best advice or information on an individual case or problem for use by the person asking for assistance. The consultant has no functional authority over the person asking for assistance, no legal or professional accountability for either the services performed or the welfare of the client. Consultation is not supervision. Experience under contract for consultation will not be credited toward fulfillment of supervision requirements.

Group Supervision—face to face supervision of more than two MFT interns and no more than six MFT interns per group regardless of the number of supervisors. Group supervision provides the opportunity for the supervisees to interact with other supervisees and offers a different learning experience than that obtained from individual supervision.

Individual Supervision—face-to-face supervision of one or two individuals by one supervisor.

LMFT-Approved Supervisor—an individual who has met requirements and takes responsibility for the practice of the supervisee during a specific time to enable the supervisee to meet the requirements of licensing. The supervisor is responsible for the delivery of services, the representation to the public of services, and the supervisor/supervisee relationship.

LMFT-Approved Supervisor Candidate—an individual under the supervision of an LMFT-approved supervisor for the purpose of qualifying as an LMFT-approved supervisor.

Live Supervision—supervision (individual and/or group) in which the supervisor directly observes the case while the therapy is being conducted and has the opportunity to provide supervisory input during the session. When a supervisor conducts live supervision the time is counted as individual supervision for up to two interns providing therapy in the room with the client(s) and for up to two interns observing the therapy and interacting with the supervisor. The time is counted as group supervision when more than two MFT interns involved in direct client contact or more than two observers interacting with the supervisor are present, providing that there are no more than six interns involved.

MFT Intern—a individual who has been recommended by the LMFT Advisory Committee and approved by the board for supervision by an LMFT-approved supervisor.

Qualified Supervision—supervision of the clinical services of an MFT intern by a supervisor recommended by the MFT Advisory Committee and approved by the board.

Supervision—the professional relationship between a supervisor and supervisee that promotes the development of responsibility, skill, knowledge, and ethical standards in the practice of licensed marriage and family therapy. In addition to monitoring the MFT intern's supervised interaction with clients, the supervisor provides regular, face-to-face guidance and instruction. Supervision may include, without being limited to, the review of case presentations, audiotapes, videotapes, and direct observation.

Supervised Experience Plan—a written agreement on a form required by the advisory committee that establishes the supervisory framework for postgraduate clinical experience and describes the expectations and responsibilities of the supervisor and the supervisee.

Supervision-in-Training Plan—a written agreement on a form required by the advisory committee that establishes the

supervisory framework for supervision of a licensed marriage and family therapist-in-training to become an LMFT approved supervisor.

Work Experience—includes direct client contact and activities such as telephone contact, case planning, observation of therapy, record keeping, travel, administrative activities, consultation with community members or professionals, or supervision.

C. Supervision Requirements for Licensure

1. After receipt of a qualifying degree an applicant must complete a minimum of two years of work experience in marriage and family therapy that includes at least 3000 hours of clinical services to individuals, couples, or families.

a. At least 2000 of these hours must be direct clinical services.

b. The remaining 1000 hours may come from related experiences that may include but are not limited to workshops, public relations, writing case notes, consulting with referral sources, etc.

c. Supervisees should apply systemic theories and treatment with all clients and make every effort to work with as many couples and families as possible.

2. The required supervision must include at least 200 hours of supervision, of which at least one hundred hours must be individual supervision. Up to 100 hours of supervision received during a graduate program that can be documented as systemic may be counted toward the two hundred hours.

3. The work experience shall be obtained over not less than two years.

4. After the supervision plan is submitted and fees are paid, the board upon recommendation of the advisory committee will approve supervisors before supervision begins. Supervision hours may not be counted until after approval. Approval of a supervised experience plan does not mean that the supervised experience when completed will be automatically approved.

5. To meet the requirements of the supervised clinical experience, the supervisee must:

a. meet face-to-face with the supervisor for sustained and intense learning customarily for one hour per ten hours of client contact, with once every other week, the minimum; and three times a week ordinarily the maximum;

b. file with the advisory committee a supervised experience plan as defined in §3315.B Definitions for Supervision.

6. It is recommended that the supervisory experience include sequentially at least two supervisors with diverse family therapy orientations, such as, but not limited to, narrative, MRI, Bowenian, structural, strategic, behavioral, or solution focused.

7. The following are not acceptable as approved supervision:

a. peer supervision (supervision by a person of equivalent, rather than superior, qualifications, status and experience);

b. supervision by current or former family members (such as parents, spouse, former spouse, siblings, children, cousins, present or former in-laws, aunts, uncles, grandparents, grandchildren, step-children), anyone sharing the same household, employees, or any other person where

the nature of the personal relationship prevents or makes difficult the establishment of a professional relationship. For purposes of this rule, a supervisor shall not be considered an employee of the supervisee if the only compensation received by the supervisor consists of payment for actual supervisory hours;

c. administrative supervision (administrative supervision by an institutional director or executive, for example, conducted to evaluate job performance or for case management rather than the clinical supervision of the quality of therapy given to clients);

d. a primarily didactic process wherein techniques or procedures are taught in a group setting, classroom, workshop, or seminar;

e. consultation, staff development, or orientation to a field program, or role-playing of family interrelationships as a substitute for current clinical practice in an appropriate clinical situation.

D. Qualifications of a Supervisor and Supervisor Candidate

1. Supervision not provided by an LMFT-approved supervisor or an LMFT supervisor candidate as determined by the advisory committee will not be counted toward licensure.

2. A supervisor may not have more than ten supervisees and/or supervisor candidates at the same time.

3. A person who wishes to become an LMFT-approved supervisor must be a licensed marriage and family therapist and must submit a completed application that documents that he or she meets the requirements in one of two ways.

a. The applicant may meet the requirements by meeting the following requirements.

i. Coursework requirements:

(a). a one-semester graduate course in marriage and family therapy supervision from a regionally accredited institution; or

(b). an equivalent course of study consisting of a thirty-hour didactic component and a 15-hour interactive component in the study of marriage and family therapy supervision approved by the advisory committee. The interactive component must include a minimum of four persons.

ii. Experience requirements:

(a). has at least two years experience as a licensed as a Marriage and Family therapist.

iii. Supervision of supervision:

(a). before January 1, 2004, an applicant must have thirty-six hours of supervision of supervision for marriage and family therapy from a person considered to be a qualified supervisor by the advisory committee;

(b). before January 1, 2004, applicants with a degree in marriage and family therapy or its equivalent as determined by the advisory committee who meet the requirements in (a), (b,) and (c) in this clause will not be required to obtain the thirty six hours of supervision of supervision;

(c). after January 1, 2004, supervision of supervision must be taken from an LMFT-approved supervisor;

b. Designation as an AAMFT approved Supervisor qualifies a person to become an LMFT approved supervisor.

Documentation must be submitted and recommended by the advisory committee for board approval.

4. LMFT approved supervisor-in-training

a. A person who wishes to become an LMFT approved supervisor in-training must submit an application provided by the board upon recommendation of the advisory committee that:

i. includes documentation that he or has at least two years experience as a Licensed Marriage and Family Therapist;

ii. either documents that he or she has met the coursework and interactional requirement specified in Subparagraph D.3.b or proposes how this requirement shall be met;

iii. includes the name of the LMFT-approved supervisor who will be supervising his or her supervision and the approximate dates such supervision will begin and end.

b. The advisory committee will review the application and inform the individual in writing that the proposed supervision of supervision arrangement either has been approved or rejected. Any rejection letter will outline the reasons for rejection.

c. An advisory committee member cannot participate in deliberations or votes on any applicant who has been supervised by that advisory committee member.

d. Upon completion of the required hours of supervision of supervision, the supervisor-in-training must submit an application to become an LMFT approved supervisor.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

Chapter 35. Renewal of License

§3501. General Provisions

A. Licenses shall be renewed every two years in January. The licensee shall submit an application form and payment of the renewal fee. Renewals must be postmarked no later than December 31. Upon approval by the advisory committee, the board shall issue a document renewing the license for two years.

B. A license not renewed shall lapse December 31. To renew a lapsed license, the licensee must pay all fees in arrears and provide documentation of the continuing education requirements. A lapsed license not renewed within two years will expire and the individual must re-apply under the current rules for licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1106, 1116-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§3503. Continuing Education Requirements

A. General Guidelines

1. A licensee must accrue 40 clock hours of continuing education by every renewal period every 2 years.

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

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

4. Continuing education hours accrued beyond the required 40 clock hours may not be applied toward the next renewal period. Renewal periods run from January 1 to December 31.

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

6. At the time of renewal 10 percent of the licensees will be audited to ensure that the continuing education requirement is being met. Licensees audited will be requested by letter to submit documentation as specified in §3503.B of their continuing education hours.

7. Licensees will be asked in the renewal application to note any changes in areas of expertise. The advisory committee, at its discretion, may require the licensee to present satisfactory documentation supporting these changes.

8. A licensee must accrue three clock hours of training in ethics that specifically addresses ethics for licensed marriage and family therapy as defined in Subparagraph C.3.e. every renewal period. A generic ethics class will not be acceptable.

9. Those licensed marriage and family therapists who hold another license that requires continuing education hours may count the continuing education hours obtained for that license toward their LMFT CEU requirements. Of the 40 CEU's submitted, however, twenty hours must be in the area of marriage and family therapy with an emphasis upon systemic approaches or the theory, research, or practice of systemic psychotherapeutic work with couples or families including three hours of ethics specific to marriage and family therapy.

10. The approval of and requirements for continuing education are specified in Subsection C.

B. Types of documentation needed for continuing education audit:

1. copy of certificate of attendance for workshops, seminars, or conventions;

2. copy of transcript for coursework taken for credit/audit;

3. letter from workshop/convention coordinator verifying presentations;

4. copy of article plus the table of contents of the journal it appears in, copy of chapter plus table of contents for chapter authored for books, title page and table of contents for authoring or editing books, letter from conference coordinator or journal editor for reviewing refereed workshop presentations or journal articles.

C. Approved Continuing Education for Licensed Marriage and Family Therapists

1. Continuing education requirements are meant to ensure personal and professional development throughout an individual's career.

2. An LMFT may obtain the 40 clock hours of continuing education through the options listed. All continuing education hours may be obtained through Subparagraph a. or twenty of the 40 hours may be obtained through Subparagraph b.

a. Direct participation in a structured educational format as a learner in continuing education workshops and

presentations or in graduate coursework (either for credit or audit):

i. the advisory committee will accept workshops and presentations approved by the American Association for Marriage and Family Therapy (AAMFT) and its regional or state divisions including the Louisiana Association for Marriage and Family Therapy (LAMFT). Contact them directly to find out which organizations, groups, or individuals are approved providers graduate coursework either taken for credit or audit must be from a regionally accredited college or university and in the areas of marriage and family therapy described in Paragraph C.3;

ii. licensees may receive one clock hour of continuing education for each hour of direct participation in a structured educational format as a learner. Credit cannot be given to persons who leave early from an approved session or to persons who do not successfully complete graduate coursework;

iii. continuing education taken from organizations, groups, or individuals not holding provider status by one of the associations listed in Subclause a. will be subject to approval by the advisory committee at the time of renewal.

(a). The advisory committee will not pre-approve any type of continuing education.

(b). The continuing education must be in one of the seven approved content areas listed in §3503.C and given by a qualified presenter.

(c). A qualified presenter is considered to be someone at the master's level or above trained in marriage and family therapy or another appropriate mental health field.

(d). One may receive one clock hour of continuing education for each hour of direct participation in a structured educational format as a learner.

(e). Credit cannot be granted for business/governance meetings; breaks; and social activities including meal functions, except for the actual time of an educational content speaker.

(f). Credit may not be given for marketing the business aspects of one's practice, time management, supervisory sessions, staff orientation, agency activities that address procedural issues, personal therapy, or other methods not structured on sound educational principles or for content contrary to the LMFT Code of Ethics (Chapter 47).

b. Optional ways to obtain continuing education (twenty hours maximum):

i. licensees may receive one clock hour of continuing education for each hour of direct work in:

(a). teaching a marriage and family therapy course (ten hours maximum) in an area as described in Paragraph C.3 in an institution accredited by a regional accrediting association. Continuing education hours may be earned only for the first time the individual teaches the course; or

(b). authoring, editing, or reviewing professional manuscripts or presentations (10 hours maximum) in an area of marriage and family therapy as described in Paragraph C.3. Articles must be published in a professional refereed journal.

ii. presentations at workshops, seminars, symposia, and meetings in an area of marriage and family

therapy as described in Paragraph C.3 may count for up to 10 hours maximum at a rate of two clock hours per one-hour presentation. Presenters must meet the qualifications stated in Subparagraph 2.a. The presentation must be to the professional community, not to the lay public or a classroom presentation.

3. Continuing education hours must be relevant to the practice of marriage and family therapy and generally evolve from the following seven areas:

a. Theoretical Knowledge of Marriage and Family Therapy. Continuing education in this area shall contain such content as the historical development, theoretical and empirical foundations, and contemporary conceptual directions of the field of marriage and family therapy and will be related conceptually to clinical concerns;

b. Clinical Knowledge of Marriage and Family Therapy:

i. continuing education in this area shall contain such content as:

(a). couple and family therapy practice and be related conceptually to theory;

(b). contemporary issues, which include but are not limited to gender, violence, addictions, and abuse, in the treatment of individuals, couples, and families from a relational/systemic perspective;

(c). a wide variety of presenting clinical problems;

(d). issues of gender and sexual functioning, sexual orientation, and sex therapy as they relate to couple, marriage and family therapy theory and practice;

(e). diversity and discrimination as it relates to couple and family therapy theory and practice.

c. Assessment and Treatment in Marriage and Family Therapy:

i. continuing education in this area shall contain such content from a relational/systemic perspective as:

(a). psychopharmacology, physical health and illness, traditional psychodiagnostic categories, and the assessment and treatment of major mental health issues.

d. Individual, Couple, and Family Development:

i. continuing education in this area shall contain such content as individual, couple, and family development across the lifespan.

e. Professional Identity and Ethics in Marriage and Family Therapy:

i. continuing education in this area shall contain such content as:

(a). professional identity, including professional socialization, scope of practice, professional organizations, licensure and certification;

(b). ethical issues related to the profession of marriage and family therapy and the practice of individual, couple and family therapy. Generic education in ethics does not meet this standard;

(c). the AAMFT Code of Ethics, confidentiality issues, the legal responsibilities and liabilities of clinical practice and research, family law, record keeping, reimbursement, and the business aspects of practice;

(d). the interface between therapist responsibility and the professional, social, and political context of treatment.

f. Research in Marriage and Family Therapy:

i. continuing education in this area shall include significant material on research in couple and family therapy; focus on content such as research methodology, data analysis and the evaluation of research, and include quantitative and qualitative research.

g. Supervision in Marriage and Family Therapy:

i. continuing education in this area include studies in theory and techniques of supervision as well as ethical and legal issues, case management, and topics relative to the specific supervised training.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

Chapter 37. Reciprocity and Provisional Licenses

§3701. States, Territories, and Commonwealths

A. Upon application accompanied by the required fee:

1. the board through the advisory committee may issue a license to any person who has a valid license as a marriage and family therapist from a licensing body that requires standards substantially equivalent to the licensing requirements for licensed marriage and family therapists in Louisiana;

2. the board through the advisory committee may develop rules to provide for the issuance of provisional licenses for licensed marriage and family therapists for up to one year.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

Chapter 39. Disciplinary Proceedings

§3901. Causes for Administrative Action

A. The board, upon recommendation of the advisory committee, after due notice and hearing as set forth herein and the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., may withhold, deny, revoke or suspend any license issued or applied for or otherwise discipline a licensed marriage and family therapist on a finding that the person has violated R.S. 37:1101-1122, any of the rules, regulations, and ethical standards for licensed marriage and family therapy promulgated by the board for the advisory committee, or prior final decisions and/or consent orders involving the licensed marriage and family therapist or applicant for licensure. Additionally, the board, upon recommendation of the advisory committee, may withhold, deny, revoke, or suspend any license issued or applied for, or otherwise discipline or an LMFT as provided by other applicable state or federal laws, including but not limited to the following violations:

1. failure to pay court-ordered child support (R.S. 37:2952 et seq.);

2. failure to pay certain student loans (R.S. 37:2951 et seq.);

3. failure to report suspected cases of child abuse or neglect (R.S. 14:403 et seq.);

4. failure to report suspected cases of abuse of the elderly (R.S. 14:403.2 et seq.);

5. failure to maintain patient records as required by law (R.S. 40:1299.96 et seq.).

B. Sometimes hereinafter, where the context allows, a licensed marriage and family therapist or applicant for licensure may be referred to as a licensee or applicant.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Professional Counselors, LR 28:

§3903. Disciplinary Process and Procedures

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

B. A disciplinary proceeding, including the formal hearing, is less formal than a judicial proceeding. It is not subject to strict evidentiary rules and technicalities, but must be conducted in accordance with considerations of fair play and constitutional requirements of due process.

C. The purpose of a disciplinary proceeding is to determine contested issues of law and fact; whether the person did certain acts or omissions and, if he did, whether those acts or omissions violated the Louisiana Mental Health Counselor Licensing Act, the rules and regulations and ethical standards for licensed marriage family therapy promulgated by the board for the advisory committee, or prior final decisions and/or consent orders involving the licensed marriage and family therapist or applicant for licensure and to determine the appropriate disciplinary action.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§3905. Initiation of Complaints

A. Any person or the advisory committee on their own initiative may initiate complaints.

B. All complaints shall be addressed "confidential" to the Ad Hoc Committee for Disciplinary Affairs (hereafter referred to as the disciplinary committee) and shall be sent to the board office. A member of the advisory committee shall be appointed to serve on the Ad Hoc Committee for Disciplinary Affairs, by the chair of the board, and shall be empowered to act on behalf of the advisory committee. He/she shall concur or disagree with the recommendation of the disciplinary committee chair and such concurrence or disagreement shall constitute the official recommendation of the advisory committee as to the complaint in question. The disciplinary committee shall convey the complaint to the board. By a simple majority, the disciplinary committee shall vote to investigate or deny the charge. If a denial, the chair of the chair of the disciplinary committee shall prepare the letters of denial. If an agreement to investigate, the board shall request that the disciplinary committee notify the person that allegations have been made that he/she may have committed a breach of statute, rule and regulation, ethical code, and/or prior final decisions or consent orders and that he/she must respond in writing to the disciplinary committee

within a specified time period. A response is to be made to the disciplinary committee at the board office address. The complaint letter of alleged violations shall not be given initially to the person. However, sufficiently specific allegations shall be conveyed to the person for his/her response. Once the person has answered the complaint, a determination will be made if a disciplinary proceeding is required. The disciplinary committee shall inform the board of its decision.

C. Pursuant to its authority to regulate this industry, the board, upon recommendation of the advisory committee through its disciplinary committee, may issue subpoenas to secure evidence of alleged violations of the Louisiana Mental Health Counselor Licensing Act, any of the rules and regulations or ethical standards for licensed marriage and family therapists promulgated by the board for the advisory committee, or prior final decisions and/or consent orders involving the licensed marriage and family therapist or applicant for licensure. The subpoenaed confidential or privileged records of a patient or client are to be sanitized by the custodian of such records so as to maintain the anonymity of the patient or client.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§3907. Informal Disposition of Complaints

A. The board, upon recommendation of the disciplinary committee and the person accused of a violation may settle some complaints informally without a formal hearing. The disciplinary committee shall guide cases through any informal process, and, failing resolution, may recommend a formal hearing. The following types of informal dispositions may be utilized.

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

2. Informal Conference

a. The disciplinary committee may hold a conference with the person in lieu of, or in addition to, correspondence in cases of less serious complaints. If the situation is satisfactorily explained in conference, a formal hearing is not scheduled.

b. The person shall be given adequate notice of the conference, of the issues to be discussed, and of the fact that information brought out of the conference may later be used in a formal hearing.

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§3909. Formal Hearing

A. The board upon recommendation of the disciplinary committee has the authority, granted by R.S. 37:1101 et seq., to bring administrative proceedings against persons to whom it has issued a license upon recommendation of the advisory committee to practice as a licensed marriage and family therapist or any applicant requesting a license. The person has the right to:

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

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

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

1. The disciplinary committee receives a complaint alleging that a person has acted in violation of the Louisiana Mental Health Counselor Licensing Act, the rules and regulations and ethical standards for licensed marriage and family therapists promulgated by the board for the advisory committee. Communications from the complaining party shall not be revealed to any person until and unless a formal complaint is filed except those documents being subpoenaed by a court.

2.a. The disciplinary counsel investigates the complaint to determine if there is sufficient evidence to warrant disciplinary proceedings. No board member, other than disciplinary committee members may communicate with any party to a proceeding or his/her representative concerning any issue of fact or law involved in this stage of the proceeding.

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

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

3. A notice of hearing is issued pursuant to R.S. 49:955, charging the violation of one or more of the provisions of the Louisiana Mental Health Counselor Licensing Act, the rules and regulations and ethical standards for licensed marriage and family therapists promulgated by the board for the advisory committee thereto, or prior final decisions and/or consent orders involving the person.

4. The board chair or disciplinary counsel sets a time and place for a hearing.

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

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

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

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

7.a. The board chair or disciplinary counsel issues subpoenas for the board for disciplinary proceedings, and when requested to do so, may issue subpoenas for any other party. Subpoenas include:

i. a subpoena requiring a person to appear and give testimony; and

ii. a subpoena *dues tecum*, which requires that a person produce books, records, correspondence, or other materials over which he/she has custody.

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

8.a. The hearing is held, at which time the board's primary role is to hear evidence and argument and to reach a decision. Any board member, who, because of bias, interest, or other conflict is unable to participate in the hearing, shall be recused from the particular proceeding. The reasons for the recusal are made part of the record. The board shall be assisted and advised at the hearing by its general counsel, who shall not participate in any other manner in the investigation or prosecution of charges. The general counsel shall also attend the board's deliberations, advise the board at such deliberations, and assist the board with development and drafting of its findings.

b. The disciplinary counsel who conducted the investigation represents the board and presents evidence that disciplinary action should be taken against the person. The person may present evidence personally or through an attorney, and witnesses may testify on behalf of the person.

c. Evidence includes the following:

i. oral testimony given by witnesses at the hearing, except that, for good cause, testimony may be taken by deposition (cost of the deposition is borne by the requesting party);

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

iii. visual, physical and illustrative evidence;

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

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

d. All testimony is given under oath. If the witness objects to swearing, an affirmation may be substituted.

9. The board chair presides as chair of the board over all hearings for licensed marriage and family therapists. The customary order of proceedings at a hearing is as follows:

a. the disciplinary counsel makes an opening statement of what he/she intends to prove, and what action, he/she wants the board to take;

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

c. the disciplinary counsel presents the case against the person;

d. the person, or his/her attorney, cross-examines;

e. the person presents evidence;

f. the disciplinary counsel cross-examines;

g. the rebuts the person's evidence.

10. Both parties make closing statements. The disciplinary counsel makes the initial closing statement and any final statement.

11. Motions may be made before, during, or after a hearing. All motions shall be made at an appropriate time according to the nature of the request. Motions made before or after the hearing shall be in writing. Those made during the course of the hearing may be made orally, and become part of the record of the proceeding.

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

i. all papers filed and served in the proceeding;

b. all documents and/or other materials accepted as evidence at the hearing;

i. statements of matters officially noticed;

c. notices required by the statutes or rules; including notice of hearing;

d. affidavits of service or receipts for mailing or process or other evidence of service;

e. stipulations, settlement agreements or consent orders, if any;

i. records of matters agreed upon at a prehearing conference;

ii. orders of the board and its final decision;

iii. actions taken subsequent to the decision, including requests for reconsideration and rehearing;

iv. a transcript of the proceedings, if one has been made, or a tape recording or stenographic record.

f. the record of the proceeding shall be retained until the time for any appeal has expired, or until the appeal has been concluded. The record is not transcribed unless a party to the proceeding so requests, and the requesting party pays for the cost of the transcript.

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

i. determine the facts at issue on the basis of the evidence submitted at the hearing;

ii. determine whether the facts in the case support the charges brought against the person;

iii. determine whether charges brought are a violation of the Louisiana Mental Health Counselor Licensing Act or rules and regulations and ethical standards for licensed marriage and family therapy promulgated by the board for the advisory committee.

b. Deliberation

i. The board will deliberate in closed session.

ii. The advisory committee shall make its recommendation as to each charge presented.

iii. The board will vote on each charge as to whether the charge has been supported by the evidence. (The standard will be *preponderance of the evidence*).

iv. After considering and voting on each charge, the hearing panel will vote on a resolution to dismiss the charges, withhold, deny, revoke or suspend any license issued or applied for or otherwise discipline a licensed marriage and family therapist or applicant for licensure.

v. The board by affirmative majority vote may vote to recommend that the board withhold, deny, revoke, or suspend any license issued or applied for in accordance with the provisions of R.S. 37, Chapter 13, or otherwise discipline a licensed marriage and family therapist or applicant. The board, upon reaching a decision, will inform the board of their decision.

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

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

15. The board may reconsider a matter that it has decided.

a. This may involve rehearing the case, or it may involve reconsidering the case on the basis of the record. Such reconsideration may occur when a party who is dissatisfied with a decision of the board files a motion requesting that the board reconsider the decision.

b. The board shall reconsider a matter when ordered to do so by a higher administrative authority or when the case is remanded for reconsideration or rehearing by a court to which the board's decision has been appealed.

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

i. the board's decision is clearly contrary to the law and evidence;

ii. there is newly discovered evidence by the party since the hearing which is important to the issues and which

the party could not have discovered with due diligence before or during the hearing;

iii. there is a showing that issues not previously considered ought to be examined in order to dispose of the case properly;

iv. it would be in the public interest to further consider the issues and the evidence.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§3911. Consent Order

A. The Board may issue an order involving some type of disciplinary action with the consent of the person. A consent order requires a simple majority of the board. This consent order is not the result of the board's deliberation, but rather the board's acceptance upon recommendation of disciplinary committee to the board of an agreement reached between the board's agents and the person. The board issues the consent order to carry out the parties' agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1106, 1116-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§3913. Withdrawal of a Complaint

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§3915. Refusal to Respond or Cooperate with the Board

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

B. If the person refuses to reply to the board's inquiry or otherwise cooperate with the board, the board shall continue its investigation. The board shall record the circumstances of the person's failure to cooperate and shall inform the person that the lack of cooperation may result in action by the board that could eventually lead to the withholding, denial, revocation or suspension of his/her license, or application for licensure, or otherwise issue appropriate disciplinary sanction.

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

HISTORICAL NOTE: Promulgation by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§3917. Judicial Review of Adjudication

A. Any person whose license, or application for licensure, has been withheld, denied, revoked or suspended or otherwise disciplined by the board shall have the right to have the proceedings of the board reviewed by the 19th Judicial District Court for the parish of East Baton Rouge, provided that such petition for judicial review is filed within 30 days after receipt of the notice of the decision of the

board. If judicial review is granted, the board's decision remains enforceable in the interim unless the 19th Judicial District Court orders a stay. Pursuant to the applicable Section of the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., this appeal shall be taken as in any other civil case.

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

HISTORICAL NOTE: Promulgation by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§3919. Further Appeal

A. A person aggrieved by any final judgment rendered by the state district court may obtain a review of said final judgment by appeal to the appropriate circuit court of appeal.

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

HISTORICAL NOTE: Promulgation by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§3921. Reinstatement of Suspended or Revoked License

A. The board is authorized to suspend the license of a licensed marriage and family therapist for a period not exceeding two years. At the end of this period, the board shall re-evaluate the suspension and may reinstate or revoke the license. A person whose license has been revoked may apply for reinstatement after a period of not less than two years from the date such denial or revocation is legally effective.

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

HISTORICAL NOTE: Promulgation by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§3923. Declaratory Statements

A. The board upon recommendation of the advisory committee may issue a declaratory statement in response to a request for clarification of the effect of the provisions contained in the Louisiana Mental Health Counselor Licensing Act, R.S. 37:1101 et seq., the rules, regulations, and ethical standards promulgated by the board for the advisory committee.

1. A request for declaratory statement is made in the form of a petition to the Licensed Marriage and Family Therapists Advisory Committee. The petition should include at least:

- a. the name and address of the petitioner;
- b. specific reference to the statute, rule and regulation, or provision of the Code of Ethics to which the petitioner relates; and
- c. a concise statement of the manner in which the petitioner is aggrieved by the statute, rules and regulations, or ethical standards by its potential application to him in which he is uncertain of its effect.

2. The advisory committee shall consider the petition within a reasonable period of time, taking into consideration the nature of the matter and the circumstances involved.

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

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

HISTORICAL NOTE: Promulgation by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§3925. Injunction

A. The board upon recommendation of the LMFT Advisory Committee may, through the Louisiana attorney general, apply for an injunction in any court of competent jurisdiction to enjoin any person from committing any act declared to be a misdemeanor by R.S. 37, Chapter 13.

B. If it is established that the defendant has been or is committing an act declared to be a misdemeanor by R.S. 37, Chapter 13, the court, may enter a decree enjoining the defendant from further committing such act.

C. In case of violation of any injunction issued under the provision of §1325, a court, or any judges thereof, may summarily try and punish the offender for contempt of court.

D. Such injunctive proceedings shall be in addition to, and not in lieu of, all other penalties and other remedies provided in R.S. 37, Chapter 13.

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

HISTORICAL NOTE: Promulgation by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

Chapter 41. Informed Consent

§4101. General Provisions

A. Licensed marriage and family therapists obtain appropriate informed consent to therapy or related procedures before the formal therapeutic process begins. Information provided to clients by licensed marriage and family therapists about the treatment process shall include, but is not limited to, the therapist's statement of practice as outlined in the Appendix. The therapist should be sure that the client understands all information provided before asking for consent to treatment. The content of informed consent may vary depending on the client and treatment plan; however, informed consent generally necessitates that the client:

1. has the capacity to consent;
2. has been adequately informed of the ethical and practical components of treatment processes and procedures, including but not limited to, the use of audio or video taping, or the use of observers, supervisors, or therapy teams during therapy;
3. has been adequately informed of potential therapy outcomes, including the risks and benefits of treatment, not only for recognized approaches, but also for approaches for which generally recognized standards do not yet exist;
4. has freely and without undue influence expressed consent; and
5. has provided consent that is appropriately documented.

B. When persons, due to age or mental status, are legally incapable of giving informed consent, licensed marriage and family therapists obtain informed permission from a legally authorized person, if such substitute consent is legally permissible.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

Chapter 43. Privileged Communications

§4301. Privileged Communication with Clients

A. Licensed marriage and family therapists disclose to clients and other interested parties, as early as feasible in their professional contacts, the nature of confidentiality in the therapeutic process and possible limitations of the clients' right to confidentiality. Therapists review with clients the circumstances where confidential information may be requested and where disclosure of confidential information may be legally required. Circumstances may necessitate repeated disclosures. Licensed marriage and family therapists also shall be aware of specific ethical requirements concerning licensed marriage and family therapy as specified in the Code of Ethics (Chapter 47) and in §4301.C.

B. Licensed marriage and family therapists do not disclose client confidences except by written authorization or waiver, court order, or where mandated or specifically permitted by law, or reasonably necessary to protect the client or other parties from a clear and imminent threat of serious physical harm. Verbal authorization may be sufficient in emergency situations or where otherwise permitted by law.

C. Licensed marriage and family therapists shall be cognizant of and adhere to any confidentiality requirement that may differ from requirements in other licenses they hold. Licensed marriage and family therapists have unique confidentiality concerns because the client in a therapeutic relationship may be more than one person. Therapists respect and guard the confidences of each individual client within the system of which they are working as well as the confidences of the system.

1. When providing couple, family, or group treatment, a licensed marriage and family therapist shall not disclose information outside the treatment context without a written authorization from each individual competent to execute a waiver.

2. In the context of couple, family, or group treatment, the therapist may not reveal any individual's confidences to others in the client unit without the prior written permission of that individual.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

Chapter 45. Exemptions

§4501. Exemptions

A. No person shall be required to obtain a license as a licensed marriage and family therapist. The practice of marriage and family therapy is not prohibited by Act 1195. As stated in R.S. 37:1122(A), the only prohibition is the use of the title "Licensed Marriage and Family Therapist."

B. Nothing in this Chapter shall prevent qualified members of other professional groups as defined by the board upon recommendation of the advisory committee including but not limited to clinical social workers, psychiatric nurses, psychologists, physicians, licensed professional counselors, or members of the clergy, including Christian Science practitioners, from doing or advertising that they perform work of a marriage and family therapy nature consistent with the accepted standards of their respective professions. However, no such person shall use

the title "Licensed Marriage and Family Therapist" (R.S. 37:1121).

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

Chapter 47. Code of Ethics

§4701. General

A. The Marriage and Family Therapy Advisory Committee strives to honor the public trust in licensed marriage and family therapists by setting the standards for ethical practice as described in this code of ethics.

B. Licensed marriage and family therapists have an obligation to be familiar with this code of ethics and its application to their professional services. They also must be familiar with any applicable ethical codes that govern other licensure that they hold or are responsible for through certification or membership in professional organizations. Lack of awareness or misunderstanding of an ethical standard is not a defense to a charge of unethical conduct.

C. These ethical standards govern the practice of licensed marriage and family therapy and professional functioning of the advisory committee and shall be enforced by the board through the advisory committee.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§4703. Resolving Ethical Issues

A. The absence of an explicit reference to a specific behavior or situation in the Code does not mean that the behavior is ethical or unethical. The standards are not exhaustive. Licensed marriage and family therapists shall consult with other licensed marriage and family therapists who are knowledgeable about ethics, with colleagues, with LMFT-approved supervisors, or with appropriate authorities when:

1. they are uncertain if the ethics of a particular situation or course of action is in violation of this code; or

2. provisions in the ethical codes that regulate licensure that they may hold in other professions differs from provisions in this code; or

3. provisions in the ethical codes that regulate their membership or certification in a professional organization differs from provisions in this code.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§4705. Responsibility to Clients

A. Licensed marriage and family therapists advance the welfare of families and individuals. They respect the rights of those persons seeking their assistance and make reasonable efforts to ensure that their services are used appropriately.

B. Licensed marriage and family therapists provide professional assistance to persons without discrimination on the basis of race, age, ethnicity, socioeconomic status, disability, gender, health status, religion, national origin, or sexual orientation.

C. Licensed marriage and family therapists obtain appropriate informed consent to therapy or related procedures early in the therapeutic relationship, usually before the therapeutic relationship begins, and use language that is reasonably understandable to clients. The licensed marriage and family therapist will provide all clients with a statement of practice subject to review and approval by the advisory committee (See Appendix). The content of informed consent may vary depending upon the therapist's areas of expertise, the client(s) and treatment plan.

1. Informed consent generally necessitates that the client:

- a. has the capacity to consent;
- b. has been adequately informed of significant information concerning treatment processes and procedures;
 - i. has been adequately informed of potential risks and benefits of treatments for which generally recognized standards do not yet exist;
- c. has freely and without undue influence signed a statement of practice.

2. When persons, due to age or mental status, are legally incapable of giving informed consent, licensed marriage and family therapists obtain informed permission from a legally authorized person, if such substitute consent is legally permissible.

D. Licensed marriage and family therapists are aware of their influential positions with respect to clients, and they avoid exploiting the trust and dependency of such persons. Therapists, therefore, make every effort to avoid conditions and multiple relationships with clients that could impair professional judgment or increase the risk of exploitation. Such relationships include, but are not limited to, business or close personal relationships with a client or the client's immediate family. When the risk of impairment or exploitation exists due to conditions or multiple roles, therapists take appropriate precautions.

E. Sexual intimacy with clients is prohibited.

F. Sexual intimacy with former clients is likely to be harmful and is therefore prohibited for two years following the termination of therapy or last professional contact. In an effort to avoid exploiting the trust and dependency of clients, licensed marriage and family therapists should not engage in sexual intimacy with former clients after the two years following termination or last professional contact. Should therapists engage in sexual intimacy with former clients following two years after termination or last professional contact, the burden shifts to the therapist to demonstrate that there has been no exploitation or injury to the former client or to the client's immediate family.

G. Licensed marriage and family therapists comply with applicable laws regarding the reporting of alleged unethical conduct.

H. Licensed marriage and family therapists do not use their professional relationships with clients to further their own interests.

I. Licensed marriage and family therapists respect the rights of clients to make decisions and help them to understand the consequences of these decisions. Therapists clearly advise the clients that they have the responsibility to make decisions regarding relationships such as cohabitation, marriage, divorce, separation, reconciliation, custody, and visitation.

J. Licensed marriage and family therapists continue therapeutic relationships only so long as it is reasonably clear that clients are benefiting from the relationship.

K. Licensed marriage and family therapists assist persons in obtaining other therapeutic services if the therapist is unable or unwilling, for appropriate reasons, to provide professional help.

L. Licensed marriage and family therapists do not abandon or neglect clients in treatment without making reasonable arrangements for the continuation of such treatment.

M. Licensed marriage and family therapists obtain written informed consent from clients before videotaping, audio recording, or permitting third-party observation.

N. Licensed marriage and family therapists, upon agreeing to provide services to a person or entity at the request of a third party, clarify, to the extent feasible and at the outset of the service, the nature of the relationship with each party and the limits of confidentiality.

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

HISTORICAL NOTE: Promulgated in accordance with the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§4707. Confidentiality

A. Licensed marriage and family therapists have unique confidentiality concerns because the client in a therapeutic relationship may be more than one person. Therapists respect and guard the confidences of each individual client.

B. Licensed marriage and family therapists disclose to clients and other interested parties, as early as feasible in their professional contacts, the nature of confidentiality and possible limitations of the clients' right to confidentiality. Therapists review with clients the circumstances where confidential information may be requested and where disclosure of confidential information may be legally required. Circumstances may necessitate repeated disclosures.

C. Licensed marriage and family therapists do not disclose client confidences except by written authorization or waiver, or where mandated or permitted by law. Verbal authorization will not be sufficient except in emergency situations, unless prohibited by law, specifically in instances of danger to self or others, suspected child abuse/neglect, elderly abuse/neglect, or disabled adult abuse/neglect. When providing couple, family or group treatment, the therapist does not disclose information outside the treatment context without a written authorization from each individual competent to execute a waiver. In the context of couple, family or group treatment, the therapist may not reveal any individual's confidences to others in the client unit without the prior written permission of that individual.

D. Licensed marriage and family therapists use client and/or clinical materials in teaching, writing, consulting, research, and public presentations only if a written waiver has been obtained in accordance with this Section, or when appropriate steps have been taken to protect client identity and confidentiality.

E. Licensed marriage and family therapists store, safeguard, and dispose of client records in ways that maintain confidentiality and in accord with applicable laws and professional standards.

F. Subsequent to the therapist moving from the area, closing the practice, or upon the death of the therapist, a marriage and family therapist arranges for the storage, transfer, or disposal of client records in ways that maintain confidentiality and safeguard the welfare of clients.

G. Licensed marriage and family therapists, when consulting with colleagues or referral sources, do not share confidential information that could reasonably lead to the identification of a client, research participant, supervisee, or other person with whom they have a confidential relationship unless they have obtained the prior written consent obtained in accordance with this Section of the client, research participant, supervisee, or other person with whom they have a confidential relationship. Information may be shared only to the extent necessary to achieve the purposes of the consultation.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§4709. Professional Competence and Integrity

A. Licensed marriage and family therapists maintain high standards of professional competence and integrity.

B. Licensed marriage and family therapists pursue knowledge of new developments and maintain competence in licensed marriage and family therapy through education, training, or supervised experience.

C. Licensed marriage and family therapists maintain adequate knowledge of and adhere to applicable laws, ethics, and professional standards.

D. Licensed marriage and family therapists seek appropriate professional assistance for their personal problems or conflicts that may impair work performance or clinical judgment.

E. Licensed marriage and family therapists do not provide services that create a conflict of interest that may impair work performance or clinical judgment.

F. Licensed marriage and family therapists, as presenters, teachers, supervisors, consultants and researchers, are dedicated to high standards of scholarship, present accurate information, and disclose potential conflicts of interest.

G. Licensed marriage and family therapists maintain accurate and adequate clinical and financial records.

H. While developing new skills in specialty areas, licensed marriage and family therapists take steps to ensure the competence of their work and to protect clients from possible harm. Licensed marriage and family therapists practice in specialty areas new to them only after appropriate education, training, or supervised experience.

I. Licensed marriage and family therapists do not engage in sexual or other forms of harassment of clients, students, trainees, supervisees, employees, colleagues, or research subjects.

J. Licensed marriage and family therapists do not engage in the exploitation of clients, students, trainees, supervisees, employees, colleagues, or research subjects.

K. Licensed marriage and family therapists do not give to or receive from clients:

1. gifts of substantial value; or
2. gifts that impair the integrity or efficacy of the therapeutic relationship.

L. Licensed marriage and family therapists do not diagnose, treat, or advise on problems outside the recognized boundaries of their competencies.

M. Licensed marriage and family therapists make efforts to prevent the distortion or misuse of their clinical and research findings.

N. Licensed marriage and family therapists, because of their ability to influence and alter the lives of others, exercise special care when making public their professional recommendations and opinions through testimony or other public statements.

O. To avoid a conflict of interests, licensed marriage and family therapists who treat minors or adults involved in custody or visitation actions may not also perform forensic evaluations for custody, residence, or visitation of the minor. The marriage and family therapist who treats the minor may provide the court or mental health professional performing the evaluation with information about the minor from the marriage and family therapist's perspective as a treating marriage and family therapist, so long as the marriage and family therapist does not violate confidentiality.

P. Licensed marriage and family therapists are in violation of this Code and subject to revocation or suspension of licensure or other appropriate action by the board through the advisory committee if they:

1. are convicted of any felony;
2. are convicted of a misdemeanor related to their qualifications or functions;
3. engage in conduct which could lead to conviction of a felony, or a misdemeanor related to their qualifications or functions;
4. are expelled from or disciplined by professional organizations;
5. have their licenses or certificates suspended or revoked or are otherwise disciplined by other regulatory bodies;
6. continue to practice licensed marriage and family therapy while no longer competent to do so because they are impaired by physical or mental causes or the abuse of alcohol or other substances; or
7. fail to cooperate with the board through the advisory committee at any point from the inception of an ethical complaint through the completion of all proceedings regarding that complaint.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§4711. Responsibility to Students and Supervisees

A. Licensed marriage and family therapists do not exploit the trust and dependency of students and supervisees.

B. Licensed marriage and family therapists are aware of their influential positions with respect to students and supervisees, and they avoid exploiting the trust and dependency of such persons. Licensed marriage and family therapists, therefore, make every effort to avoid conditions and multiple relationships that could impair professional objectivity or increase the risk of exploitation. When the risk of impairment or exploitation exists due to conditions or multiple roles, licensed marriage and family therapists take appropriate precautions.

C. Licensed marriage and family therapists do not provide therapy to current students or supervisees.

D. Licensed marriage and family therapists do not engage in sexual intimacy with students or supervisees during the evaluative or training relationship between the therapist and student or supervisee. Should a supervisor engage in sexual activity with a former supervisee, the burden of proof shifts to the supervisor to demonstrate that there has been no exploitation or injury to the supervisee.

E. Licensed marriage and family therapists do not permit students or supervisees to perform or to hold themselves out as competent to perform professional services beyond their training, level of experience, and competence.

F. Licensed marriage and family therapists take reasonable measures to ensure that services provided by supervisees are professional.

G. Licensed marriage and family therapists avoid accepting as supervisees or students those individuals with whom a prior or existing relationship could compromise the therapists' objectivity. When such situations cannot be avoided, therapists take appropriate precautions to maintain objectivity. Examples of such relationships include, but are not limited to, those individuals with whom the therapist has a current or prior sexual, close personal, immediate familial, or therapeutic relationship.

H. Licensed marriage and family therapists do not disclose supervisee confidences except by written authorization or waiver, or when mandated or permitted by law. In educational or training settings where there are multiple supervisors, disclosures are permitted only to other professional colleagues, administrators, or employers who share responsibility for training of the supervisee. Verbal authorization will not be sufficient except in emergency situations, unless prohibited by law.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§4713. Responsibility to Research Participants

A. Investigators respect the dignity and protect the welfare of research participants, and are aware of applicable laws and regulations and professional standards governing the conduct of research.

B. Investigators are responsible for making careful examinations of ethical acceptability in planning studies. To the extent that services to research participants may be compromised by participation in research, investigators seek the ethical advice of qualified professionals not directly involved in the investigation and observe safeguards to protect the rights of research participants.

C. Investigators requesting participant involvement in research inform participants of the aspects of the research that might reasonably be expected to influence willingness to participate. Investigators are especially sensitive to the possibility of diminished consent when participants are also receiving clinical services, or have impairments which limit understanding and/or communication, or when participants are children.

D. Investigators respect each participant's freedom to decline participation in or to withdraw from a research study at any time. This obligation requires special thought and consideration when investigators or other members of the

research team are in positions of authority or influence over participants. Licensed marriage and family therapists, therefore, make every effort to avoid multiple relationships with research participants that could impair professional judgment or increase the risk of exploitation.

E. Information obtained about a research participant during the course of an investigation is confidential unless there is a waiver previously obtained in writing. When the possibility exists that others, including family members, may obtain access to such information, this possibility, together with the plan for protecting confidentiality, is explained as part of the procedure for obtaining informed consent.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§4715. Responsibility to the Profession

A. Licensed marriage and family therapists respect the rights and responsibilities of professional colleagues and participate in activities that advance the goals of the profession.

B. Licensed marriage and family therapists remain accountable to the standards of the profession when acting as members or employees of organizations. If the mandates of an organization with which a licensed marriage and family therapist is affiliated, through employment, contract or otherwise, conflict with the LMFT code of ethics licensed marriage and family therapists make known to the organization their commitment to the LMFT code of ethics and attempt to resolve the conflict in a way that allows the fullest adherence to the code of ethics.

C. Licensed marriage and family therapists assign publication credit to those who have contributed to a publication in proportion to their contributions and in accordance with customary professional publication practices.

D. Licensed marriage and family therapists do not accept or require authorship credit for a publication based on research from a student's program, unless the therapist made a substantial contribution beyond being a faculty advisor or research committee member. Coauthorship on a student thesis, dissertation, or project should be determined in accordance with principles of fairness and justice.

E. Licensed marriage and family therapists who are the authors of books or other materials that are published or distributed do not plagiarize or fail to cite persons to whom credit for original ideas or work is due.

F. Licensed marriage and family therapists who are the authors of books or other materials published or distributed by an organization take reasonable precautions to ensure that the organization promotes and advertises the materials accurately and factually.

G. Licensed marriage and family therapists participate in activities that contribute to a better community and society, including devoting a portion of their professional activity to services for which there is little or no financial return.

H. Licensed marriage and family therapists are concerned with developing laws and regulations pertaining to licensed marriage and family therapy that serve the public interest, and with altering such laws and regulations that are not in the public interest.

I. Licensed marriage and family therapists encourage public participation in the design and delivery of professional services and in the regulation of practitioners.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors, LR 28:

§4717. Financial Arrangements

A. Licensed marriage and family therapists make financial arrangements with clients, third-party payors, and supervisees that are reasonably understandable and conform to accepted professional practices.

B. Licensed marriage and family therapists do not offer or accept kickbacks, rebates, bonuses, or other remuneration for referrals; fee-for-service arrangements are not prohibited.

C. Prior to entering into the therapeutic or supervisory relationship, licensed marriage and family therapists clearly disclose and explain to clients and supervisees:

1. all financial arrangements and fees related to professional services, including charges for canceled or missed appointments;

2. the use of collection agencies or legal measures for nonpayment; and

3. the procedure for obtaining payment from the client, to the extent allowed by law, if payment is denied by the third-party payor;

4. once services have begun, therapists provide reasonable notice of any changes in fees or other charges.

D. Licensed marriage and family therapists give reasonable notice to clients with unpaid balances of their intent to seek collection by agency or legal recourse. When such action is taken, therapists will not disclose clinical information.

E. Licensed marriage and family therapists represent facts truthfully to clients, third party payors, and supervisees regarding services rendered.

F. Licensed marriage and family therapists ordinarily refrain from accepting goods and services from clients in return for services rendered. Bartering for professional services may be conducted only if:

1. the supervisee or client requests it;
2. the relationship is not exploitative;
3. the professional relationship is not distorted; and
4. a clear written contract is established.

G. Licensed marriage and family therapists may not withhold records under their immediate control that are requested and needed for a client's treatment solely because payment has not been received for past services, except as otherwise provided by law.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§4719. Advertising

A. Licensed marriage and family therapists engage in appropriate informational activities, including those that enable the public, referral sources, or others to choose professional services on an informed basis.

B. Licensed marriage and family therapists accurately represent their competencies, education, training, and experience relevant to their practice of licensed marriage and family therapy.

C. Licensed marriage and family therapists ensure that advertisements and publications in any media (such as directories, announcements, business cards, newspapers, radio, television, Internet, and facsimiles) convey information that is necessary for the public to make an appropriate selection of professional services. Information could include:

1. office information, such as name, address, telephone number, credit card acceptability, fees, languages spoken, and office hours;

2. qualifying clinical degree (see §10[F]);

3. other earned degrees (see §10[F]) and state or provincial licensures and/or certifications;

4. licensed marriage and family therapist status; and

5. description of practice.

D. Licensed marriage and family therapists do not use names that could mislead the public concerning the identity, responsibility, source, and status of those practicing under that name, and do not hold themselves out as being partners or associates of a firm if they are not.

E. Licensed marriage and family therapists do not use any professional identification (such as a business card, office sign, letterhead, Internet, or telephone or association directory listing) if it includes a statement or claim that is false, fraudulent, misleading, or deceptive.

F. In representing their educational qualifications, licensed marriage and family therapists list and claim as evidence only those earned degrees:

1. from institutions accredited by regional accreditation sources recognized by the United States Department of Education;

2. from institutions recognized by states or provinces that license or certify licensed marriage and family therapists; or

3. from equivalent foreign institutions.

G. Licensed marriage and family therapists correct, wherever possible, false, misleading, or inaccurate information and representations made by others concerning the therapist's qualifications, services, or products.

H. Licensed marriage and family therapists make certain that the qualifications of their employees or supervisees are represented in a manner that is not false, misleading, or deceptive.

I. Licensed marriage and family therapists do not represent themselves as providing specialized services unless they have the appropriate education, training, or supervised experience.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors, LR 28:

§4721. AppendixC Statement of Practice for Licensed Marriage and Family Therapists

A. Each licensed marriage and family therapist/MFT intern in Louisiana shall write a statement of practice incorporating the following information to provide to all clients. LMFT's also licensed in other mental health professions may need to add additional information required by that licensure. This statement is subject to review and approval by the advisory committee. Sample statements of practice are available from the board office.

1. Your name, mailing address, and telephone number.
2. Qualifications:
 - a. degrees earned and institution(s) attended;
 - b. your LMFT licensure number, noting that the Board of Examiners is the grantor of your license. Include the address and telephone number of the board;
 - c. other licensure numbers, including the name, address, and telephone number of the grantor;
 - d. An MFT intern must use this title and include the name and address of his/her approved supervisor and a brief explanation of how supervision affects the therapy provided.
3. Specify the type(s) of clients you serve.
4. Specialty Areas:
 - a. list your specialty areas such as family of origin, parenting, stepfamilies, adolescents, marriage, etc.;
 - b. list your national certifications;
5. What clients can expect from therapy:
 - a. briefly describe the theoretical orientation and the type of techniques and/or strategies that you use in therapy;
 - b. briefly describe your philosophical view of therapy, including clients' input for treatment plans;
 - c. briefly describe your general goals and objectives for clients.
6. Note any expectations that you have for clients:
 - a. for example, clients:
 - i. must make their own decisions regarding such things as deciding to marry, divorce, separate, reconcile, and how to set up custody and visitation; that is, you may help them understand the consequences of these decisions, but your code of ethics does not allow you to advise a specific decision;
 - ii. must notify you before beginning therapy of any other ongoing professional mental health relationship or other professional relationship that might impact the therapy;
 - iii. must inform you during the therapy before being seeing another mental health professional or professional in another discipline that might impact the therapy;
 - iv. are expected to follow through on homework assignments;
 - v. are expected to inform you on their intake form and during therapy of their general physical health, any medical treatments that may impact their therapy and any medications that they are taking.
7. Code of Ethics:
 - a. state that you are required by state law to adhere to The Louisiana Code of Ethics for Licensed Marriage and Family Therapists; and
 - b. that a copy is available on request;
 - c. you might want to specifically note some of the provisions in the Code of Ethics that you would like clients to be aware of.
8. Describe the rules governing privileged communication for Licensed Marriage and Family Therapists.
 - a. Include instances where confidentiality may be waived. This includes, but is not limited to danger to self or others, suspected child abuse/neglect, elderly abuse/neglect, or disabled adult abuse/neglect.

- b. Include the information that when providing couple, family or group treatment, a licensed marriage and family therapist cannot:
 - i. disclose any information outside the treatment context without a written authorization from each individual competent to execute a waiver; and
 - ii. may not reveal any individual's confidences to others in the client unit without the prior written permission of that individual.
 - c. If you audio- or video-tape sessions, include information specific to their use.
 - d. See Chapter 43 (Privileged Communications) and Chapter 47 (Code of Ethics) in §4721 (Appendix) for rules on privileged communication.
 9. State your policy for emergency client situations.
 10. Fees, office procedures, insurance policies:
 - a. list your fees and describe your billing policies;
 - b. state your policy on insurance payments;
 - c. describe your policy on payments, scheduling and breaking appointments, etc.
 11. Adequately inform clients of potential risks and benefits of therapy. For example:
 - a. clients may realize that they have additional issues that they were not aware of before the therapy as a result of the therapy;
 - b. making changes through therapy may bring about unforeseen changes in a person's life;
 - c. individual issues may surface for each spouse as clients work on a marital relationship;
 - d. making changes in communication and/or ways of interacting with others may produce adverse responses from others;
 - e. marital or family conflicts may intensify as feelings are expressed;
 - f. individuals in marital or family therapy may find that spouses or family members are not willing to change.
 12. Briefly add any additional information that you believe is important for your clients to be informed about your qualifications and the therapy that you provide.
 13. End with a general statement indicating that the client(s) have read and understand the statement of practice, providing spaces for the date, client(s) signatures, and your signature. MFT Interns need to have a line for their LMFT-approved supervisor's signature.
 - B. Provide clients with a copy or copies of the signed statement of practice.
 - C. A Licensed Marriage and Family Therapist/MFT intern must have a copy of his/her statement of practice on file in the board office. An MFT intern must include a copy of his/her statement of practice with his/her registration of supervision. The code of ethics can be duplicated for clients and additional copies are available at www.lpcboard.org or from the board office.
- AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.
- HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

Gary S. Grand
Board Chair

0209#053

DECLARATION OF EMERGENCY

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

Disproportionate Share Hospital Payment Methodologies C Final Payment

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following Emergency Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant Title XIX of the Social Security Act. This Emergency Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:953.B.1 et seq. and shall be in effect for the maximum period allowed under the Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule May 20, 1999 governing the disproportionate share payment methodologies for hospitals (*Louisiana Register*, Volume 25, Number 5). This rule was adopted pursuant to Act 19 of the 1998 Legislative Session and Act 1485 (the Rural Hospital Preservation Act) of the 1997 Legislative Session. The May 20, 1999 rule was subsequently amended to revise the disproportionate share qualification criteria for small rural hospitals in compliance with Senate Concurrent Resolution Number 48 and Act 1068 of the 1999 Regular Session of the Louisiana Legislature (*Louisiana Register*, Volume 26, Number 3).

Act 1074 of the 2001 Regular Session of the Louisiana Legislature amended the Rural Hospital Preservation Act to add certain hospitals to the definition of rural hospitals. In compliance with Act 1074, the Bureau amended the March 20, 2000 rule by revising the disproportionate share qualification criteria for small rural hospitals (*Louisiana Register*, Volume 28, Number 8).

Qualification for disproportionate share payment is based on the hospital's latest year end cost report for the year ended during the specified period of the previous year. Hospitals must file cost reports in accordance with Medicare deadlines, including extensions. Hospitals that fail to timely file Medicare cost reports are assumed to be ineligible for disproportionate share (DSH) payments. In response to provider inquiries, the Bureau has determined that it is necessary to amend the August 20, 2002 rule in order to clarify the policy governing final payments and adjustments.

This action is being taken to avoid a budget deficit. It is estimated that the implementation of this proposed rule will not have a programmatic fiscal impact to the state.

Emergency Rule

Effective for dates of service on or after September 7, 2002, the Department of Health and Hospitals, Office of the Secretary Bureau of Health Services Financing amends the August 20, 2002 rule governing the disproportionate share payment methodologies for hospitals by incorporating the following clarifications.

I. General Provisions

A. - D. ...

E. Qualification is based on the hospital's latest filed cost report. Hospitals must file cost reports in accordance with Medicare deadlines, including extensions. Hospitals that fail

to timely file Medicare cost reports will be assumed to be ineligible for disproportionate share (DSH) payments. Hospitals will only be considered for DSH payments if their disproportionate share qualification documentation is returned timely. After the final payment during the state fiscal year has been issued, no adjustment will be given on DSH payments even if subsequently submitted documentation demonstrates an increase in uncompensated care costs for the qualifying hospital. For hospitals with distinct part psychiatric units, qualification is based on the entire hospital's utilization.

F. - I. ...

III. Reimbursement Methodologies

B. Small Rural Hospitals

1. - 3...

4. A pro rata decrease necessitated by conditions specified in I.B. above for rural hospitals described in this section will be calculated using the ratio determined by dividing the qualifying rural hospitals uncompensated costs by the uncompensated costs for all rural hospitals described in this section, then multiplying by the amount of disproportionate share payments calculated in excess of the federal DSH allotment or the state appropriated DSH amount. No additional payments shall be made after the final payment for the state fiscal year is disbursed by the Department. Recoupments shall be initiated upon completion of an audit if it is determined that the actual uncompensated care costs for the state fiscal year for which the payment is applicable is less than the actual amount paid.

Interested persons may submit written comments to Ben A. Bearden at the following address: Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to all inquiries regarding this Emergency Rule. A copy of this public process notice is available for review by interested parties at parish Medicaid offices.

David W. Hood
Secretary

0209#018

DECLARATION OF EMERGENCY

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

Durable Medical Equipment Program Motorized/Power Wheelchairs

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following Emergency Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is adopted in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953.B.(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing provides coverage and reimbursement for manual and motorized custom wheelchairs under the Durable Medical Equipment

Program. In order to be considered for a motorized custom wheelchair, Medicaid policy currently requires that a recipient must be either employed or in an education training program. The bureau proposes to amend its current policy governing recipient qualifications for motorized custom wheelchairs and adopt new provisions.

This action is being taken to promote the health and welfare of Medicaid recipients by avoiding further deterioration of their physical functioning. It is estimated that implementation of this Emergency Rule will increase expenditures in the Durable Medical Equipment Program by approximately \$750,000 for state fiscal year 2002-2003.

Emergency Rule

Effective for dates of service on or after September 21, 2002, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following provisions under the Durable Medical Equipment Program governing authorization for motorized custom wheelchairs.

Recipient Criteria

A. In order to be considered for a motorized custom wheelchair:

1. a recipient must be non-ambulatory and have severe weakness of the upper extremities due to a neurological or muscular disease/condition;
2. the recipient's condition is such that without the use of a wheelchair the patient would otherwise be bed or chair confined; and
3. the recipient's condition is such that a wheelchair is medically necessary and he/she is unable to operate a wheelchair manually; and
4. the recipient is capable of safely operating the controls for a power wheelchair.

Prior Authorization

A. All requests for a power wheelchair must include the following documentation:

1. a completed PA-01 form;
2. a physician's prescription;
3. a written evaluation by a physical therapist or occupational therapist. The evaluation must include documentation of the appropriateness of the specific wheelchair requested and all modifications and/or attachments to the specific wheelchair and its ability to meet the recipient's long-term medical needs. Options that are beneficial primarily in allowing the patient to perform leisure or recreational activities are not covered; and
4. documentation that the recipient can safely operate the wheelchair and that he/she does not have the upper extremity function necessary to operate the manual chair.

B. A power wheelchair is covered if the patient's condition is such that the requirement for a power wheelchair is long term (at least six months). Approval will be made for only one wheelchair at a time. Backup chairs, either motorized or manual, will be denied as not medically necessary.

C. Wheelchairs with individualized features required to meet the needs of a particular patient will be approved under the correct code for the wheelchair base and the appropriate codes for wheelchair options and accessories. All such features and modifications are subject to prior authorization along with the wheelchair.

Covered Services

A. The following motorized wheelchairs are considered for reimbursement:

1. standard-weight frame motorized/power wheelchairs;
2. standard-weight frame motorized/power wheelchairs with programmable control parameters for speed adjustment, tremor dampening, acceleration control and braking; and
3. lightweight portable motorized/power wheelchairs.

B. Motorized/power wheelchairs are characterized by:

1. seat width: 14"-18";
2. arm style: fixed height, detachable;
3. seat depth: 16";
4. footplate extension: 16"-21";
5. seat height: 19"-21";
6. footrests: fixed or swingaway detachable;
7. back height: sectional 16" or 18".

C. A lightweight power wheelchair is characterized by:

1. weight: less than 80 pounds without battery;
2. folding back or collapsible frame.

D. Wheelchair "poundage" (pounds) represents the weight of the usual configuration of the wheelchair without front riggings.

E. The Medicaid Program will provide the least costly wheelchair that is appropriate to meet the medical needs of the recipient. Approval and reimbursement for the wheelchair codes includes all labor charges involved in the assembly of the wheelchair and all covered additions or modifications. Reimbursement also includes:

1. support services such as emergency services;
2. delivery (within the same parish);
3. set-up;
4. education; and
5. on-going assistance with use of the wheelchair.

F. The following components may be approved for use with the power wheelchair:

1. motorized/power wheelchair parts:
 - a. wheel tire for power wheelchair, any size;
 - b. rear wheel tire tube other than zero pressure for power wheelchair, any size;
 - c. rear wheel zero pressure tire tube (flat free insert) for power wheelchair, any size;
 - d. wheel tire for power base, any size;
 - e. wheel tire tube other than zero pressure for each base, any size;
 - f. drive belt for power wheelchair; and
 - g. front caster for power wheelchair.
2. Batteries/chargers for motorized/power wheelchairs:
 - a. 22 NF deep cycle lead acid battery;
 - b. 22 NF gel cell battery;
 - c. group 24 deep cycle lead acid battery;
 - d. group 24 gel cell battery;
 - e. U-1 lead acid battery;
 - f. U-1 gel cell battery;
 - g. battery charger, lead acid or gel cell; and
 - h. battery charger, dual mode.

Implementation of the provisions of this 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, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

David W. Hood
Secretary

0209#088

DECLARATION OF EMERGENCY

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

Outpatient Hospital Laboratory Reimbursement Services Methodology Laboratory and X-Ray (LAC 50:XIX.4333)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following Emergency Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:953.B.(1) et seq. and shall be in effect for the maximum period allowed under the Act or until adoption of the Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a Rule in April of 1997 that established a uniform reimbursement methodology for all laboratory services subject to the Medicare Fee Schedule, regardless of the setting in which the services are performed, outpatient hospital or a non-hospital setting. Outpatient laboratory services are reimbursed at the same reimbursement rate as laboratory services performed in non-hospital setting (*Louisiana Register*, Volume 23, Number 4).

Act 13 of the 2002 Regular Session of the Louisiana Legislature allocated additional funds to the Department of Health and Hospitals for the enhancement of the reimbursement rates paid to hospitals for outpatient services. In compliance with Act 13, the Bureau proposes to increase the reimbursement rates for outpatient hospital laboratory services. It is estimated that implementation of this proposed Rule will increase expenditures for laboratory services by approximately \$1,903,687 for state fiscal year 2002-2003.

Emergency Rule

Effective for dates of service on or after September 16, 2002, the Department of Health and Hospitals, Bureau of Health Services Financing amends the May 20, 2002 Rule governing the reimbursement methodology for outpatient laboratory services as follows.

Title 50 PUBLIC HEALTHC MEDICAL ASSISTANCE

Part XIX. Other Services

Subpart 3. Laboratory and X-Ray

Chapter 43. Billing and Reimbursement

Subchapter B. Reimbursement

§4333. Outpatient Hospital Laboratory Services Reimbursement

A. Hospitals are reimbursed for outpatient laboratory services as follows.

1. The reimbursement rates paid to outpatient hospitals for laboratory services subject to the Medicare Fee Schedule shall be increased by 10 percent.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1026 (May 2002), amended LR 28:

Implementation of this Emergency 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 at Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

David W. Hood
Secretary

0209#090

DECLARATION OF EMERGENCY

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

Outpatient Hospital Rehabilitation Services Reimbursement Increase

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following Emergency Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:953.B.(1) et seq. and shall be in effect for the maximum period allowed under the Act or until adoption of the Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule in June of 1997 which established a uniform reimbursement methodology for all rehabilitation services regardless of the setting in which the services are performed,

outpatient hospital or a free-standing rehabilitation center (*Louisiana Register*, Volume 23, Number 6). Rehabilitation services include physical therapy, occupational therapy, and speech/hearing and language therapy.

Act 13 of the 2002 Regular Session of the Louisiana Legislature allocated funds to the Department of Health and Hospitals to increase the reimbursement paid for physical therapy, occupational therapy, and speech/language and hearing therapy services provided to children under three years of age. As the result of the allocation of additional funds, the Bureau adopted an Emergency Rule increasing the reimbursement rates for rehabilitation services provided to children age birth through three years old (*Louisiana Register*, Volume 28, Number 7).

Act 13 also allocated additional funds to the Department for enhancement of the reimbursement rates paid to hospitals for outpatient services. In compliance with Act 13 directive, the Bureau proposes to increase the reimbursement rates for outpatient hospital rehabilitation services.

This action is being taken to promote the health and well being of Medicaid recipients by encouraging the continued participation of hospitals providing outpatient rehabilitation services in the Medicaid Program. It is estimated that implementation of this proposed rule will increase expenditures for rehabilitation services by approximately \$849,976 for state fiscal year 2002-2003.

Emergency Rule

Effective for dates of service on or after September 16, 2002, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the reimbursement rates for outpatient hospital rehabilitation services. This rate increase is not applicable to rehabilitation services rendered to Medicaid recipients up to the age of three as the reimbursement rate increase for those services were addressed in the July 6, 2002 Emergency Rule. The new reimbursement rates will be as follows.

Revenue Code	Service Description	Procedure Code	New Fee
424	Physical Therapy, evaluation	Y7702	\$68.31
434	Occupational therapy evaluation	Y7812	\$64.52
444	Speech Evaluation	Y2602	\$56.93
444	Hearing Evaluation	Y2612	\$56.93
454	Wheelchair Seating Evaluation	Y7902	\$64.52
420, 421	Physical Therapy, 1 modality	Y7000	\$25.30
420, 421	Physical Therapy, 2 or more modalities	Y7050	\$37.95
420, 421	P.T.-1 or more procedure/modality, 15 min.	Y7106	\$12.65
420, 421	P.T.-with procedures, 20 min.	Y7105	\$17.08
420, 421	P.T.-with procedures, 30 min.	Y7100	\$25.30
420, 421	P.T.-with procedures, 45 min.	Y7101	\$37.95
420,421, 422	P.T.-with procedures, 60 min.	Y7102	\$50.60
420, 421, 422	P.T.-with procedures and mod., 60 min.	Y7202	\$50.60
420, 421	P.T.-with procedures, 75 min.	Y7103	\$63.25
420, 421	P.T.-with procedures, 90 min.	Y7104	\$75.90
430, 431	Occupational therapy, 15 min.	Y7810	\$10.12
430, 431	Occupational therapy, 20 min.	Y7811	\$13.92
430, 431	Occupational therapy, 30 min.	Y7813	\$20.24
430, 431	Occupational therapy, 45 min.	Y7814	\$30.36
430, 431	Occupational therapy, 60 min.	Y7815	\$40.48

440, 441	Speech and hearing therapy, 15 min.	Y2609	\$9.49
440, 441	Speech and hearing therapy, 20 min.	Y2611	\$12.65
440, 441	Speech therapy, 30 min	Y2613	\$18.98
440, 441	Speech therapy, 45 min.	Y2614	\$28.46
440, 441, 442	Speech therapy, 60 min.	Y2615	\$37.95

This increase in outpatient hospital rehabilitation reimbursement rates is not applicable to home health rehabilitation services. Home health rehabilitation services will continue to be reimbursed at the rate paid for outpatient hospital rehabilitation services as of September 15, 2002, except for those services that were addressed in the July 6, 2002 Rule.

Implementation of this Emergency 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 at Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

David W. Hood
Secretary

0209#089

DECLARATION OF EMERGENCY

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

Pharmacy Benefits Management Program Prior Authorization Process

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following Emergency Rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:953.B.(1) et seq. and shall be in effect for the maximum period allowed under the Act or until adoption of the Rule, whichever occurs first.

Prior law, R.S. 46:153.3, authorized coverage and reimbursement of prescription drugs in the Medicaid Program and established the Medicaid Drug Program Committee. R.S. 46:153.3.B and C allowed the Department of Health and Hospitals to limit reimbursement for multi-source prescription drugs in accordance with state and federal law; but mandated the department to provide reimbursement for any drug prescribed by a physician that, in his professional judgment and within the lawful scope of his practice, was considered appropriate for the diagnosis and treatment of the patient; and also prohibited the department from establishing a drug formulary that restricted, by any prior or retroactive approval process, a

physician's ability to treat a patient with a prescription drug that had been approved and designated as safe and effective by the Food and Drug Administration.

In recognition of the need to ensure that the state delivers a medical assistance prescription drug program which is both cost effective and prudently administered, the Louisiana Legislature enacted Act 395 of the 2001 Regular Session to amend R.S. 46:153.3.B.(2)(a) which states "The department may establish ... or any other process or combination of processes that prove to be cost-effective in the Medical Assistance Program." In addition, the Act created the Medicaid Pharmaceutical and Therapeutics Committee and abolished the Medicaid Drug Program Committee.

As authorized by Act 395, the department proposes to implement a prior authorization process with a preferred drug list for certain designated drugs covered under the Pharmacy Benefits Management Program. This action is necessary in order to avoid a budget deficit in the Medical Assistance Program.

Emergency Rule

Effective October 9, 2002, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing implements a prior authorization process with a preferred drug list for certain designated drugs covered under the Medicaid Pharmacy Benefits Management Program. The following provisions shall govern coverage for prescribed medications and/or supplies.

A. General Provisions. The medication must be prescribed by a practitioner who is authorized to prescribe under state law. The National Drug Code (NDC) must be shown on each pharmacy form for reimbursement of prescription drugs subject to rebates from manufacturers as mandated by federal law and regulations.

B. Covered Drugs. Coverage of drugs shall be limited to specific drug products authorized for reimbursement by therapeutic category and listed by generic name, strength/unit, NDC, and brand name. Those drug products subject to mandatory coverage as a result of a rebate agreement with the federal government will be covered until written notice is received from the Centers for Medicare and Medicaid Services that coverage will be terminated. Providers will be given prior notice of termination of coverage as required under federal regulations.

C. Prior Authorization and Preferred Drug List

1. A preferred drug list (PDL) shall be established by selected therapeutic classes for those drugs for which prior authorization is not required. Drugs in these classes that are not included on the PDL shall require prior authorization. Providers will be notified of the drugs selected for placement on the PDL by selected therapeutic classes prior to implementation of the prior authorization process and as additional drugs are subsequently added to the list. Lists of covered drug products, including those that require prior authorization, will be maintained in either the Prescription Drug Services Manual, other designated service provider manuals, on the Louisiana Medicaid web site or provider notices.

2. The prior authorization process provides for a turn-around response within 24 hours of receipt of a prior authorization request by telephone, mail or electronic communication. In emergency situations, providers may dispense at least a 72-hour supply of medication as

mandated by R.S. 46:153.3.B.(2)(a) and pursuant to 42 U.S.C. s1396r-8.

3. The Pharmaceutical and Therapeutics Committee will make recommendations to the Department regarding drugs to be subject to the prior authorization. The composition of and appointment to the Pharmaceutical and Therapeutics Committee complies with R.S. 46:153.3.D and 42 U.S.C.s1396r-8.

D. Drugs Excluded from Coverage. As provided by Section 1927(d)(2) of the Social Security Act, the following drugs are excluded from program coverage:

1. experimental drugs;
2. anorexics;
3. cough and cold preparations;
4. cosmetic drugs;
5. compounded prescriptions (mixtures of two or more ingredients);
6. medications which are included in the reimbursement to a facility, i.e., hospitals, skilled nursing facility for recipients receiving benefits under Part A of Title XVIII, mental hospitals, or some other nursing facilities;
7. non-legend drugs with some exceptions;
8. fertility drugs when used for fertility treatment;
9. vaccines covered in other programs; and
10. DESI drugs (see E below).

E. DESI Drugs. Those drugs that are subject to a Notice of Opportunity for Hearing (NOOH), as prescribed by Section 1927(k)(2)(A) of the Social Security Act, for which the Food and Drug Administration has proposed to withdraw from the market because they are "less than effective" or "identical, related, or similar drugs," and are identified as DESI ineffective drugs shall be excluded from coverage.

Implementation of this Emergency 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 at Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available at the parish Medicaid office for review by interested parties.

David W. Hood
Secretary

0209#087

DECLARATION OF EMERGENCY

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

Private Hospitals CEnhanced Outlier Payments

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following Emergency Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:953.B.1 et seq. and shall be in effect for the

maximum period allowed under the Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing established a reimbursement methodology for payments to disproportionate share hospitals for catastrophic costs associated with providing medically necessary services to children under six years of age (*Louisiana Register*, Volume 20, Number 6). The reimbursement methodology also addressed payments to all acute care hospitals for catastrophic costs associated with providing medically necessary services to infants one year of age or under. An outlier payment is calculated on an individual case basis and paid at cost if covered charges for medically necessary services exceeds 200 percent of the prospective payment. The June 20, 1994 rule was subsequently amended to revise the qualification and calculation for outlier payments (*Louisiana Register*, Volume 22, Number 2). To qualify for an outlier payment, the covered charges for the case must exceed both \$150,000 and 200 percent of the prospective payment.

Act 13 of the 2002 Regular Session of the Louisiana Legislature allocated funds for the payment of hospital outlier reimbursements, but limited payment to 100 percent of marginal cost and based on the use of updated cost-to-charge ratios. In compliance with Act 13, the bureau adopted an Emergency Rule to amend the definition of marginal cost contained in the February 20, 1996 Rule and reduce the outlier payments made to private hospitals (*Louisiana Register*, Volume 28, Number 7). In addition, the base period was changed for the hospital specific cost-to-charge ratio utilized for the calculation of outlier payments and a deadline was established for receipt of the written request filing for outlier payments.

Act 13 also directed the Department of Health and Hospitals to pay enhanced outlier reimbursements to certain hospitals meeting specific criteria set forth by the Department and approved by the Centers for Medicare and Medicaid Services. In accordance with the Act 13 directive, the Department has determined that it is necessary to develop a payment methodology for enhanced outlier reimbursements.

This action is being taken to protect the health and welfare of Medicaid eligible children by encouraging the continued participation of hospitals that furnish neonatal and pediatric intensive care services in the Medicaid Program. It is estimated that implementation of this proposed rule will increase expenditures for outlier payments to private hospitals by approximately \$4,000,000 for state fiscal year 2002-2003.

Emergency Rule

Effective for dates of service on or after September 7, 2002, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the February 20, 1996 rule to provide enhanced outlier reimbursements to qualifying hospitals for state fiscal year 2002-2003. A qualifying hospital is defined as a hospital whose losses calculated using the outlier payment methodology effective July 1, 2002 are at least 25 percent of the amount calculated using the outlier payment methodology in effect as of June 30, 2002. The calculation will be based on actual submitted claims for dates of service

on and after September 7, 2002 that qualify for outlier payments. A one time lump sum payment will be issued which is equal to the product of each qualifying hospital's pro rata share of outlier losses and all qualifying hospitals= outlier losses multiplied by the amount appropriated for payment of enhanced outlier reimbursements for SFY 2002-2003.

Implementation of this Emergency 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 at the Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

David W. Hood
Secretary

0209#019

DECLARATION OF EMERGENCY

Department of Social Services Office of Family Support

Child Care Assistance Program Incentive Bonus (LAC 67:III.5107)

The Department of Social Services, Office of Family Support has exercised the emergency provision of R.S. 49:953(B), the Administrative Procedure Act, to adopt the following changes in the Child Care Assistance Program effective October 1, 2002. This Emergency Rule will remain in effect for a period of 120 days.

Current regulations governing child care assistance provide for a quality incentive bonus that is paid to Child Care Assistance Program (CCAP) eligible Class A providers who achieve and maintain National Association for the Education of Young Children (NAEYC) accreditation. The bonus, paid once each calendar quarter, is equal to 10 percent of all child care payments received during the prior calendar quarter by that provider from the certificate portion of the Child Care and Development Fund. In an effort to encourage more providers to attain NAEYC accreditation, the agency will increase the incentive bonus to 20 percent of all payments received by that provider.

Additionally, a quality incentive bonus will be available to Family Child Day Care Home (FCDCH) providers who participate in the Department of Education (DOE) Child and Adult Care Food Program. The bonus will be paid once each calendar quarter and will be equal to 10 percent of all child care payments received during the prior calendar quarter by that provider from the certificate portion of the Child Care and Development Fund.

Pursuant to Act 152 of the 2002 First Extraordinary Session of the Louisiana Legislature, funds from Louisiana's Temporary Assistance for Needy Families (TANF) Block Grant were appropriated for expanding access and improving quality for low-income child care. A portion of these funds was transferred to the Child Care and Development Fund to maximize flexibility of program

design. Authorization for emergency action in the expenditure of TANF funds is contained in Act 13 of the 2002 Regular Session of the Louisiana Legislature.

Title 67

SOCIAL SERVICES

Part III. Family Support

Subpart 12. Child Care Assistance

Chapter 51. Child Care Assistance

Subchapter B. Child Care Assistance Program

§5107. Child Care Providers

A. - E. ...

F. 1. Quality incentive bonuses are available to:

a. CCAP eligible Class A providers who achieve and maintain National Association for the Education of Young Children (NAEYC) accreditation. The bonus will be paid once each calendar quarter, and will be equal to 20 percent of all child care payments received during the prior calendar quarter by that provider from the certificate portion of the Child Care and Development Fund;

b. CCAP eligible Family Child Day Care Home (FCDCH) providers who participate in the Department of Education (DOE) Child and Adult Care Food Program. The bonus will be paid once each calendar quarter, and will be equal to 10 percent of all child care payments received during the prior calendar quarter by that provider from the certificate portion of the Child Care and Development Fund.

2. These bonus amounts may be adjusted at the discretion of the Assistant Secretary, based upon the availability of funds.

G.1. - 2. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:357 (February 1998), amended LR 25:2444 (December 1999), LR 26:2827 (December 2000), LR 27:1932 (November 2001), LR 28:349 (February 2002), LR 28:1491 (June 2002), LR 28:

Gwendolyn P. Hamilton
Secretary

0209#070

DECLARATION OF EMERGENCY

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

**TANF Initiatives CAdult Education, Basic Skills Training,
Job Skills Training and Retention Services
(LAC 67:III.5507)**

The Department of Social Services, Office of Family Support, has exercised the emergency provision of R.S. 49:953(B), the Administrative Procedure Act, to amend §5507 effective August 14, 2002. This Emergency Rule will remain in effect for a period of 120 days.

Pursuant to Act 13 of the 2002 Regular Session of the Louisiana Legislature, the Office of Family Support will amend §5507, Adult Education, Basic Skills Training, Job Skill Training and Retention Services Program, to revise language regarding the TANF partner identified in the Memorandum of Understanding (MOU). The agency initially entered into an MOU with the Workforce Commission; however, the MOU now includes the

Louisiana Community and Technical College System as a TANF partner involved in the administration of this initiative. To avoid future amendments to the Code subsequent to altering the TANF partners, language is being revised to be non-specific in regards to whom the Agency contracts with or enters into an MOU.

The authorization for emergency action is contained in Act 13 of the 2002 Regular Session of the Louisiana Legislature.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

**Subpart 15. Temporary Assistance to Needy Families
(TANF) Initiatives**

Chapter 55. TANF Initiatives

**§5507. Adult Education, Basic Skills Training, Job
Skills Training, and Retention Services Program**

A. The Office of Family Support shall enter into Memoranda of Understanding or contracts to create programs to provide adult education, basic skills training, jobs skills training, and retention services to low-income families. Employed participants will be provided child care and transportation services. Unemployed participants will be provided short-term child care and transportation services.

B. - D. ...

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; Act 13, 2002 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:870 (April 2002), LR 28:

Gwendolyn Hamilton
Secretary

0209#006

DECLARATION OF EMERGENCY

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

**TANF Initiatives CAfter-School Tutorial and Summer
Enrichment Programs (LAC 67:III.5531)**

The Department of Social Services, Office of Family Support, has exercised the emergency provision of R.S. 49:953.B, the Administrative Procedure Act, to amend LAC 67:III.5531 effective September 29, 2002. This declaration is necessary to extend the original Emergency Rule of June 1, 2002, since it is effective for a maximum of 120 days and will expire before the final Rule takes effect. (The final Rule will be published in November.)

Pursuant to Act 152 of the 2002 1st Extraordinary Session of the Louisiana Legislature, the department proposes to amend §5531 by incorporating Summer Enrichment Programs into the Temporary Assistance for Needy Families (TANF) Initiative, After-School Tutorial Program. The agency is expanding the original initiative to include educational enhancement programs for school-age children during the summer months or at other times deemed necessary by the department.

Act 152 of the 2002 1st Extraordinary Session of the Louisiana Legislature modifies Act 12 of the 2001 Regular Session of the Louisiana Legislature which contained

authorization for emergency action in implementing the TANF Initiatives.

Title 67
SOCIAL SERVICES

Part III. Office of Family Support

Subpart 15. Temporary Assistance to Needy Families (TANF) Initiatives

Chapter 55. TANF Initiatives

§5531. After-School Tutorial and Summer Enrichment Programs

A. OFS shall enter into a Memorandum of Understanding with the Department of Education to provide after-school tutorial services and summer enrichment programs.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474 and 46:231, and Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:352 (February 2002), LR 28:

Gwendolyn P. Hamilton
Secretary

0209#071

DECLARATION OF EMERGENCY

Department of Social Services
Office of Family Support

TANF Initiatives C Child-Parent
Enrichment Services Program
(LAC 67:III.5561)

The Department of Social Services, Office of Family Support, has exercised the emergency provision of R.S. 49:953(B), the Administrative Procedure Act, to adopt §5561 effective September 1, 2002. This Emergency Rule will remain in effect for a period of 120 days.

Pursuant to Act 152 of the 2002 First Extraordinary Session of the Louisiana Legislature, Act 12 of the 2001 Regular Session of the Louisiana Legislature, and Act 13 of the 2002 Regular Session of the Louisiana Legislature, the Office of Family Support will implement the TANF Initiative, Child-Parent Enrichment Services Program, to further the goals and intentions of the Temporary Assistance for Needy Families (TANF) Block Grant to Louisiana. The Child-Parent Services Program will provide age-appropriate services during the school year, school holidays, before and after school, and the summer months to children at various sites, such as schools, Head Start Centers, churches, and Class A Day Care Centers. Additionally, parents, legal guardians, or caretaker relatives of children may be provided

with parenting and adult/family educational services to pursue their own educational goals or increase their effectiveness as caregivers.

The authorization for emergency action is contained in Act 12 of the 2001 Regular Session of the Louisiana Legislature and Act 13 of the 2002 Regular Session of the Louisiana Legislature.

Title 67
SOCIAL SERVICES

Part III. Office of Family Support

Subpart 15. Temporary Assistance to Needy Families (TANF) Initiatives

Chapter 55. TANF Initiatives

§5561. Child-Parent Enrichment Services Program
Effective September 1, 2002

A. The Department of Social Services, Office of Family Support, shall enter into Memoranda of Understanding or contracts to create quality, early childhood education and parenting programs at various sites, such as schools, Head Start Centers, churches, and Class A Day Care Centers to provide children with age-appropriate services during the school year, school holidays, summer months and before-and-after school and to provide parents, legal guardians, or caretaker relatives of children with parenting and adult/family educational services.

B. Services offered by providers meet the TANF goals to prevent and reduce the incidence of out-of-wedlock births by providing supervised, safe environments for children thus limiting the opportunities for engaging in risky behaviors, and to encourage the formation and maintenance of two-parent families by providing educational services to parents or other caretakers to increase their own literacy level and effectiveness as a caregiver.

C. Eligibility for services is limited to needy families. A needy family is a family in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy (KCSP) grant, Food Stamp benefits, Child Care Assistance Program (CCAP) services, Title IV-E, Medicaid, Louisiana Children's Health Insurance Program (LaCHIP) benefits, Supplemental Security (SSI), Free or Reduced Lunch, or who has earned income at or below 200 percent of the federal poverty level. A needy family consists of minor children, custodial and non-custodial parents, legal guardians, or caretaker relatives of minor children.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 13, 2002 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 29:

Gwendolyn Hamilton
Secretary

0209#013

DECLARATION OF EMERGENCY

Department of Social Services Office of Family Support

TANF Initiatives Substance Abuse Treatment
Program for Needy Families
(LAC 67:III.5563)

The Department of Social Services, Office of Family Support, has exercised the emergency provision of R.S. 49:953.B, the Administrative Procedure Act, to adopt §5563 effective June 1, 2002. This Emergency Rule will remain in effect for a period of 120 days.

Pursuant to Act 12 of the 2001 Regular Session of the Louisiana Legislature, the Office of Family Support will adopt a new TANF Initiative, Substance Abuse Treatment for Needy Families to further the goals and intentions of the Temporary Assistance for Needy Families (TANF) Block Grant to Louisiana.

The authorization for emergency action in the expenditure of TANF funds is contained in Act 12 of the 2001 Regular Session of the Louisiana Legislature and Act 13 of the 2002 Regular Session of the Louisiana Legislature.

Title 67

SOCIAL SERVICES

Part III. Family Support

Subpart 15. Temporary Assistance to Needy Families (TANF) Initiatives

Chapter 55. TANF Initiatives

§5563. Substance Abuse Treatment Program for Needy Families

A. The Office of Family Support shall enter into a Memorandum of Understanding with the Office for Addictive Disorders (OAD) wherein OFS shall fund the cost of substance abuse screening and testing and the non-medical treatment of members of needy families to the extent that funds are available commencing June 1, 2002.

B. These services meet the TANF goal to end the dependence of needy parents on government benefits by providing needy families with substance abuse treatment so that they may become self-sufficient in order to promote job preparation, work, and marriage.

C. Eligibility for services is limited to needy families, that is, a family in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Food Stamp benefits, Child Care Assistance Program (CCAP) services, Medicaid, Louisiana Children's Health Insurance Program (LaChip) benefits, Supplemental Security Income (SSI), Free or Reduced Lunch, or who has earned income at or below 200 percent of the federal poverty level. A needy family includes a non-custodial parent, caretaker relative, or legal guardian who has earned income at or below 200 percent of the federal poverty level.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 13, 2002 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

Gwendolyn Hamilton
Secretary

0209#069

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

2002-2003 Waterfowl Season

In accordance with the emergency provisions of R.S. 49:953.B of the Administrative Procedure Act, and under the authority of R.S. 56:115, the secretary of the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission hereby adopts the following Emergency Rule.

The hunting season for ducks, coots and geese during the 2002-2003 hunting season shall be as follows.

Ducks and Coots: (60 days)

West Zone: November 9-December 8
December 21-January 19

East Zone: (Including Catahoula Lake)
November 16-December 1
December 14-January 26

Pintail Season Dates: (30 days)

West Zone: November 9-December 8
East Zone: November 16-December 1
December 14-December 27

Canvasback Season Closed

Youth Waterfowl Weekend

November 2-3 in West Zone, November 9-10 in East Zone

Daily Bag Limits

The daily bag limit on ducks is 6 and may include no more than 4 mallards (no more than 2 of which may be females), 3 mottled ducks, 1 black duck, 2 wood ducks, 1 pintail (during the specified 30 day season only and during youth hunts), 3 scaup, and 2 redhead. Daily bag limit on coots is 15.

Mergansers

The daily bag limit for mergansers is 5, only 1 of which may be a hooded merganser. Merganser limits are in addition to the daily bag limit for ducks.

Possession Limit

The possession limit on ducks, coots and mergansers is twice the daily bag limit.

Geese: Light Geese (Snow, Blue And Ross') And White-Fronted Geese

Statewide: (86 days) November 2-December 8
December 14-January 31

Daily bag limit on light geese (snow, blue and Ross'): 20
Possession limit on light geese (snow, blue and Ross'): None
Daily Limit on white-fronted geese: 2
Possession Limit on white-fronted geese: 4

Canada Geese

Closed in the Area Described Below

January 18-January 26

Daily Limit on Canada geese: 1
Possession limit on Canada geese: 2

The Canada Goose Season will be open statewide except for a portion of southwest Louisiana. The closed area is described as follows: Beginning at the Texas State Line, proceeding east along Hwy. 82 to the Calcasieu Ship Channel, then north along the Calcasieu Ship Channel to its junction with the Intracoastal Canal, then east along the Intracoastal Canal to its juncture with LA Hwy. 82, then south along LA Hwy. 82 to its juncture with Parish Road 3147, then south and east along Parish Road 3147 to Freshwater Bayou Canal, then south to the Gulf of Mexico, then west along the shoreline of the Gulf of Mexico to the Texas State Line, then north to the point of beginning at LA Hwy. 82.

A special permit shall be required to participate in the Canada Goose Season. A permit is required of everyone, regardless of age, and a non-refundable \$5 administrative fee will be charged. This permit may be obtained from any license vendor.

Conservation Order for Light Geese (Snow, Blue And Ross')

Statewide: December 9-December 13
February 1-March 9

Only snow, blue and Ross' geese may be taken under the terms of the Conservation Order, which allows the use of electronic calls and unplugged shotguns and eliminates the daily bag and possession limits. During the Conservation Order, shooting hours begin one-half hour before sunrise and extend until one-half hour after sunset.

Rails

November 9-January 8

King and Clapper

Daily bag limit 15 in the aggregate, Possession 30

Sora and Virginia

Daily bag and possession 25 in the aggregate

Gallinules

November 9-January 8

Daily bag limit 15, Possession limit 30

Snipe

November 2-December 8

December 14-February 21

Daily bag limit 8, Possession limit 16

Shooting Hours

One-half hour before sunrise to sunset, except at the Spanish Lake Recreation Area in Iberia Parish where shooting hours, including the Conservation Order, end at 2 p.m.

A Declaration of Emergency is necessary because the U.S. Fish and Wildlife Service establishes the framework for all migratory species. In order for Louisiana to provide hunting opportunities to the 200,000 sportsmen, selection of season dates, bag limits and shooting hours must be established and presented to the U.S. Fish and Wildlife Service immediately.

The aforementioned season dates, bag limits and shooting hours will become effective November 1, 2002 and extend through sunset on March 9, 2003.

Thomas M. Gattle, Jr.
Chairman

0209#041

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Deer and Elk Importation (LAC 76:V.117)

In accordance with the emergency provisions of R.S. 49:953.B of the Administrative Procedure Act, and under the authority of LSA Const. Art. IX Sec. 7; LSA 56:6(10), (13) and (15) and 20 and 171 et seq., the Wildlife and Fisheries Commission (LWFC) hereby adopts the following Emergency Rule.

This Emergency Rule is effective September 5, 2002 and shall remain in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final Rule.

The reasons for the promulgation of this Declaration of Emergency are as follows.

Chronic Wasting Disease (CWD) is a neurodegenerative disease that has been found in captive and free-ranging deer and elk herds in nine states. In 1998, the LWFC prohibited importation of white-tailed deer from Wyoming and Colorado, states with endemic CWD in certain populations of free-ranging deer. Since that time, cases of CWD have been found in at least 21 captive deer or elk herds in Colorado, South Dakota, Oklahoma, Nebraska, Montana, Kansas, and the Canadian provinces of Saskatchewan and Alberta. In addition to the CWD cases in captive deer and elk, and those in the CWD endemic area of southeastern Wyoming and north-central Colorado, the disease has been found in free-ranging deer in Nebraska, South Dakota, New Mexico, and Wisconsin. The cases in Wisconsin, found in March 2002, are the first east of the Mississippi River. Recently, CWD has been found in free-ranging deer in western Colorado. These are the first CWD cases found outside of the endemic area in the northeastern part of that state. Several of the CWD outbreaks in wild deer appear to be associated with captive elk herds.

CWD is a poorly understood disease related to other transmissible spongiform encephalopathies such as Bovine Spongiform Encephalopathy (Mad Cow Disease) of cattle, Creutzfeldt-Jakob Disease of humans, and scrapie of sheep. Mutant proteins, called prions, are believed to be the infectious agent responsible for CWD. Current information suggests that the disease is limited to deer and elk, and is not naturally transmitted to livestock or humans. The means by which CWD is transmitted is not known, but it is probably transmitted from animal to animal. Maternal transmission from infected does to fawns is also thought to occur. There is no cure or treatment for CWD, and it is always fatal.

CWD is a particularly difficult disease to detect and control. The incubation period (time from which the animal is infected until it exhibits symptoms) is at least 18 months and may be as long as 35 years. Until symptoms appear,

infected animals appear normal. Symptoms of CWD include weight loss, excessive salivation, depression, dehydration, general weakness, and behavioral changes. There is no live animal test for CWD. Examination of brain tissue from dead animals is the only means of positive diagnosis. The agent that causes CWD is extremely resistant to traditional disinfection techniques. It is not known how long the infectious agent can persist in the soil or other media, but some evidence indicates that the infectious agent can persist for an extended period of time.

Interstate and intrastate movement of infected captive deer and elk can quickly spread CWD beyond those areas where it already occurs. Strong circumstantial evidence suggests that CWD outbreaks in free ranging deer in Colorado, Nebraska, and South Dakota are related to captive elk enclosures.

Trade in captive deer and elk lend itself to the spread of CWD. Deer and elk are frequently transferred from one owner to another. These movements are often from state to state. For example, at least 109 elk movements which occurred during 1982-97, were indirectly or directly traced back to a single CWD positive captive elk herd in Montana. Elk from this herd were sent to at least 12 states and 2 Canadian provinces. Elk from a CWD infected Colorado herd were sent to 19 states and introduced into 45 herds. A CWD outbreak in Saskatchewan, Canada that affected 39 elk herds was traced back to a single elk from South Dakota. Exotic animal auctions are another source of concern. At these auctions, a large number of animals come into contact with each other and then are dispersed across the United States. Accurate and verifiable records of where animals have been, and what animals they have been in contact with, are seldom available. In some states, including Louisiana, captive deer and elk may be introduced into large enclosures containing wild deer. Once introduced into large, often heavily vegetated enclosures, the animals usually cannot be monitored or re-captured. Enclosures are not escape-proof and escapes or fence to fence contact with free ranging wild deer can be expected.

The Louisiana Department of Agriculture and Forestry has licensed approximately 120 alternative livestock farms that average about 12 acres in size and contain an average of about 10-20 deer each. In addition, 15 supplemented hunting preserves that are at least 300 acres each are licensed by LDAF. These supplemented hunting preserve enclosures may contain both released deer and native wild deer. The Louisiana Department of Wildlife and Fisheries licenses about 115 non-commercial game breeders that possess deer. The deer and elk farming industry in Louisiana is small, and as a whole, not highly dependent on imported deer. In 2000, the LDAF issued only 10 importation permits involving 57 deer.

In contrast, recreation associated with wild deer and wild deer hunting has significant economic impact in Louisiana. In 2001, there were approximately 172,000 licensed deer hunters in Louisiana. There were also an undetermined number that were not required to have a license (under age 16 or over age 60). The *1996 National Survey of Fishing, Hunting and Wildlife Associated Recreation* reports that deer hunting in Louisiana has an economic impact of \$603,909,581 per year and provides over 8,500 jobs. Many landowners receive income from land leased for deer

hunting. Recreation has been the driving force maintaining rural and timberland real estate values during the last several years.

The cost of a CWD outbreak in Louisiana could be substantial. State government could incur considerable costs in order to effectively contain and monitor a CWD outbreak. By way of example, the Governor of Wisconsin has estimated that \$22,000,000 will be needed to address the CWD outbreak in that state. The Colorado Division of Wildlife requested \$2,300,000 in FY 2002/03 to address CWD outbreaks in their state.

In addition to the cost to government, the private sector would be affected by a CWD outbreak in Louisiana. Interest in deer hunting would likely decline if significantly lower deer populations result. Additionally, hunter concerns regarding contact with, or consumption of, infected animals could also reduce deer hunting activity. Lower hunting lease values and fewer hunting related retail purchases would therefore be likely. In Wisconsin, Department of Natural Resources personnel report that a significant decline in land value in the CWD affected area has already occurred. A significant reduction in deer hunting activity could also have deleterious effects on agriculture, horticulture, and forestry resulting from increased deer depredation of crops, ornamentals, and trees if the reduction in hunting mortality is not offset by CWD mortality.

The primary means of containing a CWD outbreak involves depopulating an area surrounding the infection site(s). By way of example, Wisconsin Department of Natural Resources personnel and landowners are attempting to kill 25,000 deer in a 374-square mile area for testing. In Colorado, the Division of Wildlife is killing as many deer and elk as possible in a 5-mile radius of the CWD outbreak in western Colorado. These types of depopulation efforts are offensive to wildlife agencies, hunters, and other citizens. However, this is the only available means to control CWD outbreaks in wild free-ranging deer.

In recognition of the CWD threat, and lack of a coordinated eradication/control effort, the United States Department of Agriculture enacted a declaration of emergency in September 2001 to authorize funding of a CWD indemnification and eradication program in the United States. Prohibitions on the importation of deer and elk have been instituted in at least 28 states, including Texas, Mississippi, and Arkansas. Other states have developed rules that require that imported deer and elk must originate from herds that have been certified free of CWD for at least five years. However, because few, if any, herds in the United States can meet that standard, this Rule is effectively an importation prohibition.

In May 2002, the Louisiana Wildlife and Fisheries Commission by Declaration of Emergency and accompanying Notice of Intent, prohibited the importation into, or transport through, Louisiana of deer and elk. However, unless there is an explicit prohibition against the possession of illegally imported deer, and a requirement to maintain adequate documentation of the source of the deer, the effectiveness of the importation rules may be limited. This puts Louisiana's wild deer herd at increased risk for introduction of CWD. Introduction of CWD into Louisiana could have wide-ranging and significant negative impacts on the state's wild deer resources and economy. For these

reasons and those outlined above, the Louisiana Wildlife and Fisheries Commission believes that an immediate prohibition on possession of illegally imported deer and a requirement to maintain documentation of the source of captive deer is warranted.

Title 76

WILDLIFE AND FISHERIES

Part V. Wild Quadrupeds and Wild Birds

Chapter 1. Wild Quadrupeds

§117. Deer and Elk Importation

A. Definitions

Elk or Red Deer Any animal of the species *Cervus elaphus*.

Mule Deer or Black-Tailed Deer Any animal of the species *Odocoileus hemionus*.

White-Tailed Deer Any animal of the species *Odocoileus virginianus*.

B. No person shall import, transport or cause to be imported or transported live white-tailed deer, mule deer, or black-tailed deer (hereinafter "deer"), into or through the state of Louisiana. No person shall import, transport or cause to be imported or transported, live elk or red deer (hereinafter "elk") into or through Louisiana in violation of any Imposition of Quarantine by the Louisiana Livestock Sanitary Board. Any person transporting deer or elk between licensed facilities within the state must notify the Department of Wildlife and Fisheries and provide information as required by the department prior to departure from the source facility and again upon arrival at the destination facility. A transport identification number will be issued upon providing the required information prior to departure. Transport of deer or elk between licensed facilities without a valid transport identification number is prohibited. Notification must be made to the Enforcement Division at 1-800-442-2511. All deer or elk imported or transported into or through this state in violation of the provisions of this ban shall be seized and disposed of in accordance with LWFC and Department of Wildlife and Fisheries Rules and Regulations.

C. No person shall receive or possess deer or elk imported or transported in violation of this Rule. Any person accepting delivery or taking possession of deer or elk from another person has a duty to review and maintain bills of sale, bills of lading, invoices, and all other documents which indicate the source of the deer or elk.

D. This Rule shall be in effect until May 30, 2005.

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Constitution, Article IX, Section 7, R.S. 56:1, R.S. 56:5, R.S. 56:6(10), (13) and (15), R.S. 56:20, R.S. 56:112, R.S. 56:116.1 and R.S. 56:171 et seq.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 24:1140 (June 1998), repromulgated LR 24:1325 (July 1998), amended LR 28:

Thomas M. Gattle, Jr.
Chairman

0209#042

DECLARATION OF EMERGENCY

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

Game Breeder's License (LAC 76:V.107)

In accordance with the emergency provisions of R.S. 49:953.B of the Administrative Procedure Act, and under the authority of LSA Const. Art. IX Sec. 7; LSA 56:6(10), (13) and (15) and 20 and 171 et seq., the Wildlife and Fisheries Commission (LWFC) hereby adopts the following Emergency Rule.

This Emergency Rule is effective September 5, 2002 and shall remain in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final Rule.

The reasons for the promulgation of this Declaration of Emergency are as follows.

Chronic Wasting Disease (CWD) is a neurodegenerative disease that has been found in captive and free-ranging deer and elk herds in nine states. In 1998, the LWFC prohibited importation of white-tailed deer from Wyoming and Colorado, states with endemic CWD in certain populations of free-ranging deer. Since that time, cases of CWD have been found in at least 21 captive deer or elk herds in Colorado, South Dakota, Oklahoma, Nebraska, Montana, Kansas, and the Canadian provinces of Saskatchewan and Alberta. In addition to the CWD cases in captive deer and elk, and those in the CWD endemic area of southeastern Wyoming and north-central Colorado, the disease has been found in free-ranging deer in Nebraska, South Dakota, New Mexico, and Wisconsin. The cases in Wisconsin, found in March 2002, are the first east of the Mississippi River. Recently, CWD has been found in free-ranging deer in western Colorado. These are the first CWD cases found outside of the endemic area in the northeastern part of that state. Several of the CWD outbreaks in wild deer appear to be associated with captive elk herds.

CWD is a poorly understood disease related to other transmissible spongiform encephalopathies such as Bovine Spongiform Encephalopathy (Mad Cow Disease) of cattle, Creutzfeld-Jakob Disease of humans, and scrapie of sheep. Mutant proteins, called prions, are believed to be the infectious agent responsible for CWD. Current information suggests that the disease is limited to deer and elk, and is not naturally transmitted to livestock or humans. The means by which CWD is transmitted is not known, but it is probably transmitted from animal to animal. Maternal transmission from infected does to fawns is also thought to occur. There is no cure or treatment for CWD, and it is always fatal.

CWD is a particularly difficult disease to detect and control. The incubation period (time from which the animal is infected until it exhibits symptoms) is at least 18 months and may be as long as 35 years. Until symptoms appear, infected animals appear normal. Symptoms of CWD include weight loss, excessive salivation, depression, dehydration,

general weakness, and behavioral changes. There is no live animal test for CWD. Examination of brain tissue from dead animals is the only means of positive diagnosis. The agent that causes CWD is extremely resistant to traditional disinfection techniques. It is not known how long the infectious agent can persist in the soil or other media, but some evidence indicates that the infectious agent can persist for an extended period of time.

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The Louisiana Department of Wildlife and Fisheries licenses about 115 non-commercial game breeders that possess deer. These game breeders are usually small, non-commercial operations that keep deer for exhibit or pets. The Louisiana Department of Agriculture and Forestry licenses commercial deer and elk facilities. The deer and elk farming industry in Louisiana is relatively small.

In contrast, recreation associated with wild deer and wild deer hunting has significant economic impact in Louisiana. In 2001, there were approximately 172,000 licensed deer hunters in Louisiana. There were also an undetermined number that were not required to have a license (under age 16 or over age 60). The *1996 National Survey of Fishing, Hunting and Wildlife Associated Recreation* reports that deer hunting in Louisiana has an economic impact of \$603,909,581 per year and provides over 8,500 jobs. Many landowners receive income from land leased for deer hunting. Recreation has been the driving force maintaining rural and timberland real estate values during the last several years.

The cost of a CWD outbreak in Louisiana could be substantial. State government could incur considerable costs in order to effectively contain and monitor a CWD outbreak. By way of example, the Governor of Wisconsin has estimated that approximately \$22,000,000 will be needed over the next 3 years to address the CWD outbreak in that state. The Colorado Division of Wildlife has requested an

additional \$2,300,000 in FY 2002/03 to address CWD outbreaks in their state.

In addition to the cost to government, the private sector would be affected by a CWD outbreak in Louisiana. Interest in deer hunting would likely decline if significantly lower deer populations result. Additionally, hunter concerns regarding contact with, or consumption of, infected animals could also reduce deer hunting activity. Lower hunting lease values and fewer hunting-related retail purchases would therefore be likely. In Wisconsin, Department of Natural Resources personnel report that a significant decline in land value in the CWD affected area has already occurred. A significant reduction in deer hunting activity could also have deleterious effects on agriculture, horticulture, and forestry resulting from increased deer depredation of crops, ornamentals, and trees if the reduction in hunting mortality is not offset by CWD mortality.

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In recognition of the CWD threat, and lack of a coordinated eradication/control effort, the United States Department of Agriculture enacted a declaration of emergency in September 2001 to authorize funding of a CWD indemnification and eradication program in the United States. Prohibitions on the importation of deer and elk have been instituted in at least 28 states including Texas, Arkansas, and Mississippi. Other states have developed rules that require that imported deer and elk originate from herds that have been certified free of CWD for at least 5 years. However, because few, if any, herds in the United States can meet that standard, this Rule is effectively an importation prohibition.

In May 2002, the Louisiana Wildlife and Fisheries Commission by Declaration of Emergency and accompanying Notice of Intent, prohibited the importation into, or transport through, Louisiana of deer and elk. However, CWD infected animals could have entered Louisiana prior to this action, or may have been imported in violation of this action. Continued issuance of new game breeder licenses for deer increases the potential exposure of wild deer to CWD. Allowing captive deer herds to proliferate and expand into new areas of Louisiana increases the opportunity for unwanted contact between wild and captive deer. In the event of a CWD outbreak in Louisiana, the presence of captive deer could hinder CWD control and eradication efforts. For these reasons and those outlined above, the Louisiana Wildlife and Fisheries Commission believes that an immediate prohibition on the issuance of new game breeder licenses for deer is warranted. This prohibition will remain in effect until no longer necessary.

**Title 76
WILDLIFE AND FISHERIES**

Part V. Wild Quadrupeds and Wild Birds

Chapter 1. Wild Quadrupeds

§107. Game Breeder's License

A. - B.7. ...

8. White-Tailed Deer or Other North American Deer

a. Except as specified herein, licenses will not be issued. Licenses will not be issued unless pens are completed and complete applications are received in the Wildlife Division Baton Rouge Office by 4:30 p.m. October 4, 2002. Pens must be inspected before a license will be issued. If at the time of inspection, pens do not meet the requirements of this rule, a license will not be issued and the application will not be reconsidered. Persons with valid licenses issued prior to this prohibition will be "grandfathered" and licenses may be renewed if all requirements are met. Licenses cannot be transferred beyond immediate family (father, mother, brother, sister, husband, wife, son and daughter). A license may be transferred to an immediate family member only if the pen remains in the original location. Qualified zoos, educational institutions and scientific organizations may be exempted on a case by case basis.

b. No license will be issued in metropolitan or urban areas. A rural environment is required to keep these animals. Qualified zoos, educational institutions and

scientific organizations will be exempted on a case by case basis.

c. Single Animal. 5,000 square feet paddock or corral (For example: 50 feet wide by 100 feet long); increase corral size by 2,500 square feet for each additional animal; shelter required. Pen site must be well drained so as to prevent extended periods of standing water.

d. Materials. Chain link or other satisfactory woven wire, 12 gauge minimum, 8 feet high minimum. Welded wire is not acceptable.

e. Licensed game breeders are required to report all deaths of deer to a regional Wildlife Division office within 48 hours of the time of death and preserve the carcass as instructed by the Wildlife Division, but are encouraged to report the death sooner if possible.

B.9. - C.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:171.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 14:631 (September 1988), amended LR 18:1134 (October 1992), LR 21:1355 (December 1995), LR 28:

Thomas M. Gattle, Jr.
Chairman

0209#043