

Notices of Intent

NOTICE OF INTENT

Department of Agriculture and Forestry Agricultural Commodities Commission

Agricultural Commodities (LAC 7.XXVII.128)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Louisiana Agricultural Commodities, hereby proposes to amend regulations regarding an increase in fees for re-grading grain sampling as well as fees to inspect and register moisture meters.

Louisiana is experiencing an unprecedented shortfall in state finances. The legislature has cut the department's budget; therefore, using other department funds is not a continuing option. The fiscal year begins on the first of July. Adoption of these Rules will take place in accordance with the Administrative Procedure Act.

Title 7

Agriculture and Animals

Part XXVII. Agricultural Commodity Dealer and Warehouse Law

Chapter 1. Agricultural Commodities Commission Subchapter E. Assessments and Fees

§128. Fees: Amount, Time of Payment

A. - C.3. ...

4. Official Services (including sampling except as indicated)

Online D/T sampling inspection service (sampling, grading and certification), per regular hour	\$25.00
Overtime hourly rate, per hour	\$40.00
Unit Inspection Fees:	
Hopper Car, per car	\$20.00
Boxcar, per car	\$15.00
Truck/Trailer, per carrier	\$10.00
Barge, per 1,000 bushels	\$ 2.50
Submitted sample inspection	\$12.00
Re-grade grain sample	\$15.00

D. Moisture Meter Registration and Inspection Fee

1. A registration fee of \$20 per meter and an inspection fee of \$40 per meter to be paid by the owner or user of every moisture measuring device used or held for use at any commercial facility which receives, holds, dries, stores, mills, processes or otherwise deals in agricultural commodities in the state, when such use or intended use is for the purpose of determining discounts or other price variances in connection with the purchase or sale of such commodity, said device shall be registered with the Louisiana Department of Agriculture and Forestry.

2. Registration shall be required on or before May 15 of each year or within two business days of acquisition of a new or additional unregistered moisture measuring device for the purpose set forth in Paragraph 1 of this Section. Registration forms will be provided by the department and shall state the name and address of the commercial facility which owns or uses the device, the number of devices used

and held for use, the brand name(s) of the device(s), and such other information as may be deemed necessary to carry out the provisions of this Subchapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR12:287 (May 1986), amended LR 14:528 (August 1988), LR 19:889 (July 1993), LR 23:196 (February 1997), LR 27:815 (June 2001), LR 30:

Family Impact Statement

The proposed amendments to Rules and regulations governing fee costs associated with registration and inspection of moisture meters and grain should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

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

All interested persons may submit written comments on the proposed Rules through, November 26, 2003 to William Boudreaux, Department of Agriculture and Forestry, P.O. Box 3098, Baton Rouge, LA 70821-3098.

Bob Odum
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Agricultural Commodities

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

No implementation costs or savings to state or local governmental units are anticipated. The Louisiana Agricultural Commodities Commission is proposing to amend regulations regarding an increase in fees for re-grading grain sampling as well as fees to inspect and register moisture meters. The fees are based on the cost associated with inspecting and re-grading samples used by the grain industry and to increase fees for registration and inspection of all moisture meters at licensed grain elevators. In the past, the Commission's expenditures related to these services have exceeded collections; therefore, the fee increases are necessary to increase dedicated funds to offset a decrease in state general funds.

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

There is estimated to be a total increase in revenue collections of \$4,600 to the Commodities Commission fund. The increase is based on prior year collections from the total number of moisture meters inspected and grain re-grading samples.

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

The increase in costs to individuals desiring moisture meter inspection will be \$20. The registration fee increases will be \$40 and the fee increase for re-grading of grain samples will be \$15. The total increase will be \$4,600.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed amendments are not anticipated to have a net effect on competition and employment.

Skip Rohrer Robert E. Hosse
Assistant Commissioner General Government Section Director
0310#069 Legislative Fiscal Office

NOTICE OF INTENT

**Department of Agriculture and Forestry
Fertilizer Commission**

Fertilizer Commission Fees (LAC 7.XI.115)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Fertilizer Commission, hereby proposes to amend regulations governing fee costs associated with registration, inspection, testing, regulating, and administering the Fertilizer Law.

Louisiana is experiencing an unprecedented shortfall in state finances. The legislature has cut the department's budget; therefore, using other department funds is not a continuing option. The fiscal year begins on the first of July. Adoption of these Rules will take place in accordance with the Administrative Procedure Act.

**Title 7
AGRICULTURE AND ANIMALS
Part XI. Fertilizers**

Chapter 1. Sale of Fertilizers

§115. Tonnage Reports; Inspection Fees

A. All registrants must file a report of the tonnage and grade of product sold, on forms to be provided by the Fertilizer Commission of the Louisiana Department of Agriculture and Forestry, on the first day of July, the first day of October, the first day of January, and the first day of April of each year.

B. All registrants must grant the Fertilizer Commission of the Department of Agriculture and Forestry the right to examine their records for verification of the tonnage reports filed as required by §115.A.

C. Every guarantor blending or selling fertilizer in small package lots totaling less than 100 tons per year shall pay to the Fertilizer Commission of the Department of Agriculture and Forestry an annual inspection fee of \$100.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1312.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Fertilizer Commission, LR 7:164 (April 1981), amended LR 12:495 (August 1986), LR 30:

Family Impact Statement

The proposed amendments to Rules LAC 7:XI.115 governing fees associated with registration, inspection, testing, regulating, and administering the Fertilizer Law should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

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

All interested persons may submit written comments on the proposed Rules through November 26, 2003 to Dr. Robert Biene, Department of Agriculture and Forestry, P.O. Box 25060, Baton Rouge, LA 70894-5060.

Bob Odum
Commissioner

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

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

No implementation costs or savings to state or local governmental units are anticipated. The Louisiana Fertilizer Commission is proposing to delete references to tonnage fees, since these are prescribed in the law. The law prescribes a fee increase from \$0.70 to \$1 per ton. In the past, the programs expenditures related to these services have exceeded collections; therefore, the fee increase is necessary to increase dedicated funds to offset a decrease in state general funds.

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

There is estimated to be a total increase in revenue collections of \$207,200 to the Fertilizer Commission Fund. This increase in collections was calculated using past year tonnage reports.

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

There will be an increase in costs to companies selling fertilizer in the state of Louisiana. The fee for each ton of fertilizer sold in the state of Louisiana will increase from \$0.75 to \$1 per ton. There will be no additional paperwork as a result of these amendments. This Rule change should have no significant impact on receipts and/or income.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed amendments are not anticipated to have a net effect on competition and employment.

Skip Rohrer Robert E. Hosse
Assistant Commissioner General Government Section Director
0310#068 Legislative Fiscal Office

NOTICE OF INTENT

Department of Agriculture and Environmental Sciences Office of Agriculture and Environmental Sciences

Feed Commission Inspection Fees (LAC 7:XVII.121)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Feed Commission, hereby proposes to amend regulations pertaining to references to the inspection fee since this fee is prescribed in the law. The amounts of the proposed fees for company and label registration are indicated in the attached copies of the rules. These fees are based on the costs associated with registration, inspection, testing, regulating, and administering the Commercial Feed Law.

Louisiana is experiencing an unprecedented shortfall in state finances. The legislature has cut the department's budget; therefore, using other department funds is not a continuing option. The fiscal year begins on the first of July. Adoption of these Rules will take place in accordance with the Administrative Procedure Act.

These Rules are enabled by R.S. 3:1901 and R.S. 3:1892.

Title 7

AGRICULTURE AND ANIMALS

Part XVII. Feed Commission

Chapter 1. Commercial Feeds

Subchapter A. Official Feed Rules and Regulations

§121. Fees

A. Each application for registration with the commission shall be accompanied by a registration fee of \$40.

B. Each registrant filing a label with the commission shall pay to the commission a labeling fee of \$10 per label for one to 50 products, \$8 per label for 51 to 200 products, \$6 per label for 201 or more products.

C. Registration shall expire on the last day of June of each year. An additional \$50 late fee will be charged for renewal registrations filed after the last day of June. A late fee will not be charged on initial registrations or registrations of new products filed after the last day of June.

D. If a registrant had no sales in a given quarter, he must still file a tonnage report and pay a minimum tonnage fee of \$10 for that quarter. A registrant shall keep all records necessary to accurately indicate the tonnage and kind of commercial feed sold and shall permit the commissioner or his authorized representative to examine these records and to verify the statement of tonnage. Tonnage reports shall be made on forms supplied by the commissioner and suitable for providing the necessary tonnage and statistical information. The tonnage reports and inspection fees shall be due and payable on the first day of October, the first day of January, the first day of April and the first day of July. If the report is not filed and payment made within 30 days after the date due, a penalty of 25 percent of the amount due shall be assessed against the registrant. If payment is not made within 30 days after the due date, the amount of fees due, plus the penalty, shall constitute a debt and become the basis of a judgment against the registrant. All information as to the amount of feed sold and business practices of the registrant obtained from tonnage reports or from inspection of records and books shall remain confidential and shall not be revealed

by the commissioner or his employees to the public or to any other person.

E. The inspection fee shall be collected only once on each lot of ingredients. To achieve this end, the following provisions shall apply.

1. No fee shall be paid on a commercial feed if a previous manufacturer has paid the fee.

2. No fee shall be paid on customer-formula feeds of the inspection fee has been paid on the commercial feeds, which are used as ingredients therein.

3. No fee shall be paid on commercial feeds, which are used as ingredients for the manufacture of registered commercial feeds. If the fee has already been paid, credit shall be given for that payment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1901 and 3:1892.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Feed Commission, LR 11:223 (March 1985), amended LR 11:944 (October 1985), LR 30:

Family Impact Statement

The proposed amendments to Rules LAC XI. Chapter 1 pertaining to references to the inspection fee since this fee is prescribed in the law. The amounts of the proposed fees for company and label registration are indicated in the attached copies of the rules. These fees are based on the costs associated with registration, inspection, testing, regulating, and administering the Commercial Feed Law should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

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

All interested persons may submit written comments on the proposed Rules through November 26, 2003 to Dr. Robert Biene, Department of Agriculture and Forestry, P.O. Box 25060, Baton Rouge, LA 70894-5060. No preamble concerning the proposed rules is available.

Bob Odom
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Feed Commission Inspection Fees

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

No implementation costs or savings to state or local governmental units are anticipated. The Louisiana Feed Commission is proposing to delete references to inspection fees, since these are prescribed in the law. The law prescribes an inspection fee increase from \$0.75 to \$1 per ton and in the case of a commercial feed, which is distributed in this state only in packages of 10 pounds or less, the annual fee will change from \$100 to \$200 in lieu of the inspection fee. These fees are based on the cost associated with processing these

registrations. In the past, the programs expenditures related to these services have exceeded collections; therefore, the fee increase is necessary to increase dedicated funds to offset a decrease in state general funds.

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

There will be a total increase in revenue collections of \$296,000 to the Feed Commission Fund. This increase in collections was calculated using past year tonnage reported and the number of companies and labels registered with the Feed Commission.

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

There will be an increase in costs to companies selling feed in the state of Louisiana. The inspection fee for each ton of commercial feed sold in the state of Louisiana will increase from \$0.75 to \$1 per ton. In lieu of an inspection fee, companies previously paying a \$100 specialty fee for selling small packages will now pay a \$200 specialty fee. Commercial feed registration will increase from \$25 to \$40 per company and label fees from \$5 to \$10 per label for 1-50 products, \$4 to \$8 per label for 51-200 labels, and \$3 to \$6 per label for 201 or more labels. There will be no additional paperwork as a result of these amendments. This rule change should have no significant impact on receipts and/or income.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no impact on competition and employment.

Skip Rhorer Robert E. Hosse
Assistant Commissioner General Government Section Director
0310#067 Legislative Fiscal Office

NOTICE OF INTENT

**Department of Agriculture and Forestry
Office of Agricultural and Environmental Sciences
Structural Pest Control Commission**

Structural Pest Control (LAC 7:XXV.117 and 119)

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Structural Pest Control Commission, proposes to amend regulations regarding an increase in fees for each termite contract and wood-destroying insect reports.

The Department of Agriculture and Forestry deems the implementation of these Rules and regulations necessary to fund the operations of the Structural Pest Control Commission. The Commission has recorded deficit spending for the last five years. The yearly shortfalls in revenues were made up from other funds within the Louisiana Department of Agriculture and Forestry. These Rules also allow the department to regulate the structural pest control industry consistently and insure that the state's citizens are getting the services for which they are paying.

Title 7

AGRICULTURE AND ANIMALS

Part XXV. Structural Pest Control

Chapter 1. Structural Pest Control Commission

§117. Obligations of the Licensee

A. - L. ...

M. The fee per termite contract and wood-destroying insect report is \$6 per contract and/or inspection report issued and \$8 for each combination liquid spot and bait and baiting system contract and is due on or before the tenth day of each month.

N. - P. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3302 and R.S. 3:3306.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:327 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:956 (November 1989), LR 21:930 (September 1995), LR 23:855 (July 1997), LR 26:2437 (November 2000), LR 30:

§119. Contracts for Termite Control Work

A. - E. ...

F. The licensee shall pay a \$6 fee for each standard contract and shall pay an \$8 fee for each combination contract for liquid spot and bait and baiting system treatments reported under §119.E above when the required monthly report is filed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3302 and R.S. 3:3306.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:328 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:957 (November 1989), LR 26:2437 (November 2000), LR 27:1179 (August 2001), LR 27:2084 (December 2001), LR 28:1171 (June 2002), LR 30:

Family Impact Statement

The proposed amendments to Rules 7:XXV.117 and 119, regarding minimum specifications for use of termite bait and baiting systems should not have any known or foreseeable impact on any family as Defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

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

A public hearing will be held on these Rules on November 25, 2003 at 10 a.m. at the address listed below. Interested persons should submit written comments on the proposed Rules through December 1, 2003 to Bobby Simoneaux, 5825 Florida Blvd., Baton Rouge, LA 70806. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing, at the hearing.

Bob Odom
Commissioner

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

RULE TITLE: Structural Pest Control

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

No implementation costs or savings to state or local governmental units are anticipated. The Structural Pest Control

Commission is proposing to increase fees to fund the operations of the Structural Pest Control Commission. The amount proposed is an increase to \$1 for each termite contract and wood-destroying insect report. In the past, the programs expenditures related to these services have exceeded collections; therefore, the fee increase is necessary to increase dedicated funds to offset a decrease in state general funds.

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

There is estimated to be a total increase in revenue collections of \$70,000 to the Structural Pest Control Commission Fund. The increase in collections was calculated using a \$1 increase for an estimated 35,000 termite contracts and 35,000 wood-destroying insect reports for an increase of \$70,000.

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

There will be an increase in costs to individuals for termite contracts and wood-destroying insect reports. The costs to affected persons is a \$1 increase for an estimated 35,000 termite contracts and 35,000 wood-destroying insect reports for an increase of \$70,000.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed amendments are not anticipated to have a net effect on competition and employment

Skip Rohrer Robert E. Hosse
 Assistant Commissioner General Government Section Director
 0310#073 Legislative Fiscal Office

NOTICE OF INTENT

**Department of Agriculture and Forestry
 Office of Forestry**

**Indian Creek Recreation Area User Fees
 (LAC 7:XXXIX.501)**

In accordance with R.S.49:950 et seq., the Administrative Procedures Act, notice is hereby given that the Department of Agriculture and Forestry, Office of Forestry, intends to amend LAC 7:XXXIX.501, Indian Creek Recreation Area, Usage Fees. The proposed Rule provides for an increase in some of the fees charged to users of the Indian Creek Recreation Area, which is located on the Alexander State Forest near Woodworth, Louisiana. These fee increases are necessary to cover the increased cost of operation of the park.

This Rule complies with and is enabled by Act 591 of 1970.

**Title 7
 AGRICULTURE AND ANIMALS
 Part XXXIX. Forestry**

**Chapter 5. Indian Creek Recreation Area
 §501. Usage Fees**

A. The Department of Agriculture and Forestry, Office of Forestry, hereby announces the following usage fee revisions.

4. Primitive Campsite	\$ 8/day
5. Pavillion Rental	\$ 50/day
6. Boat Launch	\$ 3/boat
7. 30-day Off-Season Rate for Regular Campsite (Oct.-Feb. only)	\$210/month
8. 30-day Off-Season Rate for Pull-through Campsite (Oct.-Feb. only)	\$270/month

AUTHORITY NOTE: Promulgated in accordance with Act 591 of 1970.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Forestry, and the Louisiana Forestry Commission, LR 6:734 (December 1980), amended LR 11:1178 (December 1985), amended by the Department of Agriculture and Forestry, Office of Forestry, LR 17:476 (May 1991), LR 23:553 (May 1997), LR 30:

Family Impact Statement

The proposed amendment to Rule Title 7, Part XXXIX. Chapter 3 regarding fee increases necessary to cover the increased cost of operation of the park should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

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

Interested persons should submit written comments on the proposed Rules to Charles Mathern through the close of business on November 26, 2003 at P.O. Box 1628, Baton Rouge, LA, 70821 (5825 Florida Blvd, Baton Rouge). A public hearing will be held on these Rules on November 26, 2003 at 9:30 a.m. at the address listed above. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing, at the hearing. No preamble regarding these Rules is necessary.

Bob Odom
 Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
 FOR ADMINISTRATIVE RULES
 RULE TITLE: Indian Creek Recreation Area User Fees**

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

Implementation of this Rule will result in an increase in self-generated state revenue of approximately \$42,374 per year, which is needed to provide for the operation and maintenance of the recreation area on which the user fees are collected. There will be no mandatory fiscal impact on local government units from the implementation of the proposed Rule.

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

This Rule will result in an increase of approximately \$42,374 in self-generated revenue for the Office of Forestry, based on activity at Indian Creek Recreation Area in FY 01-02.

1. Entrance Fee (Day Use)	\$3 per Vehicle with up to Six Occupants. Additional \$0.50 per Person for Additional Occupants.
2. Regular Campsite	\$ 14/day
3. Pull-Through Campsite	\$ 18/day

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

Users of Indian Creek Recreational Area will be affected by the proposed action. Those individuals who rent the facilities included in the fee increase proposal would pay the additional amounts.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The additional funds collected will be spent on local labor and at local business who supply items used by this recreation area. Improved recreation facilities will benefit tourism and should have a positive effect on employment and income in the area.

Skip Rhorer
Assistant Commissioner
0310#060

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Agriculture and Forestry
Office of Forestry**

Tree Seedling Prices
(LAC 7:XXXIX.301)

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Office of Forestry, proposes to amend rules and regulations regarding tree seedling prices.

The Office of Forestry nursery operations are an ancillary budget operation and all production and operating costs must be covered entirely by revenue generated from seedling sales. Seedling prices are set to reflect, as closely as possible, a break-even pricing structure. The proposed changes to the seedling prices are designed to bring sales revenue in line with production costs and to establish an efficient and organized pricing structure that is consistent with tree seedling marketing in the state and the region.

These rules comply with and are enabled by R.S. 3:4303.

**Title 7
AGRICULTURE AND ANIMALS
Part XXXIX. Forestry**

Chapter 3. Tree Seedlings

§301. Seedling Prices

A. The Louisiana Forestry Commission adopts the following prices for forest tree seedlings.

Improved Pine Seedlings	\$ 35 per 1000 seedlings
Advanced Generation Seedlings	\$ 42 per 1000 seedlings
Special Pine Seedlings	\$ 75 per 1000 seedlings
Hardwood Seedlings	\$200 per 1000 seedlings
Baldcypress Seedlings	\$200 per 1000 seedlings

B.1. Volume discounts for bulk loblolly/slash pine seedling orders and contracts shall be as follows.

Order/Sales Volume (Number of Seedlings)	Proposed Discounted Sales (M = 1,000 Seedlings)
-1,000,000	\$35.00/M
1,000,001-2,000,000	\$34.00/M
2,000,001-3,000,000	\$33.00/M
3,000,001-4,000,000	\$32.00/M
4,000,001-5,000,000	\$31.00/M

5,000,001-6,000,000	\$30.00/M
6,000,001+	\$29.00/M

The Office of Forestry seed costs shall be deducted from these prices when seedlings are produced from seed supplied by the Customers.

2. When there is a surplus of seedlings above planned or expected sales, a more accelerated rate of price reductions will be considered, subject to the approval of the State Forester and/or the Commissioner of Agriculture and Forestry.

3. This accelerated rate of discount will be applied no earlier than 30 days prior to the anticipated end of the annual lifting season.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1503, redesignated R.S. 3:4303.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Forestry, Forestry Commission, LR 8:285 (June 1982), amended LR 10:468 (June 1984), amended by the Louisiana Department of Agriculture and Forestry, Office of Forestry, and the Louisiana Forestry Commission LR 13:432 (August 1987), LR 19:610 (May 1993), LR 21:671 (July 1995), LR 22:1210 ((December 1996), LR 26:2437 November 2000).

Family Impact Statement

The proposed amendment to Rule Title XXXIX.Chapter 3 regarding tree seedling prices should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

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

Interested persons should submit written comments on the proposed Rules to Charles Mathern through the close of business on November 26, 2003 at P.O. Box 1628, Baton Rouge, LA, 70821 (5825 Florida Blvd., Baton Rouge). A public hearing will be held on these Rules on November 26, 2003 at 9:30 a.m. at the address listed above. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing, at the hearing. No preamble regarding these Rules is necessary.

Bob Odom
Commissioner

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

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

No implementation costs or savings to state or local governmental units are anticipated. The amendment of these Rules and regulations is necessary to assure that the agency's nursery operations continue to generate the revenue necessary to operate on a fiscally sound basis. The agency's nursery operations are funded entirely from self-generated seedling sale revenue. This action is proposed so that the selling price of

seedlings will sufficiently cover the production costs of those seedlings. In the past, the programs expenditures related to these services have exceeded collections; therefore, the fee increase is necessary to increase dedicated funds to offset a decrease in state general funds.

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

The proposed Rule increases the prices for hardwood seedlings from \$185 per thousand to \$200 per thousand. Annual sales of hardwood in 2002 were approximately 2,440,000 seedlings. If future sales and production equal those of recent years, Office of Forestry revenue would increase by approximately \$38,000.

The proposed Rule also increases the prices for Pine Seedlings according to the following schedule.

Superior Loblolly Pine	from \$ 32/M	to \$ 35/M
Long Leaf Pine	from \$ 52/M	to \$ 75/M
Spruce Pine	from \$ 52/M	to \$ 75/M
Virginia Pine	from \$ 52/M	to \$ 75/M
Baldcypress	from \$ 185/M	to \$ 200/M

Annual sales of pine seedlings approximately 24,261,000 seedlings. If future sales and production equal those of recent years, Office of Forestry revenue would increase by approximately \$85,000.

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

Customers who purchase pine and hardwood seedlings from the Office of Forestry would pay the additional costs for the seedlings.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed amendments are not anticipated to have a net effect on competition and employment.

Skip Rhorer
Assistant Commissioner
0310#066

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Agriculture and Forestry
Office of the Commissioner**

**Meat and Poultry Inspections
(LAC 7:XXXIII.101)**

In accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Office of the Commissioner, proposes to amend regulations regarding the Meat and Poultry Inspection Program.

The proposed changes will adopt Title 9, Chapter III A, of the *Code of Federal Regulations* and Subchapter E, of the *Code of Federal Regulations*: 416 Sanitation, 417 Hazard Analysis and Critical Control Point (HACCP) Systems, 500 Rules of Practice. The proposed regulations will also remove all references to the word "Permit" and replaces it with the word "License" and removes references to "Handbook 191" and all references to Blueprints submissions and replaces those with the statement "latest addition of the Code of Federal Regulations."

These rules are enabled by R.S. 3:4222 and R.S. 3:4232.

Title 7

AGRICULTURE AND ANIMALS

Part XXXIII. Meat and Poultry Inspections

Chapter 1. Meat and Poultry Inspection Program

§101. Adoption of Federal Meat and Poultry

Inspection Regulations

A. The Louisiana Cooperative Federal/State Meat and Poultry Inspection Program will be governed by the rules and regulations contained in the Meat and Poultry Inspection Regulations of the Meat and Poultry Inspection Program of the U.S. Department of Agriculture, in effect as of the effective date of these regulations and all subsequent changes.

1. Meat and Poultry Inspection Regulations: Title 9, Chapter III, Subchapter A, *Code of Federal Regulations*.

2. Regulatory requirements under Federal Meat Inspection Act and Poultry Products Inspection Act: Title 9, Chapter III, Subchapter E, *Code of Federal Regulations*: 416 Sanitation, 417 Hazard Analysis and Critical Control Point (HACCP) Systems, 500 Rules of Practice

B. The Louisiana Cooperative Federal/State Meat and Poultry Inspection Program will be governed by the requirements in the latest addition of the Code of Federal Regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4222 and R.S. 3:4232.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Management and Finance, LR 6:708 (December 1980), amended by the Louisiana Department of Agriculture and Forestry, Office of Animal Health Services, LR 30:

Family Impact Statement

The proposed amendments to Title 7, Part XXXIII, §101 regarding the Meat and Poultry Inspection Program should not have any known or foreseeable impact on any family as defined by R. S. 49:972.D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

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

All interested persons may submit written comments on the proposed Rules through November 26, 2003, to Mike Windham, Department of Agriculture and Forestry, 5825 Florida Blvd., Baton Rouge, Louisiana 70806. All interested persons will be afforded an opportunity to submit data, views or arguments in writing at the address above. No preamble concerning the proposed Rules is available.

Bob Odum
Commissioner

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

RULE TITLE: Meat and Poultry Inspections

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

No implementation costs or savings to state or local governmental units are anticipated.

The proposed changes will adopt Title 9, Chapter III A, of the Code of Federal Regulations and Subchapter E, of the Code of Federal Regulations: 416 Sanitation, 417 Hazard Analysis and Critical Control Point (HACCP) Systems, 500 Rules of Practice. The proposed regulations will remove all reference to the word "Permit" and replaces it with the word "License" and removes references to "Handbook 191" and all references to Blueprints submissions and replaces those with the statement "latest addition of the Code of Federal Regulations".

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

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

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

There are no anticipated costs and/or economic benefits to affected persons or non-governmental groups as facilities are already conducting the inspection system as mandated by "equal to" provisions already established in the law.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed amendments are not anticipated to have an effect on competition and employment.

Skip Rhorer Robert E. Hosse
Assistant Commissioner General Government Section Director
0310#070 Legislative Fiscal Office

NOTICE OF INTENT

**Department of Agriculture and Forestry
Office of the Commissioner**

**Pesticide Testing Fees
(LAC 7:XXIII.131)**

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Advisory Commission on Pesticides, proposes to amend regulations regarding pesticide testing fees.

These Rules and regulations are necessary to conform to state statute and fund the operations of the Division of Pesticides and Environmental Programs. The fiscal year begins on the first of July. Adoption of permanent Rules will be in accordance with the Administrative Procedure Act. However, this process takes several months to complete.

These Rules are enabled by R.S. 3:3202, R.S. 3:3221, R.S. 3:3222 and R.S. 3:3251.

Title 7

AGRICULTURE AND ANIMALS

Part XXIII. Pesticide

Chapter 1. Advisory Commission on Pesticides

Subchapter G. Fees

§131. Fees

A. Fees required under the Louisiana Pesticide Law to be adopted by regulation are established as:

Special Local Need Registration Application Fee	\$100
Examination Fees (for each exams' Private Applicator exempt)	
In Baton Rouge	\$ 25
At Meeting outside Baton Rouge	\$ 25
At District Offices	\$ 50
Duplicate Licenses and/or Certification Cards	Same as Original
Requested Lists and Copies	Postage + minimum of \$1 or Postage + \$0.25 /page

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203, R.S. 3:3221, R.S. 3:3222 and R.S. 3:3251.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 10:194 (March 1984), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 15:76 (February 1989), LR 24:281 (February 1998), LR 30:

Family Impact Statement

The proposed amendments to Rules LAC XXIII regarding pesticide registration, certification and testing fees. These regulations should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

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

A public hearing will be held on these Rules on November 25, 2003 at 9 a.m. at the address listed below. Interested persons should submit written comments on the proposed Rules to Bobby Simoneaux through December 1, 2003 at 5825 Florida Blvd., Baton Rouge, LA 70806. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing, at the hearing. No preamble regarding these Rules is available.

Bob Odom
Commissioner

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

RULE TITLE: Pesticide Testing Fees

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

No implementation costs or savings to state or local governmental units are anticipated. The Louisiana Department of Agriculture and Forestry proposes to amend regulations regarding testing fees to conform to state statute and fund the operations of the Division of Pesticides and Environmental Programs. There will be an increase in costs to individuals for examination testing of \$10,500. The testing fee increase of \$15 per test for individuals testing in Baton Rouge, \$10 per test for individuals testing in meetings and \$30 per test for individuals testing in the District Offices. In the past, the programs expenditures related to these services have exceeded

19. Bracted Plantain (<i>Plantago aristata</i>)	300 per lb.
20. Buckhorn Plantain (<i>Plantago lanceolata</i>)	300 per lb.
21. Cheat (<i>Bromus secalinus</i>)	300 per lb.
22. Hairy Chess (<i>Bromus commutatus</i>)	300 per lb.
23. Corncockle (<i>Agrostemma githago</i>)	300 per lb.
24. Darnel (<i>Lolium temulentum</i>)	300 per lb.
25. Dock (<i>Rumex spp.</i>)	300 per lb.
26. Horsenettle (<i>Solanum carolinense</i>)	300 per lb.
27. Purple Nightshade (<i>Solanum elaeagnifolium</i>)	300 per lb.
28. Sheep Sorrel (<i>Rumex acetosella</i>)	300 per lb.
29. Morning Glory (<i>Ipomoea spp.</i>)	18 per lb.
30. Wild Poinsettia (<i>Euphorbia heterophylla, E. dentate</i>)	18 per lb.
31. Wild Mustard and Wild Turnips (<i>Brassica spp.</i>)	300 per lb.
32. Hemp Sesbania, Coffee Bean, Tall Indigo (<i>Sesbania exaltata</i>)	300 per lb.
33. Curly Indigo (<i>Aeschynomene virginica</i>)	300 per lb.
34. Mexican Weed (<i>Caperonia castaneaefolia</i>)	300 per lb.
Sum of Total Noxious Weed Seed (Subject to limitation above)	500 per lb.

B. Noxious weed seeds are permitted in seed to be certified, within the limitations specified in §145.A, unless prohibited or otherwise limited under the specific rules for the crop or variety entered for certification. (See §§155-221 for limitations on each noxious weed for each crop or variety.)

C. Limitations on noxious weeds (in the field or in seed to be certified), may be more restrictive for a particular crop or variety to be certified than the limitations shown in §145.A above. The limitation on noxious weeds stated in §§155-221 shall supersede the limitations shown in §145.A whenever a more restrictive limitation is stated in the specific requirements for the crop or variety.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1431 and R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:566 (November 1982), amended LR 9:197 (April 1983), LR 12:825 (December 1986), LR 14:605 (September 1988), LR 23:1283 (October 1997), LR 30:

Family Impact Statement

The proposed amendments to Title 7 Part XIII. §109, §145 regarding List and Limitations of Noxious Weed Seed, Noxious Weeds should not have any known or foreseeable impact on any family as defined by R. S. 49:972 D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

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

All interested persons may submit written comments on the proposed Rules through November 26, 2003, to Eric Gates, Department of Agriculture and Forestry, 5825 Florida Blvd., Baton Rouge, Louisiana 70806. All interested persons will be afforded an opportunity to submit data, views or arguments in writing at the address above. No preamble concerning the proposed Rules is available

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Tropical Soda Apple and Noxious Weed Seeds

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

There is estimated to be no implementation costs or savings to state or local governmental units. The Louisiana Seed Commission is proposing to include Tropical Soda Apple (*Solanum viarum* Dunal) as a prohibitive noxious weed into the List and Limitations of Noxious Weed Seed and Noxious Weeds. Tropical soda apple is a prohibitive noxious weed in the Federal Seed Act. There are currently seed lots (bahiagrass and jointvetch) coming out of Florida contaminated with TSA. These amendments will allow us to take regulatory action if found in our regulatory sampling.

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

There will be no increase in revenue collections of state or local government units.

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

There will be no increase in costs or economic benefits to affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

These proposed amendments will have no effect on competition and employment.

Skip Rhorer
Assistant Commissioner
0310#071

Robert E. Hosse
General Governor Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746C Louisiana Standards for State Certification of School Personnel

Louisiana Definition of Highly Qualified Teachers and Paraprofessionals (LAC 28:I.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to *Bulletin 746C Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903.A. This policy outlines a Louisiana definition for highly qualified teachers and highly qualified paraprofessionals, as required by the No Child Left Behind Act of 2001.

Title 28

EDUCATION

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

§903. Teacher Certification Standards and Regulations Bulletin 746

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 1:183 (April 1975), LR 1:311 (July 1975), LR 1:399 (September 1975), LR 1:541 (December 1975), amended LR 28:760 (April 2002), LR 28:763 (April 2002), LR 28:765 (April 2002), LR 28:990 (May 2002), LR 30:

* * *

State of Louisiana Highly Qualified Teacher Requirements Background Information

The requirement that teachers be highly qualified applies to any public elementary, middle, or secondary school teacher. The Louisiana Department of Education (LDE) is the state agency/entity responsible for prescribing qualifications and providing for the certification of teachers under authority of (R.S. 17:7.1).

The Louisiana Department of Education is collaborating with the Board of Elementary and Secondary Education and the Board of Regents on state activities under No Child Left Behind (NCLB) Act of 2001 related to "highly qualified teachers."

Timeline

All teachers hired on or after the first day of the 2002-2003 school year to work in programs supported by Title I funds and who teach core academic subjects must be highly qualified. All teachers of core academic subjects must meet highly qualified status by the end of the 2005-2006 school year.

Statutory Requirements for Certification

To obtain initial Louisiana certification, one must hold at least a baccalaureate degree, have earned a minimum grade point average of a cumulative 2.50, and have demonstrated subject knowledge and teaching skills in the certification area by passing rigorous exams required in Louisiana.

Academic Major

In the State of Louisiana, for the purpose of NCLB, teachers who completed an academic content major are highly qualified in that content area.

Advanced Certification

For the purpose of NCLB, advanced certification is defined as having a master's degree or higher degree in the content area. Teachers qualifying as highly qualified under this option must meet all applicable state laws.

Advanced Credentialing

Advanced credentialing has been defined as successful completion of a rigorous credentialing process that is based on a high objective uniform standard. The National Board of Professional Teaching Standards uses a process for certifying its candidates that meets this standard.

Applicability

The requirement that "all" teachers be highly qualified applies to "all public elementary and secondary school teachers" assigned to core academic subjects. Special education teachers, including teachers who teach students identified as "academically gifted," who are providing instruction in core academic subjects must meet the "highly qualified" requirements of the ESEA.

Core Academic Subjects

Core academic subjects have been defined in the mandate as English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography. States may decide which arts courses will be considered as core academic subjects.

Standard Teaching Certificates

The State of Louisiana currently issues different standard teaching certificates to persons who have completed a state-approved teacher education program (through a traditional or alternate approach) and who earned a degree from a regionally accredited institution of higher education or an approved private provider. The type and a brief description of each standard license follow.

Out of State Certificate—Issued to a teacher certified in another state who meets all requirements for a Louisiana certificate, except for the PRAXIS examinations. Teacher must demonstrate subject matter competency by taking and passing the rigorous state academic subject test (PRAXIS) in each of the content areas in which he/she is seeking certification; *or*, the teacher must provide evidence of at least four years of successful teaching experience in another state, complete one year of employment as a teacher in Louisiana public school systems, and secure the recommendation of the local superintendent of the employing school system for continued employment.

Level 1 Professional Certificate—After July 1, 2002, issued to teachers who complete a state approved teacher preparation program (traditional or alternative path), demonstrate subject matter competency by taking and passing the rigorous state academic subject test (PRAXIS) in each of the content areas in which he/she is seeking certification, and who are recommended by an accredited college/university to receive a Level 1 Professional Certificate; *or*

Teachers seeking alternate certification must complete an approved Practitioner Teacher or other alternate program, pass PRAXIS, and be recommended by the alternate program provider to receive a Level 1 Professional Certificate; *or*

Teacher must meet the requirements of an out-of-state certified teacher.

A teacher may hold a Level 1 certificate for three (3) years in his/her career, with the possibility of one three-year extension of the certificate under specified circumstances.

Level 2 Professional Certificate—Teachers with a Level 1 Professional Certificate must successfully complete the Louisiana Teacher Assistance and Assessment Program and teach for three years in an area of certification to receive a Level 2 Professional Certificate. Teachers must complete 150 continuing learning units (CLUs) of professional development over a five (5) year time period in order to renew a Level 2 Professional License.

Level 3 Professional Certificate—Teachers with a Level 1 or Level 2 Certificate are eligible for a Level 3 Certificate if they complete a master's degree, teach for five years in an area of certification, and successfully complete the Louisiana Teacher Assistance and Assessment Program. Teachers must complete 150 continuing learning units (CLUs) of professional development over a five (5) year time period in order to renew a Level 3 Professional License.

Type C Certificate—Type C certificates were issued prior to July 1, 2002. Persons who received the Type C certificate prior to July 1, 2002, are able to continue in the track leading to permanent licensure. Teachers were issued this license after successful completion of an approved undergraduate or alternate teacher education program, passing the required licensing exams for the area of certification, and receiving

the recommendation of an accredited college/university to receive a Type C Certificate.

Type B Certificate—Candidates currently holding Type B certificates will continue to hold these certificates, which are valid for life provided the holder does not allow any period of five or more consecutive years of disuse to accrue and/or the certificate is not revoked by the State Board of Elementary and Secondary Education, acting in accordance with law. To receive a Type B certificate, teachers holding a Type C certificate must successfully complete the Louisiana Teacher Assistance and Assessment Program and teach for three years in an area of certification.

Type A Certificate—Candidates currently holding Type A certificates will continue to hold these certificates, which are valid for life provided the holder does not allow any period of five or more consecutive years of disuse to accrue and/or the certificate is not revoked by the State Board of Elementary and Secondary Education, acting in accordance with law. To receive a Type A certificate, teachers holding a Type C or Type B certificate must earn a master's degree, successfully complete the Louisiana Teacher Assistance and Assessment Program, and teach for five years in an area of certification.

Practitioner License

The State of Louisiana issues four different practitioner teacher licenses to persons who are enrolled in a state-approved teacher education alternate program. Because these alternate routes to certification meet the requirements established in the federal mandate, teachers who meet criteria for enrollment in the alternate program are identified as "highly qualified."

The type of practitioner license corresponds to the alternate program type, as follows:

Practitioner License 1—Practitioner Teacher Program

Practitioner License 2—Non-Master's/Certification Only Program

Practitioner License 3—Master's Degree Certification Program

Practitioner License 4—Candidates not in a new alternate program who have at least a 2.50 grade point average, passed the Praxis Pre-Professional Skills Tests (PPSTs) and the Praxis content-specialty exam (or accumulated 31 semester hours of coursework in the specific content area of certification), but still lack full requirements for certification.

Nonstandard Teaching Certificates

The State of Louisiana currently issues three non-standard, temporary certificates. Teachers holding a temporary certificate do not meet the NCLB definition of "highly qualified teacher" because they have not demonstrated

subject matter competency under the No Child Left Behind legislation. The nonstandard certificate types and descriptions follow.

Temporary Authority to Teach—issued to an individual who graduates from a teacher preparation program but does not pass PRAXIS, or to an individual with a non-education degree who does not pass PRAXIS and is enrolled or must enroll in an alternate program leading to certification.

Out-of-Field Authorization to Teach—issued to an individual who holds a Louisiana teaching certificate but is teaching outside of the certified area.

Temporary Employment Permit—issued to an individual who meets all certification requirements with the exception of passing one NTE examination but scores within ten percent of the composite score required for passage, or who has not passed all required Praxis exams but has an aggregate score equal to or above the total required on all tests.

Technical Assistance And Support

The Louisiana Department of Education will provide technical assistance and support to local education agencies to ensure that the state is faithful in the implementation of the NCLB mandate. Technical assistance and support will include, but will not be limited to, the following:

Providing each candidate on a temporary license with a "feedback sheet": The Certification Specialists and Certification Counselors who receive the requests evaluate the transcripts (if available) and prepare feedback sheets. NOTE: The feedback sheets are prepared based on the information submitted to the state by the district representative.

Monitoring of certification folders: A monitoring plan is currently being developed.

Collaborating with the Board of Regents (BOR) and college/university personnel to discuss ways that college/university programs might assist the state by addressing the areas of need (e.g., if special education severe profound programs are needed in certain areas of the state, SDE staff will collaborate with university personnel and BOR to facilitate provision of such a program).

Prescribing the shortest route to certification: This activity is handled at the state level by the certification specialists and at the local level by the certification counselors.

Recruiting candidates to pursue teaching as a career, using a two-pronged approach: (a) a human resources component, through the regional certification counselors; and (b) a technological component through the Teach Louisiana website at www.teachlouisiana.net.

Highly Qualified Teacher in Louisiana New to the Profession

Overall	Elementary	Middle School	Secondary
Holds a certificate to teach in Louisiana (at least a Type C or Level 1 certificate, an Out-of-State certificate, or a Practitioner License); and	Holds elementary school education certificate, a special education certificate that includes elementary school grades, or a special foreign language certificate to teach a specific foreign language in grades K-8; and	Holds middle school education certificate; middle school math, English/ language arts, science, or social studies; a special education area that includes middle school grades; a secondary academic content area; or special foreign language certificate to teach a specific foreign language in grades K-8; AND	Holds certificate for every core academic subject the individual teaches; and
Has the equivalent of an academic major; or		Has the equivalent of an academic major in a content area appropriate to the middle school level, for every core academic subject the individual teaches; OR	Has the equivalent of an academic major for every core academic subject the individual teaches; or
Has passed the Louisiana licensing content-specific Praxis exam; or	Has passed the Louisiana content-specific elementary education licensing exam; and	Has passed the Louisiana subject-specific licensing exam required for a middle school academic content area or for a secondary (grades 7-12) academic content area that is appropriate to the middle school level, for every core academic subject the individual teaches; or	Has passed the Louisiana subject-specific licensing exam for every core academic subject the individual teaches; or
Has earned a master's degree in the content area in which he or she teaches; and		Has earned a master's degree in a pure content area (not in education) for every core academic subject the individual teaches; and	
Does not presently have certification or licensure requirements waived on an emergency, temporary, or provisional basis.			

Highly Qualified Teacher in Louisiana

"Not New" Elementary Teacher	
1	Holds elementary school education certificate, a special education certificate that includes elementary school grades, or a special foreign language certificate to teach a specific foreign language in grades K-8; and
2	Does not presently have certification or licensure requirements waived on an emergency, temporary, or provisional basis; and
3	Has passed the Louisiana content-specific elementary education licensing exam; or
4	Holds a valid National Board for Professional Teaching Standards (NBPTS) certification in early childhood, middle childhood, or in a content area basic to the elementary school (e.g., Early Language Arts, Early Mathematics) and is teaching in the NBPTS area of certification; OR
5	Has at least 12 semester hours of credit in each of the four core disciplines (English/language arts, including reading and writing; math; science; and social studies); or
<p>QUALIFIES UNDER</p> <p>High Objective Uniform State Standard of Evaluation (HOUSSE)</p> <p>For NOT NEW ELEMENTARY TEACHERS</p> <p>(By School Year 2005-2006)</p> <p>A "not new" teacher who does not meet the requirements of paragraphs number 3, 4, or 5 above is considered highly qualified if he/she is state certified and teaching in the area of certification and if he/she completes ninety (90) Continuing Learning Units (CLUs) by the end of 2005-2006.</p> <p>*A Continuing Learning Unit (CLU) is a professional development activity that builds capacity for effective, research-based, content focused teaching and learning that positively impacts student achievement. The Louisiana Professional Development Guidance will be used to define the 90 continuing learning units.</p>	

Highly Qualified Teacher in Louisiana

"Not New" Middle School Teachers		"Not New" Secondary School Teachers
1	Holds a valid teaching certificate appropriate for grades 6-8 (e.g., Elementary Education 1-8, Upper Elementary Education 58, Middle School Education); a special education area that includes middle school grades; a secondary academic content area; or special foreign language certificate to teach a specific foreign language in grades K-8; and	Holds certificates for every core academic subject the individual teaches; and
2	Does not presently have certification or licensure requirements waived on an emergency, temporary, or provisional basis; and	Does not presently have certification or licensure requirements waived on an emergency, temporary, or provisional basis; and
3	a) Has passed Louisiana subject-specific licensing exam required for a middle school academic content area or for a secondary (grades 7-12) academic content area that is appropriate to the middle school level, for every core academic subject the individual teaches; or b) Has the equivalent of an academic major in a content area appropriate to the middle school level, for every core academic subject the individual teaches; OR c) Has earned a master's degree in a pure content area (not in education) for every core academic subject the individual teaches; or d) Holds a valid National Board for Professional Teaching Standards (NBPTS) certification in a core content area and is teaching in the NBPTS area of certification; or	a) Has passed the Louisiana subject-specific licensing exam required for a secondary (grades 7-12) academic content area, for every core academic subject the individual teaches; OR b) Has the equivalent of an academic major in a secondary content area, for every core academic subject the individual teaches; OR c) Has earned a master's degree in a pure content area (not in education) for every core academic subject the individual teaches; or d) Holds a valid National Board for Professional Teaching Standards (NBPTS) certification in a core content area and is teaching in the NBPTS area of certification; or

QUALIFIES UNDER

High Objective Uniform State Standard of Evaluation (HOUSSE)
For "Not New" Middle School and Secondary Teachers
(By School Year 2005-2006)

A "not new" teacher who does not meet the requirements of the paragraphs 3(a), 3(b), 3(c), or 3(d) above is considered highly qualified if he/she is state certified and teaching in the area of certification and if he/she completes ninety (90) Continuing Learning Units (CLUs) by the end of 2005-2006.
*A Continuing Learning Unit (CLU) is a professional development activity that builds capacity for effective, research-based, content focused teaching and learning that positively impacts student achievement. The Louisiana Professional Development Guidance will be used to define the 90 continuing learning units.

State of Louisiana Highly Qualified Paraprofessional Requirements and Institutions of Higher Education for Paraprofessional Education

The No Child Left Behind Act of 2001 was signed into law by President Bush on January 8, 2002. The Act was established to ensure that all children have a fair, equal, and significant opportunity to obtain a high-quality education and reach, at a minimum, proficiency on challenging state academic achievement standards and state academic assessments. Title I, as amended by the No Child Left Behind Act, has new requirements for paraprofessionals.

Definition of Paraprofessional

For the purposes of Title I, Part A, a paraprofessional is an employee who provides instructional support in a program supported with Title I, Part A funds.

This includes paraprofessionals who (1) provide one-on-one tutoring if such tutoring is scheduled at a time when a student would not otherwise receive instruction from a teacher, (2) assist with classroom management, such as organizing instructional and other materials, (3) provide instructional assistance in a computer laboratory, (4) conduct parental involvement activities, (5) provide support in a library or media center, (6) act as a translator, or (7) provide instructional support services under the direct supervision of a teacher [Title I, section 1119(g)(2)].

Individuals who function as interpreters/translators and who are providing only communication assistance (not instructional support) and who possess one of the following Educational Interpreter certificates: Ancillary Provisional Certificate, Ancillary Grandfather Certificate, or Qualified Ancillary Certificate, are not considered paraprofessionals under Title I.

Individuals who work in food services, cafeteria or playground supervision, personal care services, non-instructional computer assistance, and similar positions are not considered paraprofessionals under Title I.

Requirements for Title I Paraprofessionals

All Title I paraprofessionals hired on or before January 8, 2002, and working in a program supported with Title I funds must meet the following requirements by January 8, 2006. All Title I paraprofessionals hired after January 8, 2002, must meet the following requirements to be hired:

Possess a secondary school diploma or its recognized equivalent (e.g., Graduate Equivalency Examination - GED). (NOTE: This includes paraprofessionals who serve as translators or who conduct parental involvement activities.); and

Pass a state approved assessment for paraprofessionals; or

Obtain an associate (or higher) degree at a higher education institution; or

Complete two years of full time study at an institution of higher education.

Louisiana's Pathways for Paraprofessionals to Meet State Requirements

The U.S. Department of Education specifies that paraprofessionals should be able to demonstrate knowledge of and the ability to assist in instruction in the areas of reading, writing, and math, or in "school readiness." Paraprofessionals are expected to have a working knowledge of these academic areas. Louisiana will offer all paraprofessionals three pathways to meet federal requirements.

Pathway 1: State Test

A paraprofessional who passes the ETS Para-Pro Assessment will meet state and federal requirements to be classified as a "highly qualified paraprofessional." A paraprofessional "not new to the profession" who passes the ACT Work Keys assessment and who has successful observations will meet the state and federal requirements to be classified as a "highly qualified paraprofessional."

Pathway 2: Two Years of Full Time Study (48 Semester Credit Hours)

State, district, and post-secondary education personnel collaborated in identifying course requirements for paraprofessionals (within a state approved institution of higher education) that will assist paraprofessionals when instructing students in the areas of reading, writing, math, and school readiness.

Pathway 3: Associate Degree

State, district, and post-secondary education personnel collaborated in identifying course requirements for paraprofessionals (within a state-approved institution of higher education) that will assist paraprofessionals when instructing students in the areas of reading, writing, math, and school readiness.

State Approved Institutions of Higher Education

State-approved higher education institutions may offer coursework to paraprofessionals. To be approved by the state, institutions must be accredited by a nationally recognized accrediting agency/association or granted pre-accreditation status. Newly developed public institutions that are formally seeking accreditation through the Southern Association for Colleges and Schools may obtain pre-accreditation status from the state. A list of approved institutions is available from the Department of Education upon request.

Highly Qualified Paraprofessional in Louisiana

New to the Profession
Pathway 1: Has passed the Educational Testing Service Para-Pro Assessment; or
Has two years of full-time study (48 semester credit hours) from the recommended list of state-approved institutions of higher education or from a regionally accredited institution(s) of higher education. A total of 18 hours of general education course requirements include English Composition (3), English/Reading (6), and Mathematics (9). For the remaining 30 hours of coursework, acceptance of credit for a course shown on a transcript from an approved higher education institution is left to school district discretion in addressing the needs of the specific job; OR
Has Associate of Arts or Associate of Applied Science degree from a state-approved or regionally accredited institution of higher education.
"Not New" Paraprofessionals (By January 2006)
Pathway 1: Has passed the Educational Testing Service Para-Pro Assessment; or
Pathway 2: Has two years of full-time study (48 semester credit hours) from the recommended list of state-approved institutions of higher education or from a regionally accredited institution(s) of higher education. A total of 18 hours of general education course requirements include English Composition (3), English/Reading (6), and Mathematics (9). For the remaining 30 hours of coursework, acceptance of credit for a course shown on a transcript from an approved higher education institution is left to school district discretion in addressing the needs of the specific job; or
Pathway 3: Has Associate of Arts or Associate of Applied Science degree from a state-approved or regionally accredited institution of higher education; or
Pathway 4: Has successfully completed the ACT, Inc., Work Keys skills assessments and on-the-job observation.

Curriculum Pathways for Paraprofessionals

Course Types	Recommended Courses				
	Pathway 1: Para-Pro Assessment	Pathway 2:** 48 credit hours	Pathway 3		
			Associate of Science Degree	Associate of Applied Science Degree (60+ credit hours)	Associate of Arts Degree (60+ credit hours)
*General Education Courses		English Composition (3) English/Reading (6) Mathematics (9)		English Composition (3), Humanities (3), Math - Algebra (3), Natural Sciences (3), Social/Behavioral Science (3)	English Composition (6), Humanities (Eng. Lit.) (6), Math-Algebra, etc. (12), Natural Sciences (15), Social/ Behavioral Sciences (12), Fine Arts (3)
Teacher Preparation Courses				Child/Adolescent Develop. (3)	Select 3 of the following: Child/ Adolescent Develop. (3); Educational Psychology (3); Multi-cultural/Exceptional Education (3); Educational Technology (3); Children's Literature (3)
Paraprofessional Courses		For remaining 30 hours of coursework, acceptance of credit for a course shown on a transcript from an approved institution of higher education is left to school district discretion in addressing the needs of the specific job. Guidelines for prescriptive plan requiring additional course-work: School districts should consider at least 3 hours of reading and at least 12 hours from list of available paraprofessional courses, as follows: Strategies for Teaching and Learning; Assessment of Learning; Classroom and Behavior Management; and Addressing the Needs of Exceptional Children. Discipline-specific electives may include as many as 12 hours of developmental (remedial) courses.		Introduction to Paraprofessional Education (3); Applied Literacy Development (3); Strategies for Teaching and Learning (3); Applied Assessment of Learning (3); Applied Classroom/ Behavior Mgt. (3); Addressing the Needs of Exceptional Children (3); Application of Computer Techno-logy (3); Family, School, & Community Relations (3); Health & Safety in Schools (3); Paraprofessional Practicum- Teaching, Learning, & Record Keeping (3)	

*General Education and Teacher Preparation courses must address the K-12 state content standards, Louisiana Components of Effective Teaching, NCATE standards, and PRAXIS expectations.

**Pathway 2 was formally adopted by the State Board of Elementary and Secondary Education on June 19, 2003, as part of Louisiana's highly qualified paraprofessional definition, after being amended to reflect further collaboration by state department and district personnel, as shown above.

* * *

Family Impact Statement

1. Will the proposed Rule affect the stability of the family? No
2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No
3. Will the proposed Rule affect the functioning of the family? No
4. Will the proposed Rule affect family earnings and family budget? No
5. Will the proposed Rule affect the behavior and personal responsibility of children? No
6. Is the family or a local government able to perform the function as contained in the proposed Rule? No

Interested persons may submit comments until 4:30 p.m., December 9, 2003, to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 746C Louisiana Standards for State Certification of School Personnel Louisiana Definition of Highly Qualified Teachers and Paraprofessionals

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
This policy outlines a Louisiana definition for highly qualified teachers and highly qualified paraprofessionals, as required by the No Child Left Behind Act of 2001. The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This policy will have no effect on revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
This policy will have no effect on competition and employment.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
0310#032

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746C Louisiana Standards for State Certification of School Personnel Practitioner Teacher Program (LAC 28:I.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to *Bulletin 746C Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903.A. This policy amends current policy to:

(1) provide that the assessment portion of the Louisiana Teacher Assistance and Assessment Program not remain a requirement for full completion of the Practitioner Teacher Program for alternate certification,

(2) retain the mentoring component as a continued support mechanism for the internship for all Practitioner Teacher Program candidates, and

(3) allow eligibility of candidates for Level 1 certificates at the completion of the internship year, provided all other program requirements have been met. This amended policy will allow those completing the Practitioner Teacher Program to become certified prior to completing the assessment portion of the Louisiana Teacher Assistance and Assessment Program, as is the case for all other candidates for initial Louisiana certification.

Title 28

EDUCATION

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

Subchapter A. Bulletins and Regulations

§903. Teacher Certification Standards and Regulations

A. Bulletin 746

* * *

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 1:183 (April 1975), LR 1:311 (July 1975), LR 1:399 (September 1975), LR 1:541 (December 1975), amended LR 28:2505 (December 2002), LR 29:117 (February 2003), LR 29:119 (February 2003), LR 29:121 (February 2003), LR 30:

Practitioner Teacher Program

A. Major Components of the Practitioner Teacher Program

1. Universities, school districts, or private providers (e.g., Teach for America) will be able to offer a Practitioner Teacher Program.

2. Individuals will be considered for admission to a Practitioner Teacher Program if they possess a baccalaureate degree from a regionally-accredited university with a 2.2 or higher GPA* and already possess the content knowledge to teach the subject area(s). To demonstrate knowledge of subject area(s), all individuals (with the exception of those who already possess a graduate degree) will be required to pass the Pre-Professional Skills Test (e.g., reading, writing, and mathematics) for the PRAXIS. Teachers of grades 1-6

(regular and special education) must pass the *Elementary Education Content Knowledge* specialty examination of the PRAXIS (#0014), and teachers of grades 4-8 (regular and special education) must pass the *Middle School Content Knowledge* specialty examination (#0146). Teachers of grades 7-12 (regular and special education) must pass the *specialty examination* on the PRAXIS in the content area(s) (e.g., English, mathematics, science, social studies, etc.) in which they intend to be certified. (*Appropriate, successful work experience can be substituted for the required GPA, at the discretion of the program provider.)

3. If admitted to the Practitioner Teacher Program, individuals who intend to be certified to teach grades 1-6, 4-8, or 7-12 must successfully complete nine credit hours (or 135 contact hours) of instruction during the summer prior to the first year of teaching. Practitioner teachers will be exposed to teaching experiences in field-based schools while involved in course work.

4. All practitioner teachers will teach during the regular school year in the area(s) in which they are pursuing certification and participate in 12 credit hours (or 180 contact hours) of seminars and supervised internship during the fall and spring to address their immediate needs. Practitioner teachers will be observed and provided feedback about their teaching from the program provider. In addition, practitioner teachers will be supported by school-based mentors from the Louisiana Assistance and Assessment Program and by principals.

5. Practitioner teachers who complete the required course requirements (or equivalent contact hours) with a 2.5 or higher GPA and demonstrate *proficiency* during their first year of teaching can obtain a Level 1 Professional License after successfully completing all requirements for the Practitioner Teacher Program (which includes passing scores on the PRAXIS).

6. Practitioner teachers who successfully complete the required courses (or equivalent contact hours) and demonstrate *weaknesses* during their first year of teaching

will be required to complete from one to nine additional credit hours/equivalent contact hours. A team composed of the program provider, school principal, mentor teacher, and practitioner teacher will determine the types of courses and hours to be completed. The number of hours, which will be based upon the extent of the practitioner teachers' needs, must be successfully completed within the next two years. The team will also determine when the practitioner teachers should be assessed for the Louisiana Assistance and Assessment Program during the next two year time period. Additionally, for teachers who successfully completed the Louisiana Assistance and Assessment Program prior to entering the Practitioner Teacher Program, the team will determine if the Louisiana Components of Effective Teaching are still being exhibited by the teacher at the "competent" level and, if so, allow by unanimous decision the teacher to be exempted from completing the Assessment part of the Louisiana Assistance and Assessment Program. The practitioner teachers must successfully complete all requirements for the Practitioner Teacher Program (which includes passing scores on the PRAXIS in the specialty areas) and must teach for a total of three years before receiving a Level 2 Professional License.

7. The State's new Teacher Preparation Accountability System will be used to evaluate the effectiveness of all Practitioner Teacher Programs.

B. Structure for a Practitioner Teacher Program Program Providers

Practitioner Teacher Programs may be developed and administered by:

1. universities;
2. school districts; and
3. other agencies (e.g., Teach for America, Troops for Teachers, Regional Service Centers, etc.).

The same State Teacher Preparation Accountability System will be utilized to assess the effectiveness of the Practitioner Teacher Programs provided by universities, school districts, and other agencies.

Program Process

Areas	Course/Contact Hours	Activities	Support
1. Admission To Program (Spring and Early Summer)		<p>Program providers will work with district personnel to identify Practitioner Teacher Program candidates who will be employed by districts during the fall and spring.</p> <p>To be admitted, individuals must:</p> <ol style="list-style-type: none"> a. possess a baccalaureate degree from a regionally accredited university. b. have a 2.2 GPA on undergraduate work. (*Appropriate, successful work experience can be substituted for the required GPA, at the discretion of the program provider.) c. pass the Pre-Professional Skills Test (e.g., reading, writing, and mathematics) on the PRAXIS. (Individuals who already possess a graduate degree will be exempted from this requirement.) d. pass the content specific examinations for the PRAXIS: <ol style="list-style-type: none"> (1) Practitioner candidates for Grades 1-6 (regular and special education): Pass the Elementary Education Content Knowledge (#0014) examination; (2) Practitioner candidates for Grades 4-8 (regular and special education): Pass the Middle School Content Knowledge (#0146) examination; (3) Practitioner candidates for Grades 7-12 (regular and special education): Pass the content specialty examination(s) (e.g., English, mathematics, etc.) on the PRAXIS in the content area(s) in which they intend to teach. e. meet other non-course requirements established by the program providers. 	
2. Teaching Preparation (Summer)	9 credit hours or 135 equivalent contact hours (5-8 weeks)	<p>All teachers will participate in field-based experiences in school settings while completing the summer courses (or equivalent contact hours).</p> <p>Grades 1-6, 4-8, and 7-12 practitioner teachers will successfully complete courses (or equivalent contact hours) pertaining to child/adolescent development/psychology, the diverse learner, classroom management/organization, assessment, instructional design, and instructional strategies before starting their teaching internships.</p> <p>Mild/moderate special education teachers will successfully complete courses (or equivalent contact hours) that focus upon the special needs of the mild/moderate exceptional child, classroom management, behavioral management, assessment and evaluation, methods/materials for mild/moderate exceptional children, and vocational and transition services for students with disabilities.</p>	Program Providers
3. Teaching Internship And First Year Support (Fall and Spring)	12 credit hours or 180 equivalent contact hours throughout the year.	<p>Practitioner teachers will assume full-time teaching positions in districts. During the school year, these individuals will participate in two seminars (one seminar during the fall and one seminar during the spring) that address immediate needs of the Practitioner Teacher Program teachers and will receive one-on-one supervision through a year-long internship provided by the program providers. The practitioner teacher will also receive support from school-based mentor teachers (provided by the Louisiana Teacher Assistance and Assessment Program) and principals.</p>	Program Providers, Principals and Mentors
4. Teaching Performance Review (End of First Year)		<p>Program providers, principals, mentors, and practitioner teachers will form teams to review the first year teaching performance of practitioner teachers and to determine the extent to which the practitioner teachers have demonstrated teaching proficiency. If practitioner teachers demonstrate proficiency, they will enter into the assessment portion of the Louisiana Teacher Assistance and Assessment Program during the next fall. (If a practitioner teacher who passed the assessment portion of the Louisiana Teacher Assistance and Assessment Program prior to entering the Practitioner Teacher Program continues to demonstrate the Louisiana Components of Effective Teaching at the "competent" level, the team may, by unanimous decision, exempt the teacher from completing the Assessment part of the Louisiana Assistance and Assessment Program.) If weaknesses are cited, the teams will identify additional types of instruction needed to address the areas of need. Prescriptive plans that require from one to nine credit hours (or 15-135 equivalent contact hours) of instruction will be developed for practitioner teachers. In addition, the teams will determine whether the practitioner teachers should participate in the new teacher assessment during the fall or whether the practitioner teachers should receive additional mentor support and be assessed after the fall.</p>	
5. Prescriptive Plan Implementation (Second Year)	9 credit hours (or 15-135 equivalent hours)	<p>Practitioner teachers who demonstrate areas of need will complete prescriptive plans.</p>	Program Providers
6. Louisiana Assessment Program (Second Year)		<p>Practitioner teachers will be assessed during the fall or later depending upon their teaching proficiencies.</p>	Program Providers
7. Praxis Review (Second Year)		<p>Program providers will offer review sessions to prepare practitioner teachers to pass remaining components of the PRAXIS.</p>	Program Providers

<p>8. Certification Requirements (Requirements must be met within a three-year time period. A practitioner teacher's license will not be renewed if all course requirements are not met within these three years.)</p>		<p>Program providers will submit signed statements to the Louisiana Department of Education to indicate that the practitioner teachers completed Practitioner Teacher Programs and met the following requirements within a three-year time period:</p> <ol style="list-style-type: none"> 1. passed the PPST components of the PRAXIS. (Note: This test was required for admission.) 2. completed the Teaching Preparation and Teaching Internship segments of the program with a 2.5 or higher cumulative GPA. 3. completed prescriptive plans (if weaknesses were demonstrated). 4. passed the specialty examination (PRAXIS) for their area(s) of certification. <ol style="list-style-type: none"> a. Grades 1-6: Elementary Education Content Knowledge Examination #0014 (Note: This test was required for admission) b. Grades 4-8: Middle School Content Knowledge Exam (#0146); c. (Note: This test was required for admission.) d. Grades 7-12: Specialty content test in areas to be certified. (Note: This test was required for admission.) e. Mild/Moderate Special Education 1-12: Special Education (to be determined) 5. passed the Principals of Learning and Teaching examination (PRAXIS) <ol style="list-style-type: none"> a. Grades 1-6: Principles of Learning and Teaching; b. Grades 4-8: Principles of Learning and Teaching; c. Grades 7-12: Principles of Learning and Teaching. 	
<p>9. Ongoing Support (Second and Third Year)</p>		<p>Program providers will provide support services to practitioner teachers during their second and third years of teaching. Types of support may include on-line support, Internet resources, special seminars, etc.</p>	<p>Program Providers</p>
<p>10. Professional License (Practitioner License to Type 2)</p>		<p>Practitioner teachers will be issued a Practitioner License when they enter the program. They will be issued a Level 1 Professional License once they have successfully completed all requirements of the program; after three years of teaching they will be eligible for a Level 2 license.</p>	

Undergraduate/Graduate Courses and Graduate Programs

Universities may offer the courses at undergraduate or graduate levels. Efforts should be made to allow students to use graduate hours as electives if the students are pursuing a graduate degree.

* * *

Family Impact Statement

1. Will the proposed Rule affect the stability of the family? No
2. Will the proposed Rule affect the authority and rights or parents regarding the education and supervision of their children? No
3. Will the proposed Rule affect the functioning of the family? No
4. Will the proposed Rule affect family earnings and family budget? No
5. Will the proposed Rule affect the behavior and personal responsibility of children? No
6. Is the family or a local government able to perform the function as contained in the proposed Rule? No

Interested persons may submit comments until 4:30 p.m., December 9, 2003, to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Requirements for the Practitioner Teacher Program

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

This policy amends current policy, to (1) provide that the assessment portion of the Louisiana Teacher Assistance and Assessment Program not remain a requirement for full completion of the Practitioner Teacher Program for alternate certification, (2) retain the mentoring component as a continued support mechanism for the internship for all Practitioner Teacher Program candidates, and (3) allow eligibility of candidates for Level 1 certificates at the completion of the internship year, provided all other program requirements have been met. The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate this policy.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy will have no effect on revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs. Economic benefits may accrue to Practitioner Teacher Program candidates by allowing them to obtain full certification credentialing at an earlier stage in their teaching careers.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)

The current policy will have no effect on competition and employment, other than to change the status of already practicing teachers to full certification credentialing at an earlier stage in their teaching careers. This may give them an employment advantage over teachers who are not yet fully certified.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
0310#033

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1963C Louisiana Arts Content Standards
State Standards for Curriculum Development
(LAC 28:LI.Chapters 1-9)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revision of *Bulletin 1963C Louisiana Arts Content Standards*. This document replaces any previously advertised versions. Bulletin 1963, which was originally approved by BESE in 1997, has been revised to ensure it is up-to-date and appropriate to serve as the foundation for assessment development. The *Louisiana Arts Content Standards* will benefit district fine arts education programs throughout the state by serving as a guide for curriculum development and instruction in fine arts education. With a strong emphasis on developing knowledge, skills, and habits, these content standards are focused on student and society's needs. With their adoption, Louisiana fine arts education programs will be closely aligned with the *National Standards for Arts Education*.

Title 28

EDUCATION

Part LI. Bulletin 1963C Louisiana Arts Content Standards

Chapter 1. General Provisions

§101. Introduction

A. The arts—dance, music, theatre arts, and visual arts, are fundamental to the intellectual, social, emotional, and physical development of Louisiana students in the twenty-first century. The arts draw on a range of intelligence, aesthetics, and learning styles not addressed in most educational environments.

B. Students of the arts are encouraged to use their imaginations, to develop personal discipline, and to find multiple solutions to problems. They learn to respond to events and experiences with confidence and to communicate their feelings and viewpoints through appropriate creative outlets.

C. Business demands workers who possess an ability to communicate, to be flexible, and to diagnose problems and find creative solutions. The arts preceded speech as man's first language; they assisted in the development of the skills of communication and the integration of basic skills of reading, writing, science, and mathematics. These skills help

students shape their lives, their communities, and their nation. The arts make all subjects come alive.

D. The Louisiana Arts Content Standards bring together the basic content of the four disciplines of dance, music, theatre arts, and visual arts, into one common set of standards essential for a comprehensive arts education. The twenty-first century, the age of information, requires more from the next generation of students. The relevance of education in a rapidly changing society will depend on converging the aims of education and the workforce for well-rounded, educated students who will be productive members of society. The arts will assist in the achievement of these aims with the implementation of these rigorous and challenging content standards.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§103. Standards of Arts Education

A. Creative Expression. Creative Expression is the ability to imagine, organize and interpret ideas for expression in the process of creating and producing art forms which involve inspiration, analysis, and problem solving.

1. Standard. Students develop creative expression through the application of knowledge, ideas, communication skills, organization abilities, and imagination.

B. Aesthetic Perception. Aesthetic Perception is the ability to perceive the unique characteristics of natural environments and human creations, to respond to aesthetic ideas and experiences, and to develop awareness of beauty and meaning in the arts.

1. Standard. Students develop aesthetic perception through the knowledge of art forms and respect for their commonalities and differences.

C. Historical and Cultural Perspective. Historical and Cultural Perspective is the ability to recognize the arts as a reflection of individual and cultural expression and to appreciate the aspects of history and human experience.

1. Standard. Students develop historical and cultural perspective by recognizing and understanding that the arts throughout history are a record of human experience with a past, present, and future.

D. Critical Analysis. Critical Analysis is the ability to interpret, analyze and synthesize the performing and visual arts to form judgments based on sufficient and appropriate criteria.

1. Standard. Students make informed verbal and written observations about the arts by developing skills for critical analysis through the study of and exposure to the arts.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§105. Definitions

Assessment—a process through which evidence is gathered in a range of *content areas* to determine both a student's understanding and the ability to apply that understanding.

Benchmark—a broad statement of process and/or content that is used as a reference to develop curricula and to assess student progress.

Content AreaCa field of study or branch of knowledge formally referred to as a subject area or discipline.

Content StandardCa description of what students should know and be able to do through subject matter, knowledge, proficiencies, etc., gained as a result of their education.

FocusCa statement describing the importance of a content strand.

Foundation SkillsCprocesses that are common to all areas and levels of education and that are intended to suggest methods and objectives of instructional strategies.

FrameworkCa document for a *content area* that reflects national standards and provides a guiding vision of its content and purpose.

IntegratedCthe combining the elements across the strands within a particular *content area* or *framework*.

InterdisciplinaryCthe combining of the elements across the various *content areas* or *frameworks*.

Performance StandardsCthe level of knowledge or proficiency that students should manifest as a result of their education.

StrandsCcategories within particular *content areas*, which may vary from discipline to discipline. *Strands* are interrelated and should be *integrated*, rather than taught in isolation.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§107. Foundation Skills

A. The following foundation skills shall apply to all students in all disciplines. These foundation skills are listed numerically in parentheses after each benchmark in this Part LI.

1. **Communication**Ca process by which information is exchanged and a concept of "meaning" is created and shared between individuals through a common system of symbols, signs, or behavior. Students should be able to communicate clearly, fluently, strategically, technologically, critically, and creatively in society and in a variety of workplaces. This process can best be accomplished through use of the following skills:

- a. reading;
- b. writing;
- c. speaking;
- d. listening;
- e. viewing; and
- f. visually representing.

2. **Problem Solving**Cthe identification of an obstacle or challenge and the subsequent application of knowledge and thinking processes, which include reasoning, decision making, and inquiry in order to reach a solution using multiple pathways, even when no routine path is apparent.

3. **Resource Access and Utilization**Cthe process of identifying, locating, selecting, and using resource tools to help in analyzing, synthesizing, and communicating information. The identification and employment of appropriate tools, techniques, and technologies are essential to all learning processes. These resource tools include:

- a. pen;
- b. pencil and paper;
- c. audio/video materials;

- d. word processors;
- e. computers;
- f. interactive devices;
- g. telecommunication; and

h. other emerging technologies.

4. **Linking and Generating Knowledge**Cthe effective use of cognitive processes to generate and link knowledge across the disciplines and in a variety of contexts. In order to engage in the principles of continual improvement, students must be able to transfer and elaborate on these processes. *Transfer* refers to the ability to apply a strategy or content knowledge effectively in a setting or context other than that in which it was originally learned. *Elaboration* refers to monitoring, adjusting, and expanding strategies into other contexts.

5. **Citizenship**Cthe application of the understanding of the ideals, rights, and responsibilities of active participation in a democratic republic that includes:

- a. working respectfully and productively together for the benefit of the individual and the community;
- b. being accountable for one's own choices and actions and understanding their impact on oneself and others;
- c. knowing one's civil, constitutional, and statutory rights; and
- d. mentoring others to become productive citizens and lifelong learners.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Student Standards and Assessments, LR 30:

Chapter 3. Dance

Subchapter A. Creative Expression

§301. Purpose

A. **Focus.** Creative expression opens an avenue for the application of individual ideas, feelings, and expressions. The use of a variety of media and techniques provides an opportunity for the individual to develop, organize, and interpret knowledge for communication. The skills of analysis, problem solving, cooperative involvement, and disciplined behavior contribute to a successful school environment and prepare the individual to become a productive member of society.

B. **Standard.** Students develop creative expression through the application of knowledge, ideas, communication skills, organizational abilities, and imagination.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§303. Benchmarks K-4

A. In grades K-4, students should know and be able to:

D-CE-E1	Use kinesthetic awareness, proper use of space, and the ability to move safely	(1, 2, 5)
D-CE-E2	Explore and demonstrate basic movements and the elements of dance (space, time, and energy)	(1, 2)
D-CE-E3	Recognize and explore dance as a way to create and communicate ideas and feelings	(1, 4)

D-CE-E4	Explore the process of making a dance; improvise to create a dance phrase	(1, 2)
D-CE-E5	Execute improvised and set movement patterns with concentration and focus individually and in groups	(1, 4, 5)
D-CE-E6	Identify relationship among dance, other arts, and disciplines outside the arts	(1, 4)
D-CE-E7	Develop awareness of technical dimensions of dance, such as costumes, performance space, and set design	(2, 4)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§305. Benchmarks 5-8

A. In grades 5-8, students should know and be able to:

D-CE-M1	Demonstrate self-monitoring and effective use of space	(2, 5)
D-CE-M2	Use the elements of dance to execute basic movements with increased skill and develop a movement vocabulary	(1, 4)
D-CE-M3	Demonstrate the ability to use dance as a language and means of communication	(1, 4)
D-CE-M4	Use improvisation, choreography, and choreographic forms to sequence movements into dance phrases	(2, 3)
D-CE-M5	Perform informal and formal dance compositions individually and in groups	(1, 4, 5)
D-CE-M6	Understand and express relationships among dance, other arts, and disciplines outside the arts	(1, 4)

D-CE-M7	Engage in individual and collaborative use of technical dimensions of dance and explore how use of current technology can enhance dance ideas	(2, 3, 5)
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AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§307. Benchmarks 9-12

A. In grades 9-12, students should know and be able to:

D-CE-H1	Incorporate kinesthetic awareness, use of space, and self-evaluation to refine performance skills	(2, 4, 5)
D-CE-H2	Use the elements of dance to develop technical skills and expand or refine movement vocabulary	(1, 4)
D-CE-H3	Utilize dance as an expression of individual ideas and feelings	(1, 4, 5)
D-CE-H4	Incorporate improvisation, choreography, and choreographic forms into dance compositions	(2, 3)
D-CE-H5	Present and evaluate dance compositions designed to display skills and techniques	(1, 2, 4, 5)
D-CE-H6	Present a multi-disciplinary dance project	(1, 2, 4, 5)
D-CE-H7	Manipulate technical dimensions of dance individually and collaboratively	(2, 5)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§309. Creative Expression C Grade Cluster

Grade Cluster	K-4	5-8	9-12
Benchmark 1	Use kinesthetic awareness, proper use of space and the ability to move safely (1, 2, 5)	Demonstrate self-monitoring and effective use of space (2, 5)	Incorporate kinesthetic awareness, use of space and self-evaluation to refine performance skills (2, 4, 5)
Benchmark 2	Explore and demonstrate basic movements and the elements of dance (space, time, and energy) (1, 2)	Use the elements of dance to execute basic movements with increased skill and develop a movement vocabulary (1, 4)	Use the elements of dance to develop technical skills and expand or refine movement vocabulary (1, 4)
Benchmark 3	Recognize and explore dance as a way to create and communicate ideas and feelings (1, 4)	Demonstrate the ability to use dance as a language and means of communication (1, 4)	Utilize dance as an expression of individual ideas and feelings (1, 4, 5)
Benchmark 4	Explore the process of making a dance; improvise to create a dance phrase (1, 2)	Use improvisation, choreography, and choreographic forms to sequence movements into dance phrases (2, 3)	Incorporate improvisation, choreography and choreographic forms into dance compositions (2, 3)
Benchmark 5	Execute improvised and set movement patterns with concentration and focus individually and in groups (1, 4, 5)	Perform informal and formal dance compositions individually and in groups (1, 4, 5)	Present and evaluate dance compositions designed to display skills and techniques (1, 2, 4, 5)
Benchmark 6	Identify relationships among dance, other arts, and disciplines outside the arts (1, 4)	Understand and express relationships among dance, other arts, and disciplines outside the arts (1, 4)	Present a multi-disciplinary dance project (1, 2, 4, 5)
Benchmark 7	Develop awareness of technical dimensions of dance, such as costumes, performance space, and set design (2, 4)	Engage in individual and collaborative use of technical dimensions of dance and explore how use of current technology can enhance dance ideas (2, 3, 5)	Manipulate technical dimensions of dance individually and collaboratively (2, 5)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

Subchapter B. Aesthetic Perception

§311. Purpose

A. Focus. The study of aesthetics, or the philosophy of the arts, cultivates the direct experience of the senses and supplies the individual with a structure for perceiving and responding to the arts. A grasp of aesthetics empowers the individual to experience beauty in many forms, to appreciate artistic expression, and to develop insight into the creations and performances of others. By questioning concepts, weighing evidence, and examining intuitive reactions, the individual becomes increasingly discriminating in formulating preferences and conclusions about the values inherent in art. Aesthetic perception promotes creativity, flexible thinking, and the pursuit of excellence.

B. Standard. Students develop aesthetic perception through the knowledge of art forms and respect for their commonalities and differences.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§313. Benchmarks K-4

A. In grades K-4, students should know and be able to:

D-AP-E1	Recognize the elements of dance and apply basic dance vocabulary	(1, 4)
D-AP-E2	Recognize and respond to concepts of beauty and taste in the ideas and creations of others through the study of dance	(1, 4, 5)
D-AP-E3	Identify and discuss how dance affects thoughts and feelings	(1, 2, 4)
D-AP-E4	Recognize that there are many possibilities and choices available in the process of creating a dance	(3, 4)
D-AP-E5	Develop a basic understanding of the processes of creating, performing, and observing dance	(2, 5)
D-AP-E6	Recognize how dance differs from other forms of human movement and share personal feelings or preferences about dance	(1, 2, 4)

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

§319. Aesthetic PerceptionC Grade Cluster

Grade Cluster	K-4	5-8	9-12
Benchmark 1	Recognize the elements of dance and apply basic dance vocabulary (1, 4)	Understand the elements of dance and apply expanded dance vocabulary (1, 4)	Understand the elements of dance and apply advanced dance vocabulary (1, 4)
Benchmark 2	Recognize and respond to concepts of beauty and taste in the ideas and creations of others through the study of dance (1, 4, 5)	Recognize that concepts of beauty differ from culture to culture and that taste varies from person to person (1, 4, 5)	Distinguish unique characteristics of dance as it reflects concepts of beauty and quality of life in various cultures (1, 4, 5)
Benchmark 3	Identify and discuss how dance affects thoughts and feelings (1, 2, 4)	Describe the sensory, emotional and intellectual impact of works of dance (1, 2, 4)	Analyze and express the impact of dance on intellect and emotions (1, 4, 5)
Benchmark 4	Recognize that there are many possibilities and choices available in the process of creating a dance (3, 4)	Demonstrate awareness of various new ideas, possibilities, options, and situations pertaining to creating dance (1, 4)	Compare and contrast multiple possibilities and options available for artistic expression through dance (1, 4)

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§315. Benchmarks 5-8

A. In grades 5-8, students should know and be able to:

D-AP-M1	Understand the elements of dance and apply expanded dance vocabulary	(1, 4)
D-AP-M2	Recognize that concepts of beauty differ from culture to culture and that taste varies from person to person	(1, 4, 5)
D-AP-M3	Describe the sensory, emotional, and intellectual impact of works of dance	(1, 2, 4)
D-AP-M4	Demonstrate awareness of various new ideas, possibilities, options, and situations pertaining to creating dance	(1, 4)
D-AP-M5	Identify and discuss appropriate behaviors for creators, performers, and observers of dance	(1, 4, 5)
D-AP-M6	Discuss the question, "What is dance?" and express intuitive reactions and personal responses to dance	(1, 4)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§317. Benchmarks 9-12

A. In grades 9-12, students should know and be able to:

D-AP-H1	Understand the elements of dance and apply advanced dance vocabulary	(1, 4)
D-AP-H2	Distinguish unique characteristics of dance as it reflects concepts of beauty and quality of life in various cultures	(1, 4, 5)
D-AP-H3	Analyze and express the impact of dance on intellect, and emotions	(1, 4, 5)
D-AP-H4	Compare and contrast multiple possibilities and options available for artistic expression through dance	(1, 4)
D-AP-H5	Discuss the significance of collaboration and other group dynamics in creating, performing and observing dance	(1, 4, 5)
D-AP-H6	Question/weigh evidence and information, examine intuitive reactions, and articulate personal attitudes toward dance	(1, 2, 5)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

Grade Cluster	K-4	5-8	9-12
Benchmark 5	Develop a basic understanding of the processes of creating, performing, and observing dance (2, 5)	Identify and discuss appropriate behaviors for creators, performers, and observers of dance (1, 4, 5)	Discuss the significance of collaboration and other group dynamics in creating, performing, and observing dance (1, 4, 5)
Benchmark 6	Recognize how dance differs from other forms of human movement and share personal feelings or preferences about dance (1, 2, 4)	Discuss the question, "What is dance?" and express intuitive reactions and personal responses to dance (1, 4)	Question/weigh evidence and information, examine intuitive reactions, and articulate personal attitudes toward dance (1, 2, 5)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

Subchapter C. Historical and Cultural Perspective

§321. Purpose

A. Focus. Historical and cultural perspective is the vehicle for understanding works of art in time and place. The arts survive through times of interruption and neglect; they outlive governments, creeds, societies, and even the civilizations that spawned them. The artist is a harbinger of change, a translator of social thought, an analyst of cultures, a poetic scientist, and a recorder of history. To understand creative output in the history of the arts is to understand history itself.

B. Standard. Students develop historical and cultural perspective by recognizing and understanding that the arts throughout history are a record of human experience with a past, present, and future.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§323. Benchmarks K-4

A. In grades K-4, students should know and be able to:

D-HP-E1	Recognize and discuss the role of dance in cultural/historical contexts, including celebrations, ceremonies, and special occasions	(1, 4)
D-HP-E2	Recognize basic differences between dance styles and identify styles of dance in various cultures	(1, 3, 4)
D-HP-E3	Recognize great dance works, innovators, and performers who have shaped the history of dance	(1, 4)
D-HP-E4	Recognize careers in dance and identify roles of dancers in various cultures and time periods	(4)
D-HP-E5	Recognize universal themes in dance and how dance communicates a universal language	(1, 4)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§325. Benchmarks 5-8

A. In grades 5-8, students should know and be able to:

D-HP-M1	Compare the role of dance in various cultures and discuss dance in cultural, historical, and contemporary contexts	(1, 4)
D-HP-M2	Identify differences in styles of dance and distinguish among dance styles from various cultures and time periods	(1, 4)
D-HP-M3	Identify and discuss the influences of great dance works, innovators, and performers who have shaped the history of dance	(1, 4)
D-HP-M4	Identify, describe, and compare contemporary careers and professions in dance	(1, 4, 5)
D-HP-M5	Identify and discuss universal themes exhibited in dance from various cultures	(1, 4)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§327. Benchmarks 9-12

A. In grades 9-12, students should know and be able to:

D-HP-H1	Explain the art of dance in relation to cultural values and prevailing social, political, and economic conditions	(1, 4, 5)
D-HP-H2	Compare, contrast, and categorize styles of dance representative of various cultures and time periods	(1, 4)
D-HP-H3	Compare and contrast current dance innovators and trends with past innovators and their contributions to dance	(3, 4)
D-HP-H4	Investigate and assess roles, careers, and career opportunities in dance production	(1, 4)
D-HP-H5	Analyze universal themes as exhibited in dance from various cultures	(3, 4)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§329. Historical and Cultural Perspective
Grade Cluster

Grade Cluster	K-4	5-8	9-12
Benchmark 1	Recognize and discuss the role of dance in cultural/historical contexts, including celebrations, ceremonies, and special occasions (1, 4)	Compare the role of dance in various cultures and discuss dance in cultural, historical, and contemporary contexts (1, 4)	Explain the art of dance in relation to cultural values and prevailing social, political, and economic conditions (1, 4, 5)
Benchmark 2	Recognize basic differences between dance styles and identify styles of dance in various cultures (1, 3, 4)	Identify differences in styles of dance and distinguish among dance styles from various cultures and time periods (1, 4)	Compare, contrast, and categorize styles of dance representative of various cultures and time periods (1, 4)
Benchmark 3	Recognize great dance works, innovators, and performers who have shaped the history of dance (1, 4)	Identify and discuss the influences of great dance works, innovators, and performers who have shaped the history of dance (1, 4)	Compare and contrast current dance innovators and trends with past innovators and their contributions to dance (3, 4)
Benchmark 4	Recognize careers in dance and identify roles of dancers in various cultures and time periods (4)	Identify, describe, and compare contemporary careers and professions in dance (1, 4, 5)	Investigate and assess roles, careers, and career opportunities in dance production (1, 4)
Benchmark 5	Recognize universal themes in dance and how dance communicates a universal language (1, 4)	Identify and discuss universal themes exhibited in dance from various cultures (1, 4)	Analyze universal themes as exhibited in dance from various cultures (3, 4)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

Subchapter D. Critical Analysis

§331. Purpose

A. Focus. Critical analysis is the process of inquiry associated with an individual's knowledge of the arts. Communication about the arts in a structured way provides the individual with means to describe, analyze, interpret, and make critical, reasoned judgments about the form and content of the arts.

B. Standard. Students make informed verbal and written observations about the arts by developing skills for critical analysis through the study of and exposure to the arts.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§333. Benchmarks K-4

A. In grades K-4, students should know and be able to:

D-CA-E1	Observe and identify the basic movements in dance	(3, 4)
D-CA-E2	Identify basic examples of the dance elements in various works of dance	(4)
D-CA-E3	Recognize and discuss the sequencing of movements in dance	(1, 4)
D-CA-E4	Identify the main theme or story idea presented in a dance	(1, 4)
D-CA-E5	Identify and discuss basic ways of changing dance movements to improve a dance	(1, 2, 4)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§335. Benchmarks 5-8

A. In grades 5-8, students should know and be able to:

D-CA-M1	Recognize and describe movement content and expression in dance	(1, 4)
D-CA-M2	Identify how elements of dance are used in a work to communicate the choreographic intent	(1, 2, 4)
D-CA-M3	Describe the use of choreographic principles such as unity, contrast, continuity, and climax in dance	(1, 4)
D-CA-M4	Describe the main theme, story idea, or political message conveyed in a dance	(1, 4)
D-CA-M5	Critique works of dance using expanded dance vocabulary	(1, 2, 5)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§337. Benchmarks 9-12

A. In grades 9-12, students should know and be able to:

D-CA-H1	Explain the manipulation of movement content and how it influences expression in a dance	(1, 4)
D-CA-H2	Explain how elements of dance communicate the choreographic intent in various works	(1, 2, 4)
D-CA-H3	Apply understanding of choreographic principles and choreographic forms to analyze and explain dance	(1, 4)
D-CA-H4	Describe the social theme conveyed in a dance and how personal experience influences interpretation of dance	(1, 4, 5)
D-CA-H5	Critique works of dance using advanced dance vocabulary	(1, 2, 5)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§339. Critical Analysis C Grade Cluster

Grade Cluster	K-4	5-8	9-12
Benchmark 1	Observe and identify the basic movements in dance (3, 4)	Recognize and describe movement content and expression in dance (1, 4)	Explain the manipulation of movement content and how it influences expression in a dance (1, 4)
Benchmark 2	Identify basic examples of the dance elements in various works of dance (4)	Identify how elements of dance are used in a work to communicate the choreographic intent (1, 2, 4)	Explain how elements of dance communicate the choreographic intent in various works (1, 2, 4)
Benchmark 3	Recognize and discuss the sequencing of movements in dance (1, 4)	Describe the use of choreographic principles such as unity, contrast, continuity, and climax in dance (1, 4)	Apply understanding of choreographic principles and choreographic forms to analyze and explain dance (1, 4)
Benchmark 4	Identify the main theme or story idea presented in a dance (1, 4)	Describe the main theme, story idea, or political message conveyed in a dance (1, 4)	Describe the social theme conveyed in a dance and how personal experience influences interpretation of dance (1, 4, 5)
Benchmark 5	Identify and discuss basic ways of changing dance movements to improve a dance (1, 2, 4)	Critique works of dance using expanded dance vocabulary (1, 2, 5)	Critique works of dance using advanced dance vocabulary (1, 2, 5)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

Chapter 5. Music

Subchapter A. Creative Expression

§501. Purpose

A. Focus. Creative expression opens an avenue for the application of individual ideas, feelings, and expressions. The use of a variety of media and techniques provides an opportunity for the individual to develop, organize, and interpret knowledge for communication. The skills of analysis, problem solving, cooperative involvement, and disciplined behavior contribute to a successful school environment and prepare the individual to become a productive member of society.

B. Standard. Students develop creative expression through the application of knowledge, ideas, communication skills, organizational abilities, and imagination.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§503. Benchmarks K-4

A. In grades K-4, students should know and be able to:

M-CE-E1	Recognize and imitate simple melodies and rhythmic patterns using voice, musical instruments, or other sound sources	(3)
M-CE-E2	Recognize basic notational symbols and express vocabulary that conveys precise musical meanings	(3, 4)
M-CE-E3	Improvise or compose and perform simple musical ideas, such as echoing melody or short rhythmic patterns	(1, 4)
M-CE-E4	Explore and express basic elements of music through voice, musical instruments, electronic technology, or available media	(3)
M-CE-E5	Participate in organized musical activities including singing, playing, and movement	(1, 2, 5)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§505. Benchmarks 5-8

A. In grades 5-8, students should know and be able to:

M-CE-M1	Recognize and perform melodic and rhythmic patterns using voice, musical instruments, or other sound sources, both individually and in ensembles	(1, 3, 4)
M-CE-M2	Interpret notational symbols and vocabulary that convey precise musical meanings	(2, 3, 4)
M-CE-M3	Improvise, or compose and perform written music	(1, 4)
M-CE-M4	Recognize and demonstrate elements of music, using voice, musical instruments, electronic technology, or other available media	(3, 4)
M-CE-M5	Perform in organized activities including singing, playing, and movement	(1, 5)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§507. Benchmarks 9-12

A. In grades 9-12, students should know and be able to:

M-CE-H1	Create and improvise advanced musical forms using voice, musical instruments, or other sound sources, both individually and in ensembles	(1, 2, 4)
M-CE-H2	Apply with technical accuracy notational symbols and vocabulary that convey precise musical meanings	(2, 3, 4)
M-CE-H3	Improvise, or compose and perform advanced compositions	(1, 4)
M-CE-H4	Interpret and apply elements of music using preferred medium of performance	(3, 4, 5)
M-CE-H5	Perform in musical ensembles using a preferred performance medium	(1, 5)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§509. Creative Expression C Grade Cluster

Grade Cluster	K-4	5-8	9-12
Benchmark 1	Recognize and imitate simple melodies and rhythmic patterns using voice, musical instruments, or other sound sources (3)	Recognize and perform melodic and rhythmic patterns using voice, musical instruments, or other sound sources, both individually and in ensembles (1, 3, 4)	Create and improvise advanced musical forms using voice, musical instruments, or other sound sources, both individually and in ensembles (1, 2, 4)
Benchmark 2	Recognize basic notational symbols and express vocabulary that conveys precise musical meanings (3, 4)	Interpret notational symbols and vocabulary that convey precise musical meanings (2, 3, 4)	Apply with technical accuracy notational symbols and vocabulary that convey precise musical meanings (2, 3, 4)
Benchmark 3	Improvise or compose and perform simple musical ideas, such as echoing melody or short rhythmic patterns (1, 4)	Improvise or compose and perform written music (1, 4)	Improvise or compose and perform advanced compositions (1, 4)
Benchmark 4	Explore and express basic elements of music through voice, musical instruments, electronic technology, or available media (3)	Recognize and demonstrate elements of music, using voice, musical instruments, electronic technology, or other available media (3, 4)	Interpret and apply elements of music using preferred medium of performance (3, 4, 5)
Benchmark 5	Participate in organized musical activities including singing, playing, and movement (1, 2, 5)	Perform in organized musical activities including singing, playing, and movement (1, 5)	Perform in musical ensembles using preferred performance medium (1, 5)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

Subchapter B. Aesthetic Perception

§511. Purpose

A. Focus. The study of aesthetics, or the philosophy of the arts, cultivates the direct experience of the senses and supplies the individual with a structure for perceiving and responding to the arts. A grasp of aesthetics empowers the individual to experience beauty in many forms, to appreciate artistic expression, and to develop insight into the creations and performances of others. By questioning concepts, weighing evidence, and examining intuitive reactions, the individual becomes increasingly discriminating in formulating preferences and conclusions about the values inherent in art. Aesthetic perception promotes creativity, flexible thinking, and the pursuit of excellence.

B. Standard. Students develop aesthetic perception through the knowledge of art forms and respect for their commonalities and differences.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§513. Benchmarks K-4

A. In grades K-4, students should know and be able to:

M-AP-E1	Understand and apply basic music vocabulary to describe aesthetic qualities of musical compositions	(1, 4)
M-AP-E2	Recognize and respond to concepts of beauty and taste in the ideas and creations of others through the study of music	(1, 4, 5)

M-AP-E3	Demonstrate awareness of where and how music is used in daily life and within the community	(1, 4, 5)
M-AP-E4	Recognize that there are many possibilities and choices available in the creative processes of music	(4)
M-AP-E5	Participate in guided inquiry into the basic question, "What is music?" and share personal feelings or preferences about music	(1, 5)
M-AP-E6	Recognize and demonstrate behavior appropriate for various musical environments	(4, 5)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§515. Benchmarks 5-8

A. In grades 5-8, students should know and be able to:

M-AP-M1	Understand and apply expanded music vocabulary to describe aesthetic qualities of musical compositions	(1, 4)
M-AP-M2	Recognize that concepts of beauty differ by culture and that taste varies from person to person	(1, 4, 5)
M-AP-M3	Describe the emotional and intellectual impact of music in various contexts	(1, 4, 5)
M-AP-M4	Demonstrate awareness of various traditional and technological options pertaining to creative processes in music	(1, 4)
M-AP-M5	Discuss the question, "What is music?" and express intuitive reactions and personal responses to various works	(1, 4)

M-AP-M6	Demonstrate and discuss behavior appropriate for various musical environments	(1, 4, 5)
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AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§517. Benchmarks 9-12

A. In grades 9-12, students should know and be able to:

M-AP-H1	Understand and apply advanced music vocabulary to describe aesthetic qualities of musical compositions	(1, 4)
M-AP-H2	Distinguish unique characteristics of music as it reflects concepts of beauty and quality of life in various cultures	(1, 4, 5)

M-AP-H3	Analyze and express the impact of music on intellect and emotions	(1, 4, 5)
M-AP-H4	Compare and contrast traditional and technological options available for artistic expression in music	(1, 4)
M-AP-H5	Question/weigh evidence and information, examine intuitive reactions, and articulate personal attitudes toward musical works	(1, 2, 5)
M-AP-H6	Evaluate and discuss appropriateness of behavior for different types of musical environments	(2, 4, 5)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§519. Aesthetic PerceptionC Grade Cluster

Grade Cluster	K-4	5-8	9-12
Benchmark 1	Understand and apply basic music vocabulary to describe aesthetic qualities of musical compositions (1, 4)	Understand and apply expanded music vocabulary to describe aesthetic qualities of musical compositions (1, 4)	Understand and apply advanced music vocabulary to describe aesthetic qualities of musical compositions (1, 4)
Benchmark 2	Recognize and respond to concepts of beauty and taste in the ideas and creations of others through the study of music (1, 4, 5)	Recognize that concepts of beauty differ by culture and that taste varies from person to person (1, 4, 5)	Distinguish unique characteristics of music as it reflects concepts of beauty and quality of life in various cultures (1, 4, 5)
Benchmark 3	Demonstrate awareness of where and how music is used in daily life and within the community (1, 4, 5)	Describe the emotional and intellectual impact of music in various contexts (1, 4, 5)	Analyze and express the impact of music on intellect and emotions (1, 4, 5)
Benchmark 4	Recognize that there are many possibilities and choices available in the creative processes of music (4)	Demonstrate awareness of various traditional and technological options pertaining to creative processes in music (1, 4)	Compare and contrast traditional and technological options available for artistic expression in music (1, 4)
Benchmark 5	Participate in guided inquiry into the basic question "What is music?" and share personal feelings or preferences about music (1, 5)	Discuss the question "What is music?" and express intuitive reactions and personal responses to various works (1, 4)	Question/weigh evidence and information, examine intuitive reactions, and articulate personal attitudes toward musical works (1, 2, 5)
Benchmark 6	Recognize and demonstrate behavior appropriate for various musical environments (4, 5)	Demonstrate and discuss behavior appropriate for various musical environments (1, 4, 5)	Evaluate and discuss appropriateness of behavior for different types of musical environments (2, 4, 5)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

Subchapter C. Historical and Cultural Perspective

§521. Purpose

A. Focus. Historical and cultural perspective is the vehicle for understanding works of art in time and place. The arts survive through times of interruption and neglect; they outlive governments, creeds, societies, and even the civilizations that spawned them. The artist is a harbinger of change, a translator of social thought, an analyst of cultures, a poetic scientist, and a recorder of history. To understand creative output in the history of the arts is to understand history itself.

B. Standard. Students develop historical and cultural perspective by recognizing and understanding that the arts throughout history are a record of human experience with a past, present, and future.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§523. Benchmarks K-4

A. In grades K-4, students should know and be able to:

M-HP-E1	Recognize musical styles representative of various cultures	(4)
M-HP-E2	Recognize and discuss the function of music within historical and cultural contexts, including celebrations, ceremonies, and special occasions	(1, 4)
M-HP-E3	Recognize families of musical instruments and instruments of various cultures	(4)
M-HP-E4	Recognize professions in music and identify the roles of musicians in various cultures	(4)
M-HP-E5	Recognize great composers and their most significant musical works	(4)

M-HP-E6	Recognize universal themes in music and how music communicates a universal language	(1, 4)
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AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§525. Benchmarks 5-8

A. In grades 5-8, students should know and be able to:

M-HP-M1	Identify distinguishing characteristics of musical styles representative of various historical periods and cultures	(1, 2, 4)
M-HP-M2	Compare and contrast the function of music within historical and cultural contexts, such as celebrations, ceremonies, and events	(1, 4, 5)
M-HP-M3	Identify specific types and uses of musical instruments in various cultures	(4)
M-HP-M4	Describe careers for musicians and compare the roles of musicians in various cultures	(1, 4, 5)
M-HP-M5	Identify major works of great composers and recognize achievements of prominent musicians	(4, 5)
M-HP-M6	Identify and discuss ways in which universal themes are revealed and developed in the music of diverse cultures and time periods	(1, 4)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§527. Benchmarks 9-12

A. In grades 9-12, students should know and be able to:

M-HP-H1	Compare and contrast musical styles representative of various historical periods and cultures	(1, 2, 4)
M-HP-H2	Analyze the function of music as it fulfills societal needs within historical and cultural contexts	(1, 4, 5)
M-HP-H3	Compare and contrast types and uses of musical instruments in various cultures	(4)
M-HP-H4	Investigate and assess roles, careers, and career opportunities for musicians	(3, 4)
M-HP-H5	Identify prominent musicians of various cultures and compare their lives, careers, works, and influence	(1, 4)
M-HP-H6	Analyze the universality of musical themes across cultures and time periods	(1, 4)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§529. Historical and Cultural Perspective C Grade Cluster

Grade Cluster	K-4	5-8	9-12
Benchmark 1	Recognize musical styles representative of various cultures (4)	Identify distinguishing characteristics of musical styles representative of various historical periods and cultures (1, 2, 4)	Compare and contrast musical styles representative of various historical periods and cultures (1, 2, 4)
Benchmark 2	Recognize and discuss the function of music within historical and cultural contexts, including celebrations, ceremonies, and special occasions (1, 4)	Compare and contrast the function of music within historical and cultural contexts, such as celebrations, ceremonies, and events (1, 4, 5)	Analyze the function of music as it fulfills societal needs within historical and cultural contexts (1, 4, 5)
Benchmark 3	Recognize families of musical instruments and instruments of various cultures (4)	Identify specific types and uses of musical instruments in various cultures (4)	Compare and contrast types and uses of musical instruments in various cultures (4)
Benchmark 4	Recognize professions in music and identify the roles of musicians in various cultures (4)	Describe careers for musicians and compare the roles of musicians in various cultures (1, 4, 5)	Investigate and assess roles, careers, and career opportunities for musicians (3, 4)
Benchmark 5	Recognize great composers and their most significant musical works (4)	Identify major works of great composers and recognize achievements of prominent musicians (4, 5)	Identify prominent musicians of various cultures and compare their lives, careers, works, and influence (1, 4)
Benchmark 6	Recognize universal themes in music and how music communicates a universal language (1, 4)	Identify and discuss ways in which universal themes are revealed and developed in the music of diverse cultures and time periods (1, 4)	Analyze the universality of musical themes across cultures and time periods (1, 4)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

Subchapter D. Critical Analysis

§531. Purpose

A. Focus. Critical analysis is the process of inquiry associated with an individual's knowledge of the arts. Communication about the arts in a structured way provides the individual with means to describe, analyze, interpret, and

make critical, reasoned judgments about the form and content of the arts.

B. Standard. Students make informed verbal and written observations about the arts by developing skills for critical analysis through the study of and exposure to the arts.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§533. Benchmarks K-4

A. In grades K-4, students should know and be able to:

M-CA-E1	Identify the music form (e.g., AB, ABA) and describe in simple terms how the elements of music are used in various works	(1, 4)
M-CA-E2	Identify simple music events (e.g., dynamic change, meter change, same/different sections) while listening to a work	(2, 4)
M-CA-E3	Recognize characteristics of music that make a musical selection appropriate for a particular purpose	(4)
M-CA-E4	Identify relationships among music, other arts, and disciplines outside the arts	(1, 4)
M-CA-E5	Devise criteria for evaluating music and music performances, and express opinions using basic music vocabulary	(1, 2, 4)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§535. Benchmarks 5-8

A. In grades 5-8, students should know and be able to:

M-CA-M1	Identify the music form (e.g., round, canon) and explain how the elements of music are used in works representing various genres/styles	(4)
M-CA-M2	Identify and describe music events (e.g., entry of an instrument, meter change, return of refrain) while listening to a work	(2, 4)
M-CA-M3	Describe or explain characteristics of music in regard to suitability of musical selections for specific purposes	(1, 4)

§539. Critical Analysis C Grade Cluster

Grade Cluster	K-4	5-8	9-12
Benchmark 1	Identify the music form (e.g., AB, ABA) and describe in simple terms how the elements of music are used in various works (1, 4)	Identify the music form (e.g., round, canon) and explain how the elements of music are used in works representing various genres/styles (4)	Distinguish and analyze elements of music and expressive devices as used in musical works representing diverse genres/styles (1, 2, 4)
Benchmark 2	Identify simple music events (e.g., dynamic change, meter change, same/different sections) while listening to a work (2, 4)	Identify and describe music events (e.g., entry of an instrument, meter change, return of refrain) while listening to a work (2, 4)	Identify and explain compositional devices and techniques used to provide unity and variety and tension and release in a musical work (1, 2, 4)
Benchmark 3	Recognize characteristics of music that make a musical selection appropriate for a particular purpose (4)	Describe or explain characteristics of music in regard to suitability of musical selections for specific purposes (1, 4)	Analyze the appropriateness of music choices as they relate to purpose (2, 4, 5)
Benchmark 4	Identify relationships among music, other arts, and disciplines outside the arts (1, 4)	Describe relationships among music, other arts, and disciplines outside the arts (1, 4)	Explain commonalities and differences among music, other arts, and disciplines outside the arts (1, 2, 4)
Benchmark 5	Devise criteria for evaluating music and music performances, and express opinions using basic music vocabulary (1, 2, 4)	Use appropriate criteria and expanded music vocabulary to evaluate the quality of music and performances (1, 2, 4)	Use appropriate criteria and advanced music vocabulary to critique the quality of music and performances (1, 2, 4)

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

M-CA-M4	Describe relationships among music, other arts, and disciplines outside the arts	(1, 4)
M-CA-M5	Use appropriate criteria and expanded music vocabulary to evaluate the quality of music and performances	(1, 2, 4)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§537. Benchmarks 9-12

A. In grades 9-12, students should know and be able to:

M-CA-H1	Distinguish and analyze elements of music and expressive devices as used in musical works representing diverse genres/styles	(1, 2, 4,)
M-CA-H2	Identify and explain compositional devices and techniques used to provide unity and variety and tension and release in a musical work	(1, 2, 4)
M-CA-H3	Analyze the appropriateness of music choices as they relate to purpose	(2, 4, 5)
M-CA-H4	Explain commonalities and differences among music, other arts, and disciplines outside the arts	(1, 2, 4)
M-CA-H5	Use appropriate criteria and advanced music vocabulary to critique the quality of music and performances	(1, 2, 4)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

Chapter 7. Theatre Arts
Subchapter A. Creative Expression

§701. Purpose

A. Focus. Creative Expression opens an avenue for the application of individual ideas, feelings, and expressions. The use of a variety of media and techniques provides an opportunity for the individual to develop, organize, and interpret knowledge for communication. The skills of analysis, problem solving, cooperative involvement, and disciplined behavior contribute to a successful school environment and prepare the individual to become a productive member of society.

B. Standard. Students develop creative expression through the application of knowledge, ideas, communication skills, organizational abilities, and imagination.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§703. Benchmarks K-4

A. In grades K-4, students should know and be able to:

TH-CE-E1	Explore and express various emotions in interpersonal settings	(1, 5)
TH-CE-E2	Interact in group situations and show differentiation of roles through experimentation and role playing	(1, 2, 5)
TH-CE-E3	Exhibit physical and emotional dimensions of characterization through experimentation and role playing	(2, 5)
TH-CE-E4	Create story lines for improvisation	(2, 3, 4)
TH-CE-E5	Identify and express differences among reality, fantasy, role playing, and media representation	(2, 3, 4)
TH-CE-E6	Develop awareness of technical dimensions of the dramatic form, such as theatrical space, scenery, costuming, and make-up	(3, 4)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§705. Benchmarks 5-8

A. In grades 5-8, students should know and be able to:

TH-CE-M1	Demonstrate self-expression and various emotions individually and in groups	(1, 5)
TH-CE-M2	Demonstrate role playing individually and in interpersonal situations	(1, 5)
TH-CE-M3	Demonstrate physical and emotional traits appropriate to a variety of roles and characters	(2, 4)
TH-CE-M4	Create improvisations and scripted scenes based on personal experience, imagination, literature, and history	(1, 2, 3)
TH-CE-M5	Compare/contrast and demonstrate various performance methods and styles	(1, 2, 4)
TH-CE-M6	Engage in individual and collaborative use of technical dimensions of the dramatic form such as theatrical space, scenery, set design, costuming, and make-up	(1, 4, 5)

AUTHORITY NOTE: Promulgated in accordance with R.S.17.24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§707. Benchmarks 9-12

A. In grades 9-12, students should know and be able to:

TH-CE-H1	Develop intrapersonal skills as an individual and as a performer	(1, 5)
TH-CE-H2	Assume and sustain various roles in group interactions	(1, 4, 5)
TH-CE-H3	Develop characterization in group performances through interpretation of psychological motivation	(2, 3, 5)
TH-CE-H4	Write scripts for classroom, stage, and media performances, using various forms of technology	(1, 3, 4)
TH-CE-H5	Perform using specific methods, styles, and acting techniques from various cultures and time periods	(1, 2, 3, 4)
TH-CE-H6	Manipulate technical dimensions of the dramatic form, such as set design/construction, costuming, make-up, properties, lights, sound, and multimedia	(1, 3, 4, 5)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§709. Creative Expression C Grade Cluster

Grade Cluster	K-4	5-8	9-12
Benchmark 1	Explore and express various emotions in interpersonal settings (1, 5)	Demonstrate self-expression and various emotions individually and in groups (1, 5)	Develop intrapersonal skills as an individual and as a performer (1, 5)
Benchmark 2	Interact in group situations and show differentiation of roles through experimentation and role playing (1, 2, 5)	Demonstrate role playing individually and in interpersonal situations (1, 5)	Assume and sustain various roles in group interactions (1, 4, 5)
Benchmark 3	Exhibit physical and emotional dimensions of characterization through experimentation and role playing (2, 5)	Demonstrate physical and emotional traits appropriate to a variety of roles and characters (2, 4)	Develop characterization in group performances through interpretation of psychological motivation (2, 3, 5)
Benchmark 4	Create story lines for improvisation (2, 3, 4)	Create improvisations and scripted scenes based on personal experience, imagination, literature, and history (1, 2, 3)	Write scripts for classroom, stage, and media performances, using various forms of technology (1, 3, 4)

Grade Cluster	K-4	5-8	9-12
Benchmark 5	Identify and express differences among reality, fantasy, role playing, and media productions (2, 3, 4)	Compare/contrast and demonstrate various performance methods and styles (1, 2, 4)	Perform using specific methods, styles, and acting techniques from various cultures and time periods (1, 2, 3, 4)
Benchmark 6	Develop awareness of technical dimensions of the dramatic form, such as theatrical space, scenery, costuming, and make-up (3, 4)	Engage in individual and collaborative use of technical dimensions of the dramatic form such as the atrical space, scenery, set design, costuming, and make-up (1, 4, 5)	Manipulate technical dimensions of the dramatic form, such as set design/construction, costuming, make-up, properties, lights, sound, and multimedia (1, 3, 4, 5)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

Subchapter B. Aesthetic Perception

§711. Purpose

A. Focus. The study of aesthetics, or the philosophy of the arts, cultivates the direct experience of the senses and supplies the individual with a structure for perceiving and responding to the arts. A grasp of aesthetics empowers the individual to experience beauty in many forms, to appreciate artistic expression, and to develop insight into the creations and performances of others. By questioning concepts, weighing evidence, and examining intuitive reactions, the individual becomes increasingly discriminating in formulating preferences and conclusions about the values inherent in art. Aesthetic perception promotes creativity, flexible thinking, and the pursuit of excellence.

B. Standard. Students develop aesthetic perception through the knowledge of art forms and respect for their commonalities and differences.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§713. Benchmarks K-4

A. In grades K-4, students should know and be able to:

TH-AP-E1	Understand and use basic theatre arts vocabulary, including language for describing theatre in various cultures/time periods	(1)
TH-AP-E2	Recognize and respond to concepts of beauty and taste in the ideas and creations of others through the study of theatre arts	(1, 4, 5)
TH-AP-E3	Develop a basic understanding of the processes of creating, performing, and observing theatre	(2, 5)
TH-AP-E4	Recognize that there are many possibilities and choices in the creative processes for theatre arts	(2, 4)
TH-AP-E5	Identify and discuss how works of theatre and dramatic media affect thoughts and feelings	(1, 2)
TH-AP-E6	Share personal feelings or preferences about theatre and other dramatic works	(1)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§715. Benchmarks 5-8

A. In grades 5-8, students should know and be able to:

TH-AP-M1	Understand and use expanded theatre arts vocabulary, including terms related to theatrical periods, environments, situations, and roles	(1, 4)
TH-AP-M2	Recognize that concepts of beauty differ from culture to culture and that taste varies from person to person	(1, 4, 5)
TH-AP-M3	Identify and discuss appropriate behaviors for creators, performers, and observers of theatre	(1, 2, 5)
TH-AP-M4	Demonstrate awareness of various new ideas, possibilities, options, and situations pertaining to theatre arts	(1, 2, 4)
TH-AP-M5	Describe the emotional and intellectual impact of theatrical works and dramatic performances	(1, 2)
TH-AP-M6	Express intuitive reactions and personal responses to theatre and other dramatic works	(1, 2, 4)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§717. Benchmarks 9-12

A. In grades 9-12, students should know and be able to:

TH-AP-H1	Use advanced theatre arts vocabulary and apply cultural/historical information in discussing scripted scenes, sets, and period costumes	(1, 2, 4)
TH-AP-H2	Distinguish unique characteristics of theatre as it reflects concepts of beauty and quality of life in various cultures	(1, 4, 5)
TH-AP-H3	Explain the significance of collaboration and evaluate group dynamics in creating, performing, and observing theatre	(1, 2, 5)
TH-AP-H4	Compare and contrast multiple possibilities and options available for artistic expression in theatre arts	(1, 4)
TH-AP-H5	Analyze and explain the impact of theatrical works and dramatic performances on intellect and emotions	(1, 2, 4)
TH-AP-H6	Examine intuitive reactions and articulate personal attitudes toward theatre and other dramatic works	(1, 2, 4)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§719. Aesthetic PerceptionC Grade Cluster

Grade Cluster	K-4	5-8	9-12
Benchmark 1	Understand and use basic theatre arts vocabulary, including language for describing theatre in various cultures/time periods (1)	Understand and use expanded theatre arts vocabulary, including terms related to theatrical periods, environments, situations, and roles (1, 4)	Use advanced theatre arts vocabulary and apply cultural/historical information in discussing scripted scenes, sets, and period costumes (1, 2, 4)
Benchmark 2	Recognize and respond to concepts of beauty and taste in the ideas and creations of others through the study of theatre arts (1, 4, 5)	Recognize that concepts of beauty differ from culture to culture and that taste varies from person to person (1, 4, 5)	Distinguish unique characteristics of theatre as it reflects concepts of beauty and quality of life in various cultures (1, 4, 5)
Benchmark 3	Develop a basic understanding of the processes of creating, performing, and observing theatre (2, 5)	Identify and discuss appropriate behaviors for creators, performers, and observers of theatre (1, 2, 5)	Explain the significance of collaboration and evaluate group dynamics in creating, performing, and observing theatre (1, 2, 5)
Benchmark 4	Recognize that there are many possibilities and choices in the creative processes for theatre arts (2, 4)	Demonstrate awareness of various new ideas, possibilities, options, and situations pertaining to theatre arts (1, 2, 4)	Compare and contrast multiple possibilities and options available for artistic expression in theatre arts (1, 4)
Benchmark 5	Identify and discuss how works of theatre and dramatic media affect thoughts and feelings (1, 2)	Describe the emotional and intellectual impact of theatrical works and dramatic performances (1, 2)	Analyze and explain the impact of theatrical works and dramatic performances on intellect and emotions (1, 2)
Benchmark 6	Share personal feelings or preferences about theatre and other dramatic works (1)	Discuss intuitive reactions and personal responses to theatre and other dramatic works (1, 2, 4)	Examine intuitive reactions and articulate personal attitudes toward theatre and other dramatic works (1, 2, 4)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

Subchapter C. Historical and Cultural Perspective

§721. Purpose

A. Focus. Historical and cultural perspective is the vehicle for understanding works of art in time and place. The arts survive through times of interruption and neglect; they outlive governments, creeds, societies, and even the civilizations that spawned them. The artist is a harbinger of change, a translator of social thought, an analyst of cultures, a poetic scientist, and a recorder of history. To understand creative output in the history of the arts is to understand history itself.

B. Standard. Students develop historical and cultural perspective by recognizing and understanding that the arts throughout history are a record of human experience with a past, present, and future.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§723. Benchmarks K-4

A. In grades K-4, students should know and be able to:

TH-HP-E1	Recognize basic types and forms of theatre and dramatic media (film, television, and electronic media)	(2, 3)
TH-HP-E2	Recognize cultural differences in theatre productions and performances	(2)
TH-HP-E3	Recall and recognize characters and situations in literature and dramatic media from the past and present	(4)
TH-HP-E4	Recognize universal characters and situations in stories and dramas of various cultures and how theatre reflects life	(2, 4)

TH-HP-E5	Recognize careers in theatre arts and identify roles of theatre artists in various cultures and time periods	(4)
TH-HP-E6	Recognize great theatrical works and great playwrights who have shaped the history of theatre	(4)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§725. Benchmarks 5-8

A. In grades 5-8, students should know and be able to:

TH-HP-M1	Describe types, forms, and patterns in theatre and dramatic media (film, television, and electronic media)	(1, 3)
TH-HP-M2	Identify differences in theatre across cultures and how artistic choices and artistic expression reflect cultural values	(1, 2, 4)
TH-HP-M3	Identify and describe characters and situations in literature and dramatic media from the past and present	(1, 4)
TH-HP-M4	Identify and discuss ways in which themes are revealed and developed in dramas of various cultures and time periods	(1, 4)
TH-HP-M5	Describe and compare careers in theatre arts and roles of theatre artists in various cultures and time periods	(1, 4, 5)
TH-HP-M6	Identify major works of great playwrights and recognize contributions of prominent theatre artists	(3, 4)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§727. Benchmarks 9-12

A. In grades 9-12, students should know and be able to:

TH-HP-H1	Compare and contrast types, forms, methods, patterns, and trends in theatre, film, television, and electronic media	(2, 3)
TH-HP-H2	Analyze the form, content, and style of theatrical works from cultural and historical perspectives	(1, 2, 4)
TH-HP-H3	Demonstrate knowledge of dramatic literature, describing characters and situations in historical and cultural contexts	(1, 4)

TH-HP-H4	Analyze the universality of dramatic themes across cultures and historical periods and how theatre can reveal universal concepts	(4)
TH-HP-H5	Investigate and assess roles, careers, and career opportunities in theatre arts	(2, 3)
TH-HP-H6	Identify representative theatre artists of various cultures and compare their lives, works, and influence	(3, 4)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

**§729. Historical and Cultural Perspective
Grade Cluster**

Grade Cluster	K-4	5-8	9-12
Benchmark 1	Recognize basic types and forms of theatre and dramatic media (film, television, and electronic media) (2, 3)	Describe types, forms, and patterns in theatre and dramatic media (film, television, and electronic media) (1, 3)	Compare and contrast types, forms, methods, patterns, and trends in theatre, film, television, and electronic media (2, 3)
Benchmark 2	Recognize cultural differences in theatre productions and performances (2)	Identify differences in theatre across cultures and how artistic choices and artistic expression reflect cultural values (1, 2, 4)	Analyze the form, content, and style of theatrical works from cultural and historical perspectives (1, 2, 4)
Benchmark 3	Recall and recognize characters and situations in literature and dramatic media from the past and present (4)	Identify and describe characters and situations in literature and dramatic media from the past and present (1, 4)	Demonstrate knowledge of dramatic literature, describing characters and situations in historical and cultural contexts (1, 4)
Benchmark 4	Recognize universal characters and situations in stories and dramas of various cultures and how theatre reflects life (2, 4)	Identify and discuss ways in which universal themes are revealed and developed in dramas of various cultures and time periods (1, 4)	Analyze the universality of dramatic themes across cultures and historical periods and how theatre can reveal universal concepts (4)
Benchmark 5	Recognize careers in theatre arts and identify roles of theatre artists in various cultures and time periods (4)	Describe and compare careers in theatre arts and roles of theatre artists in various cultures and time periods (1, 4, 5)	Investigate and assess roles, careers, and career opportunities in theatre arts (2, 3)
Benchmark 6	Recognize great theatrical works and great playwrights who have shaped the history of theatre (4)	Identify major works of great playwrights and recognize contributions of prominent theatre artists (3, 4)	Identify representative theatre artists of various cultures and compare their lives, works, and influence (3, 4)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

Subchapter D. Critical Analysis

§731. Purpose

A. Focus. Critical analysis is the process of inquiry associated with an individual's knowledge of the arts. Communication about the arts in a structured way provides the individual with means to describe, analyze, interpret, and make critical, reasoned judgments about the form and content of the arts.

B. Standard. Students make informed verbal and written observations about the arts by developing the skills for critical analysis through study of and exposure to the arts.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§733. Benchmarks K-4

A. In grades K-4, students should know and be able to:

TH-CA-E1	Describe in simple terms how voice, language, and technical elements are used in works of theatre and other dramatic media	(1, 2)
TH-CA-E2	Identify motivations, personality traits, and responses to emotional experiences in characters portrayed in dramatic literature and media	(2)
TH-CA-E3	Identify and discuss the theme, message, or story idea conveyed in a dramatic work	(1, 2)
TH-CA-E4	Use basic theatre arts vocabulary to express and explain opinions about scripts and performances	(1)
TH-CA-E5	Identify relationships among theatre arts, other arts, and disciplines outside the arts	(1, 4)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§735. Benchmarks 5-8

A. In grades 5-8, students should know and be able to:

TH-CA-M1	Explain how elements of theatre and principles of communication are used in works created for the stage and other dramatic media	(1, 2)
TH-CA-M2	Analyze descriptions, dialogues, and actions to explain character traits, personality, motivations, emotional perceptions, and ethical choices	(2, 5)
TH-CA-M3	Interpret and discuss the theme or social/political message conveyed in a dramatic work	(1, 5)
TH-CA-M4	Use appropriate criteria and expanded theatre arts vocabulary to critique scripts, performances and productions	(1, 2)
TH-CA-M5	Describe relationships among theatre arts, other arts, and disciplines outside the arts	(1, 4)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§737. Benchmarks 9-12

A. In grades 9-12, students should know and be able to:

TH-CA-H1	Analyze how elements of theatre and principles of communication are used to achieve specific effects in theatre and other media productions	(1, 2)
TH-CA-H2	Analyze emotional and social dimensions of characterization and explain character transformations and relationships	(2, 5)
TH-CA-H3	Construct social meaning from dramatic works with reference to theme, purpose, point of view, and current issues	(2, 4, 5)
TH-CA-H4	Use appropriate criteria and advanced theatre arts vocabulary to critique scripts, performances, and productions	(1, 2)
TH-CA-H5	Explain relationships among theatre arts, other arts, and disciplines outside the arts	(1, 4)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§739. Critical Analysis C Grade Cluster

Grade Cluster	K-4	5-8	9-12
Benchmark 1	Describe in simple terms how voice, language, and technical elements are used in works of theatre and other dramatic media (1, 2)	Explain how elements of theatre and principles of communication are used in works created for the stage and other dramatic media (1, 2)	Analyze how elements of theatre and principles of communication are used to achieve specific effects in theatre and other media productions (1, 2)
Benchmark 2	Identify motivations, personality traits, and responses to emotional experiences in characters portrayed in dramatic literature and media (2)	Analyze descriptions, dialogues, and actions to explain character traits, personality, motivations, emotional perceptions, and ethical choices (2, 5)	Analyze emotional and social dimensions of characterization and explain character transformations and relationships (2, 5)
Benchmark 3	Identify and discuss the theme, message, or story idea conveyed in a dramatic work (1, 2)	Interpret and discuss the theme or social/political message conveyed in a dramatic work (1, 5)	Construct social meaning from dramatic works with reference to theme, purpose, point of view, and current issues (2, 4, 5)
Benchmark 4	Use basic theatre arts vocabulary to express and explain opinions about scripts and performances (1)	Use appropriate criteria and expanded theatre arts vocabulary to critique scripts, performances and productions (1, 2)	Use appropriate criteria and advanced theatre arts vocabulary to critique scripts, performances, and productions (1, 2)
Benchmark 5	Identify relationships among theatre arts, other arts, and disciplines outside the arts (1, 4)	Describe relationships among theatre arts, other arts, and disciplines outside the arts (1, 4)	Explain relationships among theatre arts, other arts, and disciplines outside the arts (1, 4)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

Chapter 9. Visual Arts

Subchapter A. Creative Expression

§901. Purpose

A. Focus. Creative expression opens an avenue for the application of individual ideas, feelings, and expressions. The use of a variety of media and techniques provides an opportunity for the individual to develop, organize, and interpret knowledge for communication. The skills of analysis, problem solving, cooperative involvement, and disciplined behavior contribute to a successful school environment and prepare the individual to become a productive member of society.

B. Standard. Students develop creative expression through the application of knowledge, ideas, communication skills, organizational abilities, and imagination.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§903. Benchmarks K-4

A. In grades K-4, students should know and be able to:

VA-CE-E1	Explore and identify imagery from a variety of sources and create visual representations	(2, 3)
VA-CE-E2	Explore and discuss techniques and technologies for visual expression and communication	(1, 2, 3)

VA-CE-E3	Use art vocabulary and the elements and principles of design to convey the language of art (create and discuss own artwork)	(1, 2, 3)
VA-CE-E4	Experiment to create various art forms, including art forms from other cultures	(2, 3, 4)
VA-CE-E5	Draw on imagination, individual experience, and group activities to generate ideas for visual expression	(1, 4, 5)
VA-CE-E6	Identify relationships among visual arts, other arts, and disciplines outside the arts	(1, 4)
VA-CE-E7	Maintain a sketchbook or journal, or develop a portfolio	(1, 2, 3)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§905. Benchmarks 5-8

A. In grades 5-8, students should know and be able to:

VA-CE-M1	Demonstrate art methods and techniques in visual representations based on research of imagery	(2, 3)
VA-CE-M2	Select and apply media techniques, and technology to visually express and communicate	(1, 2, 3)
VA-CE-M3	Use the elements and principles of design and art vocabulary to visually express and describe individual ideas	(1, 2)
VA-CE-M4	Develop skills in creating various art forms, including art forms from other cultures	(2, 3, 4)
VA-CE-M5	Produce ideas for art productions while engaging in individual and group activities	(1, 2, 5)

VA-CE-M6	Understand and visually express relationships among visual arts, other arts, and disciplines outside the arts	(1, 2, 4)
VA-CE-M7	Maintain a sketchbook or journal and develop a portfolio	(1, 2, 3)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§907. Benchmarks 9-12

A. In grades 9-12, students should know and be able to:

VA-CE-H1	Produce works of art that successfully convey a central theme based on imagery, ideas, feelings, and memories	(1, 2, 3)
VA-CE-H2	Apply a variety of media techniques, technologies, and processes for visual expression and communication	(1, 2, 3)
VA-CE-H3	Use the elements and principles of design for individual expression while exploring compositional problems	(1, 2)
VA-CE-H4	Produce a visual representation of ideas derived from the study of various cultures and art forms	(2, 3, 4)
VA-CE-H5	Produce imaginative works of art generated from individual and group ideas	(1, 2, 5)
VA-CE-H6	Produce works of art that describe and connect art with other disciplines	(1, 2, 4)
VA-CE-H7	Maintain a sketchbook or journal and develop a portfolio	(1, 2, 3)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§909. Creative Expression C Grade Cluster

Grade Cluster	K-4	5-8	9-12
Benchmark 1	Explore and identify imagery from a variety of sources and create visual representations (2, 3)	Demonstrate art methods and techniques in visual representations based on research of imagery (2, 3)	Produce works of art that successfully convey a central theme based on imagery, ideas, feelings, and memories (1, 2, 3)
Benchmark 2	Explore and discuss techniques and technologies for visual expression and communication (1, 2, 3)	Select and apply media, techniques, and technology to visually express and communicate (1, 2, 3)	Apply a variety of media techniques, technologies, and processes for visual expression and communication (1, 2, 3)
Benchmark 3	Use art vocabulary and the elements and principles of design to convey the language of art (create and discuss own artwork) (1, 2, 3)	Use the elements and principles of design and art vocabulary to visually express and describe individual ideas (1, 2)	Use the elements and principles of design for individual expression while exploring compositional problems (1, 2)
Benchmark 4	Experiment to create various art forms, including art forms from other cultures (2, 3, 4)	Develop skills in creating various art forms, including art forms from other cultures (2, 3, 4)	Produce a visual representation of ideas derived through the study of various cultures and art forms (2, 3, 4)
Benchmark 5	Draw on imagination, individual experience, and group activities to generate ideas for visual expression (1, 4, 5)	Produce ideas for art productions while engaging in individual and group activities (1, 2, 5)	Produce imaginative works of art generated from individual and group ideas (1, 2, 5)
Benchmark 6	Identify relationships among visual arts, other arts, and disciplines outside the arts (1, 4)	Understand and visually express relationships among visual arts, other arts, and disciplines outside the arts (1, 2, 4)	Produce works of art that describe and connect art with other disciplines (1, 2, 4)
Benchmark 7	Maintain a sketchbook or journal, or develop a portfolio (1, 2, 3)	Maintain a sketchbook or journal and develop a portfolio (1, 2, 3)	Maintain a sketchbook or journal and develop a portfolio (1, 2, 3)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

Subchapter B. Aesthetic Perception

§911. Purpose

A. Focus. The study of aesthetics, or the philosophy of the arts, cultivates the direct experience of the senses and supplies the individual with a structure for perceiving and responding to the arts. A grasp of aesthetics empowers the individual to experience beauty in many forms, to appreciate artistic expression, and to develop insight into the creations and performances of others. By questioning concepts, weighing evidence, and examining intuitive reactions, the individual becomes increasingly discriminating in formulating preferences and conclusions about the values inherent in art. Aesthetic perception promotes creativity, flexible thinking, and the pursuit of excellence.

B. Standard. Students develop aesthetic perception through the knowledge of art forms and respect for their commonalities and differences.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§913. Benchmarks K-4

A. In grades K-4, students should know and be able to:

VA-AP-E1	Use elements and principles of design and basic art vocabulary for expressing responses to the work of others	(1, 4, 5)
VA-AP-E2	Recognize and respond to concepts of beauty and taste in the ideas and creations of others through the study of visual arts	(1, 4, 5)
VA-AP-E3	Explore the beauty in nature and discern images and sensory qualities found in nature and art	(1, 2)
VA-AP-E4	Recognize that there are many possibilities and choices in the processes for designing and producing visual arts	(2, 3, 4)
VA-AP-E5	Participate in guided inquiry into the basic question, "What is art?" and share personal feelings or preferences about various works	(1, 2, 4)
VA-AP-E6	Identify where and how the visual arts are used in daily life and in the community	(1, 2, 4)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§919. Aesthetic PerceptionC Grade Cluster

Grade Cluster	K-4	5-8	9-12
Benchmark 1	Use elements and principles of design and basic art vocabulary for expressing responses to the work of others (1, 4, 5)	Use elements and principles of design and expanded art vocabulary for responding to the aesthetic qualities of various works (1, 4)	Use advanced art/design vocabulary for responding to the aesthetic qualities of various works (1, 4)
Benchmark 2	Recognize and respond to concepts of beauty and taste in the ideas and creations of others through the study of visual arts (1, 4, 5)	Recognize that concepts of beauty differ by culture and that taste varies from person to person (1, 4, 5)	Distinguish unique characteristics of art as it reflects concepts of beauty and quality of life in various cultures (1, 4, 5)

§915. Benchmarks 5-8

A. In grades 5-8, students should know and be able to:

VA-AP-M1	Use elements and principles of design and expanded art vocabulary for responding to the aesthetic qualities of various works	(1, 4)
VA-AP-M2	Recognize that concepts of beauty differ by culture and that taste varies from person to person	(1, 4, 5)
VA-AP-M3	Perceive the aesthetic value and influence of organic forms and the natural environment as reflected in works of art	(1, 2, 4)
VA-AP-M4	Demonstrate awareness of various new ideas, possibilities, options, and situations pertaining to the art world	(1, 4)
VA-AP-M5	Discuss the question "What is art?" and express intuitive reactions and personal responses to various works	(1, 4)
VA-AP-M6	Describe the use and value of the visual arts in daily life, the workplace, and the community	(1, 2, 4)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§917. Benchmarks 9-12

A. In grades 9-12, students should know and be able to:

VA-AP-H1	Use advanced art/design vocabulary for responding to the aesthetic qualities of various works	(1, 4)
VA-AP-H2	Distinguish unique characteristics of art as it reflects concepts of beauty and quality of life in various cultures	(1, 4, 5)
VA-AP-H3	Use analogies, metaphors, and other descriptors to describe interrelationships in works of art and nature	(1, 2, 4)
VA-AP-H4	Compare and contrast multiple possibilities and options available for artistic expression	(1, 4)
VA-AP-H5	Question/weigh evidence and information, examine intuitive reactions, and articulate personal attitudes toward visual works	(1, 2, 5)
VA-AP-H6	Integrate knowledge of the visual arts in the total environment to understand the arts within a community	(2, 4, 5)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

Grade Cluster	K-4	5-8	9-12
Benchmark 3	Explore the beauty in nature and discern images and sensory qualities found in nature and art (1, 2)	Perceive the aesthetic value and influence of organic forms and the natural environment as reflected in works of art (1, 2, 4)	Use analogies, metaphors, and other descriptors to describe interrelationships in works of art and nature (1, 2, 4)
Benchmark 4	Recognize that there are many possibilities and choices in the processes for designing and producing visual arts (2, 3, 4)	Demonstrate awareness of various new ideas, possibilities, options, and situations pertaining to the art world (1, 4)	Compare and contrast multiple possibilities and options available for artistic expression (1, 4)
Benchmark 5	Participate in guided inquiry into the basic question "What is art?" and share personal feelings or preferences about various works (1, 2, 4)	Discuss the question "What is art?" and express intuitive reactions and personal responses to various works (1, 4)	Question/weigh evidence and information, examine intuitive reactions, and articulate personal attitudes toward visual work (1, 2, 5)
Benchmark 6	Identify where and how the visual arts are used in daily life and in the community (1, 2, 4)	Describe the use and value of the visual arts in daily life, the workplace, and the community (1, 2, 4)	Integrate knowledge of the visual arts in the total environment to understand the arts within a community (2, 4, 5)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

Subchapter C. Historical and Cultural Perspective

§921. Purpose

A. Focus. Historical and cultural perspective is the vehicle for understanding works of art in time and place. The arts survive through times of interruption and neglect; they outlive governments, creeds, societies, and even the civilizations that spawned them. The artist is a harbinger of change, a translator of social thought, an analyst of cultures, a poetic scientist, and a recorder of history. To understand creative output in the history of the arts is to understand history itself.

B. Standard. Students develop historical and cultural perspective by recognizing and understanding that the arts throughout history are a record of human experience with a past, present, and future.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§923. Benchmarks K-4

A. In grades K-4, students should know and be able to:

VA-HP-E1	Identify the subject, basic style, and culture represented by various works of art	(2, 4)
VA-HP-E2	Recognize universal symbols and how works of art communicate a universal language	(1, 4, 5)
VA-HP-E3	Identify art images and themes from the past and present and discuss historical differences	(1, 2, 4)
VA-HP-E4	Identify media used in works of art throughout history and recognize the importance of available resources	(2, 3, 4)
VA-HP-E5	Recognize professions in the visual arts and the role and status of the artist in various cultures and time periods	(2, 4)
VA-HP-E6	Recognize great artists and works of art that have shaped the history of art	(2, 4)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§925. Benchmarks 5-8

A. In grades 5-8, students should know and be able to:

VA-HP-M1	Identify and classify works of art by their subject, style, culture, and time period	(2, 4)
VA-HP-M2	Understand how works of art cross geographical, political, and historical boundaries	(2, 4)
VA-HP-M3	Understand the meaning and significance of ideas, themes, and messages in works of art from the past and present	(2, 4)
VA-HP-M4	Distinguish media and techniques used to create works of art throughout history	(2, 3, 4)
VA-HP-M5	Describe and compare careers in visual arts and the role and status of the artist in various cultures and time periods	(1, 2, 4)
VA-HP-M6	Identify major works of great and influential artists and recognize their achievements	(4, 5)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§927. Benchmarks 9-12

A. In grades 9-12, students should know and be able to:

VA-HP-H1	Analyze specific styles and periods of art in relation to prevailing cultural, social, political, and economic conditions	(2, 4, 5)
VA-HP-H2	Analyze how works of art cross geographical, political, and historical boundaries	(2, 4)
VA-HP-H3	Compare and contrast ways art has been used to communicate ideas, themes, and messages throughout history	(1, 2, 4)
VA-HP-H4	Analyze materials, technologies, media, and processes of the visual arts throughout history	(2, 3, 4)
VA-HP-H5	Investigate and assess roles, careers, and career opportunities in the visual arts	(2, 4)
VA-HP-H6	Identify representative visual artists of various cultures and compare their lives, careers, works, and influence	(1, 4)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

**§929. Historical and Cultural Perspective
Grade Cluster**

Grade Cluster	K-4	5-8	9-12
Benchmark 1	Identify the subject, basic style, and culture represented by various works of art (2, 4)	Identify and classify works of art by their subject, style, culture, and time period (2, 4)	Analyze specific styles and periods of art in relation to prevailing cultural, social, political, and economic conditions (2, 4, 5)
Benchmark 2	Recognize universal symbols and how works of art communicate a universal language (1, 4, 5)	Understand how works of art cross geographical, political, and historical boundaries (2, 4)	Analyze how works of art cross geographical, political, and historical boundaries (2, 4)
Benchmark 3	Identify art images and themes from the past and present and discuss historical differences (1, 2, 4)	Understand the meaning and significance of ideas, themes, and messages in works of art from the past and present (2, 4)	Compare and contrast ways art has been used to communicate ideas, themes, and messages throughout history (1, 2, 4)
Benchmark 4	Identify media used in works of art throughout history and recognize the importance of available resources (2, 3, 4)	Distinguish media and techniques used to create works of art throughout history (2, 3, 4)	Analyze materials, technologies, media, and processes of the visual arts throughout history (2, 3, 4)
Benchmark 5	Recognize professions in the visual arts and the role and status of the artist in various cultures and time periods (2, 4)	Describe and compare careers in visual arts and the role and status of the artist in various cultures and time periods (1, 2, 4)	Investigate and assess roles, careers, and career opportunities in the visual arts (2, 4)
Benchmark 6	Recognize great artists and works of art that have shaped the history of art (2, 4)	Identify major works of great and influential artists and recognize their achievements (4, 5)	Identify representative visual artists of various cultures and compare their lives, careers, works, and influence (1, 4)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

Subchapter D. Critical Analysis

§931. Purpose

A. Focus. Critical analysis is the process of inquiry associated with an individual's knowledge of the arts. Communication about the arts in a structured way provides the individual with means to describe, analyze, interpret, and make critical, reasoned judgments about the form and content of the arts.

B. Standard. Students make informed verbal and written observations about the arts by developing skills for critical analysis through the study of and exposure to the arts.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§933. Benchmarks K-4

A. In grades K-4, students should know and be able to:

VA-CA-E1	View works of art and express observations about how the elements and principles of design are used in the works	(1, 4)
VA-CA-E2	Identify images, colors, and other art elements that have specific meanings in cultural contexts	(1, 4)
VA-CA-E3	Express and explain aesthetic judgments about the created (built) environment	(1, 2, 4)

VA-CA-E4	Express and explain opinions about visual works of others using basic art vocabulary	(1, 4)
VA-CA-E5	Express interpretations about works of art and give supporting reasons	(1, 4)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§935. Benchmarks 5-8

A. In grades 5-8, students should know and be able to:

VA-CA-M1	View works of art and analyze how artists use design elements and principles to achieve an aesthetic effect	(2, 3, 4)
VA-CA-M2	Analyze and interpret art images for their symbolic meaning, purpose, and value in place and time	(2, 4)
VA-CA-M3	Express and justify aesthetic judgments about the created (built) environment	(1, 2, 4)
VA-CA-M4	Critique works of art using expanded art vocabulary	(1, 4)
VA-CA-M5	Develop interpretations about works of art and give supporting reasons	(1, 4)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§937. Benchmarks 9-12

A. In grades 9-12, students should know and be able to:

VA-CA-H1	Apply knowledge of design elements and principles to analyze, compare, or contrast the composition of various works of art	(2, 4)
VA-CA-H2	Compare and contrast symbolism as used in works of visual art from different cultures and time periods	(1, 4)
VA-CA-H3	Critique the design of structures or areas in the created (built) environment based on aesthetic criteria	(1, 2, 4)

VA-CA-H4	Critique works of art using advanced art vocabulary	(1, 4)
VA-CA-H5	Develop and justify personal interpretations of works of art based on information from inside and outside the work	(1, 2, 4)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§939. Critical Analysis C Grade Cluster

Grade Cluster	K-4	5-8	9-12
Benchmark 1	View works of art and express observations about how the elements and principles of design are used in the works (1, 4)	View works of art and analyze how artists use design elements and principles to achieve an aesthetic effect (2, 3, 4)	Apply knowledge of design elements and principles to analyze, compare, or contrast the composition of various works of art (2, 4)
Benchmark 2	Identify images, colors, and other art elements that have specific meanings in cultural contexts (1, 4)	Analyze and interpret art images for their symbolic meaning, purpose, and value in place and time (2, 4)	Compare and contrast symbolism as used in works of visual art from different cultures and time periods (1, 4)
Benchmark 3	Express and explain aesthetic judgments about the created (built) environment (1, 2, 4)	Express and justify aesthetic judgments about the created (built) environment (1, 2, 4)	Critique the design of structures or areas in the created (built) environment based on aesthetic criteria (1, 2, 4)
Benchmark 4	Express and explain opinions about visual works of others using basic art vocabulary (1, 4)	Critique works of art using expanded art vocabulary (1, 4)	Critique works of art using advanced art vocabulary (1, 4)
Benchmark 5	Express interpretations about works of art and give supporting reasons (1, 4)	Develop interpretations about works of art and give supporting reasons (1, 4)	Develop and justify personal interpretations of works of art based on information from inside and outside the work (1, 2, 4)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

Interested persons may submit comments until 4:30 p.m., December 9, 2003, to Nina Ford, State Board of Elementary and Secondary Education, P. O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 1963C Louisiana Arts Content Standards State Standards for Curriculum Development

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

Bulletin 1963: Art Standards, which was originally approved by BESE in 1997 have been revised to ensure they

are up-to-date and appropriate to serve as the foundation for assessment development. There will be no increase in cost to state or local governmental units to implement this policy change.

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

There are no effects on revenue collections.

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

There are no effects on costs or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no effects on competition and employment.

Marlyn Langley
Deputy Superintendent of
Management and Finance
0310#031

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Student Financial Assistance Commission Office of Student Financial Assistance

Scholarship/Grant Programs
(LAC 28:IV.911, 1111, 2105)

The Louisiana Student Financial Assistance Commission (LASFAC) announces its intention to amend its Scholarship/Grant rules (R.S. 17:3021-3025, R.S. 3041.10-3041.15, R.S. 17:3042.1, and R.S. 17:3048.1).

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

Title 28 EDUCATION

Part IV. Student Financial AssistanceC Higher Education Scholarship and Grant Programs

Chapter 9. TOPS Teacher Award

§911. Discharge of Obligation

A. - B.4. ...

C. Discharging the loan by Monetary Repayment. Recipients who elect not to discharge the obligation by teaching and who are not eligible for discharge by cancellation must repay the loan principal plus accrued interest and any collection costs incurred according to the following terms and conditions:

1. - 3.c. ...

4. unless the recipient qualifies for reduced payments as provided in §2105.H, the amount to be repaid annually will be the greater of:

a. the amount necessary to repay the capitalized loan principal within 10 years; or

b. \$1,200 per year or the unpaid balance, whichever is less;

C.5. - D.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:638 (April 1998), amended LR 24:1907 (October 1998), LR 26:69 (January 2000), LR 26:1603 (August 2000), LR 27:1858 (November 2001), LR 28:774 (April 2002), LR 30:

Chapter 11. Rockefeller State Wildlife Scholarship

§1111. Discharge of Obligation

A. - B. ...

C. Monetary Repayment. Recipients who do not discharge the obligation by graduating in an eligible major and who are not eligible for discharge by cancellation must repay the loan principal, plus accrued interest and any collection costs incurred in accordance with the following terms and conditions:

1. - 3.b. ...

4. unless the recipient qualifies for reduced payments as provided in §2105.H, the annual repayment amount will be the greater of:

a. the amount necessary to repay the capitalized loan principal within seven years; or

b. \$1,200 per year or the unpaid balance, whichever is less;

C.5. - D.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:640 (April 1998), amended LR 24:1910 (October 1998), repromulgated LR 27:1868 (November 2001), amended LR 28:775 (April 2002), LR 30:

Chapter 21. Miscellaneous Provisions and Exceptions §2105. Repayment Obligation, Deferment, Cancellation and Reduced Payments

A. - G.2. ...

H. Reduced Payments

1. Recipients who do not discharge the obligation by graduating in an eligible major and who are not eligible for discharge by cancellation must repay the loan principal, plus accrued interest and any collection costs incurred. Recipients in repayment status may request a temporary hardship repayment schedule that may be approved by LOSFA, upon receipt of documentation evidencing one or more of the following conditions:

a. the recipient is receiving federal or state public assistance;

b. the recipient's total gross, yearly income does not exceed the current federal poverty level for his/her state;

c. the recipient is experiencing a severe temporary medical condition and is unable to meet his/her financial obligations; or

d. the recipient has experienced a severe personal catastrophe or calamity and is temporary unable to meet his/her financial obligations.

2. If allowed by LOSFA, such reduced payments will continue as long as the condition(s) exist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:649 (April 1998), amended LR 24:1918 (October 1998), LR 26:1603 (August 2000), repromulgated LR 27:1869 (November 2001), amended LR 28:775 (April 2002), LR 28:2331 (November 2002), LR 30:

Interested persons may submit written comments on the proposed changes until 4:30 p.m., October 20, 2003 to Jack L. Guinn, Executive Director, Office of Student Financial Assistance, P.O. Box 91202, Baton Rouge, LA 70821-9202.

George Badge Eldredge
General Counsel

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Scholarship/Grant Programs

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

There are no estimated implementation costs or savings to State or Local governmental units.

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

The intention of these rule changes is to allow persons with financial hardships or other extenuating circumstances to pay an amount less than currently allowed. These changes are likely to increase agency self-generated revenues to the extent that such persons would otherwise not make payments. The actual change is unknown and unlikely to be materially significant.

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

The proposed changes will allow students experiencing financial hardships the opportunity to pay some amount towards their obligation. The state would accept temporary partial payments in lieu of referring the account to the Louisiana Department of Justice for collection.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no estimated effects on competition or employment resulting from these measures.

George Badge Eldredge
General Counsel
0310#043

H. Gordon Monk
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Louisiana Real Estate Commission**

Transactions (LAC 46:LXVII.3905)

Under the authority of the Louisiana Real Estate License Law, R.S. 37:1430 et seq., and in accordance with the provisions of the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Louisiana Real Estate Commission has initiated procedures to amend LAC 46:LXVII.Real Estate, Chapter 39, Section 3905. The amendment adds language that will provide more definitive instructions for carrying out the requirements of Chapter 39, Section 3905.A.

In accordance with R.S. 49:953(A)(1)(a)(viii) and 972, the following Family Impact Statement is submitted with the Notice of Intent for publication in the October 20, 2003, *Louisiana Register*. The proposed Rules have no known impact on family formation, stability, or autonomy.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXVII. Real Estate

**Chapter 39. Presentation of Offers and Counter
Offers**

§3905. Transactions

A. ...

B. It shall be the responsibility of each of the designated agents to make reasonable efforts to contact and notify the designated agent of the other party of the existence of an offer or counter offer.

C.1. It shall be the responsibility of the designated agent who transmits or delivers the written offer or counter offer to document the date, time of day, place, and method of delivery.

2. Such documentation as to the date, time of day, place and method of transmission or delivery of the written offer or counter offer may include, but will not be limited to, annotation by the delivering designated agent, a dated and timed facsimile transmission receipt or a dated and timed electronic mail receipt.

3. Such documentation shall be retained pursuant to 37:1449.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:48 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 30:

Interested parties are invited to submit written comments on the proposed regulations through November 7, 2003 at 4:30 p.m., to Stephanie Boudreaux, Louisiana Real Estate Commission, P.O. Box 14785, Baton Rouge, LA 70809.

Julius C. Willie
Executive Director

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

RULE TITLE: Transactions

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

There are no estimated implementation costs (savings) to state or local governmental units.

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

There is no estimated effect on revenue collections. Revenue collections will still be determined by the number of applicants and the time frame within which their license, certificate, or registration is obtained and/or renewed.

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

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups. Amending the Rules and regulations of the commission related to the documentation of offers and counter offers to include the language proposed in Chapter 30, Sections 3905.B and 3905.C will provide more definitive instructions for carrying out the requirements of Chapter 39, Section 3905.A, which became effective July 20, 2003.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Julius C. Willie
Executive Director
0310#059

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Medical Examiners**

Occupational Therapists and Occupational Therapy Assistants -Licensure, Certification and Practice (LAC 46:XLV.1903, 1907, 1917-1933, 1947-1951, 1955, 1975, 4903 and 4923)

Notice is hereby given, in accordance with R.S. 49:953, that the Louisiana State Board of Medical Examiners (board), pursuant to the authority vested in the board by R.S. 37:3001-3014, R.S. 37:1270, R.S. 37:1281, and the provisions of the Administrative Procedure Act, intends to amend its Rules governing licensure, certification and practice of occupational therapists and occupational therapy assistants to reflect a change in the testing and certification entity for occupational therapists and occupational therapy assistants from the American Occupational Therapy

Association (AOTA) to the National Board for Certification in Occupational Therapy, Inc. (NBCOT), and by limiting the use of NBCOT's certification marks "occupational therapist registered," "OTR," "certified occupational therapy assistant," and "COTA," to those authorized to use such designations by current NBCOT certification and/or registration, LAC 46:XLV, Subpart 2, Chapter 19, Subchapters A, B, D, F and H (§§1903, 1907, 1917-1933, 1947-1951, 1955 and 1975), respectively, and Subpart 3, Chapter 49, Subchapters A (§4903) and B (§4923). The proposed Rule amendments are set forth below. Inquires concerning the proposed amendments may be directed in writing to John B. Bobear, M.D., Executive Director, Louisiana State Board of Medical Examiners, at the address set forth below.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS

Part XLV. Medical Professions

Chapter 19. Occupational Therapists and
Occupational Therapy Assistants

Subchapter A. General Provisions

§1903. Definitions

A. As used in this Chapter the following terms shall have the meanings specified.

* * *

*Department*Cthe Louisiana Department of Health and Hospitals.

* * *

*NBCOT*CNational Board for Certification in Occupational Therapy, Inc.

* * *

*Occupational Therapist*Ca person who is licensed to practice occupational therapy, as defined in this Chapter, and whose license is in good standing.

*Occupational Therapy Assistant*Ca person who is licensed to assist in the practice of occupational therapy under the supervision of, and in activity programs with the consultation of, an occupational therapist licensed under this Chapter.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:

Subchapter B. Qualifications for License

§1907. Qualifications for License

A. - A.2. ...

3. have successfully completed the academic and supervised field work experience requirements to sit for the "Certification Examination for Occupational Therapist, Registered" or the "Certification Examination for Occupational Therapy Assistant" as administered for or by the NBCOT or such other certifying entity as may be approved by the board;

4. make written application to the board for review of proof of his current certification by the NBCOT on a form and in such a manner as prescribed by the board;

A.5. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:

Subchapter D. Examination

§1917. Designation of Examination

A. For purposes of licensure, the board shall use the examination administered by or on behalf of the NBCOT or such other certifying entity as the board may subsequently approve.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:

§1919. Eligibility for Examination

A. To be eligible for examination an applicant for licensure must make application to the NBCOT or its designated contract testing agency in accordance with procedures and requirements of NBCOT. Information on the examination process, including fee schedules and application deadlines, must be obtained by each applicant from the NBCOT. Application for licensure under §1913 does not constitute application for examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:

§1921. Dates, Places of Examination

A. The dates on which and places where the NBCOT certification examination for occupational therapists and occupational therapy assistants are given are scheduled by the NBCOT.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:

§1923. Observance of Examination

A. The NBCOT examination may be observed by a representative appointed by the board. The representative is authorized and directed by the board to obtain positive photographic identification from all applicants for licensure appearing and properly registered for the examination and to observe that all applicants for licensure abide by the rules of conduct established by the NBCOT.

B. An applicant for licensure who appears for examination shall:

1. ...

2. fully and promptly comply with any and all rules, procedures, instructions, directions, or requests made or prescribed by the NBCOT or its contract testing agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:

§1925. Subversion of Examination Process

A. ...

B. Conduct which subverts or undermines the integrity of the examination process shall be deemed to include:

1. refusing or failing to fully and promptly comply with any rules, procedures, instructions, directions, or requests made or prescribed by the NBCOT or its contract testing agency, or the board's representative;

2. - 10. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:

§1927. Finding of Subversion

A. When, during the administration of examination the board's representative, has reasonable cause to believe that an applicant-examinee is engaging or attempting to engage, or has engaged or attempted to engage, in conduct which subverts or undermines the integrity of the examination process, the board's representative shall take such action as he deems necessary or appropriate to terminate such conduct and shall report such conduct in writing to the board and the NBCOT.

B. When the board, upon information provided by the board's representative, the NBCOT or its contract testing agency, an applicant-examinee or any other person, has probable cause to believe that an applicant has engaged or attempted to engage in conduct which subverts or undermines the integrity of the examination process, the board shall so advise the applicant in writing, setting forth the grounds for its finding of probable cause, specifying the sanctions which are mandated or permitted for such conduct by §1929 of this Subchapter and provide the applicant with an opportunity for hearing pursuant to the board's rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:

§1931. Passing Score

A. The board shall use the criteria for satisfactory performance on the exam adopted by the NBCOT.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:

§1933. Reporting of Examination Score

A. Applicants for licensure shall request the NBCOT to notify the board of successful completion of the examination according to procedures for such notification established by NBCOT.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:

Subchapter F. License Issuance, Termination, Renewal and Reinstatement

§1947. Renewal of License

A. Every license issued by the board under this Subchapter shall be renewed annually on or before its date of expiration by submitting to the board an application for renewal upon forms supplied by the board, together with the renewal fee prescribed in Chapter 1 of these Rules and documentation of satisfaction of the continuing professional education requirements prescribed by Subchapter H of these rules.

B. - D. ...

E. Current registration or certification is not a prerequisite to renewal of a license to practice as an occupational therapist or occupational therapy assistant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1003 (September 1994), LR 24:1499 (August 1998), LR 30:

§1949. Reinstatement of License

A. ...

B. An application for reinstatement shall be made upon forms supplied by the board and accompanied by two letters of character recommendation, one from a reputable physician and one from a reputable occupational therapist of the former licensee's last professional location, together with the applicable late renewal and reinstatement fees prescribed in Chapter 1 of these rules.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1003 (September 1994), LR 30:

§1951. Titles of Licensees

A. Any person who is issued a license as an occupational therapist under the terms of this Chapter may use the words "occupational therapist," "licensed occupational therapist," or he may use the letters "OT" or "LOT," in connection with his name or place of business to denote his licensure. In addition, any person currently certified or registered by and in good standing with the NBCOT, may use the words "licensed occupational therapist registered" or "occupational therapist registered" or "LOTR" or "OTR."

B. Any person who is issued a license as an occupational therapy assistant under the terms of this Chapter may use the words "occupational therapy assistant," "licensed occupational therapy assistant," or he may use the letters "OTA" or "LOTA" in connection with his name or place of business to denote his licensure. In addition, any person currently certified as an assistant by and in good standing with the NBCOT, may use the designation "licensed certified occupational therapy assistant" or "LCOTA" or "certified occupational therapy assistant" or "COTA."

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270(B)(6).

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

12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:

§1955. False Representation of Licensure Prohibited

A. No person who is not licensed under this Chapter as an occupational therapist or an occupational therapy assistant, or whose license has been suspended or revoked, shall use, in connection with his name or place of business, the words "occupational therapist," "licensed occupational therapist," "occupational therapy assistant," "licensed occupational therapy assistant," or the letters, "OT," "LOT," "OTA," "LOTA," or any other words, letters, abbreviations, or insignia indicating or implying that he is an occupational therapist or an occupational therapy assistant, or in any way, orally, in writing, in print, or by sign, directly or by implication, represent himself as an occupational therapist or an occupational therapy assistant.

B. No person who is not licensed under this Chapter as an occupational therapist or an occupational therapy assistant, or whose license has been suspended or revoked, who is not currently certified or registered by and in good standing with the NBCOT shall use, in connection with his name or place of business, the words "occupational therapist registered," "licensed occupational therapist registered," "certified occupational therapy assistant," or "licensed certified occupational therapy assistant" or the letters, "OTR," "LOTR," or "COTA," or "LCOTA" or any other words, letters, abbreviations, or insignia indicating or implying that he is an occupational therapist registered or a certified occupational therapy assistant, or in any way, orally, in writing, in print, or by sign, directly or by implication, represent himself as such.

C. Whoever violates the provisions of this section shall be fined not more than \$500 or be imprisoned for not more than six months, or both.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:

Subchapter H. Continuing Professional Education

§1975. Failure to Satisfy Continuing Professional Education Requirements

A. - B.1.c. ...

2. the applicant has, within one year prior to making application for reinstatement, taken and successfully passed the recertification examination of the NBCOT.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3012(B) and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1005 (September 1994), amended LR 24:1499 (August 1998), LR 30:

Chapter 49. Occupational Therapists and Occupational Therapy Assistants

Subchapter A. General Provisions

§4903. Definitions

A. As used in this Chapter, the following terms shall have the meanings specified.

*Occupational Therapist*Ca person who is licensed to practice occupational therapy, as defined in this Chapter, and whose license is in good standing.

*Occupational Therapy Assistant*Ca person who is licensed to assist in the practice of occupational therapy under the supervision of, and in activity programs with the consultation of, an occupational therapist licensed under this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:

Subchapter B. Standards of Practice

§4923. False Representation of Licensure Prohibited

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), repealed by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:

Family Impact Statement

The proposed Rule amendments have no known impact on family, formation, stability or autonomy as described in R.S. 49:972.

Interested persons may submit data, views, arguments or comments on the proposed Rule amendments, in writing, through November 21, 2003 at 4 p.m., to John B. Bobear, M.D., Executive Director, Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, LA 70130. He is responsible for responding to inquiries regarding the proposed Rule amendments.

John B. Bobear, M.D.
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Occupational Therapists and Occupational Therapy Assistants-Licensure, Certification and Practice

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

Other than notice and Rule publication costs estimated at a combined total of \$408, which will be absorbed within the board's budget during FY 2004, it is not anticipated that the proposed Rule amendments will result in any additional costs or savings to the board or any other state or local governmental unit.

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

It is not anticipated that the proposed Rule amendments will have any material effect on the revenue collections of the Board of Medical Examiners or any state or local governmental unit.

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

The proposed amendments are in response to notification from the National Board for Certification of Occupational Therapy, Inc. (NBCOT) that Louisiana's law and/or the board's rules may permit the unauthorized use of its federally registered certification marks, i.e., "occupational therapist registered," "OTR," "certified occupational therapy assistant," and

"COTA," by practitioners licensed in this state who do not satisfy re-certification standards recently adopted by NBCOT or who have otherwise lost such certification. The proposed amendments substitute the "NBCOT" for the "AOTA" as the testing and certification entity for occupational therapists and occupational therapy assistants and limit the use of NBCOT's certification marks to those authorized by current certification/registration and standing to use them. It is not anticipated that the proposed amendments will have any material impact on costs, paperwork or workload on the licensure or practice of occupational therapists or occupational therapy assistants.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is not anticipated that the proposed Rule amendments will have any significant impact on competition or employment in either the public or private sector.

John B. Bobear, M.D.
Executive Director
0310#039

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Board of Medical Examiners

Office-Based Surgery (LAC 46:XLV.Chapter 73)

Notice is hereby given, in accordance with R.S. 49:953, that the Louisiana State Board of Medical Examiners (board), pursuant to the authority vested in the board by the Louisiana Medical Practice Act, R.S. 37:1261-1292, and the provisions of the Louisiana Administrative Procedure Act, intends to adopt Rules governing office-based surgery by physicians, LAC 46:XLV, Subpart 3, Chapter 73, §§7301-7315. The proposed Rules define office-based surgery and prescribe equipment, personnel and other conditions attendant to its performance. Such Rules exempt procedures utilizing no anesthesia or local, oral, topical or intramuscular anesthesia, as well as those using conscious sedation or regional anesthesia as defined, either individually or in combination. Procedures performed by a physician oral and maxillofacial surgeon under the authority and scope of a license to practice dentistry in this state are also exempt, as is surgery performed in hospitals, specified out-patient and accredited facilities and medical facilities or clinics licensed regulated or maintained by the state or federal government.

Title 46

PROFESSIONAL AND OCCUPATION STANDARDS

Part XLV. Medical Professions

Subpart 3. Practice

Chapter 73. Office-Based Surgery

Subchapter A. General Provisions

§7301. Scope of Chapter

A. The Rules of this Chapter govern the performance of office-based surgery by physicians in this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners LR 30:

§7303. Definitions

A. As used in this Chapter, unless the content clearly states otherwise, the following terms and phrases shall have the meanings specified.

Anesthesia Provider—an *anesthesiologist* or *certified registered nurse anesthetist* who possesses current certification or other evidence of completion of training in advanced cardiac life support training or pediatric advanced life support for pediatric patients.

Anesthesiologist—a *physician* licensed by the *board* to practice medicine in this state who has completed post-graduate residency training in anesthesiology and is engaged in the practice of such specialty.

Board—the Louisiana State Board of Medical Examiners.

Certified Registered Nurse Anesthetist ("CRNA")—an advanced practice registered nurse certified according to the requirements of a nationally recognized certifying body approved by the Louisiana State Board of Nursing ("Board of Nursing") who possesses a current license or permit duly authorized by the Board of Nursing to select and administer anesthetics or provide ancillary services to patients pursuant to R.S. 37:911 et seq., and who, pursuant to R.S. 37:911 et seq., administers anesthetics and ancillary services under the direction and supervision of a *physician* who is licensed to practice under the laws of the state of Louisiana.

Conscious Sedation—a drug-induced depression of consciousness during which patients retain the ability to independently maintain an airway, ventilatory and cardiovascular functions and respond purposefully to verbal commands, either alone or accompanied by light tactile stimulation.

Deep Sedation, Monitored Sedation, General Anesthesia (referred to in this Chapter as "*anesthesia*" unless the context states otherwise)—a drug-induced loss of consciousness that results in the partial or complete loss of ability to independently maintain an airway, ventilatory, neuromuscular or cardiovascular function and during which patients are not arousable, even by painful stimulation.

Medical Practice Act or the Act—R.S. 37:1261-92 as may be amended from time to time.

Office-Based Surgery—any surgery or surgical procedure not exempted by these Rules that is performed in an office-based surgery setting or facility.

Office-Based Surgery Setting or Facility—any clinical setting not exempted by these Rules where surgery is performed.

Physician—a person lawfully entitled to engage in the practice of medicine in this state as evidenced by a current license or permit duly issued by the *board*.

Reasonable Proximity—a distance of not more than 30 miles or one which may be reached within 30 minutes for patients 13 years of age and older and a distance of not more than 15 miles or one which can be reached within 15 minutes for patients 12 years of age and under.

Regional Anesthesia/Blocks (referred to in this Chapter as "*regional anesthesia*")—the administration of anesthetic agents that interrupt nerve impulses without loss of consciousness or ability to independently maintain an airway, ventilatory or cardiovascular function that includes but is not limited to the upper or lower extremities. For purposes of this Chapter regional anesthesia of or near the

central nervous system by means of epidural or spinal shall be considered *general anesthesia*.

Surgery or Surgical Procedure—the excision or resection, partial or complete destruction, incision or other structural alteration of human tissue by any means, including but not limited to lasers, pulsed light, radio frequency, or medical microwave devices, that is not exempted by these Rules upon the body of a living human being for the purpose of preserving health, diagnosing or curing disease, repairing injury, correcting deformity or defects, prolonging life, relieving suffering or any elective procedure for aesthetic, reconstructive or cosmetic purposes. Surgery shall have the same meaning as "operate."

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners LR 30:

§7305. Exemptions

A. This Chapter shall not apply to the following surgical procedures or clinical settings:

1. exempt surgical procedures include those:
 - a. requiring no anesthesia, using only local, oral, topical or intra-muscular anesthesia, those using regional anesthesia as defined by this Chapter or those using conscious sedation either individually or in combination; and/or
 - b. performed by a physician oral and maxillofacial surgeon under the authority and within the scope of a license to practice dentistry issued by the Louisiana State Board of Dentistry;
2. excepted clinical settings include:
 - a. a hospital, including an outpatient facility of the hospital that is separated physically from the hospital, an ambulatory surgical center, abortion clinic or other medical facility that is licensed and regulated by the Louisiana Department of Health and Hospitals;
 - b. a facility maintained or operated by the state of Louisiana or a governmental entity of this state;
 - c. a clinic maintained or operated by the United States or by any of its departments, offices or agencies; and
 - d. an outpatient setting currently accredited by one of the following associations or its successor association:
 - i. the Joint Commission on Accreditation of Healthcare Organizations relating to ambulatory surgical centers;
 - ii. the American Association for the Accreditation of Ambulatory Surgery Facilities; or
 - iii. the Accreditation Association for Ambulatory Health Care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners LR 30:

§7307. Prohibitions

A. On and after January 1, 2005, no physician shall perform office-based surgery except in compliance with the Rules of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners LR 30:

§7309. Prerequisite Conditions

A. A physician who performs office-based surgery shall adhere to and comply with the following Rules.

1. Facility and Safety
 - a. The facility shall comply with all applicable federal, state and local laws, codes and regulations pertaining to fire prevention, building construction and occupancy, accommodations for the disabled, occupational safety and health, medical waste and hazardous waste, infection control and storage and administration of controlled substances.
 - b. All premises shall be kept neat and clean. Operating areas shall be sanitized and materials, instruments, accessories and equipment shall be sterilized.
 - c. Supplies of appropriate sterile linens, gloves and dressings shall be maintained in sufficient quantities for routine and emergency use. All surgical personnel shall wear suitable operative attire.
 - d. Supplies of appropriate drugs, medications and fluids shall be maintained in sufficient quantities for routine and emergency use.
2. Quality of Care
 - a. A physician performing office-based surgery shall:
 - i. possess current staff privileges to perform the same procedure at a hospital located within a reasonable proximity; or
 - ii.(a) have achieved board certification from a board recognized by the American Board of Medical Specialties in a specialty that encompasses the procedure performed in an office-based surgery setting; and
 - (b) possess current admitting privileges at a hospital located within a reasonable proximity;
 - b. possess current certification or other evidence of completion of training in advanced cardiac life support training or pediatric advanced life support for pediatric patients;
 - c. ensure that all individuals who provide patient care in the office-based surgery setting are duly qualified, trained and possess a current valid license or certificate to perform their assigned duties. An unlicensed individual otherwise properly trained in the performance of a given procedure or duty shall participate in a patient's care only under the on-site direction and supervision of a physician who retains responsibility to the patient for the individual's performance.
3. Patient and Procedure Selection
 - a. Any office-based surgical procedure shall be within the training and experience of the operating physician, the health care practitioners providing clinical care assistance and the capabilities of the facility.
 - b. The surgical procedure shall be of a duration and degree of complexity that shall permit the patient to recover and be discharged from the facility on the same day. Under no circumstances shall a patient be permitted to remain in an office-based surgery setting overnight.
4. Informed Consent
 - a. Informed consent for surgery and the planned anesthetic intervention shall be obtained from the patient or legal guardian in accordance with the requirements of law.
5. Patient Care

a. The anesthesia provider shall be physically present throughout the surgery.

b. The anesthesia provider or an individual possessing current certification or other evidence of completion of training in advanced cardiac life support training or pediatric advanced life support for pediatric patients shall remain in the facility until all patients have been released from anesthesia care by a CRNA or a physician.

c. Discharge of a patient shall be properly documented in the medical record.

6. Monitoring and Equipment

a. There shall be sufficient space to accommodate all necessary equipment and personnel and to allow for expeditious access to the patient and all monitoring equipment.

b. All equipment shall be in proper working condition; monitoring equipment shall be available, maintained, tested and inspected according to the manufacturer's specifications.

c. A secondary power source appropriate for equipment in use in the event of a power failure shall be available. In the event of an electrical outage which disrupts the capability to continuously monitor all specified patient parameters, heart rate and breath sounds shall be monitored using a precordial stethoscope or similar device and blood pressure measurements shall be re-established using a non-electrical blood pressure measuring device until power is restored.

d. In an office where anesthesia services are to be provided to infants and children the required equipment, medication, including drug dosage calculations, and resuscitative capabilities shall be appropriately sized for a pediatric population.

e. All facilities shall have an auxiliary source of oxygen, suction, resuscitation equipment and medication for emergency use. A cardiopulmonary resuscitative cart shall be available and shall include, but not be limited to, an Ambu Bag, laryngoscope, emergency intubation equipment, airway management equipment, a defibrillator with pediatric paddles if pediatric patients are treated and a medication kit which shall include appropriate non-dated medication for the treatment of anaphylaxis, cardiac arrhythmia, cardiac arrest and malignant hyperthermia when triggering agents are used or if the patient is at risk for malignant hyperthermia. Resources for determining appropriate drug doses shall be readily available.

7. Emergencies and Transfers

a. Emergency instructions along with the names and telephone numbers to be called in the event of an emergency (i.e., emergency medical services ("EMS"), ambulance, hospital, 911, etc.) shall be posted at each telephone in the facility.

b. Agreements with local EMS or ambulance services shall be in place for the purpose of transferring a patient to a hospital in the event of an emergency.

c. Pre-existing arrangements shall be established for definitive care of patients at a hospital located within a reasonable proximity when extended or emergency services are needed to protect the health or well being of the patient.

8. Medical Records

a. A complete medical record shall be documented and maintained of the patient history, physical and other examinations and diagnostic evaluations, consultations, laboratory and diagnostic reports, informed consents, preoperative, inter-operative and postoperative anesthesia assessments, the course of anesthesia, including monitoring modalities and drug administration, discharge and any follow-up care.

9. Policies and Procedures

a. Written policies and procedures for the orderly conduct of the facility shall be prepared for the following areas:

i. management of anesthesia including:

(a). patient selection criteria;

(b). drug overdose, cardiovascular and respiratory arrest, and other risks and complications from anesthesia;

(c). the procedures to be followed while a patient is recovering from anesthesia in the office; and

(d). release from anesthesia care and discharge criteria;

ii. infection control (surveillance, sanitation and asepsis, handling and disposal of waste and contaminants, sterilization, disinfection, laundry, etc.); and

iii. management of emergencies, including:

(a). the procedures to be followed in the event that a patient experiences a complication;

(b). the procedures to be followed if the patient requires transportation for emergency services including the identity and telephone numbers of the EMS or ambulance service if one is to be utilized, the hospital to which the patient is to be transported and the functions to be undertaken by health care personnel until a transfer of the patient is completed;

(c). fire and bomb threats.

b. All facility personnel providing patient care shall be familiar with, appropriately trained in and annually review the facility's written policies and procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners LR 30:

§7311. Administration of Anesthesia

A. Evaluation of the Patient. An anesthesia provider shall perform a pre-anesthesia evaluation, counsel the patient and prepare the patient for anesthesia.

B. Diagnostic Testing, Consultations. Appropriate pre-anesthesia diagnostic testing and consults shall be obtained as indicated by the pre-anesthesia evaluation.

C. Anesthesia Plan of Care. A patient-specific plan for anesthesia care shall be formulated based on the assessment of the patient, the surgery to be performed and the capacities of the facility.

D. Administration of Anesthesia. Anesthesia shall be administered by an anesthesia provider who shall not participate in the surgery.

E. Monitoring. Monitoring of the patient shall include continuous monitoring of ventilation, oxygenation and cardiovascular status. Monitors shall include, but not be limited to, pulse oximetry, electrocardiogram continuously,

non-invasive blood pressure measured at appropriate intervals, an oxygen analyzer and an end-tidal carbon dioxide analyzer. A means to measure temperature shall be readily available and utilized for continuous monitoring when indicated. An audible signal alarm device capable of detecting disconnection of any component of the breathing system shall be utilized. The patient shall be monitored continuously throughout the duration of the procedure. Post-operatively, the patient shall be evaluated by continuous monitoring and clinical observation until stable. Monitoring and observations shall be documented in the patient's medical record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners LR 30:

§7313. Reports to the Board

A. A physician performing office-based surgery shall notify the board in writing within 15 days of the occurrence or receipt of information that an office-based surgery resulted in:

1. an unanticipated and unplanned transport of the patient from the facility to a hospital emergency department;
2. an unplanned readmission to the office-based surgery setting within seventy-two hours of discharge from the facility;
3. an unscheduled hospital admission of the patient within 72 hours of discharge from the facility; or
4. the death of the patient within 30 days of surgery in an office-based facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners LR 30:

§7315. Effect of Violation

A. Any violation or failure to comply with the provisions of this Chapter shall be deemed unprofessional conduct and conduct in contravention of the board's Rules, in violation of R.S. 37:1285(A)(13) and (30), respectively, as well as violation of any other applicable provision of R.S. 37:1285(A), providing cause for the board to suspend, revoke, refuse to issue or impose probationary or other restrictions on any license held or applied for by a physician culpable of such violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners LR 30:

Family Impact Statement

The proposed Rules have no known impact on family, formation, stability or autonomy, as described in R.S. 49:972.

Interested persons may submit written data, views, arguments, information or comments on the proposed Rules until 4:00 p.m., November 21, 2003, to John B. Bobear, M.D, Executive Director, Louisiana State Board of Medical Examiners, at P.O. Box 30250, New Orleans, LA 70190-0250 (630 Camp Street, New Orleans, LA 70130). He is responsible for responding to inquiries regarding the proposed Rules.

John B. Bobear, M.D.
Executive Director

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

RULE TITLE: Physicians-Practice

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

Other than notice and Rule publication costs estimated at a combined total of \$680, which will be absorbed within the board's budget during FY 2004, it is not anticipated that the proposed Rules will result in any additional costs or savings to the board or any state or local governmental unit.

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

It is not anticipated that the proposed Rules will have any material effect on the revenue collections of the Board of Medical Examiners or any state or local governmental unit.

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

While the board has no reliable data it is believed that a small number of affected physicians may experience an increase in costs and/or decrease in revenue. Such affected physicians would be economically impacted only if and to the extent that they lack equipment or do not hold hospital privileges specified by the proposed Rules. The board is not, however, in a position to estimate the proposed Rules' effect in either of these respects as no information or data is available either as to the number of physicians who perform office-based surgery falling within the preview of the proposed Rules, the extent to which they already comply with the Rules' equipment and other requirements and whether they enjoy the privileges specified. Any increase in costs or decrease in revenue to affected physicians would, of course, be offset to an immeasurable degree by the benefits (health, safety, welfare and attendant cost savings) to the citizens of this state. Moreover, the board does not anticipate that implementation of the proposed Rules will have a material affect on paperwork or workload of physicians who may perform office-based surgery.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is not anticipated that the proposed Rules will have any significant impact on competition or employment in either the public or private sector.

John B. Bobear, M.D.
Executive Director
0310#040

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Office of Public Health**

Safe Drinking Water Program
Stage 1 Disinfectants and Disinfection Byproducts Rule
(LAC 51:XII.101, 311, 367, 1103,
1110-1112, 1115, Chapters 13 and 15)

Under the authority of R.S. 40:4 and 40:5, and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Department of Health and Hospitals, Office of Public Health (DHH-OPH) intends to amend Part XII (Water Supplies) of the Louisiana State Sanitary Code. These amendments are necessary in order that DHH-OPH may be able to maintain primacy (primary enforcement authority) from the United States Environmental Protection Agency (USEPA) over public

water systems within Louisiana. USEPA requires state primacy agencies to adopt state rules and regulations which are no less stringent than the federal Safe Drinking Water Act's (42 U.S.C. §300f, et seq.) primary implementing regulations (40 CFR Part 141).

This Rule is specifically necessary due to a federal rule promulgated by the USEPA in the *Federal Register* dated December 16, 1998 (Volume 63, Number 241, pages 69389 through 69476), which is entitled "National Primary Drinking Water Regulations: Disinfectants and Disinfection Byproducts; Final Rule." This Rule is commonly referred to as the federal Stage 1 Disinfectants and Disinfection Byproducts Rule (Stage 1 DBPR). In addition, technical corrections to the Stage 1 DBPR were promulgated by the USEPA in the *Federal Register* dated January 16, 2001 (Volume 66, Number 10, pages 3769 through 3780) and in the *Federal Register* dated February 12, 2001 (Volume 66, Number 29, page 9903).

A public water system (PWS) is classified as either a community water systems (CWSs), a non-transient non-community water systems (NTNCWSs), or a transient non-community water systems (TNCWSs). Definitions/examples of CWSs, NTNCWSs, and TNCWSs may be found in R.S. 40:5.8. This proposed Rule is only applicable to CWSs and NTNCWSs which add a chemical disinfectant (such as chlorine, chloramines, chlorine dioxide, ozone, etc.) to the water in any part of the drinking water treatment process. Also, certain provisions are specifically applicable to those TNCWSs which utilize chlorine dioxide in their treatment processes [e.g., monitoring/maximum residual disinfectant level (MRDL) for chlorine dioxide and monitoring/maximum contaminant level (MCL) for chlorite].

For CWS and NTNCWs whose source of water supply is surface water, or ground water under the direct influence of surface water (GWUDISW), serve 10,000 or more individuals, and add a chemical disinfectant in the treatment process, the compliance date under the federal Stage 1 DBPR was January 1, 2002. Likewise, TNCWSs whose source of water supply is surface water, or ground water under the direct influence of surface water (GWUDISW), serve 10,000 or more individuals, and add chlorine dioxide in the treatment process, the compliance date under the federal Stage 1 DBPR was January 1, 2002.

For CWSs and NTNCWS whose source of water supply is surface water or GWUDISW, serve less than 10,000 individuals, and add a chemical disinfectant in the treatment process, the compliance date under the federal Stage 1 DBPR is January 1, 2004. In addition, TNCWSs whose source of water supply is surface water or GWUDISW, serve less than 10,000 individuals, and add chlorine dioxide in the treatment process, the compliance date under the federal Stage 1 DBPR is January 1, 2004.

For CWSs and NTNCWSs whose source of water supply is only ground water (and such ground water is not considered GWUDISW), serve 25 or more individuals, and add a chemical disinfectant in the treatment process, the compliance date under the federal Stage 1 DBPR is January 1, 2004.

The major reason for this proposed amendment to Part XII (Water Supplies) of the Louisiana State Sanitary Code is to adopt an equivalent Stage 1 DBPR on the state level. The

Rule proposes to add a new Chapter 13 to Part XII entitled "Stage 1 Disinfectants and Disinfection Byproducts Rule" as well as a new Chapter 15 to Part XII entitled "Approved Chemical Laboratories/Drinking Water."

The proposed Rule applies to public water systems that add or use a chemical disinfectant for either primary or residual treatment of the drinking water. The general purposes of the proposed Rule are to:

1.) establish maximum residual disinfectant levels (MRDLs) for three disinfectants (chlorine, chloramines, and chlorine dioxide);

2.) lower the existing maximum contaminant level (MCL) for total trihalomethanes (TTHMs) applicable to systems serving 10,000 or more individuals (TTHMs is one group of organic disinfection byproducts);

3.) establish a MCL for TTHMs which is applicable to systems serving less than 10,000 individuals;

4.) establish a MCL for Haloacetic Acids (HAA5) (HAA5 is another group of organic disinfection byproducts);

5.) establish a MCL for chlorite [an inorganic disinfection byproduct created when using chlorine dioxide];

6.) establish a MCL for bromate [another inorganic disinfection byproduct created when using ozone]; and

7.) establish a treatment technique (TT) requirement for the control of disinfection byproduct (DBP) precursor chemicals applicable to systems whose source of water supply is surface water or GWUDISW using conventional filtration treatment;

8.) regulate all laboratories (including both on-site water plant laboratories as well as private, commercial laboratories) which perform analyses on compliance monitoring samples wherein the particular parameter is not required to be analyzed by a laboratory holding official certification from the Office of Public Health (OPH) or the USEPA. The distinction will be that laboratories found acceptable under proposed Chapter 15 herein may be considered "approved," but not officially "certified" by OPH (as that term is currently used in LAC 51:XII.301.C).

The USEPA and DHH-OPH believe that the implementation of this Rule will reduce the levels of disinfectants and disinfection byproducts (DBPs) in drinking water supplies. The ultimate goal is to reduce the public's exposure to potentially harmful DBPs in their drinking water.

In addition, the proposed amendment to Part XII also updates adoption of the *Recommended Standards for Water Works* (commonly called the Ten State Standards) from the 1982 Edition to the 1997 Edition. Also, portions of the Interim Enhanced Surface Water Treatment Rule (LAC 51:XII.Chapter 11) which was adopted December 20, 2002 are proposed to be amended to specifically address the calibration/validation of pH meters and temperature measuring devices as well as the correction of several typographical errors wherein the word "Appendix" is to be changed to the word "Chapter." Finally, Sections 311 and 367 of Part XII are proposed to be amended to increase the retention time for certain records from the current two year requirement to three years in order to be consistent with recordkeeping provisions adopted in the Interim Enhanced Surface Water Treatment Rule.

For the reasons set forth above, Part XII (Water Supplies) of the Louisiana State Sanitary Code is proposed to be amended as follows:

Title 51
PUBLIC HEALTH
PART XII. Water Supplies

Chapter 1. General

§101. Definitions

A. Unless otherwise specifically provided herein, the following words and terms used in this Chapter of the Sanitary Code, and all other Chapters which are adopted or may be adopted, are defined for the purposes thereof as follows:

* * *

Certified Chemical Laboratory/Drinking Water Ca laboratory meeting the requirements contained within the *Laboratory Certification Manual* and which has been officially certified by the state health officer to analyze and report compliance monitoring sample results for one or more physical, chemical, or radiological parameters associated with drinking water. Certification may be obtained on a parameter by parameter basis only.

* * *

National Primary Drinking Water Regulations C

a. drinking water regulations promulgated by the U.S. Environmental Protection Agency pursuant to applicable provisions of title XIV of the Public Health Service Act, commonly known as the "Safe Drinking Water Act," 42 U.S.C.A. §300f, et seq., and as published in the July 1, 1999 edition of the *Code of Federal Regulations*, Title 40, Part 141 (40 CFR 141), less and except:

i. Subpart HCFiltration and Disinfection (40 CFR 141.70 through 40 CFR 141.75);

ii. Subpart MCInformation Collection Requirements (ICR) for Public Water Systems (40 CFR 141.140 through 40 CFR 141.144); and

iii. Subpart PCEnhanced Filtration and Disinfection (40 CFR 141.170 through 141.175);

b. 40 CFR 141 drinking water regulation amendments promulgated by the U.S. Environmental Protection Agency pursuant to applicable provisions of title XIV of the Public Health Service Act, commonly known as the "Safe Drinking Water Act," 42 U.S.C.A. §300f, et seq., and as published in the *Federal Register* dated January 16, 2001 (Volume 66, Number 10, pages 3769 through 3780), less and except:

i. any amendments contained therein applicable to 40 CFR 141.70 through 141.75; and

ii. any amendments contained therein applicable to 40 CFR 141.170 through 141.175; and

c. 40 CFR 141 drinking water regulation amendments promulgated by the U.S. Environmental Protection Agency pursuant to applicable provisions of title XIV of the Public Health Service Act, commonly known as the "Safe Drinking Water Act," 42 U.S.C.A. §300f, et seq., and as published in the *Federal Register* dated February 12, 2001 (Volume 66, Number 29, page 9903).

d. When "Subpart H" or "Subpart P" is used within the actual text of the drinking water regulations cited in Subparagraphs a, b, or c of this Paragraph (definition), "LAC 51:XII.Chapter 11" shall be substituted therein.

* * *

Ten State Standards Cthe *Recommended Standards for Water Works* (1997 Edition)* promulgated by the Great Lakes and Upper Mississippi Board of State Sanitary Engineers and any modifications and additions to these Standards which the state health officer may establish in this Part.

*NOTE: Published by: Health Education Service, P.O. Box 7126, Albany, New York 12224

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4, 40:5, and 40:1148.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1318 (June 2002), amended LR 28:2513 (December 2002), LR 30:

Chapter 3. Water Quality Standards

§311. Records

[formerly paragraph 12:003-2]

A. Complete daily records of the operation of water treatment plants, including reports of laboratory control tests, shall be kept for a period of three years on forms approved by the state health officer. Copies of these records shall be provided to the office designated by the state health officer within 10 days following the end of each calendar month.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5(5)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1321 (June 2002), amended LR 30:

§367. Records

[formerly paragraph 12:021-7]

A. Daily records of chlorine residual measurements shall be kept. These records shall be maintained on forms approved by the state health officer and shall be retained for a period of three years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5(5)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1327 (June 2002), amended LR 30:

Chapter 11. Interim Enhanced Surface Water Treatment Rule

Subchapter A. General Requirements and Definitions

§1103. Definition of Terms

A. ...

B. Definitions. Definitions contained in §101 of this Part shall also apply to this Chapter except where the following special definitions apply.

* * *

Best Available Technology Cfor the purpose of this Chapter in relation to the treatment of surface water, means conventional filtration treatment which conforms with all of the requirements of this Chapter.

* * *

Calibration_{pH} Cto standardize (adjust the instrument response to a pH primary standard) a pH meter (such as a bench top or continuous monitoring pH meter) by determining the deviation from a pH primary standard so as to ascertain and implement the proper correction factors in an attempt to obtain accurate and reliable results.

* * *

Calibration_{temp} Cto standardize [adjust the instrument response to a NIST traceable standard] a temperature measuring device (such as a thermometer or thermocouple)

by determining the deviation from a NIST traceable standard so as to ascertain and implement the proper correction factors in an attempt to obtain accurate and reliable sample results.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8), R.S. 40:5(2)(3)(5)(6)(17)(20), and R.S. 40:1148.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1336 (June 2002), amended LR 28:2514 (December 2002), LR 30:

§1110. Calibration_{pH}/Validation of pH Meters

A. pH of water within the water treatment plant shall be conducted using a pH meter having a minimum accuracy of " 0.2 pH units.

B. Benchtop pH meters used for determining the pH of water within the water treatment plant shall be calibrated at least once each day in accordance with Section 4.a. of SM 4500-H⁺ B (Electrometric pH Method) of the *Standard Methods for the Examination of Water and Wastewater*, 19th Edition, or the manufacturer's specifications.

C. The calibration_{pH} of benchtop pH meters shall be validated with at least one buffer solution each time a series of samples is run and, if necessary, recalibrated in accord with the requirements of Paragraph B of this Section.

D. On-line pH meters shall be calibrated_{pH} according to the manufacturer's specifications at least once each day.

E. Records of calibrations on each pH meter shall be maintained for at least three years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 30:

§1111. Calibration_{temp}/Validation of Temperature Measuring Devices

A. Water temperature within the water treatment plant shall be measured using a thermometer, thermocouple, or other temperature measuring device having a minimum accuracy of "0.5 degrees Celsius (0.5EC).

B. Service thermometers, thermocouples, and other temperature measuring devices used for determining water temperature within the water treatment plant shall be validated using a thermometer that has been calibrated annually against a NIST certified thermometer. The NIST certified thermometer shall be sent back to the manufacturer for recalibration at least once every three years.

C. Records of validations/calibrations on each temperature measuring device shall be maintained for at least three years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1340 (June 2002), amended LR 28:2518 (December 2002), LR 30:

§1112. Cleaning of Analytical Instrumentation

A. A thorough cleaning of analytical instrumentation (particularly continuous monitoring turbidimeters, disinfectant residual monitors, and pH meters) shall be performed, as necessary, prior to performing any calibration/validation. On a weekly basis, continuous monitoring turbidimeters and continuous disinfectant residual monitors shall be inspected to determine if there is any material or sedimentation in the measuring chambers. Records of such inspection/cleaning shall be kept for at least

three years and such records shall include meter location (e.g., model and serial number), dates of cleaning, and the name of the person performing the cleaning.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 30:

§1115. Filtration Performance Standards

A. - B.1.[Table 2]. ...

2. Expected minimum removal credits for public water systems serving less than 10,000 individuals are listed in Table 3 of this Chapter along with the corresponding remaining disinfection log inactivation required.

B.2.[Table 3] - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1340 (June 2002), amended LR 28:2519 (December 2002), LR 30:

Chapter 13. Stage I Disinfectants and Disinfection Byproducts Rule

Subchapter A. General

§1301. General

A. Pursuant to the definition of National Primary Drinking Water Regulations and the provisions of §377 of this Part, the Department of Health and Hospitals (DHH) Office of Public Health (OPH) adopts by reference the United States Environmental Protection Agency (USEPA) federal Disinfectants and Disinfection Byproducts Rule (D/DBPR) as published in the *Federal Register* dated December 16, 1998 (Volume 63, Number 241, pages 69389 through 69476). In addition, under §377 of this Part, DHH-OPH also adopted by reference certain USEPA technical corrections to the federal D/DBPR. The applicable technical corrections were published in the *Federal Register* dated January 16, 2001 (Volume 66, Number 10, pages 3769 through 3780) and in the *Federal Register* dated February 12, 2001 (Volume 66, Number 29, page 9903). The regulations in this Chapter are promulgated in order to clarify the State's discretionary decisions allowed by the federal requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 30:

Subchapter B. Disinfection Byproduct (DBP)

Precursor Control

§1303. Applicability

A. The requirements of this Subchapter shall only be applicable to public water systems whose source of water is surface water or ground water under the direct influence of surface water (GWUDISW) which employ conventional filtration treatment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 30:

§1305. Monthly TOC Monitoring/Reporting

A. Public water systems meeting §1303.A applicability requirements of this Subchapter shall submit the results of their paired (source water and treated water) total organic carbon (TOC) samples (which have been collected for compliance determination in accord with the system's approved D/DBPR monitoring plan) to the state health

officer monthly for each individual treatment plant. In addition, the result of source water alkalinity sampling conducted at the same time as the source water TOC sample shall also be submitted to the state health officer monthly for each individual treatment plant. The actual monthly TOC percent removal and the removal ratio (reported to two significant figures past the decimal point) shall be calculated in accord with 40 CFR 141.135(c) and indicated on the form. All results for each particular plant shall be on a report form approved by the state health officer. Such report shall specifically be provided to the OPH District Engineering office which has jurisdictional oversight of the public water system within 10 days following the end of each calendar month.

B. When monthly TOC percent removal calculations performed under paragraph A of this Section result in a negative number (indicative of having a higher level of TOC in treated water than in source water), a "0" percent removal shall be reported for that particular paired sample set instead of the negative number. If this should happen, OPH recommends that an additional paired sample set of TOC samples be collected later in that same month. If the system chooses to collect an additional paired sample set of TOC samples during that same month, the system shall mathematically average the "0" result of the first paired sample set with the result of the second paired sample set and report such average as the monthly TOC percent removal achieved on the monthly TOC report form. If the system does not choose to collect an additional paired sample set of TOC samples during that same month, the system shall report a "0" percent removal achieved on the monthly TOC report form.

C. Plant sites having multiple treatment trains shall perform TOC paired monitoring on each treatment train and report the results of each separate treatment train on its own, individual, and properly identified TOC monthly operating report. The actual monthly TOC percent removal and the removal ratio (reported to two significant figures past the decimal point) for the entire plant site shall be determined by performing a flow-weighted average using the results from each individual treatment train. The percent flow attributed to each treatment train shall be reported and shown in the flow-weighted average calculation formula.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 30:

§1307. Quarterly TOC Report

A. At the end of each calendar quarter, public water systems meeting §1303.A applicability requirements of this Subchapter shall submit a quarterly TOC report to the state health officer for each plant site. Particularly, after 12 consecutive months of TOC compliance monitoring have occurred, the system shall, following the end of each calendar quarter, calculate the running annual TOC removal ratio average using the previous 12 months of monthly TOC removal ratios as the basis. [For example, the report for the fourth calendar quarter of 2004 (required to be submitted no later than January 10, 2005) will consist of the annual average removal ratio determined from the 12 monthly removal ratios reported from each of the then 12 preceding months, i.e., January through December 2004. The report for the first calendar quarter 2005 (required to be submitted no

later than April 10, 2005) will consist of the annual average removal ratio determined from the 12 monthly removal ratios reported from each of the then preceding 12 months, i.e., April 2004-March 2005. The report for the second calendar quarter 2005 (required to be submitted no later than July 10, 2005) will consist of the annual average removal ratio determined from the 12 monthly removal ratios reported from each of the then preceding 12 months, i.e., July 2004-June 2005. The report for the third calendar quarter 2005 (required to be submitted no later than October 10, 2005) will consist of the annual average removal ratio determined from the 12 monthly removal ratios reported from each of the then preceding 12 months, i.e., October 2004-September 2005, etc.] The quarterly TOC report shall be on a report form approved by the state health officer. Such report shall specifically be provided to the OPH District Engineering office which has jurisdictional oversight of the public water system within 10 days following the end of each calendar quarter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 30:

§1309. Step 2 Bench-Scale (Jar) or Pilot-Scale Testing

A. Water systems meeting §1303(A) applicability requirements of this Subchapter which cannot achieve Step 1 TOC removal requirements following 12 months of paired TOC monitoring shall submit an application to the state health officer for approval of alternative minimum (Step 2) TOC removal requirements. Such application shall be submitted within three months of the failure to achieve the Step 1 TOC removal requirements specified in 40 CFR 141.135(b)(2). The application shall include the results of bench-scale (jar) or pilot-scale testing conducted in accordance with the applicable provisions of §377 of this Part, specifically, 40 CFR 141.135(b)(4). The system shall conduct bench-scale(jar) or pilot-scale testing at a frequency of no less than once per calendar quarter for at least one year (beginning from the time of failure to achieve Step 1 TOC removal requirements) so that seasonal changes in raw water quality may be assessed and accounted for.

B. For a system which voluntarily completed 12 months of TOC monitoring prior to the applicable compliance date of the Rule for the particular system (i.e., performed pre-compliance paired TOC/alkalinity monitoring to determine whether Step 1 TOC removals could be met before the compliance date of the Rule) and then determines in the first 12 months after the compliance date that it is not able to meet the Step 1 TOC removal requirements and therefore must apply for alternative minimum TOC removal (Step 2) requirements, the state health officer may make the Step 2 requirements retroactive for the purpose of determining compliance.

1. Pursuant to the requirements of Paragraph A of this Section, at least one Step 2 TOC bench-scale (jar) or pilot-scale test is required to be performed per calendar quarter. When the state health officer agrees to make the Step 2 TOC removal requirements retroactive in accord with the requirements of Paragraph B of this Section, the Step 2 TOC removal requirements shall be applied retroactively by the equivalent calendar quarter. [For example, Step 2 TOC removal requirements determined during the first calendar quarter of 2005 shall retroactively be applied as the TOC

requirement to the first calendar quarter of 2004; Step 2 TOC removal requirements determined during the second calendar quarter of 2005 shall retroactively be applied as the TOC requirement to the second calendar quarter of 2004; Step 2 TOC removal requirements determined during the third calendar quarter of 2005 shall retroactively be applied as the TOC requirement to the third calendar quarter of 2004; and, Step 2 TOC removal requirements determined during the fourth calendar quarter of 2005 shall retroactively be applied as the TOC requirement to the fourth calendar quarter of 2004.]

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 30:

§1311. Alternative Compliance Criteria

A. When a public water system meeting §1303.A applicability requirements uses an alternative compliance criteria (ACC) on its monthly TOC monitoring report, the following numbering key shall be employed to identify the specific alternative compliance criteria used.

1. ACC #1C source water TOC level is less than 2.0 mg/L.

2. ACC #2C treated water TOC level is less than 2.0 mg/L.

3. ACC #3C source water TOC is less than 4.0 mg/L and source water alkalinity is greater than 60mg/L (as CaCO₃) and either:

a. the TTHM and HAA5 running annual averages are no greater than 0.040 mg/L and 0.030 mg/L, respectively, or

b. prior to the effective date for compliance, the system has made a clear and irrevocable financial commitment not later than the effective date for compliance to use technologies that will limit the levels of TTHMs and HAA5s to no more than 0.040 mg/L and 0.030 mg/L, respectively.

4. ACC #4C the TTHM and HAA5 running annual averages are no greater than 0.040 mg/L, respectively, and the system uses only chlorine for primary disinfection and maintenance of a residual in the distribution system.

5. ACC #5C source water specific ultraviolet absorbance (SUVA) prior to any treatment is less than or equal to 2.0 L/mg-m.

6. ACC #6C finished water SUVA is less than or equal to 2.0 L/mg-m.

7. ACC #7C for systems practicing enhanced softening that cannot achieve the Step 1 TOC removal requirements and softening results in lowering the treated water alkalinity to less than 60 mg/L (as CaCO₃).

8. ACC #8C for systems practicing enhanced softening that cannot achieve the Step 1 TOC removal requirements and softening results in removing at least 10 mg/L of magnesium hardness (as CaCO₃).

B. When ACC #6 is utilized, a source water sample, prior to any treatment, shall be collected for a jar test which simulates actual plant conditions relative to coagulation and sedimentation. No oxidant or disinfectant shall be employed in this jar test. After coagulation and sedimentation have been simulated in the jar test, a sample of the supernatant shall be collected as the basis for performing the finished water SUVA test (since the finished water SUVA sample must not have been exposed to any oxidant or disinfectant).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 30:

Subchapter C. Chlorite/Chlorine Dioxide

§1313. Monthly Reporting Required

A. If a system uses chlorine dioxide, chlorite monitoring results (daily, monthly, as well as any additional compliance monitoring) and daily chlorine dioxide residual monitoring results (as ClO₂) shall be reported to the state health officer monthly. All results shall be on a report form approved by the state health officer. Such report shall specifically be provided to the OPH District Engineering office which has jurisdictional oversight of the public water system within 10 days following the end of each calendar month.

1. Nothing within this Section shall be interpreted to exempt a public water system which uses chlorine dioxide from issuing public notification and consulting with the state health officer as soon as possible but no later than 24 hours after the system learns of an acute violation of the maximum residual disinfectant level (MRDL) for chlorine dioxide.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 30:

Subchapter D. Monitoring Plans

§1315. Monitoring Plan Required

A. Each public water system required to perform monitoring under the requirements of this Chapter shall submit a monitoring plan to the state health officer for review and approval. Such monitoring plan shall specifically be provided to the OPH District Engineering office which has jurisdictional oversight of the public water system no later than the effective date of this Rule.

B. The monitoring plan shall include a list of all routine samples required on a daily, weekly, monthly, quarterly, and annual basis and identify the sampling location where samples are to be collected.

C. The public water system shall revise and re-submit its monitoring plan if changes to a plant or distribution system require changes to the sampling locations or if any significant changes to the disinfection methods are made. In addition, the public water system shall update and re-submit its monitoring plan when the system's sampling requirements or protocols change.

D. Minor revisions to a system's monitoring plan shall be submitted to the state health officer upon request.

E. The public water system shall maintain a copy of their approved monitoring plan at each treatment plant and at a central location.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 30:

Chapter 15. Approved Chemical

Laboratories/Drinking Water

Subchapter A. Definitions and General Requirements

§1501. Definitions of Terms

A. Words Not Defined. Words not defined in this Chapter shall have the meanings stated in §101 of this Part or other Parts of the Louisiana State Sanitary Code. When words not defined in this Chapter are defined in both §101 of this Part and in another Part of the Louisiana State Sanitary

Code, the definition contained within §101 of this Part shall be given preference as it pertains to water supplies. Words not defined in any of these source documents shall have the meanings stated in the Merriam-Webster's Collegiate Dictionary-Tenth Edition, as revised.

B. Definitions. Definitions contained in §101 of this Part shall also apply to this Appendix except where the following special definitions apply.

Analyte—A particular contaminant or value that one is analyzing a water sample for, e.g., temperature, turbidity, pH, turbidity, disinfectant residual, chlorite, total organic carbon, or UV₂₅₄.

Approved Chemical Laboratory/Drinking Water—A laboratory approved by the state health officer under the requirements of this Chapter to analyze and report compliance monitoring sample results for certain physical and chemical *analytes* associated with drinking water which are not required to be analyzed in a certified chemical laboratory/drinking water.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 30:

§1503. General Requirements

A. Public water systems which provide treatment (other than chlorination) to the water shall provide an approved chemical laboratory/drinking water on-site or make contractual arrangements with an approved chemical laboratory/drinking water off-site to analyze and report results for certain physical and chemical analytes which are not required to be analyzed in a certified chemical laboratory/drinking water.

1. All samples collected for compliance determination shall be either analyzed in a certified chemical laboratory/drinking water or in an approved chemical laboratory/drinking water. Samples collected for compliance determination which are allowed to be analyzed in an approved chemical laboratory/drinking water include the following:

- a. daily chlorite levels (at the point of entry to the distribution system when using chlorine dioxide);
- b. daily fluoride levels;
- c. daily corrosion inhibitor concentrations (orthophosphate and silica);
- d. pH;
- e. calcium;
- f. conductivity;
- g. temperature;
- h. alkalinity;
- i. turbidity;
- j. total organic carbon (TOC);
- k. dissolved organic carbon (DOC);
- l. UV₂₅₄;
- m. jar test for ACC #6 (as per §1311.B of this Part);
- n. jar tests for determining optimum coagulant dose (including Step 2 TOC removal per §1309 of this Part); and
- o. other drinking water analytes which are not required to be analyzed in a certified chemical laboratory/drinking water under other requirements of this Part or USEPA requirements.

B. In order to ensure an accurate and true representation of the level of an analyte associated with drinking water, the requirements of Paragraph A of this Section shall not be

construed to allow an approved chemical laboratory/drinking water off-site to perform a physical or chemical determination of an analyte when such analyte cannot be satisfactorily fixed, preserved, or transported (e.g., disinfectant residual levels, etc.).

C. An approved chemical laboratory/drinking water shall perform all analyses using the laboratory methodology specifically required to be used under the provisions of this Part for such analyte.

D. Particularly for distribution system monitoring, nothing herein shall be construed to prevent a public water system from determining the residual disinfectant concentrations for free, combined, or total chlorine by use of DPD colorimetric test kits.

1. When using a DPD colorimetric test kit and the concentration of chlorine is found to be equivalent to or above the top range limit of such test kit, proper dilution of a fresh sample of water using distilled or deionized water shall be performed and the test repeated to determine the true level of chlorine residual present in the water. This may be accomplished using a 1:2 dilution—1 part fresh sample of water to be tested to a total of 2 parts of water in the sample vial. For example, 5 ml (1 part) fresh sample of water to be tested, with 5 ml of distilled or deionized water added for a total of 10 ml (2 parts) of water in the vial. The diluted sample is run as usual; however, the result determined is then multiplied by 2 to obtain the true level of chlorine present in the water sample.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 30:

§1505. Staffing, Equipment, Quality Control and Records

A. There shall be sufficient staff to perform the tests required.

B. There shall be sufficient supplies, equipment and space to perform the required volume of work with optimal accuracy, precision, timeliness and safety.

1. All approved chemical laboratories/drinking water for public water systems that use chlorine dioxide shall be provided with an amperometric titrator with platinum-platinum electrodes capable of measuring chlorite to a minimum accuracy of plus or minus 0.05 mg/L.

2. pH must be conducted using a pH meter with a minimum accuracy of plus or minus 0.2 pH units.

3. Water temperature must be measured using a thermometer or thermocouple with a minimum accuracy of plus or minus 0.5 degrees Celsius (0.5°C).

C. An approved chemical laboratory/drinking water shall ensure that satisfactory provisions are maintained for an instrumentation preventative maintenance program, an acceptable quality control program, and an approved proficiency testing program covering all of the various types of analyses performed.

D. An approved chemical laboratory/drinking water shall ensure that records and reports are satisfactorily maintained and retrievable. Copies of records and reports for any off-site approved chemical laboratory/drinking water shall be filed in a folder identifying the public water system by name as well as its public water system identification number (PWS ID #).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 30:

Subchapter B. Procedures to become an Approved Chemical Laboratory/Drinking Water

§1507. Application and Approval

A. All public water systems which provide treatment (other than chlorination) to the water shall submit a completed "Request for Approved Chemical Laboratory/Drinking Water" form to the state health officer. If the public water system uses one or more off-site laboratories, it shall be the responsibility of the public water system to notify each such off-site laboratory to submit its own completed "Request for Approved Chemical Laboratory/Drinking Water" form to the state health officer.

B. The "Request for Approved Chemical Laboratory/Drinking Water" form shall list all analytes run by the laboratory as well as the associated laboratory methodology. In addition, laboratories holding the status of an approved chemical laboratory/drinking water shall maintain a readily available list of the names and PWS ID #s of all public water systems it currently serves.

C. Based upon a satisfactory review of the contents of the submittal (along with a signed statement by any off-site laboratory agreeing to allow unannounced inspections of the laboratory facilities, including any applicable records, by the state health officer), the state health officer shall issue a Certificate of Approval to the public water system or off-site laboratory granting it the status of a "DHH-OPH Approved Chemical Laboratory/Drinking Water." Each laboratory facility receiving a Certificate of Approval under this Paragraph shall prominently display such certificate.

D. Any correspondence, certificate, advertisement, laboratory results, etc., to or from a "DHH-OPH Approved Chemical Laboratory/Drinking Water" shall state prominently in bold lettering the following statement:

1. This "DHH-OPH Approved Chemical Laboratory/Drinking Water" does not meet the higher criteria required by DHH-OPH to be classified as a "DHH-OPH Certified Chemical Laboratory/Drinking Water;" therefore, any results reported from this laboratory for drinking water parameters which are required to be analyzed in a certified chemical laboratory are officially deemed invalid.

2. Any sample results for a public water system which are officially deemed invalid for failure to have them analyzed in a certified chemical laboratory/drinking water may result in a monitoring violation if replacement samples are not collected and properly analyzed by a certified chemical laboratory/drinking water within the prescribed monitoring period. Any monitoring or analytical violations require public notification as prescribed in §313 of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 30:

Subchapter C. Consequences of Non-Compliance

§1509. Public Notification

A. If it becomes apparent either through laboratory reporting, on-site visits, or any other means that the "DHH-OPH Approved Chemical Laboratory/Drinking Water" is either intentionally or unintentionally not using or

improperly using the required analytical methodology to perform an accurate and precise determination of an analyte associated with drinking water, the "DHH-OPH Approved Chemical Laboratory/Drinking Water's" Certificate of Approval shall be immediately suspended or revoked by the state health officer, and all public water systems utilizing such laboratory shall provide public notification as prescribed in §313 of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 30:

Family Impact Statement

(Completed and submitted with this Notice of Intent in accordance with R.S. 49:953(A)(1)(a)(viii) and 972)

1. The effect on the stability of the family Cno known impact.

2. The effect on the authority and rights of parents regarding the education and supervision of their children Cno known impact.

3. The effect on the functioning of the family Cno known impact.

4. The effect on family earnings and family budget Cno significant impact predicted. Assuming that a public water system that treats their water with a chemical disinfectant decides to increase rates for all of its customers served by the system in order to reimburse itself for any additional expenses incurred by the proposed Rule, any increase in the individual homeowner's water bill is expected to be of an insignificant amount. EPA estimates that 95 percent of households will incur an increase of less than a cost of \$1 per month, 4 percent of households will face a cost increase between \$1 and \$10 per month, and less than 1 percent will incur an increase of \$10 to \$33 per month (*Federal Register*, Vol. 63, No. 241, Wed., Dec. 16, 1998, pg. 69447).

5. The effect on the behavior and personal responsibility of children Cno known impact.

6. The ability of the family or a local government to perform the function as contained in the proposed Rule Cno known impact on the family. Refer to the Fiscal and Economic Impact Statement which accompanies this Rule for the effects on local governmental units.

DHH-OPH will conduct a public hearing at 10 a.m. on Tuesday, November 25, 2003, in Room 118 of the Blanche Appleby Computer Complex Building (on the Jimmy Swaggart Ministries Campus), 6867 Bluebonnet Blvd., Baton Rouge, LA. All interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing.

In addition, all interested persons are invited to submit written comments on the proposed Rule. Such comments must be received no later than Friday, November 28, 2003 at COB, 4:30 p.m., and should be addressed to R. Douglas Vincent, Chief, Engineering Services Section, Center for Environmental Health, Office of Public Health, 6867 Bluebonnet Blvd., Box 3, Baton Rouge, LA 70810, or faxed to (225) 765-5040.

David W. Hood
Secretary

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

**RULE TITLE: Safe Drinking Water Program
Stage 1 Disinfectants and Disinfection Byproducts Rule**

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

It is estimated that approximately 449 of the approximately 997 public water systems (PWSs) affected by the proposed Rule are governmentally owned. Local governmental units will be affected by the proposed rule if they own, manage, or operate a PWS that adds a chemical disinfectant to the drinking water during any part of the treatment process. Systems whose source of water supply is surface water and serve 10,000 or more individuals were legally required to comply with the provisions of the federal D/DBPR on January 1, 2002. Systems whose source of water supply is surface water and that serve less than 10,000 individuals and all systems whose source of water supply is only ground water are required to comply on January 1, 2004.

DHH-OPH has assisted (and continues to assist) approximately 74 public water systems which chemically disinfect and serve 10,000 or more individuals in complying with federal TTHM regulations (since TTHMs were first regulated by the USEPA in 1979). This assistance is in the form of DHH-OPH taking upon itself the responsibility of collecting TTHM samples from these affected public water systems as well as analyzing such samples in the DHH-OPH laboratory. Beginning January 2002, DHH-OPH also began to collect and analyze HAA5 samples from surface water systems in this same subset of affected public water systems. Since DHH-OPH staff will be on-site already to collect the TTHM samples, beginning January 2004 DHH-OPH staff will additionally collect and analyze HAA5 samples from the 47 groundwater systems in this subset at an estimated cost of \$14,100 during FY 2003-04, \$29,046 in FY 2004-05, and \$29,917 in FY 2005-06.

DHH-OPH does not have sufficient funds to collect and analyze all of the TTHM and HAA5 samples required beginning January 2004 for public water systems which chemically disinfect and serve less than 10,000 individuals. In August 2003, DHH-OPH notified such systems that it shall be their responsibility for contracting with a USEPA or OPH-certified chemical laboratory, collecting their own TTHM and HAA5 samples, properly shipping such samples to such laboratory, and reporting the sample results to DHH-OPH in a timely manner. It is estimated that the monitoring cost to affected public water systems whose source of water is only groundwater will be at least \$300 per year (one sample set per year). It is also estimated that the monitoring cost to affected public water systems whose source of water is surface water will be at least \$1,200 per year (4 sample sets per year). Should a groundwater system experience an exceedance of the maximum contaminant level (MCL), monitoring will be increased from one sample set per year up to 4 sample sets per year; therefore, certain groundwater systems may experience a monitoring cost of at least \$1,200 per year also. Please note that these figures only represent monitoring costs. If the MCL is exceeded, additional costs will be incurred by the public water system to lower the TTHM and/or HAA5 levels within the system's distribution system (such as changing disinfectants, changes in treatment processes, etc.).

Of the 391 governmentally owned systems which are currently not monitored by DHH-OPH, 369 are groundwater systems and 22 are surface water systems; thus, the total annual monitoring costs alone are expected to be at least \$110,700 for these groundwater systems and \$26,400 for these surface water systems.

Based upon the USEPA's cost analysis, the estimated annualized cost to all affected Louisiana utilities is \$9.58 million which includes start-up and on-going implementation, treatment (includes operation/maintenance and capital costs), and monitoring costs.

The Safe Drinking Water Program of the Department of Health and Hospitals, Office of Public Health, Center for Environmental Health Services, Engineering Services Section, will incur an expense of approximately \$2,000 in FY 2003-04 funds in order to pay the Office of the State Register to have the Notice of Intent and the final Rule published in the *Louisiana Register*. The source of these funds will be from Agency Self Generated funds through the Safe Drinking Water Program Administration Fee (R.S. 40:30.33).

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

State and local governmental units which own, manage, and/or operate a PWS that adds a chemical disinfectant to the drinking water during any part of the treatment process may determine a need to increase their revenue collections (i.e., increase water bills) to cover the cost of complying with the proposed Rule; however, if such increases are warranted, they will be warranted regardless whether or not this equivalent state Rule is adopted since such systems serving 10,000 or more people are already required (and will continue to be required) and in January of 2004 all systems that chemically disinfect will have to comply under the new federal D/DBPR. USEPA has estimated that 95 percent of the households will incur an increase cost of less than \$1.00 per month and four percent will face an increase in cost between \$1.00 to \$10.00 per month. Less than one percent of households will incur an increase of \$10 to \$33 per month. The actual effect on revenue collections is hard to predict due to variables in the applicable requirements based upon various sized systems.

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

It is estimated that approximately 548 of the approximately 997 systems affected by the proposed Rule are non-governmentally owned. Any person, corporation, investor-owned utility company, franchise water system, etc., will be affected by the proposed Rule if they own, manage, or operate a PWS that adds a chemical disinfectant to the drinking water during any part of the treatment process. Systems whose source of water supply is surface water and serve 10,000 or more individuals were legally required to comply with the provisions of the federal D/DBPR on January 1, 2002. Systems whose source of water supply is surface water and that serve less than 10,000 individuals and all systems whose source of water supply is only ground water are required to comply on January 1, 2004.

DHH-OPH has assisted (and continues to assist) approximately 74 public water systems which chemically disinfect and serve 10,000 or more individuals in complying with federal TTHM regulations (since TTHMs were first regulated by the USEPA in 1979). This assistance is in the form of DHH-OPH taking upon itself the responsibility of collecting TTHM samples from these affected public water systems as well as analyzing such samples in the DHH-OPH laboratory. Beginning January 2002, DHH-OPH also began to collect and analyze HAA5 samples from this same subset of affected public water systems.

DHH-OPH does not have sufficient funds to collect and analyze all of the TTHM and HAA5 samples required beginning January 2004 for public water systems which chemically disinfect and serve less than 10,000 individuals. In August 2003, DHH-OPH notified such systems that it shall be their responsibility for contracting with a USEPA or OPH-certified chemical laboratory, collecting their own TTHM

and HAA5 samples, properly shipping such samples to such laboratory, and reporting the sample results to DHH-OPH in a timely manner. It is estimated that the monitoring cost to affected public water systems whose source of water is only groundwater will be at least \$300 per year (one sample set per year). It is also estimated that the monitoring cost to affected public water systems whose source of water is surface water will be at least \$1,200 per year (4 sample sets per year). Should a groundwater system experience an exceedance of the maximum contaminant level (MCL), monitoring will be increased from one sample set per year up to 4 sample sets per year; therefore, certain groundwater systems may experience a monitoring cost of at least \$1,200 per year also. Please note that these figures only represent monitoring costs. If the MCL is exceeded, additional costs will be incurred by the public water system to lower the TTHM and/or HAA5 levels within the system's distribution system (such as changing disinfectants, changes in treatment processes, etc.).

Of the 532 non-governmentally owned systems which are currently not monitored by DHH-OPH, 514 are groundwater systems and 18 are surface water systems; thus, the total annual monitoring costs alone are expected to be at least \$154,200 for these groundwater systems and \$21,600 for these surface water systems.

Based upon the USEPA's cost analysis, the estimated annualized cost to all affected Louisiana utilities is \$9.58 million which includes start-up and on-going implementation, treatment (includes operation/maintenance and capital costs), and monitoring costs.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed Rule will likely cause an increase in competition to hire and retain qualified and certified water plant operators. The Rule will require water plant operators to become more knowledgeable of plant processes and controls. The more competent and qualified an operator is, the higher will be the competition to hire and retain him/her. In addition, the proposed Rule will likely require employing more sophisticated treatment systems within the treatment plant. This will cause an increase in employment to install and maintain such sophisticated treatment systems.

Sharon G. Howard
Assistant Secretary
0310#093

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Admissions Criteria for Inpatient Facilities
(LAC 48:I.Chapter 16)

Notice is hereby given, under the authority of Act 1249 of the 2003 Regular Session of the Louisiana Legislature, that the Louisiana Department of Health and Hospitals proposes to adopt the following Rule governing admissions criteria for inpatient facilities operated by the Department of Health and Hospitals. Each Office within the Department of Health and Hospitals that operates inpatient facilities, i.e., Office of the Secretary, Office for Addictive Disorders, Office for Citizens with Developmental Disabilities, and Office of Mental Health, has established admissions criteria included in this Notice of Intent. In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been

considered. It is anticipated that this proposed Rule will have a positive impact on the family as it will increase the opportunity for the family member to return to the family sooner, after appropriate treatment in an appropriate facility.

Title 48

HEALTH AND HOSPITALS GENERAL

Part I. General Administration

§1601. Purpose and Scope

A. In accordance with the requirements of Act 1249 of the 2003 Regular Session of the Louisiana Legislature, the Department of Health and Hospitals adopts admission criteria for inpatient facilities operated by the Department of Health and Hospitals. Admission criteria are specific to each DHH Office that operates inpatient facilities as indicated in this Rule. In accordance with R.S. 28:20(B) no person shall be admitted voluntarily, involuntarily, by court order, or by commitment to a department facility unless the person meets the criteria set forth in this Rule and Act 1249.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:20 and R.S. 28:311(11).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 30:

§1603. Definitions

Adult Anyone age 18 and over.

Axis I Diagnosis Ca reporting group in the Diagnostic and Statistical Manual for all the various mental disorders or conditions in the Classification except for Personality Disorders and Mental Retardation.

Child Anyone under age 18.

DSM the Diagnostic and Statistical Manual that has a multi-axial system that includes an assessment on several axes, each of which refers to a different domain of information that may help the clinician plan treatment and predict outcomes.

Level of Functioning Scale Assessment tool that passes defined standards for use as an evaluative tool and is thereby provided for professional use to define the degree to which an individual is capable of accomplishing various skills associated with managing activities of daily living.

Mental Retardation significantly sub-average general intellectual functioning existing concurrently with deficits in adaptive behavior, and manifested during the developmental period.

OADC the Office for Addictive Disorders in the Department of Health and Hospitals.

OMHC the Office of Mental Health in the Department of Health and Hospitals.

Related Condition Ca severe chronic disability that meets all the following criteria:

1. it is attributable to:
 - a. cerebral palsy or epilepsy; or
 - b. any other condition, other than mental illness, found to be closely related to mental retardation because this condition results in impairment of general intellectual functioning or adaptive behavior similar to that of mentally retarded persons, and requires treatment or services similar to those required for these persons;
2. it is manifested before the person reached age 22;
3. it is likely to continue indefinitely; and
4. it results in substantial functional limitations in three or more of the following areas of major life activity:
 - a. self-care;
 - b. understanding and use of language;

- c. learning;
- d. mobility;
- e. self-direction; or
- f. capacity for independent living.

Single Point of Entry (SPOE) that process by which an individual is screened by an agent within an Office of Mental Health (OMH) service area who is responsible for certifying that the individual meets the criteria for admission to an OMH inpatient facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:20 and R.S. 28:311(11).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 30:

§1605. Inpatient Facilities Operated by the Office of the Secretary

A. The following admission requirements apply to New Orleans Home and Rehabilitation Center and Villa Feliciana Medical Complex, both of which are long term care facilities operated by the Office of the Secretary.

B. Initial Requirements for Admission Consideration

1. The person has a medical condition(s) that require the supervision and treatment in a facility that provides 24-hour nursing care.

2. Pre-admission screening procedures for the Medicaid program must be followed to ensure appropriateness of admission.

C. Facilities Admission Criteria:

1. the person's medical/rehabilitation needs can be met within the resources and staffing available at the facilities;

2. the admission does not exceed the capacity, the services and/or population for which the facility is budgeted and operated; and

3. a means of financing the cost of care for each person admitted is available.

D. Exclusions

1. Persons who are dangerous to self and others, or who are charged with a crime, and who require the availability of a secure and locked area in order to ensure the safety and well being of other residents and employees of the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:20 and R.S. 28:311(11).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 30:

§1607. Inpatient Mental Health Facilities Operated by the Office of Mental Health

A. In order to be admitted a person must qualify as a candidate for services in an inpatient setting as indicated on a published Level of Functioning Scale or other instrument identified by the Office of Mental Health as clinically appropriate. Such Level of Functioning Scale must be based on scientifically accepted practice standards and must demonstrate adequate psychometric properties of validity and reliability. The person must also meet the standard for inpatient care as specified in the Office of Mental Health Single Point of Entry (SPOE) Admissions Criteria, which is specified in the following.

B. Adult Admission Criteria. At least one criterion from Severity of Illness must be met and all of the Intensity of Service Criteria must be met.

1. Severity of Illness Criteria (Must meet one or more of a, b, or c)

a. Patient presents as a danger to self as evidenced by:

i. a suicide attempt within the past 72 hours; or
ii. documentation that the patient has a current suicide plan, specific suicide intent, or recurring suicidal ideation; or

iii. documentation of self-mutilative behavior occurring within the past 72 hours.

b. Patient presents as a danger to others due to a DSM Axis I diagnosis as evidenced by any of the following:

i. dangerously aggressive behavior during the past seven days due to a DSM Axis I diagnosis; or

ii. threats to kill or seriously injure another person with the means to carry out the threat and the threatening behavior is due to a DSM Axis I diagnosis; or

iii. documentation that the patient has a current homicidal plan, specific homicidal intent, or recurrent homicidal ideation and this is due to a DSM Axis I diagnosis.

c. Patient is gravely disabled and unable to care for self due to a DSM Axis I diagnosis as evidenced by:

i. documentation of a serious impairment in function (as compared to others of the same age) in one or more major life roles (school, job, family, interpersonal relations, self-care, etc.) due to a DSM Axis I diagnosis; and

ii. patient presents with acute onset or acute exacerbation of hallucinations, delusions, or illusions of such magnitude that the patient's well being is threatened; or

iii. an inability of the patient to comply with prescribed psychiatric and/or medical health regimens as evidenced by the following:

(a). patient has a history of de-compensation without psychotropic medications and patient refuses to use these medications as an outpatient; or

(b). patient is at risk of health or life due to non-compliance with medical regimens (e.g., insulin-dependent diabetes, etc.) and patient refuses these medical regimens as an outpatient.

2. Intensity of Service Criteria

a. Treatment of the patient's psychiatric condition requires services on an inpatient hospital basis. These services include, but are not limited to:

i. suicide precautions, unit restrictions, and continual observation and limiting of behavior to protect self or others;

ii. active intervention by a psychiatric team to prevent assaultive behavior;

iii. 24 hour observation and medication stabilization necessitated by patient behaviors that indicate a therapeutic level of medication has not been reached; and

iv. services provided in the hospital can reasonably be expected to improve the patient's condition or prevent further regression so that the services will no longer be needed by the patient; and

v. services in the community do not meet, and/or do not exist to meet the treatment needs of the patient, or the patient has been unresponsive to treatment at a less intensive level of care.

C. Children's Admission Criteria. At least one criterion from Severity of Illness must be met, and all of the Intensity of Service Criteria must be met.

1. Severity of Illness Criteria (Must meet one or more of a, b, or c)

a. The child is a danger to self. (Indicators i, ii, or iii and iv must exist to meet this criterion)

i. The child has made an attempt to take his/her own life in the last 24 hours. Details of the attempt must be documented; or

ii. the child has demonstrated self-mutilative behavior within the past 24-hours. Details of behavior must be documented; or

iii. the child has a clear plan to seriously harm him/herself, overt suicidal intent, recurrent suicide thoughts, and lethal means available to follow the plan. This information can be from the child or a reliable source. Details of the plan must be documented; and

iv. it is the judgment of a mental health professional that the child is at significant risk of making a suicide attempt without immediate inpatient intervention.

b. The child is a danger to others or property due to a DSM Axis I diagnosis as indicated by: (Indicators i, ii, or iii and iv must exist and include the specific DSM criteria that justify this diagnosis).

i. the child has actually engaged in behavior harmful or potentially harmful to others or caused serious damage to property, which would pose a serious threat of injury, or harm to others within the last 24 hours. Description of the behavior and extent of injury or damage must be documented, as well as the time the behavior occurred relative to present; or

ii. the child has made threats to kill or seriously injure others or seriously damage property, which would pose a threat of injury or harm to others, and has effective means to carry out the threats. Details of the threats must be documented; or

iii. a mental health professional has information from the child or a reliable source that the child has a current plan, specific intent, or recurrent thoughts to seriously harm others or property. Details must be documented; and

iv. it is the judgment of a mental health professional that the child is at a significant risk of making a homicide attempt or engaging in other seriously aggressive behavior without immediate inpatient intervention.

c. The child is gravely disabled due to a DSM Axis I diagnosis as indicated by: (Indicators i, and either ii, iii or iv must exist and include the specific DSM criteria that justify this diagnosis.)

i. the child has serious impairment of functioning compared to others of the same age in one or more major life roles (school, family, interpersonal relations, self-care, etc.) Specific descriptions of the following must be documented:

(a). deficits in control, cognition or judgment;

(b). circumstances resulting from those deficits in self-care, personal safety, social/family functioning, academic or occupational performance;

(c). prognostic indicators which predict the effectiveness of acute treatment; and

ii. the acute onset of psychosis or severe thought disorganization or clinical deterioration has rendered the child unmanageable and unable to cooperate in non-hospital treatment; or

iii. there is a need for medication therapy or complex diagnostic testing where the child's level of functioning precludes cooperation with treatment in an outpatient or non-hospital based regimen, and may require close supervision of medication and/or forced administration of medication; or

iv. a medical condition co-exists with DSM Axis I diagnosis which, if not monitored/treated appropriately, places the child's life or well being at serious risk.

2. Intensity of Service Criteria

a. Treatment of the patient's psychiatric condition requires services on an inpatient hospital basis. These services include, but are not limited to:

i. suicide precautions, unit restrictions, and continual observation and limiting of behavior to protect self or others;

ii. active intervention by a psychiatric team to prevent assaultive behavior;

iii. 24 hour observation and medication stabilization necessitated by patient behaviors that indicate a therapeutic level of medication has not been reached; and

iv. services provided in the hospital can reasonably be expected to improve the patient's condition or prevent further regression so that the services will no longer be needed by the patient; and

v. services in the community do not meet, and/or do not exist to meet the treatment needs of the patient, or the patient has been unresponsive to treatment at a less intensive level of care.

D. Exclusionary Criteria-Adult. If one or more of the following is met, admission is denied.

1. Patient has a major medical or surgical illness or injury that would prevent active participation in a psychiatric treatment program. (Patients must be medically stable.)

2. Patient has criminal charges pending and does not have a DSM Axis I diagnosis.

3. Patient has anti-social behaviors that are a danger to others and those anti-social behaviors are characterological rather than due to a DSM Axis I diagnosis.

4. Patient has a DSM Axis II diagnosis of mental retardation without an accompanying DSM Axis I diagnosis.

5. Patient has a Substance Abuse Disorder as defined in DSM without symptoms of a mental disorder.

E. Exclusionary Criteria-Children. If one or more of the following is met, admission is denied.

1. The child has a major medical or surgical illness or injury that prevents active participation in a psychiatric treatment program.

2. The child has criminal charges pending and does not meet severity of illness and intensity of service criteria.

3. The child has anti-social behaviors that are a danger to others and does not have a DSM Axis I diagnosis.

4. The child has a DSM Axis II diagnosis of mental retardation and does not meet severity of illness and intensity of service criteria.

5. The child lacks a place to live and/or family supports and does not meet severity of illness and intensity of service criteria.

6. The child has been suspended or expelled from school and does not meet severity of illness and intensity of service criteria.

7. The child has a substance abuse disorder as defined in DSM without symptoms of a mental disorder.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:20 and R.S. 28:311(11).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 30:

§1609. Intermediate Care Facilities/Mental Retardation (ICF/MR) Facilities Operated by the Office of Mental Health

A. Referral for persons not currently residents of an ICF/MR facility should come through the State Office for Citizens with Developmental Disabilities (OCDD) Regional Office System responsible for serving the individual but referrals from other community sources or the individual's family will also be considered. Persons seeking admission or for whom admission is sought to an ICF/MR facility must meet the following admissions criteria:

1. age 18 years or above;
2. DSM diagnosis of Mental Retardation and/or Developmental Disability;
3. DSM diagnosis of mental illness;
4. can reasonably be expected to benefit from Community Home (CH) active treatment program;
5. must demonstrate compatibility with the physical, cognitive, social and behavioral development exhibited by the individuals in the home where the applicant is to reside and also in the day program as indicated by a published Level of Functioning Scale or other instrument identified by the Office of Mental Health (OMH) as clinically appropriate. Such Level of Functioning Scale must be based on scientifically accepted practice standards and must demonstrate adequate psychometric properties of validity and reliability;
6. must be certifiable for SSI and Medicaid Services;
7. must demonstrate ability to control self and not present a danger to self or others as evidenced by a lack of suicide attempts, suicide plans or self-injurious behaviors within the last three months, and a lack of aggressive behaviors or threatening behaviors towards others within the last three months; and
8. must volunteer for admission and agree to follow Rules and actively participate in the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:20 and R.S. 28:311(11).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 30:

§1611. The Office for Citizens with Developmental Disabilities (OCDD)

A. The following admission requirements apply to the developmental centers and community- homes operated by the OCDD.

1. Initial Requirements for Admission Consideration
 - a. The person must meet the criteria for participation in the Mental Retardation/Developmental Disabilities (MR/DD) Services System in Louisiana's MR/DD law. The person's generic service plan (Plan of Support) must contain a recommendation for admission to an Intermediate Care Facility for the Mentally Retarded. The plan must also document the team (which includes the individual and/or family) consideration of what meets the individual's needs, and no more, and the most natural living option available, consistent with an individual's community peers.

2. Residential Facilities Admission Criteria

a. The person has mental retardation or a related condition and has additional complex medical or behavioral needs; and

b. the person's programmatic and supervisory needs as established in the person's Individual Program Plan (IPP) can be met within the resources and staffing available at the developmental center or community home; and

c. the person's age and sex as well as physical, cognitive, social and behavioral development are compatible with the individuals currently residing within the developmental center or community home wherein the vacancy exists; and

d. the admission does not exceed the capacity, the services and/or population for which the facility is licensed.

3. Exclusions:

a. persons who cannot benefit from active treatment services in an Intermediate Care Facility for the Mentally Retarded (ICF-MR);

b. persons who have a primary diagnosis of mental illness;

c. persons who are dangerous to self or others, or are charged with a crime, and who require the availability of a secure and locked area in order to ensure the safety and well being of other residents and employees of the developmental center or community home.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:20 and R.S. 28:311(11).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 30:

§1613. Inpatient Substance Abuse Treatment Programs Operated by the Office for Addictive Disorders

A. Admissions

1. Admission to primary treatment centers will be from a statewide population.

2. Any client exhibiting major medical symptoms or major psychiatric symptoms, indicating immediate need, will be referred for services of an acute care hospital or acute psychiatric unit. Once stabilized, OAD will evaluate for admission to an inpatient treatment program.

B. Eligibility Criteria

1. The client must have been screened by a single point of entry, which includes:

a. OAD Outpatient or Detoxification Programs or other programs approved by the accepting facility;

b. have a primary diagnosis of no less than alcohol abuse, drug abuse, or compulsive gambling;

c. have a recent history of uncontrollable alcohol or drug use or compulsive gambling and have been unable to remain drug-free through outpatient intervention; or

d. have been unable to access outpatient services due to unavailability related to distance and transportation; and

2. the client shall be involved in an intensive outpatient substance abuse treatment program while awaiting placement in an inpatient facility. If intensive treatment is not available at the referring clinic, the client should be evaluated and provided the maximum level of services available while awaiting admission;

3. the patient who is appropriately admitted to an inpatient program meets specifications in two of the six dimensions, at least one of which is in Dimension 1,2, or 3.

a. Dimension 1: Acute Intoxication and/or Withdrawal. The patient has no signs or symptoms of withdrawal, or his or her withdrawal needs can be safely managed in a inpatient program setting.

b. Dimension 2: Biomedical Conditions and Complications. The patient's status in Dimension 2 is characterized by one of the following.

i. The interaction of the patient's biomedical condition and continued alcohol or other drug use places the patient in imminent danger of serious damage to physical health or concomitant biomedical conditions (such as pregnancy with vaginal bleeding or ruptured membranes).

ii. A current biomedical condition requires 24-hour nursing and medical monitoring or active treatment, but not the full resources of an acute care hospital. The patient who has a biomedical problem that requires a degree of staff attention (such as monitoring of medications or assistance with mobility) that is not available on other inpatient programs is in need of Biomedical enhanced services.

c. Dimension 3: Emotional, Behavioral, or Cognitive Conditions and Complications. Problems in Dimension 3 are not necessary for admission to an inpatient program. However, if any of the Dimension 3 conditions are present, the patient must be admitted to a Dual Diagnosis Enhanced program (depending on his or her level of function, stability, and degree of impairment).

i. The patient's psychiatric condition is unstable. Depression and/or other emotional, behavioral, or cognitive symptoms (which may include compulsive behaviors, suicidal or homicidal ideation with a recent history of attempts but no specific plan, or hallucinations and delusions without acute risk to self or others) are interfering with abstinence, recovery, and stability to such a degree that the patient needs a structured 24-hour, medically monitored (but not medically managed) environment to address recovery efforts; or

ii. the patient exhibits stress behaviors associated with recent or threatened losses in work, family, or social domains, to a degree that his or her ability to manage the activities of daily living are significantly impaired. The patient thus requires a secure, medically monitored environment in which to address self-care problems (such as those associated with eating, weight loss, sleeplessness or personal hygiene) and to focus on his or her substance abuse or mental health problems; or

iii. the patient has significant functional deficits that require active psychiatric monitoring. They may include-but are not limited to- problems with activities of daily living, problems with self-care, lethality or dangerousness, and problems with social functioning. These deficits may be complicated by problems in Dimensions 2 through 6; or

iv. the patient is at moderate risk of behaviors endangering self, others, or property, and is in imminent danger of relapse (with dangerous emotional, behavioral, or cognitive consequences) without 24-hour support and structure of an inpatient program; or

v. the patient is actively intoxicated, with resulting violent or disruptive behavior that poses imminent danger to self or others; or

vi. the patient has a thought disorder or cognitive limitations that require stabilization but not medical management.

d. Dimension 4: Readiness to Change. The patient's status in Dimension 4 is characterized by one of the following:

i. despite experiencing serious consequences or effects of the addictive disorder or mental health problem, the patient does not accept or relate the addictive disorder to the severity of these problems; or

ii. the patient is in need of intensive motivation strategies, activities, and processes available only in a 24-hour structured, medically monitored setting; or

iii. the patient needs ongoing 24-hour psychiatric monitoring to assure persistence with the treatment regimen and to deal with issues such as ambivalence about compliance with psychiatric medications.

e. Dimension 5: Relapse, Continued Use, or Continued Problem Potential. The patient's status in Dimension 5 is characterized by one of the following.

i. The patient is experiencing acute psychiatric or substance use crisis, marked by intensification of symptoms of his or her addictive or mental disorder (such as difficulty postponing immediate gratification, drug-seeking behavior, or increasing severity of anxiety or depressive symptoms). This situation poses an imminent danger of harm to self or others in the absence of 24-hour monitoring and structured support; or

ii. the patient is experiencing an escalation of relapse behaviors and/or reemergence of acute symptoms. This situation poses an imminent danger of harm to self or others in the absence of the type of 24-hour monitoring and structured support found in a medically monitored setting; or

iii. the modality of treatment or protocols to address relapse (such as aversion therapy and similar behavioral therapy techniques) require that the patient receive care in an inpatient program.

f. Dimension 6: Recovery Environment. The patient's status in Dimension 6 is characterized by one of the following.

i. The patient requires continuous medical monitoring while addressing his or her substance use and/or psychiatric problems because his or her current living situation is characterized by a high risk of initiation or repetition of physical, sexual, or emotional abuse, or substance abuse so endemic that the patient is assessed as being unable to achieve or maintain recovery at a less intensive level of care. For example, because of mania (which is treated with mood stabilizing medications), the patient believes he or she is able to control the people in his or her environment who pose the risk; or

ii. family members or significant others living with the patient are not supportive of his or her recovery goals and are actively sabotaging treatment. This situation requires structured treatment services and relief from the home environment in order for the patient to focus on recovery; or

iii. the patient is unable to cope, for even limited periods of time, outside of 24-hour care. The patient needs staff monitoring to learn to cope with Dimension 6 problems before he or she can be transferred safely to a less intensive setting.

C. Incarcerated Individuals

1. Persons referred for inpatient care who are incarcerated at the time of referral must meet the above criteria and be eligible for full release from incarceration within 15 days after the planned admission to an inpatient unit, or otherwise be able to participate in any and all follow-up recovery programs which would be recommended within a continuum of care treatment plan, including aftercare, half-way house, and self-help support groups.

2. Persons being detained in criminal justice programs who are awaiting arraignment, trial or post-trial sentencing must meet the above criteria and have an agreement from the District Attorney, prosecuting attorney, or trial judge.

a. This agreement must be binding on the client and provide the client with assurance of ability to participate in continuum of care as recommended by the treatment team, unless the client violates any judicial agreement, or condition placed upon him and in effect during the term of recommended treatment.

3. Clients are not to be admitted who are subject to return to incarceration during the period of recommended treatment, including after-care, absent a new violation, infraction of probation or condition of suspension, or charge being filed.

D. Special Populations

1. Treatment facilities shall make arrangements for the temporary employment of staff/equipment/specialized services which may be reasonably needed in order for the program to adequately serve persons with special needs or physical disabilities, specifically, but not limited to, the hearing and speech impaired.

a. Specialized service arrangements will be within reason and only when similar services are not available through an alternate resource for which the client is eligible and/or entitled. Funding for the specialized service must have prior approval of the Assistant Secretary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:20 and R.S. 28:311(11).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 30:

Interested persons may submit written comments to Patricia A. Faxon, Program Manager, Office of the Secretary, P.O. Box 629, Baton Rouge, LA 70821-0629. She is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule will be held on Monday, November 24, 2003 in the Wade O. Martin Auditorium of the Louisiana State Archives Building, 3851 Essen Lane, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

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

**RULE TITLE: Admissions Criteria for
Inpatient Facilities**

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

It is estimated that the cost to the state will be approximately \$8,16.00 in publishing costs to implement this proposed Rule in FY 2004. There are no other implementation costs associated with this proposed Rule.

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

There is no estimated effect on revenue collection of state or local governmental units.

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

This Rule is being proposed to implement the requirements of Act 1249 of the 2003 Regular Session, which sets out the admissions criteria for those inpatient facilities operated by DHH. The criteria are specific to each DHH Office that operated inpatient facilities and no person shall be admitted voluntarily, involuntarily, by court order, or by commitment to a department facility unless the person meets the criteria set forth in the proposed Rule. This is a new departmental policy relative to Act 1249.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed Rule will have no effect on competition and employment.

David W. Hood
Secretary
0310#092

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Medicaid Eligibility—Disregard of Assets

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted the state and federal requirements governing the determination of eligibility of persons applying for coverage under the Qualified Medicare Beneficiary, Specified Low Income Medicare Beneficiary and the Qualified Individual-1 Programs as identified under Title XIX of the Social Security Act. These are commonly referred to as the Medicare Savings Programs. Medicaid coverage under these programs is limited to payment of Medicare premiums, deductibles and co-insurance. The applicant's resources are currently considered in the determination of Medicaid eligibility. Resources are defined as cash assets or assets that

can be converted to cash, such as bank accounts, stocks, bonds, automobiles and property. Under Section 1902(r)(2) of the Social Security Act, states are allowed to use less restrictive resource methodologies in determining eligibility for most Medicaid eligibility groups than are used by the related cash assistance program. In order to reduce the administrative burden for Medicaid staff, to reduce premature Medicaid spending at nursing facilities and charity hospitals, and to eliminate financial hardship for low income Medicare beneficiaries, the bureau proposes to eliminate the consideration of resources in determining eligibility for the Medicare Savings Programs.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. This proposed Rule will have a positive impact on family functioning, stability, and autonomy as described in R.S. 49:972. It is anticipated that the proposed Rule will improve financial security for certain elderly and disabled Medicare beneficiaries. Retention of assets would result in those assets being available to purchase needed medications and medical treatment.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the current policy governing the consideration of resources in determining eligibility for the Medicare Savings Programs.

Utilizing provisions allowed under Section 1902(r)(2) of the Social Security Act, consideration of resources will be eliminated in the determination of Medicaid eligibility for the Qualified Medicare Beneficiary, Specified Low Income Beneficiary and Qualified Individuals -1 Programs.

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 inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Monday, November 24, 2003 at 9:30 am in the Wade O. Martin, Jr. Auditorium, State Archives Building, 3851 Essen Lane, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

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

**RULE TITLE: Medicaid Eligibility
Disregard of Assets**

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

It is anticipated that the implementation of this proposed Rule will increase state program costs by approximately \$46,451 for SFY 2003-2004, \$336,679 for SFY 2004-2005 and \$694,626 for SFY 2005-2006. It is anticipated that \$204 (\$102 SGF and \$102 FED) will be expended in SFY 2003-2004 for the states administrative expense for promulgation of this proposed Rule and the final Rule.

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

It is anticipated that the implementation of this proposed Rule will increase federal revenue collections by approximately \$116,608 for SFY 2003-2004, \$846,311 for SFY 2004-2005 and \$1,746,084 for SFY 2005-2006. It is anticipated that \$102 will be expended in SFY 2003-2004 for the federal expense for promulgation of this proposed Rule and the final Rule.

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

The assets of elderly and disabled individuals (approximately 1,400) who make too much money to qualify for Medicaid, but make too little to comfortably pay Medicare premiums, deductibles, and co-payments will no longer be considered in determining eligibility for the Qualified Medicare Beneficiary, Specified Low Income Medicare Beneficiary and the Qualified Individual-1 Programs. This proposed Rule will disregard assets of \$4,000 for individuals and \$6,000 for couples in determining eligibility. Implementation of this proposed Rule will increase the number of eligible participants by eliminating eligibility for the Medicare savings programs and thereby increase expenditures by approximately \$162,855 for SFY 2003-2004, \$1,182,990 for SFY 2004-2005 and \$2,440,710 for SFY 2005-2006.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Ben Bearden
Director
0310#062

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

**Medicaid Eligibility/Medically Needy Program
Incurred Deductions**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to promulgate the following Rule under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a Rule promulgating the Medicaid Eligibility Manual in its entirety by reference in May of 1996 (*Louisiana Register*, Volume 22, Number 5). Medically Needy Program is an optional eligibility group under Title XIX of the Social Security Act Section 1902(a)(10) and 42 CFR Subpart D Section 435.300. The Medically Needy eligibility group includes those individuals or families who meet all AFDC or SSI related categorical requirements and whose income is within the Medically Needy Income Eligibility Standard. It also includes those individuals or families whose resources fall within the categorical limits, but whose income is above the Medically Needy Income Eligibility Standard. These individuals or families having income in excess of the Medically Needy Income Eligibility Standard can reduce excess income by incurring medical and/or remedial care

expenses. This method used for determining eligibility is referred to as spend-down. A state may choose to exclude from incurred expenses those bills for services furnished more than three months before the Medicaid application is filed for initial eligibility or in the case of a renewal more than three months before the first month of the new budget period or quarter of coverage. A state is required to deduct any current payment on such excluded expenses.

In compliance with Executive Order MJF 02-29, the department promulgated an Emergency Rule that amended the policy governing the consideration of incurred expenses in the eligibility determination process for the Medically Needy eligibility (*Louisiana Register, Volume 29, Number 1*). This proposed Rule is being promulgated to continue the provisions contained in the January 1, 2003 Rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule may have a negative impact for those individuals or families who may no longer qualify for Medicaid coverage as a result of the implementation of this proposed Rule.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the provisions governing deductions for incurred medical expenses in the eligibility determination process for the Medically Needy eligibility group. Those bills for necessary medical and remedial services furnished more than three months before the Medicaid application is filed or more than three months before the first month of a new budget period or quarter of coverage for renewals will be excluded as an incurred expense. Current payments on excluded expenses will be allowed as an incurred expense.

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Monday, November 24, 2003 at 9:30 a.m. in the Wade O. Martin Auditorium, State Archives Building, 3851 Essen Lane, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Medicaid EligibilityC Medically Needy ProgramC Incurred Deductions

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

It is anticipated that the implementation of this proposed Rule will result in a reduction of expenditures of \$504,178 for SFY 2002-2003, \$895,630 for SFY 2003-2004 and \$922,639 for SFY 2004-2005. It is anticipated that \$272 (\$136 SGF and \$136 FED) will be expended in SFY 2003-2004 for the states administrative expense for promulgation of this proposed Rule and the final Rule.

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

It is anticipated that the implementation of this proposed Rule will result in a reduction of federal revenue collections of \$1,236,769 for SFY 2002-2003, \$2,251,553 for SFY 2003-2004 and \$2,319,240 for SFY 2004-2005. It is anticipated that \$136 will be expended in SFY 2003-2004 for the federal share of the expense for promulgation of this proposed Rule and the final Rule.

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

This proposed Rule will amend the policy governing the consideration of incurred expenses in the eligibility determination process for the Medically Needy Program. It is anticipated that implementation of this proposed Rule will reduce the number of eligible Medically Needy spend-down recipients. It is anticipated that implementation of this proposed Rule will reduce expenditures in the Medically Needy Program by \$1,740,947 for SFY 2002-2003, \$3,147,455 for SFY 2003-2004 and \$3,241,879 for SFY 2004-2005.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the proposed Rule will have no effect on competition or employment.

Ben Bearden
Director
0310#088

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Mental Health Rehabilitation ProgramCSanctions

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a Rule, effective June 20, 1996 that restructured the Mental Health Rehabilitation (MHR) Program and established provisions governing recipient eligibility, service delivery requirements and reimbursement methodology (*Louisiana Register, Volume 22, Number 6*). The June 20, 1996 Rule was amended to revise provider participation requirements by establishing enrollment and certification criteria (*Louisiana Register, Volume 24, Number 7*). The certification criteria included the suspension and/or termination of provider certification. The bureau promulgated an Emergency Rule to amend the July 20, 1998 Rule by revising the provisions governing the grounds and levels of sanctions and the notice and appeal procedures (*Louisiana Register, Volume 29, Number 10*). This Rule is being promulgated to continue the provisions of the October 20, 2003 Emergency Rule.

The text of this proposed Rule may be viewed in the Emergency Rule portion of this edition of the *Louisiana Register*.

NOTICE OF INTENT

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

**Non-Emergency Medical Transportation Services
Reimbursement Increase**

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

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Monday, November 24, 2003 at 9:30 a.m. in the Wade O. Martin Auditorium, State Archives Building, 3851 Essen Lane, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

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

**RULE TITLE: Mental Health Rehabilitation
ProgramC Sanctions**

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

It is anticipated that the implementation of this proposed Rule will have no programmatic impact to the state general fund other than cost of promulgation for SFY 2003-2004. It is anticipated that \$408 (\$204 SGF and \$204 FED) will be expended in SFY 2003-2004 for the states administrative expense for promulgation of this proposed Rule and the final Rule.

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

It is anticipated that the implementation of this proposed Rule will not affect federal revenue collections other than the federal share of the promulgation costs for SFY 2003-2004. It is anticipated that \$204 will be expended in SFY 2003-2004 for the federal share of the expense for promulgation of this proposed Rule and the final Rule.

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

This Rule proposes to revise the provisions relative to grounds and levels of sanctions and to the notice and appeals process for providers participating in the Mental Health Rehabilitation Program. It is anticipated that implementation of this proposed Rule may have an economic cost for mental health rehabilitation agencies if the agency commits one of the actions cited in the grounds for sanctions.

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

This Rule has no known impact on competition and employment.

Ben A. Bearden
Director
0310#090

H. Gordon Monk
Staff Director
Legislative Fiscal Office

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to promulgate the following Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing provides coverage and reimbursement for non-emergency medical transportation services. Reimbursement for these services is the base rate established by the bureau minus the amount which any third party coverage would pay.

As a result of the allocation of additional funds by the Legislature during the 2003 Regular Session, the bureau increased the reimbursement fees for certain designated procedures (*Louisiana Register, Volume 29, Number 7*). The bureau subsequently amended the August 1, 2003 Emergency Rule to clarify the intent of provisions contained in the Emergency Rule (*Louisiana Register, Volume 29, Number 9*). This Rule is being promulgated to continue the provisions contained in the August 1, 2003 and September 12, 2003 Emergency Rules.

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

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the reimbursement for the following designated procedures for non-emergency medical transportation services by 20 percent of the rate in effect on July 31, 2003. Non-emergency medical transportation provided by friends and family is not included in this reimbursement increase.

- Profit-Local Trip
- Capitated Regular-Urban
- Capitated Regular-Rural
- Enhanced Capitated->5 Trips Per Week
- Capitated Remote-Rural
- Capitated Wheelchair-Rural
- Capitated Wheelchair-Urban
- Local Profit-Wheelchair
- Local Nonprofit-Wheelchair
- Nonprofit-Local Trip

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 proposed Rule. A public hearing on this proposed Rule is scheduled for Monday, November 24, 2003 at 9:30 a.m. in the Wade O. Martin Auditorium, State Archives Building, 3851 Essen Lane, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Non-Emergency Medical
Transportation Services C Reimbursement Increase**

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

It is anticipated that the implementation of this proposed Rule will increase state program costs by approximately \$358,299 for SFY 2003-2004, \$402,483 for SFY 2004-2005 and \$414,558 for SFY 2005-2006. It is anticipated that \$204 (\$102 SGF and \$102 FED) will be expended in SFY 2003-2004 for the state's administrative expense for promulgation of this proposed Rule and the final Rule.

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

It is anticipated that the implementation of this proposed Rule will increase federal revenue collections by approximately \$900,503 for SFY 2003-2004, \$1,011,723 for SFY 2004-2005 and \$1,042,075 for SFY 2005-2006. It is anticipated that \$102 will be expended in SFY 2003-2004 for the federal share of the expense for promulgation of this proposed Rule and the final Rule.

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

This proposed Rule increases the reimbursement fees (approximately 20 percent) for certain designated procedures for non-emergency medical transportation services. It is anticipated that the implementation of this proposed Rule will increase expenditures to providers of non-emergency medical transportation services by approximately \$1,258,598 for SFY 2003-2004, \$1,414,206 for SFY 2004-2005 and \$1,456,633 for SFY 2005-2006.

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

There is no known effect on competition or employment.

Ben A. Bearden
Director
0310#063

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Physician Services C Gastric Bypass Surgery

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to promulgate the following Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing currently provides reimbursement for gastric bypass surgery for certain diagnoses. The bureau proposes to establish provisions governing recipient qualifications, covered services and reimbursement for gastric bypass surgery.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. This proposed Rule should have a positive impact on family functioning as described in R.S. 49:972 as it will provide alternative treatments for obesity.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing establishes the following criteria for gastric bypass surgery.

Recipient Qualifications

A. To qualify for gastric bypass surgery, a recipient shall:

1. be a minimum of 16 years of age;
2. have a documented weight in the morbidly obese range as defined by a body mass index greater than 40;
3. have at least three failed efforts at medical therapy and is suffering from the complications of extreme obesity;
4. have current obesity-related medical conditions which are classified as being very high risk for morbidity and mortality;
5. not have a major psychiatric diagnosis as the cause of his/her obesity or which will act as a deterrent to successful treatment as evidenced by the results of a psycho-social evaluation;
6. not be currently abusing alcohol or other substances; and
7. be capable of complying with the modified food intake regimen and follow-up program which will come after surgery.

B. Exceptions will not be authorized for recipients who fail to meet all of the above criteria.

Covered Services

A. A letter documenting medical necessity from the recipient's physician must be submitted with the request for surgery.

B. The following gastric bypass surgery procedures are covered for reimbursement:

1. Gastroplasty, Vertical-Banded;
2. Gastroplasty, other than Vertical-Banded;
3. Gastric Bypass with Roux-EN-Y Gastro;
4. Gastric Bypass for Obesity; and
5. Revision Gastroplasty.

C. A *lipectomy*—the surgical removal of fatty tissue, and a *panniculectomy*—the surgical removal of the abdominal apron containing superficial fat, shall be considered for authorization if the surgery:

1. is determined to be medically necessary; and
2. is being performed to correct an illness which was caused or aggravated by the pannus.

D. In order for either of the above procedures to be authorized, documentation must be submitted to support that the recipient has at least one of the following indications:

1. intertriginous infections with documented evidence of serious problems with intertriginous infection control;
2. the apron of the panniculus interferes with ambulation; or
3. the panniculus is causing prolapse of a ventral hernia.

E. Photographs must be submitted with the request for consideration of gastric bypass surgery.

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Monday, November 24, 2003 at 9:30 a.m. in the Wade O. Martin Auditorium, State Archives Building, 3851 Essen Lane, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

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

RULE TITLE: Physician Services

Gastric Bypass Surgery

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

It is anticipated that there will be no costs to the state as a result of implementation of this proposed Rule. It is anticipated that \$340 (\$170 SGF and \$170 FED) will be expended in SFY 2003-2004 for the states administrative expense for promulgation of this proposed rule and the final Rule.

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

It is anticipated that the implementation of this proposed Rule will not affect federal revenue collections. \$170 is included in SFY 2003-2004 for the federal administrative expenses for promulgation of this proposed Rule and the final Rule.

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

Medicaid currently provides reimbursement for gastric bypass surgery for certain diagnoses. This proposed Rule establishes objective provisions, recipient criteria, covered services and reimbursement for gastric bypass surgery. It is anticipated that implementation of this proposed Rule will not have estimable cost or economic benefits for SFY 2003-2004, 2004-2005 and 2005-2006.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that there will be no effect on competition or employment as a result of the implementation of this proposed Rule.

Ben A. Bearden
Director
0310#091

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

**Public Nursing Facilities CReimbursement Methodology
(LAC 50:VII.1309)**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Act 694 of the 2001 Regular Session of the Louisiana Legislature mandated that the Department of Health and Hospitals establish a case-mix reimbursement methodology for nursing homes. In accordance with Act 694, the bureau repealed the June 20, 1984 Rule and established a new reimbursement methodology based on a case-mix price-based reimbursement system for private and public nursing facilities (*Louisiana Register, Volume 28, Number 8*). The department subsequently promulgated an Emergency Rule revising the reimbursement methodology for state-operated nursing facilities in order to reimburse these facilities in accordance with the Medicare upper payment limit (*Louisiana Register, Volume 28, Number 11*). The bureau later promulgated an Emergency Rule amending the provisions contained in the August 20, 2002 Rule governing the reimbursement methodology for public nursing facilities. In addition, the bureau repealed the October 14, 2002 Emergency Rule (*Louisiana Register, Volume 29, Number 1*). This Rule is being promulgated to continue the provisions contained in the January 1, 2003 Emergency Rule.

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

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the provisions contained in the August 20, 2002 Rule governing the reimbursement methodology for public nursing facilities.

Title 50

PUBLIC HEALTHC MEDICAL ASSISTANCE

Part VII. Long Term Care Services

Subpart 1. Nursing Facilities

Chapter 13. Reimbursement

§1309. State-Owned or Operated and Nonstate

Government-Owned or Operated Facilities

A. Nonstate government-owned or operated nursing facilities will be paid a prospective reimbursement rate. Each facility will receive a Medicaid base rate calculated in accordance with other sections of this Rule. Nonstate government-owned or operated nursing facilities may also receive a supplemental Medicaid payment on a quarterly basis. The aggregate supplemental payments for these facilities, calculated on a quarterly basis, will be the state's best estimate of what nonstate government-owned or operated facilities would be paid under Medicare's prospective payment system for skilled nursing facilities less the aggregate Medicaid base payments for these facilities. The acuity measurements used in the supplemental Medicaid payment calculations will be the acuity of each facility's Medicaid residents, as determined under Medicare's 44 RUG classification methodology. Adjustments to the aggregate supplemental Medicaid payments will be made to account for differences in coverage between the Medicare and Medicaid programs.

B. State-owned or operated nursing facilities will be paid a prospective reimbursement rate. The payment rate for each of these facilities will be the nursing facility's allowable cost from the most recent filed Medicaid cost report trended forward to the midpoint of the rate year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 46:2742, 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 28:1476 (June 2002), repromulgated LR 28:1793 (August 2002), amended LR 30:

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 proposed Rule. A public hearing on this proposed Rule is scheduled for Monday, November 24, 2003 at 9:30 a.m. in the Wade O. Martin Auditorium, State Archives Building, 3851 Essen Lane, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Public Nursing FacilitiesC Reimbursement Methodology

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

It is anticipated that the implementation of this proposed Rule will increase state program costs by approximately \$167,910 for SFY 2002-2003, \$408,044 for SFY 2003-2004 and \$420,145 for SFY 2004-2005. It is anticipated that \$272 (\$136 SGF and \$136 FED) will be expended in SFY 2003-2004 for the states administrative expense for promulgation of this proposed Rule and the final Rule.

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

It is anticipated that the implementation of this proposed Rule will increase federal revenue collections by approximately \$411,890 for SFY 2002-2003, \$1,025,494 for SFY 2003-2004 and \$1,056,119 for SFY 2004-2005. \$136 is included in SFY 2003-2004 for the federal administrative expenses for promulgation of this proposed Rule and the final Rule.

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

This proposed Rule amends the payment methodology for two state-owned public nursing facilities, based on a case-mixed priced-based reimbursement system for private and public nursing facilities. This Rule is being promulgated to continue the provisions contained in the January 1, 2003 emergency Rule. It is anticipated that implementation of this proposed Rule will increase payments to these two public nursing facilities by \$579,800 for SFY 2002-2003, \$1,433,266 for SFY 2003-2004 and \$1,476,264 for SFY 2004-2005.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that there will be no effect on competition or employment as a result of the implementation of this proposed Rule.

Ben Bearden
Director
0310#065

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Psychiatric Residential Treatment Facilities Licensure (LAC 48:I.Chapter 90)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt LAC 48:I.Chapter 90 as authorized by R.S. 40:2181-2191. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The services of a psychiatric residential treatment facility may be provided to an emotionally disturbed individual under the age of 21 who has dysfunctional behaviors and/or psychiatric conditions which prevent or jeopardize residency with the family or in a setting less restrictive than therapeutic out-of-home care. The individual does not

require acute care, but does require supervision and specialized interventions on a 24-hour basis to attain a level of functioning that allows subsequent treatment in a less restrictive setting.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. This proposed Rule will have a positive impact on family functioning, stability, and autonomy as described in R.S. 49:972. It is anticipated that this proposed Rule will promote the health and welfare of eligible recipients by ensuring their access to appropriate therapeutic residential intervention services.

Title 48

PUBLIC HEALTHC GENERAL

Part I. General Administration

Subpart 3. Licensing

Chapter 90. Psychiatric Residential Treatment

Facilities (under 21)

Subchapter A. General Provisions

§9001. Purpose

A. The purpose of this Chapter 90 is to provide for the development, establishment and enforcement of statewide standards for the care of residents in Psychiatric Residential Treatment Facilities (PRTFs) participating in the Louisiana Medicaid Program, to ensure maintenance of these standards, and to regulate conditions in these facilities through a program of licensure which shall promote safe and adequate treatment of residents of PRTFs participating in the Louisiana Medicaid Program.

B. In addition to requirements stated herein, all licensed PRTFs shall comply with applicable local, state, and federal laws and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 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 30:

§9003. Definitions

A. The following defines selected terminology used in connection with this Chapter 90.

AbuseCany one of the following acts which seriously endangers the physical, mental or emotional health of the resident:

a. infliction, attempted infliction, or, as a result of inadequate supervision, the allowance of the infliction or attempted infliction of physical or mental injury upon the resident;

b. exploitation or overwork of a resident;

c. involvement of the resident in sexual activity constituting a crime under the laws of this state.

AccreditationCofficial notification given the provider of compliance to standards established by either:

a. the Joint Commission on Accreditation of Healthcare Organizations;

b. the Commission on Accreditation of Rehabilitation Facilities;

c. the Council on Accreditation of Services for Families and Resident; or

d. any other comparable nationally recognized accrediting organization.

AdministratorC(see *chief executive officer*)

Behavior ManagementCtechniques, measures, interventions and procedures applied in a systematic fashion

to promote positive behavioral or functional change fostering the resident's self-control, and to prevent or interrupt a resident's behavior which threatens harm to the resident or others.

Cessation of BusinessCwhen a PRTF participating in the Louisiana Medicaid Program stops providing services to the community.

Change of Ownership (CHOW)Cthe sale or transfer whether by purchase, lease, gift or otherwise of a PRTF by a person/corporation of controlling interest that results in a change of ownership or control of 30 percent or greater of either the voting rights or assets of a PRTF or that results in the acquiring person/corporation holding a 50 percent or greater interest in the ownership or control of the PRTF.

Chief Executive Officer (CEO) or AdministratorCthe person responsible for the on-site, daily implementation and supervision of the overall facility's operation commensurate with the authority conferred by the governing body.

Clinical DirectorCthe person who has responsibility for the psychiatric aspects of the program and who has to provide full-time coverage on an on-site or on-call basis.

CMSCCthe Centers for Medicare and Medicaid Services, Department of Health and Human Services.

Core Mental Health DisciplinesCacademic training programs in psychiatry, psychology, social work and psychiatric nursing.

DepartmentCthe Department of Health and Hospitals.

DisciplineCthe ongoing practice of helping residents develop inner control so they can manage their own behavior in an appropriate and acceptable manner.

Documentation—written evidence or proof, including signatures of appropriate staff and date, must be maintained on site and available for review.

DSSCthe Department of Social Services.

Emergency Safety InterventionCthe use of restraint or seclusion as an immediate response to an emergency safety situation.

Emergency Safety SituationCunanticipated resident behavior that places the resident or others at serious threat of violence or injury if no intervention occurs and that calls for an emergency safety intervention.

Governing BodyCthe board of trustees, owner or person(s) designated by the owner with ultimate authority and responsibility (both moral and legal) for the management, control, conduct, and functioning of the PRTF.

Group (or Unit)Crefers to the residents who share a common space and relate to one primary staff person (who may be assisted by others) on a consistent or daily basis.

HSSCthe Department of Health and Hospitals, Health Standards Section.

LicenseCthe legal authority to operate as a PRTF participating as a Louisiana Medicaid Program.

Licensed Mental Health Professional (LMHP)Can individual who meets one of the following education and experience requirements:

a. a physician duly licensed to practice medicine in the state of Louisiana and has completed an accredited training program in psychiatry; or

b. a psychologist licensed as a practicing psychologist under the provisions of R.S. 28:2351-2370; or

c. a social worker who holds a master's degree in social work from an accredited school of social work and is

a licensed clinical social worker under the provisions of R.S. 37:2701-2718, as amended; or

d. a nurse licensed as a registered nurse in the state of Louisiana by the Board of Nursing; and

i. is a graduate of an accredited master's level program in psychiatric mental health nursing with two years of post-masters supervised experience in the delivery of mental health services; or

ii. has a master's degree in nursing or a mental health-related field with two years of supervised post masters experience in the delivery of mental health services;

e. a licensed professional counselor who is licensed as such under the provision of R.S. 37:1101-1115 and has at least two years post master's supervised experience delivering services in the mental health-related field.

Mechanical Restraint Any device attached or adjacent to the resident's body that he or she cannot easily remove that restricts freedom of movement or normal access to his or her body.

Mental Health Professional (MHP) Can individual who is supervised by a LMHP and meets the following criteria as documented by the provider:

a. has a Master of Social Work degree; or

b. has a Master of Arts degree, Master of Science degree or a Master of Education degree in a mental health-related field; and

i. has a minimum of 15 hours of graduate level course work and/or practicum in applied intervention strategies/methods designed to address behavioral, emotional and/or mental problems. These hours may have been obtained as a part of, or in addition to, the master's degree.

Mental Health-Related Field Academic training programs based on the principles, teachings, research and body of scientific knowledge of the core mental health disciplines. To qualify as a related field, there must be substantial evidence that the academic program has a curriculum content in which at least 70 percent of the required courses for graduation are based on the knowledge base of the core mental health disciplines. Programs which may qualify include, but are not limited to, sociology, criminal justice, nursing, marriage and family counseling, rehabilitation counseling, psychological counseling and other professional counseling.

Mental Health Service Delivery Experience mental health service delivery experience at the professional or paraprofessional level delivered in an organized mental health or psychiatric rehabilitation setting such as a psychiatric hospital, day treatment or mental health case management program or community mental health center.

Mental Health Specialist (MHS) Ca person who delivers direct care services under the direct supervision of a LMHP or MHP and who meets one or more of the following five criteria as documented by the provider:

a. has a Bachelor of Arts degree in a mental health-related field; or

b. has a Bachelor of Science degree in a mental health-related field; or

c. has a bachelor's degree and is a college student pursuing a graduate degree in a mental health-related field and has completed at least two courses in that identified field; or

d. has a high school degree or a GED and has four years experience providing direct services in a mental health, physical health, social services, education or correctional setting.

New Construction Any of the following started after January 1, 2004:

a. new buildings to be used as a PRTF;

b. additions to existing buildings to be used as a PRTF;

c. conversions of existing buildings or portions thereof for use as a PRTF;

d. alterations other than minor alterations to an existing PRTF.

Minor Ca minor as defined under state law and, for the purpose of this Chapter, includes a resident who has been declared legally incompetent by the applicable state court.

OCSC the Department of Social Services, Office of Community Services.

OSFMC the Office of State Fire Marshal.

OYDC the Department of Public Safety and Corrections, Office of Youth Development.

Personal Restraint the application of physical force, without the use of any device, for the purpose of restraining the free movement of a resident's body. The term *personal restraint* does not include briefly holding without undue force a resident in order to calm or comfort him/her, or holding a resident's hand to safely escort a resident from one area to another.

Psychiatric Residential Treatment Facility (PRTF) Ca facility other than a hospital, that provides psychiatric services, as described in 42 CFR Part 441 Subpart D, to individuals under age 21, in a residential setting.

Restraint Ca personal restraint, mechanical restraint, or drug used as a restraint as defined in this §9003.

Seclusion the involuntary confinement of a resident alone in a room or an area from which the resident is physically prevented from leaving.

Serious Injury Any significant impairment of the physical condition of the resident as determined by qualified medical personnel. This includes, but is not limited to, burns, lacerations, bone fractures, substantial hematoma, and injuries to internal organs, whether self-inflicted or inflicted by someone else.

Staff those individuals with responsibility for managing a resident's health or participating in an emergency safety intervention and who are employed by the facility on a full-time, part-time or contract basis.

Time Out the restriction of a resident for a period of time to a designated area from which the resident is not physically prevented from leaving, for the purpose of providing the resident an opportunity to regain self-control.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 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 30:

Subchapter B. Licensing

§9013. Licensing Process

A. Initial Licensing. The Department of Health and Hospitals (DHH) is the only authority for PRTFs participating in the Louisiana Medicaid Program in the State of Louisiana.

1. Any person, organization or corporation desiring to operate a PRTF shall make application to DHH on forms prescribed by the department. Such forms may be obtained from:

Hospital Program Manager
Department of Health and Hospitals
Health Standards Section (HSS)
P.O. Box 3767, Baton Rouge, LA 70821.

2. An initial applicant shall as a condition of licensing:

a. submit a completed initial PRTF packet and other required documents, including attestation in writing, that the facility is in compliance with CMS's standards governing the use of restraint and seclusion, as contained in this Chapter 90. This attestation must be signed by the facility administrator;

b. submit the required nonrefundable licensing fees by certified check or money order. No application will be reviewed until payment of the application fee. Except for good cause shown, the applicant must complete all requirements of the application process within 90 days of initial submission of the application material. Upon 10 days prior notice, any incomplete or inactive applications shall be closed. A new application will be accepted only when accompanied by a nonrefundable application fee.

3. When the required documentation for licensing is approved and the building is approved for occupancy by the OFSM, a survey of the facility by representatives of HSS shall be conducted at the department's discretion to determine if the facility meets the standards set forth in this Chapter 90.

4. No new PRTF, except one that is accredited and is licensed by DSS as a controlled intensive care facility or unit, shall accept residents until the PRTF has written approval and/or a license issued by HSS.

5. No licensed bed shall be placed in a room that does not meet all resident room licensing criteria and which has not been previously approved by HSS.

B. Issuance of License

1. The agency shall have authority to issue two licenses as described below.

a. Full License-issued only to those PRTFs that are in substantial compliance with these licensure regulations governing PRTFs. The license shall be issued by the department for a period of not more than 12 months for the premises named in the application, as determined by the department.

b. If a PRTF is not in substantial compliance with these licensure regulations, the department may issue a provisional license up to a period of six months if there is no immediate and serious threat to the health and safety of residents.

2. The PRTF license is not assignable or transferable and shall be immediately void if a PRTF ceases to operate or if its ownership changes.

C. Licensing Renewal. Licenses must be renewed at least annually. A PRTF seeking renewal of its license shall:

1. complete all forms and return them to the department at least 15 days prior to the expiration date of their current license;

2. submit the annual fees or the amounts so specified by state law. All fees shall be submitted by certified check or

money order and are nonrefundable. All state-owned facilities are exempt from fees;

3. the renewal packet shall be sent by the department to the PRTF 45 days prior to the expiration of their license. The packet shall contain all forms required for renewal of the license;

4. the PRTF shall accept only that number of residents for which it is licensed unless prior written approval has been secured from the department.

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

E. Increases in Capacity

1. The PRTF will notify the department in writing 14 days prior to an increase in capacity.

2. The PRTF will complete the required paperwork and submit the appropriate documents.

3. A fee of \$25 plus \$5 per licensed unit being added or the amounts so specified by state law in the future shall be submitted to the department. This fee shall be paid by a certified check or money order.

4. At the discretion of the department, signed and dated attestations in compliance with these standards may be accepted in lieu of an on-site survey.

5. Written approval of the increase in capacity must be obtained before residents can be admitted to these additions.

F. Decrease in Capacity

1. The PRTF will notify the department in writing 14 days prior to the decrease in capacity.

2. The PRTF will complete the required paperwork and submit the appropriate documents.

3. A fee of \$25 or the amounts so specified by state law in the future shall be submitted to the department. This fee shall be paid by a certified check or money order.

G. Individual licenses shall not be required for separate buildings and services located on the same or adjoining grounds or attached to the main PRTF if they are operated as an integrated service of the PRTF.

H. Duplicate and Replacement Licenses. A \$5 processing fee, or the amount so specified by state law in the future, shall be submitted by the PRTF for issuing a duplicate facility license with no changes.

I. When changes to the license, such as a name change, address change or bed reduction are requested in writing by the PRTF, a fee of \$25 or the amounts so specified by state law in the future, shall be submitted.

J. Facility within a Facility

1. If more than one health care provider occupies the same building, premises, or physical location:

a. all treatment facilities and administrative offices of one health care provider shall be clearly separated from any treatment facilities or administrative offices of any other health care provider located in and/or on the same building, premises or physical location by a clearly delineated and cognizable boundary;

b. treatment facilities shall include, but not be limited to, recipient beds, wings and operating rooms;

c. administrative offices shall include, but not be limited to, record rooms and personnel offices;

d. there shall be clearly identifiable and distinguishable signage;

e. if more than one health care provider occupies the same building, premises or physical location, each such

health care provider shall have its own entrance. The separate entrance shall have appropriate signage and shall be clearly identifiable as belonging to one health care provider. Nothing prohibits a health care provider occupying the same building, premises or physical location as another health care provider from utilizing the entrance, hallway, stairs, elevators or escalators of another health care provider to provide access to its separate entrance;

f. staff of the PRTF within a hospital shall not be co-mingled with the staff of the host hospital for the delivery of services within any given shift.

K. Change of Ownership

1. Examples of Actions Which Constitute a Change of Ownership

a. Unincorporated Sole Proprietorship. Transfer of title and property to another party constitutes a change of ownership.

b. Corporation. The merger of the provider corporation into another corporation, or the consolidation of two or more corporations, resulting in the creation of a new corporation constitutes a change of ownership. Transfer of corporate stock or the merger of another corporation into the provider corporation does not constitute a change of ownership.

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

d. Leasing. The lease of all or part of the provider facility constitutes a change of ownership of the leased portion.

2. No later than 15 days after the effective date of the CHOW, the prospective owner(s) or provider representative shall submit to the department a completed application for PRTF licensing, and the bill of sale.

L. Fire Protection. All PRTFs shall comply with the Rules, established fire protection standards and enforcement policies as promulgated by the Office of State Fire Marshal, including handicapped accessibility requirements. It shall be the primary responsibility of the Office of State Fire Marshal to determine if applicants are complying with those requirements. No license shall be issued or renewed without the applicant furnishing a valid inspection report from the Office of State Fire Marshal stating that the applicant is complying with their provisions.

1. Prior to new construction, additions, conversions or major alterations, PRTFs shall submit construction documents (see N Plan Review) to the OSFM for review. All PRTFs shall submit in writing to the OSFM request for an occupancy review for Life Safety Code. This submission is to request the occupancy type they are requesting. PRTFs requesting to be reviewed and approved as a residential board and care facility by OFSM shall not have exit doors and doors of egress locked. PRTFs that are reviewed and approved as limited care facilities may be permitted to have locked doors after an appeal with OFSM.

M. Sanitation and Resident Safety. The PRTF shall comply with the Rules, Sanitary Code and enforcement policies as promulgated by the Office of Public Health (OPH). It shall be the primary responsibility of the OPH to determine if applicants are complying with those requirements. No initial license shall be issued without the

applicant furnishing a certificate from OPH stating that the applicant is complying with their provisions. A provisional license may be issued to the applicant if OPH issues the applicant a conditional certificate.

N. Plan Review. Construction documents (plans and specifications) are required to be submitted and approved by both the OFSM and the Department of Health and Hospitals as part of the licensing procedure and prior to obtaining a license.

1. Submission Plans

a. Submittal Requirements

i. One set of the final construction documents shall be submitted to the OFSM for approval. The Fire Marshal's approval letter and final inspection shall be sent to the DHH Division of Engineering and Architectural Services.

ii. One set of the final construction documents shall be submitted to DHH Division of Engineering and Architectural Services along with the appropriate review fee and a "plan review application form" for approval.

b. Applicable Projects. Construction documents require approval for the following type of projects:

- i. new construction;
- ii. new hospitals;
- iii. changes in service(s)/hospital type;
- iv. major alterations.

c. Design Criteria. The project shall be designed in accordance with the following criteria:

- i. the current edition of *NFPA 101-Life Safety Code*;
- ii. the latest adopted edition of the *International Building Code*;
- iii. the *American with Disabilities Act Accessibility Guidelines for Buildings and Facilities (ADAAG)*, current edition;
- iii. the current Louisiana Department of Health and Hospitals' *Licensure Standards for Psychiatric Residential Treatment Facilities*;
- iv. The latest adopted edition of the *Louisiana State Plumbing Code*.

d. Construction Document Preparation

i. Construction documents submitted to DHH shall be prepared only by a Louisiana licensed architect or licensed engineer as governed by the licensing laws of the state for the type of work to be performed.

ii. Construction documents submitted shall be of an architectural or engineering nature and thoroughly illustrate the project that is accurately drawn, dimensioned, and contain noted plans, details, schedules and specifications. At a minimum the following shall be submitted:

- (a). site plans;
- (b). floor plan(s). These shall include architectural, mechanical, plumbing, electrical, fire protection, and if required by code, sprinkler and fire alarm plans;
- (c). building elevations;
- (d). room finish, door, and window schedules;
- (e). details pertaining to ADA requirements;
- (f). specifications for materials;
- (g). an additional set of basic preliminary type, legible site plan and floor plans in either 8-1/2 x 11;

8-1/2 x 14 or 11 x 17 format. (These are for use by DHH in doing the final inspection of the facility and should include legible names).

2. Waivers

a. The secretary of the DHH may, within his/her sole discretion, grant waivers to building and construction guidelines. The facility must submit a waiver request in writing to the Division of Engineering and Architectural Services. The facility must demonstrate how patient safety and quality of care offered is not comprised by the waiver. The facility must demonstrate their ability to completely fulfill all other requirements of service. DHH will make a written determination of the requests. Waivers are not transferable in an ownership change and are subject to review or revocation upon any change in circumstances related to the waiver.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 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 30:

§9015. Psychiatric Residential Treatment Facility Closure

A. A cessation of business is deemed to be effective with the date on which the PRTF stopped providing services to the community as a Louisiana Medicaid Program.

1. The PRTF must notify the department in writing 30 days prior to the effective date of closure.

2. The PRTF shall submit a written plan for the disposition of resident's clinical records for approval by the department. The plan shall include the following:

a. provisions that comply with state laws on storage, maintenance, access and confidentiality of the closed PRTF's resident medical records;

b. an appointed custodian who shall provide physical and environmental security that protects the records against fire, water, intrusion, unauthorized access, loss and destruction;

c. public notice on access in the newspaper, with the largest circulation, in close proximity of the closing PRTF, at least 15 days before the effective date of closure;

d. the effective date of closure.

3. The PRTF must return the original license to the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 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 30:

§9017. Denial, Revocation or Non-Renewal of License and Appeal Procedure

A. When a facility is unable or unwilling to comply with requirements or has failed to adequately protect the health and safety of residents, the department can deny the application, revoke the license, or refuse to renew the license.

B. The department may deny an application for a license, or refuse to renew a license or revoke a license for any of the following reasons:

1. failure to be in substantial compliance with the PRTF licensure regulations;

2. failure to provide therapeutic residential intervention services essential to the care of emotionally disturbed residents;

3. failure to uphold patient rights whereby violations may result in harm or injury;

4. failure of agency to protect patients/persons in the community from harmful actions of the agency employees; including, but not limited to health and safety, coercion, threat, intimidation and harassment;

5. failure to notify proper authorities of all suspected cases of neglect, criminal activity, or mental or physical abuse which could potentially cause harm to the patient;

6. failure to maintain staff adequate to provide necessary services to current active residents;

7. failure to employ qualified personnel;

8. failure to remain fully operational at any time for any reason other than a disaster;

9. failure to submit fees including but not limited to annual fee, renewal fee, provisional follow-up fee, or change of agency address or name, or any fines assessed by DHH;

10. failure to allow entry to the PRTF or access to any requested records during any survey;

11. failure to protect patients from unsafe skilled and/or unskilled care by any person employed by the agency;

12. failure of the agency to correct violations after being issued a provisional license;

13. agency staff or owner has knowingly, or with reason to know, made a false statement of a material fact in:

a. application for licensure;

b. data forms;

c. clinical record;

d. matters under investigation by the department;

e. information submitted for reimbursement from any payment source;

f. the use of false, fraudulent or misleading advertising;

g. that the agency staff misrepresented or was fraudulent in conducting agency business;

h. convictions of a felony by an owner, administrator, or clinical director as shown by a certified copy of the record of the court of conviction of the above individual; or if the applicant is a firm or corporation, of any of its members or officers;

14. failure to comply with all reporting requirements in a timely manner; and

15. at the initial licensure survey, an agency has more than five violations of any minimum standards or if the violations are determined to be of such a serious nature that they may cause or have the potential to cause actual harm.

C. If an agency's license, whether full or provisional, is revoked, or denied renewal, and the applicant or licensee does not request an administrative reconsideration of the violation(s) which support the department's actions and/or does not appeal such action, the facility must cease operation on the effective date of the action.

D. Notice and Appeal Procedure. The applicant or licensee shall receive 30 days notice in writing of the decision and the grounds for such proposed action.

E. Administrative Reconsideration. The applicant or licensee may request an administrative reconsideration of the violation(s) which support the department's actions. This reconsideration shall be conducted by a designated

official(s) of the department who did not participate in the initial decision to impose the actions taken. Reconsideration shall be made solely on the basis of documents before the official and shall include the survey report and statement of violations and all documentation the agency submits to the department at the time of the agency's request for reconsideration. Correction of a violation shall not be a basis for reconsideration. This is not a formal hearing. Oral presentations can be made by the department's spokesperson(s) and the agency's spokesperson(s). This process is not in lieu of the appeals process and does not extend the time limits for filing an administrative appeal. The designated official shall have authority only to affirm the decision, to revoke the decision, to affirm part and revoke part, or to request additional information from either the department or the agency.

1. If an agency's license is revoked, or denied renewal and the applicant or licensee requests an administrative reconsideration and the department's decision is affirmed, and the applicant or licensee does not appeal such action, the facility must cease operation on the effective date of the designated official's decision to support the department's actions.

F. Appeal Process. Upon refusal of DHH to grant a license as provided in the current state statutes, or upon revocation or suspension of a license, or the imposition of a fine, the agency, institution, corporation, person, or other group affected by such action shall have the right to appeal such action by submitting a written request to the secretary of the department within 30 days after receipt of the notification of the refusal, revocation, suspension of a license or imposition of a fine.

1. If an agency's license is revoked, or denied renewal and the applicant or licensee requests an appeal of the department's action and the result of the appeal supports the department's action, the facility must cease operation on the effective date of the designated official's decision to support the department's action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 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 30:

Subchapter C. Organization and Administration

§9027. General

A. Purpose and Organizational Structure. The purpose of the PRTF shall be clearly defined in a statement filed with the department. The statement includes the:

1. program philosophy;
2. program goals and objectives;
3. ages, sex and characteristics of residents accepted for care;
4. geographical area served;
5. types of services provided;
6. description of admission policies; and
7. needs, problems, situations or patterns best addressed by the provider's program.

B. House Rules. The provider shall have a clearly written list of Rules governing conduct for residents in care and shall document that these Rules are made available to each staff member, resident, and where appropriate, the resident's parent(s) or legal guardian(s).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 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 30:

§9029. Governing Body

A. The PRTF must have either an effective governing body or individual(s) legally responsible for the conduct of the PRTF operations. No contracts/arrangements or other agreements may limit or diminish the responsibility of the governing body.

B. The governing body shall:

1. establish PRTF-wide policy;
2. adopt bylaws;
3. appoint a chief executive officer or administrator;
4. designate a psychiatrist who is either board-eligible

or certified in child psychiatry as the clinical director to assume responsibility for the psychiatric aspects of the program and to provide full-time coverage on an on-site or on-call basis.

5. maintain quality of care; and

6. provide an overall institutional plan and budget.

C. The governing body and/or their designee(s) shall develop and approve policies and procedures which define and describe the scope of services offered. They shall be revised as necessary and reviewed at least annually.

D. There shall be an organizational chart that delineates lines of authority and responsibility for all PRTF personnel.

E. Representation at Hearings. The PRTF shall, when required by law, have a representative present at all judicial, educational, or administrative hearings that address the status of a resident in the care of the provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 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 30:

§9031. Administrative Policy and Records

A. Policy shall be clearly written, current, and available for residents, parents or custodians, staff, and licensing staff to review.

B. Policy shall be reviewed annually by the governing board.

C. Policy shall include, but is not limited to, areas governing:

1. admission and discharge;
2. personnel;
3. volunteers;
4. grievance procedures;
5. behavior management;
6. use of restraint and seclusion;
7. mandatory reporting of abuse;
8. administering medication;
9. confidentiality of records;
10. participation of residents in activities related to fundraising and publicity;
11. participation of residents in research projects;
12. the photographing and audio or audio-visual recording of residents; and
13. emergency procedures.

D. Admission Policy

1. The PRTF shall:

a. only accept residents for placement from the parent(s), legal guardian(s), custodial agency or a court of competent jurisdiction;

b. not admit more residents into care than the number specified on the provider's license;

c. ensure that the resident, the resident's parent(s) or legal guardian(s) and others, as appropriate, are provided reasonable opportunity to participate in the admission process and decisions. Proper consents shall be obtained before admission.

2. Notification of Facility Policy. At admission, the facility must:

a. inform both the incoming resident and, in the case of a minor, the resident's parent(s) or legal guardian(s) of the facility's policy regarding the use of restraint or seclusion during an emergency safety situation that may occur while the resident is in the program;

b. communicate its restraint and seclusion policy in a language that the resident, or his or her parent(s) or legal guardian(s) understands (including American Sign Language, if appropriate) and when necessary, the facility must provide interpreters or translators;

c. obtain an acknowledgment, in writing, from the resident, or in the case of a minor, from the parent(s) or legal guardian(s) that he or she has been informed of the facility's policy on the use of restraint or seclusion during an emergency safety situation. Staff must file this acknowledgment in the resident's record; and

d. provide a copy of the facility policy to the resident and in the case of a minor, to the resident's parent(s) or legal guardian(s).

i. The facility's policy must provide contact information, including the phone number and mailing address, for the appropriate state protection and advocacy organization.

3. Intake Evaluation. The PRTF shall accept a resident into care only when a current diagnostic evaluation, not over one 1 year old, has been completed.

a. The diagnostic evaluation shall include examination of the medical, psychosocial, social, behavioral and developmental aspects of the recipient's situation and reflect the need for services of a PRTF. Each medical evaluation must include:

- i. diagnoses;
- ii. summary of medical findings;
- iii. medical history;
- iv. mental and physical functional capacity;
- v. prognosis; and
- vi. physician's recommendations.

E. Behavior Management

1. The PRTF shall develop and maintain a written behavior management policy which includes:

- a. goals and purposes of the behavior management program;
- b. methods of behavior management;
- c. a list of staff authorized to administer the behavior management policy; and
- d. methods of monitoring and documenting the use of the behavior management policy.

2. Prohibitions. The facility policy shall prohibit:

a. shaking, striking, spanking or other cruel treatment;

b. harsh, humiliating, cruel, abusive or degrading language;

c. denial of food or sleep;

d. work tasks that are degrading or unnecessary and inappropriate to the resident's age and ability;

e. denial of private familial and significant other contact, including visits, phone calls, and mail, as a means of punishment;

f. use of chemical agents, including tear gas, mace, or similar agents;

g. extreme physical exercise;

h. one resident punishing another resident;

i. group punishment; and

j. violating a resident's rights.

3. The PRTF must satisfy all requirements contained in this Chapter regarding the use of restraint or seclusion, including application of time out.

F. Resident Abuse

1. The provider shall have comprehensive written procedures concerning resident abuse including:

a. a description of ongoing communication strategies used by the provider to maintain staff awareness of abuse prevention, current definitions of abuse and neglect, and mandated reporting requirements to the Office of Community Services Resident Protection Agency;

b. a procedure for disciplining staff members who abuse or neglect a resident;

c. procedures for insuring that the staff member involved in suspected resident abuse or neglect does not work directly with the resident involved or any other resident in the program until the investigation is complete.

2. Any case of suspected resident abuse or neglect shall be reported immediately to the HSS and, unless prohibited by state law, the state-designated protection and advocacy system.

3. Staff must report any case of suspected resident abuse or neglect to both HSS and the state-designated protection and advocacy system by no later than close of business the next business day after a case of suspected resident abuse or neglect. The report must include:

a. the name of the resident involved in the suspected resident abuse or neglect;

b. a description of the suspected resident abuse or neglect;

c. date and time the suspected abuse or neglect occurred;

d. steps taken to investigate abuse and neglect; and

e. action taken as a result of the incident.

4. In the case of a minor, the facility must notify the resident's parent(s) or legal guardian(s) as soon as possible, and in no case later than 24 hours after the suspected resident abuse or neglect.

5. Staff must document in the resident's record that the suspected resident abuse or neglect was reported to both HSS and the state-designated protection and advocacy system, including the name of the person to whom the incident was reported. A copy of the report must be maintained in the resident's record.

G Reporting of Serious Occurrences. The facility must report each serious occurrence to both HSS and, unless prohibited by state law, the state-designated protection and

advocacy system. Serious occurrences that must be reported include a resident's death or a serious injury to a resident.

1. Staff must report any serious occurrence involving a resident to both HSS and the state-designated protection and advocacy system by no later than close of business the next business day after a serious occurrence. The report must include the name of the resident involved in the serious occurrence, a description of the occurrence, and the name, street address, and telephone number of the facility. The facility must conduct an investigation of the serious occurrence to include interviews of all staff involved, findings of the investigation, and actions taken as a result of the investigation.

2. In the case of a minor, the facility must notify the resident's parent(s) or legal guardian(s) as soon as possible, and in no case later than 24 hours after the serious occurrence.

3. Staff must document in the resident's record that the serious occurrence was reported to both HSS and the state-designated protection and advocacy system, including the name of the person to whom the incident was reported. A copy of the report must be maintained in the resident's record, as well as in the incident and accident report logs kept by the facility.

4. Reporting of Deaths. In addition to the reporting requirements contained in Paragraphs 1-4 of this Subsection, facilities must report the death of any resident to the CMS regional office. The staff must:

a. report the death of any resident to the CMS regional office by no later than close of business the next business day after the resident's death;

b. document in the resident's record that the death was reported to the CMS regional office.

H. Fundraising and Publicity. The PRTF shall have a written policy regarding participation of residents in activities related to fundraising and publicity. Consent of the resident and, where appropriate, the resident's parent(s) or legal guardian(s) shall be obtained prior to participation in such activities.

I. The PRTF shall have written policies and procedures regarding the photographing and audio or audio-visual recordings of residents.

1. The written consent of the resident and, where appropriate, the resident's parent(s) or legal guardian(s) shall be obtained before the resident is photographed or recorded for research or program publicity purposes.

2. All photographs and recordings shall be used in a manner that respects the dignity and confidentiality of the resident.

J. Research. The PRTF shall have written policies regarding the participation of residents in research projects. No resident shall participate in any research project without the express written consent of the resident and the resident's parent(s) or legal guardian(s).

K. Administrative Records

1. The records and reports to be maintained at the facility and available for survey staff to review are:

- a. resident's clinical record;
- b. personnel records;
- c. criminal history investigation records;
- d. orientation and training hour records;
- e. menus of food served to residents;

f. fire drill reports acceptable to the OFSM as defined by the most current adopted edition of the *NFPA 101, Life Safety Code*;

g. schedules of planned recreational, leisure or physical exercise activities;

h. all leases, contracts and purchase-of-service agreements to which the provider is a party;

i. all written agreements with appropriately qualified professionals, or state agencies, for required professional services or resources not available from employees of the provider;

j. written policies and procedures governing all aspects of the provider's activities to include:

- i. behavior management;
- ii. emergency evacuation;
- iii. smoking policy.

L. Clinical Record. Information obtained by the department from any applicant or licensee regarding residents, their parents, or other relatives is deemed confidential and privileged communication. The names of any complainants and information regarding a child abuse report or investigation is kept confidential.

1. The PRTF shall ensure the confidentiality of resident records, including information in a computerized medical record system, in accordance with the HIPAA Privacy Regulations (Title 45, Part 164, Subpart E of the *Code of Federal Regulations*) and any Louisiana state laws and regulations which provide a more stringent standard of confidentiality than the HIPAA privacy regulations. Information from, or copies of records may be released only to authorized individuals, and the PRTF must ensure that unauthorized individuals cannot gain access to or alter resident records. Original medical records shall not be released outside the PRTF unless under court order or subpoena or in order to safeguard the record in the event of a physical plant emergency or natural disaster.

a. The provider shall have written procedures for the maintenance and security of clinical records specifying who shall supervise the maintenance of records, who shall have custody of records, and to whom records may be released. Records shall be the property of the provider, and the provider as custodian shall secure records against loss, tampering or unauthorized use.

b. Employees of the PRTF shall not disclose or knowingly permit the disclosure of any information concerning the resident or his/her family, directly or indirectly, to any unauthorized person.

c. When the resident is of majority age and noninterdicted, the provider shall obtain the resident's written, informed permission prior to releasing any information from which the resident or his/her family might be identified, except for authorized state and federal agencies.

d. When the resident is a minor or is interdicted, the provider shall obtain written, informed consent from the parent(s) or legal guardian(s) prior to releasing any information from which the resident might be identified, except for accreditation teams, authorized state and federal agencies.

e. The provider shall, upon written authorization from the resident or his/her parent(s) or legal guardian(s),

make available information in the case record to the resident, his counsel or the resident's parent(s) or legal guardian(s).

f. If, in the professional judgment of the clinical director, it is felt that information contained in the record would be injurious to the health or welfare of the resident, the provider may deny access to the record. In any such case the provider shall prepare written reasons for denial to the person requesting the record and shall maintain detailed written reasons supporting the denial in the resident's file.

g. The provider may use material from case records for teaching for research purposes, development of the governing body's understanding and knowledge of the facility's services, or similar educational purposes, provided names are deleted, other identifying information are disguised or deleted, and written authorization is obtained from the resident or his/her parent(s) or legal guardian(s).

2. Retention. PRTF records shall be retained by the PRTF in their original, microfilmed or similarly reproduced form for a minimum period of 10 years from the date a resident is discharged.

a. Graphic matter, images, x-ray films, nuclear medicine reports and like matter that were necessary to produce a diagnostic or therapeutic report shall be retained, preserved and properly stored by the PRTF in their original, microfilmed or similarly reproduced form for a minimum period of five years from the date a resident is discharged. Such graphic matter, images, x-ray film and like matter shall be retained for longer periods when requested in writing by any one of the following:

- i. an attending or consulting physician of the resident;
- ii. the resident or someone acting legally in his/her behalf;
- iii. legal counsel for a party having an interest affected by the resident's medical records.

3. The written record for each resident shall include:

- a. administrative, treatment and educational data from the time of admission until the time the resident leaves the facility, including intake evaluation notes and physician progress notes;
- b. the name, home address, home telephone number, name of parent(s) or legal guardian(s), home address and telephone number of parent(s) or legal guardian(s) (if different from resident's), sex, race, religion, birth date and birthplace of the resident;
- c. other identification data including documentation of court status, legal status or legal custody and who is authorized to give consents;
- d. placement agreement;
- e. resident's history including educational background, employment record, prior medical history and prior placement history;
- f. a copy of the resident's individual service plan and any modifications to that plan;
- g. progress reports;
- h. reports of any incidents of abuse, neglect, accidents or critical incidents, including use of passive physical restraints;

i. reports of any resident's grievances and the conclusions or dispositions of these reports. If the resident's grievance was in writing, a copy of the written grievance shall be included;

j. a summary of family visits and contacts including dates, the nature of such visits/contacts and feedback from the family;

k. a summary of attendance and leaves from the facility;

l. written notes from providers of professional or specialized services; and

m. discharge summary at the time of discharge.

4. All resident's records shall be available for inspection by the department.

M. Quality Assessment and Improvement

1. The governing body shall ensure that there is an effective, written, ongoing, facility-wide program designed to assess and improve the quality of resident care.

2. There shall be a written plan for assessing and improving quality that describes the objectives, organization, scope and mechanisms for overseeing the effectiveness of monitoring, evaluation and improvement activities. All organized services related to resident care, including services furnished by a contractor, shall be evaluated. The services provided by each LMHP shall be periodically evaluated to determine whether they are of an acceptable level of quality and appropriateness.

3. Assessment of quality shall address:

- a. resident care problems;
- b. cause of problems;
- c. documented corrective actions; and
- d. monitoring or follow-up to determine effectiveness of the corrective actions taken.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 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 30:

§9033. Notifications

A. The facility shall comply with the notification requirements as outlined in this §9033.

1. The facility shall notify the department on the next working day in the event of:

- a. temporary or permanent closing of the facility due to natural or man-made disasters;
- b. a change in the administrator and/or clinical director;
- c. damage to the premises of the facility caused by fire, accident, or other elements that seriously affects the provision of services;

2. If a resident is absent without permission, the resident's parents or custodians are to be notified immediately.

B. The facility shall comply with the notification requirements as outlined in ' 9033 regarding:

1. any case of suspected resident abuse or neglect;
2. each serious occurrence; and
3. the death of a resident.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 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 30:

Subchapter D. Human Resources

§9043. Personnel

A. Personnel policy includes, but is not limited to, defining staff, essential job functions, qualifications, and lines of authority.

1. The PRTF shall have:
 - a. a written plan for recruitment, screening, orientation, ongoing training, development, supervision and performance evaluation of staff members whether directly employed, contract or volunteer;
 - b. written personnel policies and written job descriptions for each staff position;
 - c. written employee grievance procedures; and
 - d. written nondiscrimination policy that shall ensure that the provider does not discriminate in the employment of individuals because of race, color, religion, sex, age, national origin, handicap, political beliefs, veteran's status or any non-merit factor in accordance with all state and federal regulations.

2. Staff Medical Requirement

- a. The PRTF shall have policies and procedures that define how the facility will comply with current regulations regarding healthcare screenings of PRTF personnel.

- b. The PRTF shall have policies and procedures and require all personnel to immediately report any signs or symptoms of a communicable disease or personal illness to their supervisor or administrator as appropriate for possible reassignment or other appropriate action to prevent the disease or illness from spreading to other residents or personnel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 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 30:

§9045. Personnel Qualifications

A. Employment Requirements. Staff shall meet the requirements outlined in this Subsection.

1. The chief executive officer (CEO) or administrator shall be qualified by an advanced degree from an accredited college or university in a mental health-related field, with at least five years of related experience.

2. The program manager shall be a LMHP with at least five years related direct service or administrative experience.

3. The clinical director shall be a psychiatrist who is either board-eligible or certified in child psychiatry, with experience appropriate to the level and intensity of services and the population to be served.

- a. The governing body of the provider shall designate a psychiatrist as the clinical director.

4. Psychological services shall be provided by or supervised by a psychologist with a doctorate degree from an accredited program in clinical or counseling psychology and with appropriate post-graduate experience.

5. A registered nurse must be licensed to practice nursing by the Louisiana State Board of Nursing.

6. The physician who assumes 24-hour on-call medical responsibility shall be a board-certified physician.

B. Staffing Definitions

1. All experience requirements are related to paid experience. Volunteer work, college work/study or internship related to completion of a degree cannot be counted as work experience. If experience is in a part-time position, the staff person must be able to verify the amount of time worked each week. Experience obtained while working in a position for which the individual is not qualified may not be counted as experience.

2. All staff qualified, eligible and employed prior to January 1, 2004, may continue to provide services with the facility employing them. If any individual on staff changes facilities, the new staff requirements must be met.

C. Criminal History Investigation and References

1. The PRTF shall arrange, prior to employment, for a criminal history investigation, as required by Louisiana R.S. 15:587.1. for:

- a. each applicant for employment, including all caregivers, substitutes, support staff, and any other person employed by the facility or program;

- b. others who have unsupervised access to children, such as volunteers, contracted staff, or janitors; and

- c. adults, including providers' spouses or adult children, who live in the facility.

2. Exceptions. Criminal history investigations are not required for:

- a. staff who move to a new facility operated by the same organization;

- b. parent volunteers who transport children on an irregular basis if the facility staff are present with children at all times;

- c. contracted staff who provide transportation, lessons, or other services if the facility staff are present with children at all times; and

- d. providers' children who become adults, age 18, during continuous residence at the licensed facility.

3. Staff criminal history investigations shall be maintained in a confidential manner, separate from the individual's personnel record.

D. Prohibitions

1. The facility is restricted from knowingly employing a person who:

- a. has entered a plea of guilty or nolo contendere, no contest, or has been convicted of:

- i. any criminal activity involving violence against a person;

- ii. child abuse or neglect;

- iii. possession, sale, or distribution of illegal drugs;

- iv. sexual misconduct and/or is required to register pursuant to the Sex Offenders Registration Act;

- v. gross irresponsibility or disregard for the safety of others; or

2. The restrictions contained in this Subsection apply to employees and persons who provide services to the facility.

3. Persons who are employed by the facility or who provide services to the facility may not use or be under the influence of, alcohol or illegal drugs during hours of work.

4. If a staff member is alleged to have committed an act described in Subsection D.1 of this Section, the accused shall be removed from contact with children until the charges are resolved. However, if criminal charges are filed,

the accused shall be removed from contact with children until the charges are resolved.

a. A person who has received a deferred sentence for any charge in Subsection D.1 of this Section shall be removed from contact with children for the duration of the deferment.

E. Orientation. Staff shall receive orientation within 30 days of employment.

1. Staff who will work with residents shall receive orientation before being assigned as the only staff responsible for residents.

2. Orientation includes, but is not limited to:

- a. confidentiality;
- b. grievance process;
- c. fire and disaster plans;
- d. emergency medical procedures;
- e. organizational structure;
- f. program philosophy;
- g. personnel policy and procedure;
- h. detecting and mandatory reporting of child abuse;
- i. detecting signs of illness or dysfunction that warrant medical or nursing intervention;
- j. basic skills required to meet the health needs and problems of the resident;
- k. crisis de-escalation and the management of aggressive behavior including acceptable and prohibited responses;
- l. physical restraint which is to include a practice element in the chosen method; and
- m. safe administration and handling of all medications including psychotropic drugs, dosages and side effects.

3. Orientation may be counted toward the total training hours for the first year.

F. The staff shall meet the following requirements for training.

1. Administrator and Clinical Director. The administrator and clinical director shall obtain a minimum of 12 clock hours of continuing education per calendar year. Hours are prorated at one hour per month for staff who has not been employed for a full year. The content pertains to the roles and responsibilities of the position.

2. Training for LMHPs and MHPs (excluding administrator and clinical director). LMHPs, MHPs and MHSs shall obtain a minimum of 12 clock hours of continuing education per calendar year. Hours are prorated at one hour per month for staff who has not been employed for a full year. The content pertains to the roles and responsibilities of the position. Content areas include, but are not limited to:

- a. crisis intervention;
- b. child/youth development;
- c. discipline;
- d. stress management;
- e. therapeutic relationship;
- f. therapeutic intervention; and
- g. abuse prevention, detection, and reporting.

3. All staff shall receive at least 40 hours of training, in addition to orientation training, during the first year of employment.

4. The facility must require staff to have ongoing education, training and demonstrated knowledge of:

a. techniques to identify staff and resident behaviors, events, and environmental factors that may trigger emergency safety situations;

b. the use of nonphysical intervention skills, such as de-escalation, mediation conflict resolution, active listening, and verbal and observational methods, to prevent emergency safety situations; and

c. the safe use of restraint and the safe use of seclusion, including the ability to recognize and respond to signs of physical distress or injury in residents who are restrained or in seclusion.

5. Certification in the use of cardiopulmonary resuscitation, including periodic recertification, is required.

6. Individuals who are qualified by education, training, and experience must provide staff training.

7. Staff training must include training exercises in which staff members successfully demonstrate in practice the techniques they have learned for managing emergency safety situations.

8. Staff must be trained and demonstrate competency before participating in an emergency safety intervention.

9. All training programs and materials used by the facility must be available for review by CMS and HSS.

G Staff Evaluation. The provider shall complete an annual performance evaluation of all staff members. For any person who interacts with residents, the provider's performance evaluation procedures shall address the quality and nature of a staff member's relationships with residents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 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 30:

§9047. Personnel Responsibilities

A. The PRTF must meet minimum licensure requirements for staffing, staff qualifications and staffing ratios.

1. A PRTF that serves individuals from special risk populations shall modify staffing patterns to fit their increased needs.

2. The PRTF shall ensure that an adequate number of qualified staff members are present with the residents as necessary to ensure the health, safety and well-being of residents. Staff coverage shall be maintained in consideration of the time of day, the size and nature of the PRTF, the ages and needs of the residents, and shall assure the continual safety, protection, direct care and supervision of residents.

3. When residents are at school, work or recreation outside the facility, the provider shall have a plan ensuring the availability and accessibility of direct care staff to handle emergencies or perform other necessary direct care functions.

4. The PRTF shall make sufficient provisions for housekeeping and maintenance to ensure that staff is able to adequately perform direct care functions.

B. Staffing Requirements. The PRTF shall have the clinical leadership and sufficient staff on duty to meet the 24-hour, seven day per week treatment needs of recipients and shall establish policies, contracts and practices to assure:

1. availability of adequate psychiatric services to meet the following requirements:

a. provide medical oversight of all of the clinical aspects of care, and provide 24-hour, seven days per week psychiatric on-call coverage;

b. assess each resident's medication and treatment needs including administration of medication; prescribe medications or otherwise assure the case management and consultation services are provided to obtain prescriptions, and prescribed therapeutic modalities to achieve the resident's individual treatment plan's goals; and

c. participate in the facility's treatment plan team and Quality Management process.

2. sufficient supervision of all residents 24 hours a day.

C. The facility shall maintain a minimum ratio of one staff person for two residents (1:2) during awake hours.

D. The facility shall maintain a minimum ratio of one staff person for three residents (1:3) during sleeping hours. Staff shall always be awake while on duty.

E. At a minimum the following staff positions are required. However, the same person may occupy both the administrator/director position and the program manager position if the individual meets the qualifications for both positions.

1. Chief Executive Officer (CEO) or Administrator responsible for the on-site, daily implementation and supervision of the overall facility's operation commensurate with the authority conferred by the governing body.

2. Program Manager assists the chief executive officer (CEO) or administrator in the management of individual programs, the supervision of direct service workers, and/or the management of administrative programs.

3. Clinical Director

a. The governing body of the provider shall designate a psychiatrist as the clinical director to assume responsibility for the psychiatric aspects of the program and to provide full time coverage on an on-site or on-call basis.

b. The designated psychiatrist shall provide a monthly minimum of one hour of on-site clinical direction per resident.

c. The designated psychiatrist shall monitor and evaluate the quality and appropriateness of services and treatment provided by the facility's direct care staff.

4. The PRTF shall provide or make available adequate numbers of LMHPs, MHPs and MHSs whose care specialization is consistent with the following duties and requirements of a PRTF:

- a. evaluate patients;
- b. formulate written individualized treatment plans;
- c. provide active treatment measures; and
- d. engage in discharge planning.

5. A LMHP or MHP shall:

a. be designated and assigned as treatment plan manager for each resident and given responsibility for and authority over those activities detailed in the minimum licensure requirements, including:

i. supervision of the treatment plan;

ii. integration of the various aspects of the resident's program;

iii. recording of the resident's progress as measured by objective indicators and making appropriate changes/modifications; and

iv. serving as liaison between the resident, provider, family and community during the resident's admission to and residence in the facility, or while the resident is receiving services from the provider.

b. provide a minimum of three individual therapy sessions each week for each resident (a minimum weekly total of 120 minutes);

c. provide a minimum of two group therapy sessions per week for each resident;

d. have a maximum caseload not to exceed 12 residents.

6. The MHSs shall be under the supervision of LMHPs and/or MHPs to assist with the duties and requirements of a PRTF.

7. There shall be at least one LMHP or MHP supervisor for every nine staff members.

8. Each resident must have a minimum of one face-to-face contact with a psychiatrist each month, and additional contacts for individuals from special risk populations, and as clinical needs of the resident dictate.

9. The PRTF shall provide or have available a psychologist to provide psychological testing and psychological services, as necessary to assist in essential diagnostic formulations as requested, and participate in program development and evaluation of program effectiveness, in therapeutic interventions and in treatment plan team meetings.

10. Depending on the needs of the residents, the PRTF shall directly provide or arrange for the services of qualified professionals and specialists, including persons as necessary from the following areas:

- a. medicine and dentistry;
- b. nursing;
- c. disabilities;
- d. speech, occupational and physical therapies; and
- e. recreation.

11. The PRTF shall provide or have available a therapeutic activities program.

a. The program must be appropriate to the needs and interests of patients and be directed toward restoring and maintaining optimal levels of physical and psychosocial functioning.

b. The number of qualified therapists, support personnel and consultants shall be adequate to provide comprehensive therapeutic activities consistent with each patient's treatment plan.

12. Nursing services shall be provided by or supervised by a registered nurse.

a. There shall be an adequate number of registered nurses, licensed practical nurses, and other staff, to provide the nursing care necessary under each patient's treatment plan.

b. The PRTF shall ensure the on-site availability of a registered nurse 24 hours per day, seven days per week.

c. All drugs and biologicals shall be administered in accordance with the orders of the practitioner(s) responsible for the resident's care and accepted standards of practice.

13. A physician shall assume 24-hour on-call medical responsibility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 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 30:

§9049. Personnel Records

A. The facility shall maintain on file a written personnel record for each employee working at the facility, which shall be kept for at least one year following an employee's separation from employment. The personnel record shall include:

1. an application, résumé, or staff information sheet that documents qualifications for the position;
2. any health records required by the facility;
3. annual performance evaluations and any reports and notes relating to the individual's employment with the facility;
4. date of employment; and
5. date and reason for leaving employment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 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 30:

§9051. Volunteers

A. If a facility uses volunteers, the facility shall have a current, written volunteer policy.

B. Volunteers shall receive orientation before having contact with residents.

C. Volunteers shall work under the direct supervision of a paid staff member. They shall never be left alone or in charge of a resident or group of residents without a paid staff member present.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 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 30:

Subchapter E. Physical Environment

§9061. General Provisions

A. The PRTF shall be constructed, arranged and maintained to ensure the safety and well being of the resident.

B. Buildings

1. The buildings shall reflect good housekeeping and shall by means of an effective pest control program, be free of insects and rodents.

2. The PRTF shall maintain PRTF-wide ventilation, lighting and temperature controls.

3. There shall be a policy regarding the provision of services during any period in which the supply of electricity, natural gas, water and fuel is temporarily disrupted.

4. Doors leading into a facility or unit may be locked only in the direction of ingress.

5. Doors in the line of egress shall not be locked. Any deviation to allow the outermost doors in the line of egress to be locked may only be made after approval has been given by the Office of the State Fire Marshal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 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 30:

§9063. Interior Space

A. The arrangement, appearance and furnishing of all interior areas of the facility shall be similar to those of a normal family home within the community.

B. The provider shall ensure that there is evidence of routine maintenance and cleaning programs in all areas of the facility.

C. Each living unit of a facility shall contain a space for the free and informal use of the residents. This space shall be constructed and equipped in a manner in keeping with the programmatic goals of the facility.

D. A facility shall have a minimum of 60 square feet of floor area per resident in living areas accessible to the residents and excluding halls, closets, bathrooms, bedrooms, staff or staff's family quarters, laundry areas, storage areas and office areas.

E. Resident Bed Rooms

1. Single rooms must contain at least 120 square feet and multi-bed rooms shall contain at least 100 square feet per bed, exclusive of fixed cabinets, fixtures, and equipment. Any resident room shall not contain more than two beds.

Rooms shall have at least a 7 1/2 foot ceiling height over the required area. In a room with varying ceiling height, only portions of the room with a ceiling height of at least 7 1/2 feet are allowed in determining usable space.

a. Any PRFT applying for licensure and constructed after the effective date of the licensing regulations must comply with the requirement that each resident room shall not contain more than two beds.

2. There shall be at least 3 feet between beds.

3. There shall be sufficient and satisfactory separate storage space for clothing, toilet articles and other personal belongings of residents.

4. There shall be at least one toilet bowl with accessories, lavatory basin and bathing facility reserved for resident use on each resident floor and additional toilets, lavatories, and bathing facilities to adequately meet the needs of employees, professional personnel and residents on each unit.

5. Doors to individual bedrooms shall not be equipped with locks or any other device that would prohibit the door from being opened from either side.

6. The provider shall not use any room that does not have a window as a bedroom space.

7. The provider shall ensure that sheets, pillow, bedspread and blankets are provided for each resident.

8. Each resident shall have his/her own dresser or other adequate storage space for private use and designated space for hanging clothing in proximity to the bedroom occupied by the resident.

9. There shall be separate sleeping quarters for males and females.

F. Dining Areas

1. The facility shall have dining areas that permit residents, staff and guests to eat together in small groups.

2. A facility shall have dining areas that are clean, well lit, ventilated and attractively furnished.

G. Bathrooms

1. A facility shall have wash basins with hot and cold water, flush toilets, and bath or shower facilities with hot and cold water according to resident care needs.

a. Bathrooms shall be so placed as to allow access without disturbing other residents during sleeping hours.

b. Each bathroom shall be properly equipped with toilet paper, towels, soap and other items required for personal hygiene unless residents are individually given such items. Residents shall be provided individual items such as hair brushes and toothbrushes.

c. Tubs and showers shall have slip proof surfaces.

2. A facility shall have toilets and baths or showers that allow for individual privacy unless the residents in care require assistance.

3. Toilets, wash basins and other plumbing or sanitary facilities in a facility shall, at all times, be maintained in good operating condition and shall be kept free of any materials that might clog or otherwise impair their operation.

H. Kitchens

1. Kitchens used for meal preparations shall have the equipment necessary for the preparation, serving, storage and clean up of all meals regularly served to all of the residents and staff. All equipment shall be maintained in proper working order.

2. The provider shall ensure that all dishes, cups and glasses used by residents are free from chips, cracks or other defects and are in sufficient number to accommodate all residents.

I. Administrative and Counseling Area

1. The provider shall provide a space that is distinct from resident's living areas to serve as an administrative office for records, secretarial work and bookkeeping.

2. The provider shall have a designated space to allow private discussions and counseling sessions between individual residents and staff, excluding, bedrooms and common living areas.

J. Furnishings

1. The provider shall have comfortable customary furniture as appropriate for all living areas. Furniture for the use of residents shall be appropriately designed to suit the size and capabilities of the residents.

2. The provider shall promptly replace or repair broken, run-down or defective furnishings and equipment.

K. Doors and Windows

1. The provider shall provide insect screens for all windows that can be opened. The screens shall be in good repair and readily removable in emergencies.

2. The provider shall ensure that all closets, bedrooms and bathrooms are equipped with doors that can be readily opened from both sides.

L. Storage

1. The provider shall ensure that there are sufficient and appropriate storage facilities.

2. The provider shall have securely locked storage space for all potentially harmful materials. Keys to such storage spaces shall only be available to authorized staff members.

M. Electrical Systems

1. The provider shall ensure that all electrical equipment, wiring, switches, sockets and outlets are maintained in good order and in safe condition.

2. The provider shall ensure that any room, corridor or stairway within a facility shall be well lit.

N. Heat

1. The provider shall take all reasonable precautions to ensure that heating elements, including exposed hot water pipes, are insulated and installed in a manner that ensures the safety of all residents.

2. The provider shall not use open flame heating equipment or portable electrical heaters.

O. Smoking

1. Smoking shall be prohibited in all areas of the PRTF that are heated and air-conditioned.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 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 30:

§9065. Facility Exterior

A. The provider shall maintain all areas of the facility that are accessible to the residents in good repair and free from any reasonably foreseeable hazard to health or safety. All structures on the grounds of the facility shall be maintained in good repair.

1. Garbage and rubbish stored outside shall be secured in noncombustible, covered containers and shall be removed on a regular basis.

2. Trash collection receptacles and incinerators shall be separate from recreation/play areas.

3. Fences shall be in good repair.

4. Areas determined unsafe, including steep grades, open pits, swimming pools, high voltage boosters or high speed roads shall be fenced or have natural barriers to protect residents.

5. Recreation/playground equipment shall be so located, installed and maintained as to ensure the safety of the residents.

6. Residents shall have access to safe, suitable outdoor recreational space and age appropriate equipment.

7. The provider shall ensure that exterior areas are well lit at night.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 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 30:

§9067. Equipment

A. Equipment shall be clean and in good repair for the safety and well-being of the residents.

B. Therapeutic, diagnostic and other resident care equipment shall be maintained and serviced in accordance with the manufacturer's recommendations.

C. Methods for cleaning, sanitizing, handling and storing of all supplies and equipment shall be such as to prevent the transmission of infection.

D. After discharge of a resident, the bed, mattress, cover, bedside furniture and equipment shall be properly cleaned. Mattresses, blankets and pillows assigned to residents shall be in a sanitary condition. The mattress, blankets and pillows used for a resident with an infection shall be sanitized in an acceptable manner before they are assigned to another resident.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 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 30:

Subchapter F. Facility Operations

§9077. Safety and Emergency Preparedness

A. The PRTF shall have an emergency preparedness plan designed to manage the consequences of natural disasters or other emergencies that could disrupt the PRTF's ability to provide care and treatment or threatens the lives or safety of the PRTF residents and/or the community it serves. The emergency preparedness plan shall be made available, upon request or if mandated to do so, to local, parish, regional and/or state emergency planning organizations, DHH and the Office of the State Fire Marshal.

B. As a minimum, the plan shall include:

1. identification of potential hazards that could necessitate an evacuation, including internal and external disasters such as a natural disaster, acts of bio-terrorism, weapons of mass destruction, labor work stoppage, or industrial or nuclear accidents;

2. emergency procedures for evacuation of the PRTF;

3. procedures in the case of interruption of utility services in a way that affects the health and safety of residents;

4. identification of the facility and an alternate facility to which evacuated residents would be relocated;

5. the estimated number of residents and staff that would require relocation in the event of an evacuation;

6. the system or procedure to ensure that medical charts accompany residents in the event of a resident evacuation and that supplies, equipment, records and medications would be transported as part of an evacuation; and

7. the roles and responsibilities of staff members in implementing the disaster plan.

C. The PRTF shall assure that residents receive nursing care throughout the period of evacuation and while being returned to the original PRTF.

D. The provider shall conduct and document fire drills once per month, one drill per shift every 90 days, at varying times of the day.

E. Notification of Emergencies. The provider shall immediately notify the HSS and other appropriate agencies of any fire, disaster or other emergency that may present a danger to residents or require their evacuation from the facility.

F. Access to Emergency Services

1. The provider shall have access to 24-hour telephone service.

2. The provider shall either post telephone numbers of emergency services, including the fire department, police department, medical services, poison control and ambulance services or show evidence of an alternate means of immediate access to these services.

G. General Safety Practices

1. The provider shall not maintain any firearm or chemical weapon in the living units of the facility.

2. The provider shall ensure that all poisonous, toxic and flammable materials are safely stored in appropriate containers labeled as to contents. Such materials shall be maintained only as necessary and shall be used in a manner that ensures the safety of residents, staff and visitors.

3. The provider shall ensure that an appropriately equipped first aid kit is available in the living units and in all vehicles used to transport residents.

4. The provider shall prohibit the use of candles in resident sleeping areas.

5. Power-driven equipment used by the provider shall be safe and properly maintained. Such equipment shall be used by residents only under the direct supervision of a staff member and according to state law.

6. The provider shall have procedures to prevent insect and rodent infestation.

7. The provider shall allow residents to swim only in areas determined to be safe and under the supervision of a person certified/trained in American Red Cross Community Water Safety or equivalent.

H. Transportation

1. The provider shall ensure that each resident is provided with the transportation necessary for implementation of the resident's treatment plan.

2. The provider shall have the means of transporting residents in cases of emergency.

3. The provider shall ensure and document that vehicles used in transporting residents, whether such vehicle is operated by a staff member or any other person acting on behalf of the provider, is inspected and licensed in accordance with state law and carries current liability insurance.

4. Any staff member of the facility or other person acting on behalf of the provider, operating a vehicle for the purpose of transporting residents shall be currently and appropriately licensed.

5. The provider shall not allow the number of persons in any vehicle used to transport residents to exceed the number of available seats in the vehicle. The provider shall not transport residents in the back or the bed of a truck.

6. The provider shall ensure that residents being transported in the vehicle are properly supervised while in the vehicle and during the trip.

7. All vehicles used for the transportation of residents shall be maintained in a safe condition and in conformity with all applicable motor vehicle laws.

8. Vehicles used to transport residents shall not be identified in a manner that may embarrass or in any way produce notoriety for residents.

9. The provider shall ascertain the nature of any need or problem of a resident that might cause difficulties during transportation, such as seizures, a tendency toward motion sickness or a disability. The provider shall communicate such information to the operator of any vehicle transporting residents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 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 30:

§9079. Food and Diet

A. The provider shall ensure that a resident is, on a daily basis, provided with food of such quality and in such quantity as to meet the recommended daily dietary allowances adjusted for age, gender and activity of the Food Nutrition Board of the National Research Council.

1. Menus shall be written and approved annually in writing by a registered dietician.

2. The provider shall develop written menus at least one week in advance.

3. Written menus and records of foods purchased shall be maintained on file for 30 days. Menus shall provide for a sufficient variety of foods, vary from week to week and reflect all substitutions.

B. A person designated by the administrator/director shall be responsible for the total food service of the facility. This person shall be responsible for:

1. initiating food orders or requisitions;
2. establishing specifications for food purchases and insuring that such specifications are met;
3. storing and handling of food;
4. food preparation;
5. food serving;
6. orientation, training and supervision of food service personnel;
7. maintaining a current list of residents with special nutritional needs;
8. having an effective method of recording and transmitting diet orders and changes;
9. recording information in the resident's record relating to special nutritional needs;
10. providing information on the resident's diets to the staff.

C. The provider shall ensure that any modified diet for a resident shall be:

1. prescribed by the resident's physician and treatment plan with a record of the prescription kept on file;
2. planned, prepared and served by persons who have received instruction from the registered dietician who has approved the menu for the modified diet.

D. The provider shall ensure that a resident is provided at least three meals or their equivalent daily at regular times with not more than 14 hours between the evening meal and breakfast on the following day.

E. The provider shall ensure that the food provided to a resident in care of the provider is in accord with his/her religious beliefs.

F. No resident shall be denied food or force-fed for any reason except as medically required pursuant to a physician's written order. A copy of the order shall be maintained in the resident's file.

G. When meals are provided to staff, the provider shall ensure that staff members eat the same food served to residents in care, unless special dietary requirements dictate differences in diet.

H. The provider shall purchase and provide to the residents only food and drink of safe quality. The storage, preparation and serving techniques shall ensure that nutrients are retained and spoilage is prevented. Milk and milk products shall be Grade A and pasteurized.

I. The provider shall ensure that food served to a resident and not consumed is discarded.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 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 30:

§9081. Health Care and Nursing Services

A. Health Care

1. The provider shall have a written plan for providing preventive, routine and emergency medical and dental care for residents and shall show evidence of access to the resources outlined in the plan. This plan shall include:

- a. ongoing appraisal of the general health of each resident;
- b. provision of health education, as appropriate; and
- c. provisions for keeping resident's immunizations current.

2. The provider shall ensure that a resident receives timely, competent medical care when he/she is ill or injured. The provider shall notify the resident's parent or legal guardian, verbally/in writing, within 24 hours of a resident's illness or injury that requires treatment from a physician or hospital.

3. Records of all medical examinations, follow-ups and treatment together with copies of all notices to parent(s) or guardian(s) shall be kept in the resident's file.

4. Immunizations. Within 30 days of admission, the provider shall obtain documentation of a resident's immunization history, insuring that the resident has received all appropriate immunizations and booster shots that are required by the Office of Public Health.

B. Nursing Services

1. There shall be an organized nursing service that provides 24-hour nursing services. The nursing services shall be under the direction and supervision of a registered nurse licensed to practice in Louisiana, employed full time, 40 hours per week.

2. Written nursing policies and procedures shall define and describe the resident care provided. There shall be a written procedure to ensure that all licensed nurses providing care in the PRTF have a valid and current Louisiana license to practice, prior to providing any care.

3. Nursing services are either furnished or supervised and evaluated by a registered nurse.

4. There shall be at least one registered nurse on duty on site at all times.

C. Medications

1. All PRTFs that house or use scheduled narcotics shall have a site-specific Louisiana dangerous substance license and a United States Drug Enforcement Administration controlled substance registration for the facility in accordance with the Louisiana Uniform Controlled Dangerous Substance Act and Title 21 of the *United States Code*.

2. The provider shall have written policies and procedures that govern the safe administration and handling of all drugs as appropriate to the facility.

3. The provider shall have a written policy governing the self-administration of both prescription and nonprescription drugs.

4. The provider shall ensure that medications are either self-administered or administered by qualified persons according to state law.

5. The provider shall have a written policy for handling medication taken from the facility by residents on pass.

6. The provider shall ensure that any medication given to a resident for therapeutic and medical purposes is in accordance with the written order of a physician.

a. There shall be no standing orders for prescription medications.

b. There shall be standing orders, signed by the physician, for nonprescription drugs with directions from the

physician indicating when he/she is to be contacted. Standing orders shall be updated annually by the physician.

c. Copies of all written orders shall be kept in the resident's file.

7. Proper disposal procedures shall be followed for all discontinued and outdated drugs and containers with worn, illegible or missing labels.

8. Drugs shall be stored under proper conditions of sanitation, temperature, light, moisture, ventilation, segregation and security.

a. Drugs used externally and drugs taken internally shall be stored on separate shelves or in separate cabinets.

b. All drugs, including refrigerated drugs, shall be kept under lock and key.

9. The provider using psychotropic medications on a regular basis shall have a written description of the use of psychotropic medications including:

a. a description of procedures to ensure that medications are used as ordered by the physician for therapeutic purposes and in accordance with accepted clinical practice;

b. a description of procedures to ensure that medications are used only when there are demonstrable benefits to the resident unobtainable through less restrictive measures;

c. a description of procedures to ensure continual physician review of medications and discontinuation of medications when there are no demonstrable benefits to the resident;

d. a description of an ongoing program to inform residents, staff, and where appropriate, resident's parent(s) or legal guardian(s) on the potential benefits and negative side-effects of medications and to involve residents and, where appropriate, their parent(s) or legal guardian(s) in decisions concerning medication.

10. All compounding, packaging, and dispensing of drugs, biologicals, legend and controlled substances shall be accomplished in accordance with Louisiana law and Board of Pharmacy regulations and be performed by or under the direct supervision of a registered pharmacist currently licensed to practice in Louisiana.

11. Dispensing of prescription legend or controlled substance drugs direct to the public or resident by vending machines is prohibited.

12. Current and accurate records shall be maintained on the receipt and disposition of all scheduled drugs. An annual inventory, at the same time each year, shall be conducted for all Schedule I, II, III, IV and V drugs.

13. Medications are to be dispensed only upon written orders, electromechanical facsimile, or oral orders from a physician or other legally authorized prescriber, and be taken by a qualified professional.

14. All drug containers shall be labeled to show at least the resident's full name, the chemical or generic drug's name, strength, quantity and date dispensed unless a unit dose system is utilized. Appropriate accessory and cautionary statements as well as the expiration date shall be included.

15. Drugs and biologicals that require refrigeration shall be stored separately from food, beverages, blood, and laboratory specimens.

16. Drug administration errors, adverse drug reactions, and incompatibilities shall be immediately reported to the

attending physician. An entry shall be made in the resident's record.

17. Abuses and losses of controlled substances shall be reported to the individual responsible for pharmaceutical services, the administrator, the Louisiana Board of Pharmacy, DHH Controlled Dangerous Substances Program and to the Regional Drug Enforcement Administration (DEA) office, as appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 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 30:

§9083. Delivery of Services

A. The PRTF shall have an on-going plan, consistent with available community and PRTF resources, to provide or make available social work, psychological and educational services to meet the medically related needs of its residents.

B. Arrangement of Residents into Groups

1. The provider shall arrange residents into groups that effectively address the needs of the residents.

2. All residents shall have an opportunity to build relationships within small groups.

3. Residents shall be involved in decision making regarding the roles and routines of their living group to the degree possible considering their level of functioning.

4. No more than 15 residents shall be in a group or unit.

5. The PRTF shall have a distinct unit for minors.

6. Groups shall be separated by gender.

C. Individual Plan of Care Developed by a Team of Professionals. The team shall be composed of physicians and other personnel who are employed by, or who provide services to patients in the facility. The team must be capable of assessing the recipient's immediate and long-range therapeutic needs, personal strengths and liabilities, potential resources of the recipient's family, capable of setting treatment objectives, and prescribing therapeutic modalities to achieve the plan's objectives.

1. The team must include, as a minimum, either:

a. a board-certified or board-eligible psychiatrist; or

b. a licensed clinical psychologist who has a doctoral degree and a physician licensed to practice medicine or osteopathy; or

c. a physician licensed to practice medicine or osteopathy with specialized training and experience in the diagnosis and treatment of mental diseases and a psychologist who has a master's degree in clinical psychology.

2. The team must also include one of the following:

i. a psychiatric social worker;

ii. a registered nurse with specialized training or one year of experience in treating mentally ill individuals;

iii. a licensed occupational therapist with specialized training, or one year of experience in treating mentally ill individuals; or

iv. a psychologist who has a master's degree in clinical psychology.

3. The plan shall be developed in consultation with the recipient and parents, legal guardians, or others in whose care he/she will be released after discharge.

4. Content. The individual plan of care is a written plan developed for each recipient to improve the recipient's

condition to the extent that inpatient care is no longer necessary. The plan must:

- a. be based on a diagnostic evaluation that includes examination of the medical, psychosocial, social, behavioral, and developmental aspects of the recipient's situation and reflects the need for PRTF services, including:
 - i. diagnoses, symptoms, complaints, and complications indicating the need for admission;
 - ii. a description of the functional level of the individual;
 - iii. any orders for medication and diet;
 - iv. restorative, social and rehabilitation services;
 - v. treatment objectives;
 - vi. an integrated program of therapies, activities, and experiences designed to meet the objectives;
 - vii. plans for continued care, as appropriate; and
 - viii. post-discharge plans and coordination of inpatient services with partial discharge plans and related community services to ensure continuity of care with the recipient's family, school, and community upon discharge.

5. The plan of care must be reviewed every 30 days or as often as necessary by the team of professionals.

D. The provider shall ensure that any provider of professional or special services (internal or external to the agency) meets the following:

1. are adequately qualified and, where appropriate, currently licensed or certified according to state or federal law;
2. have adequate space, facilities and privacy;
3. have appropriate equipment;
4. have adequate supplies;
5. have appropriate resources.

E. Discharge Planning. The PRTF shall also have an effective, on-going discharge planning program that facilitates the provision of follow-up care. Each resident's record shall be annotated with a note regarding the nature of post PRTF care arrangements. Discharge planning shall be initiated in a timely manner. Residents, along with necessary medical information (e.g., the resident's functional capacity, nursing and other care requirements, discharge summary, referral forms) shall be transferred or referred to appropriate facilities, agencies or services, as needed, for follow-up or ancillary care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 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 30:

§9085. Resident Rights and Grievance Procedure

A. Every resident shall have the following rights, none of which shall be abridged by the PRTF or any of its staff. The PRTF administrator shall be responsible for developing and implementing policies to protect resident rights and to respond to questions and grievances pertaining to resident rights. These rights shall include at least the following:

1. every resident, or his/her designated representative, shall whenever possible, be informed of the residents' rights and responsibilities in advance of furnishing or discontinuing resident care;
2. the right to have a family member, chosen representative and/or his or her own physician notified promptly of admission to the PRTF;

3. the right to receive treatment and medical services without discrimination based on race, age, religion, national origin, sex, sexual preferences, handicap, diagnosis, ability to pay or source of payment;

4. the right to be treated with consideration, respect and recognition of their individuality, including the need for privacy in treatment;

5. the right to receive, as soon as possible, the services of a translator or interpreter, if needed, to facilitate communication between the resident and the PRTF's health care personnel;

6. the right to participate in the development and implementation of his/her plan of care;

7. every resident or his/her representative (as allowed by state law) has the right to make informed decisions regarding his/her care;

8. the resident's rights include being informed of his/her health status, and being involved in care planning and treatment;

9. the right to be included in experimental research only when he/she gives informed, written consent to such participation, or when a guardian provides such consent for an incompetent resident in accordance with appropriate laws and regulations. The resident may refuse to participate in experimental research, including the investigations of new drugs and medical devices;

10. the right to be informed if the PRTF has authorized other health care and/or educational institutions to participate in the resident's treatment. The resident shall also have a right to know the identity and function of these institutions;

11. the right to be informed by the attending physician and other providers of health care services about any continuing health care requirements after the resident's discharge from the PRTF. The resident shall also have the right to receive assistance from the physician and appropriate PRTF staff in arranging for required follow-up care after discharge;

12. the right to consult freely and privately with his/her parent(s) or legal guardian(s);

13. the right to consult freely and privately with legal counsel, as well as the right to employ legal counsel of his/her choosing;

14. the right to make complaints without fear of reprisal;

15. the opportunity for telephone communication;

16. the right to send and receive mail;

17. the right to possess and use personal money and belongings, including personal clothing;

18. the right to visit or be visited by family and friends subject only to reasonable Rules and to any specific restrictions in the resident's treatment plan. Special restrictions shall be imposed only to prevent serious harm to the resident. The reasons for any special restrictions shall be recorded in the resident's treatment plan;

19. the right to have the individual resident's medical records, including all computerized medical information, kept confidential;

20. the right to access information contained in his/her medical records within a reasonable time frame;

21. the right to be free from all forms of abuse and harassment;

22. the right to receive care in a safe setting;
23. the right to be informed in writing about the PRTF's policies and procedures for initiation, review and resolution of resident complaints;

24. the provider shall ensure that each resident has access to appropriate educational services consistent with the resident's abilities and needs, taking into account his/her age and level of functioning;

25. the provider shall have a written description regarding the involvement of the resident in work including:

a. description of any unpaid tasks required of the resident;

b. description of any paid work assignments including the pay scales for such assignments;

c. description of the provider's approach to supervising work assignments;

d. assurance that the conditions and compensation of such work are in compliance with applicable state and federal laws;

e. all work assignments shall be in accordance with the resident's treatment plan;

f. the provider shall assign as unpaid work for the resident only housekeeping tasks similar to those performed in a normal family home. Any other work assigned shall be compensated, at such rate and under such conditions as the resident might reasonably be expected to receive for similar work in outside employment;

26. the provider shall have a written plan for insuring that a range of indoor and outdoor recreational and leisure opportunities are provided for residents. Such opportunities shall be based on both the individual interests and needs of the resident and the composition of the living group;

a. the provider shall be adequately staffed and have appropriate recreation spaces and facilities accessible to residents;

b. any restrictions of recreational and leisure opportunities shall be specifically described in the treatment plan, together with the reasons such restrictions are necessary and the extent and duration of such restrictions;

27. every resident shall be permitted to attend religious services in accordance with his/her faith. Residents shall not be forced to attend religious services;

28. the provider shall have a program to ensure that residents receive training in independent living skills appropriate to their age and functioning level. This program shall include instruction in:

a. hygiene and grooming;

b. laundry and maintenance of clothing;

c. appropriate social skills;

d. housekeeping;

e. budgeting and shopping;

f. cooking; and

g. punctuality, attendance and other employment related matters;

29. the provider shall ensure services in the following areas to meet the specialized needs of the resident:

a. physical/occupational therapy;

b. speech pathology and audiology;

c. psychological and psychiatric services; and

d. social work services;

30. in addition to the rights listed herein, residents have the rights provided in the Louisiana Mental Health Law.

B. Resident rights regarding the use of restraint or seclusion. In addition to the resident rights listed above in this §9085, every resident shall have the following rights regarding the use of restraint or seclusion in the PRTF.

1. Protection of Residents

a. Restraint and seclusion policy for the protection of residents.

i. each resident has the right to be free from restraint or seclusion, of any form, used as a means of coercion, discipline, convenience, or retaliation;

ii. an order for restraint or seclusion must not be written as a standing order or on an as-needed basis;

iii. restraint or seclusion must not result in harm or injury to the resident and must be used only:

(a). to ensure the safety of the resident or others during an emergency safety situation; and

(b). until the emergency safety situation has ceased and the resident's safety and the safety of others can be ensured, even if the restraint or seclusion order has not expired;

iv. restraint and seclusion must not be used simultaneously.

b. Emergency Safety Intervention. An emergency safety intervention must be performed in a manner that is safe, proportionate, and appropriate to the severity of the behavior, and the resident's chronological and developmental age, size, gender, physical, medical, and psychiatric condition and personal history (including any history of physical or sexual abuse).

2. Orders for the Use of Restraint or Seclusion

a. Orders for restraint or seclusion must be by a physician, or other licensed practitioner permitted by the state and the facility to order restraint or seclusion and trained in the use of emergency safety interventions. Federal regulations at 42 CFR 441.151 require that inpatient psychiatric services for recipients under age 21 be provided under the direction of a physician.

b. If the resident's treatment team physician is available, only he/she can order restraint or seclusion. If the resident's treatment team physician is unavailable, the physician covering for the treatment team physician can order restraint or seclusion. The covering physician must meet the same requirements for training and experience described in Subparagraph a. of this Paragraph 2.

c. A physician or other licensed practitioner permitted by the state and the facility to order restraint or seclusion must order the least restrictive emergency safety intervention that is most likely to be effective in resolving the emergency safety situation based on consultation with the staff.

d. If the order for restraint or seclusion is verbal, the verbal order must be received by a registered nurse or other licensed staff such as a licensed practical nurse, while the emergency safety intervention is being initiated by the staff or immediately after the emergency safety situation ends. The physician or other licensed practitioner permitted by the state and the facility to order restraint or seclusion must verify the verbal order in a signed written form in the resident's record. The physician or other licensed practitioner permitted by the state and the facility to order restraint or seclusion must be available to the staff for consultation, at

least by telephone, throughout the period of the emergency safety intervention.

e. Each order for restraint or seclusion must:

- i. be limited to no longer than the duration of the emergency safety situation; and
- ii. under no circumstances exceed four hours for residents ages 18 to 21; two hours for residents ages 9 to 17; or one hour for residents under age 9.

f. Within one hour of the initiation of the emergency safety intervention a physician, or other licensed practitioner trained in the use of emergency safety interventions and permitted by the state and the facility to assess the physical and psychological well being of residents, must conduct a face-to-face assessment of the physical and psychological well being of the resident, including but not limited to:

- i. the resident's physical and psychological status;
- ii. the resident's behavior;
- iii. the appropriateness of the intervention measures; and
- iv. any complications resulting from the intervention.

g. Each order for restraint or seclusion must include:

- i. the name of the ordering physician or other licensed practitioner permitted by the state and the facility to order restraint or seclusion;
- ii. the date and time the order was obtained; and
- iii. the emergency safety intervention ordered, including the length of time for which the physician or other licensed practitioner permitted by the state and the facility to order restraint or seclusion authorized its use.

h. Staff must document the intervention in the resident's record. That documentation must be completed by the end of the shift in which the intervention occurs. If the intervention does not end during the shift in which it began, documentation must be completed during the shift in which it ends. Documentation must include all of the following:

- i. each order for restraint or seclusion as required in Subparagraph g of this Paragraph 2;
- ii. the time the emergency safety intervention actually began and ended;
- iii. the time and results of the one-hour assessment required in Subparagraph f of this Paragraph 2;
- iv. the emergency safety situation that required the resident to be restrained or put in seclusion; and
- v. the name of staff involved in the emergency safety intervention.

i. The facility must maintain a record of each emergency safety situation, the interventions used, and their outcomes.

j. The physician or other licensed practitioner permitted by the state and the facility to order restraint or seclusion must sign the restraint or seclusion order in the resident's record as soon as possible.

3. Consultation with Treatment Team Physician. If a physician or other licensed practitioner permitted by the state and the facility to order restraint or seclusion orders the use of restraint or seclusion, that person must contact the resident's treatment team physician, unless the ordering

physician is in fact the resident's treatment team physician. The person ordering the use of restraint or seclusion must:

a. consult with the resident's treatment team physician as soon as possible and inform the team physician of the emergency safety situation that required the resident to be restrained or placed in seclusion; and

b. document in the resident's record the date and time the team physician was consulted.

4. Monitoring of the Resident in and Immediately after Restraint

a. Clinical staff trained in the use of emergency safety interventions must be physically present, continually assessing and monitoring the physical and psychological well-being of the resident and the safe use of restraint throughout the duration of the emergency safety intervention.

b. If the emergency safety situation continues beyond the time limit of the order for the use of restraint, a registered nurse or other licensed staff, such as a licensed practical nurse, must immediately contact the ordering physician or other licensed practitioner permitted by the state and the facility to order restraint or seclusion to receive further instructions.

c. A physician, or other licensed practitioner permitted by the state and the facility to evaluate the resident's well-being and trained in the use of emergency safety interventions, must evaluate the resident's well-being immediately after the restraint is removed.

5. Monitoring of the Resident in and Immediately after Seclusion

a. Clinical staff, trained in the use of emergency safety interventions, must be physically present in or immediately outside the seclusion room, continually assessing, monitoring, and evaluating the physical and psychological well-being of the resident in seclusion. Video monitoring does not meet this requirement.

b. A room used for seclusion must:

i. allow staff full view of the resident in all areas of the room; and

ii. be free of potentially hazardous conditions such as unprotected light fixtures and electrical outlets.

c. If the emergency safety situation continues beyond the time limit of the order for the use of seclusion, a registered nurse or other licensed staff, such as a licensed practical nurse, must immediately contact the ordering physician or other licensed practitioner permitted by the state and the facility to order restraint or seclusion to receive further instructions.

d. A physician, or other licensed practitioner permitted by the state and the facility to evaluate the resident's well-being and trained in the use of emergency safety interventions, must evaluate the resident's well-being immediately after the resident is removed from seclusion.

6. Notification of Parent(s) or Legal Guardian(s). If the resident is a minor as defined in this Chapter:

a. the facility must notify the parent(s) or legal guardian(s) of the resident who has been restrained or placed in seclusion as soon as possible after the initiation of each emergency safety intervention;

b. the facility must document in the resident's record that the parent(s) or legal guardian(s) has been notified of the emergency safety intervention, including the

date and time of notification and the name of the staff person providing the notification.

7. Time Out Application

a. A resident in time out must never be physically prevented from leaving the time out area.

b. Time out may take place away from the area of activity or from other residents, such as in the resident's room (exclusionary), or in the area of activity or other residents (inclusionary).

c. Staff must monitor the resident while he/she is in time out.

8. Post Intervention Debriefings

a. Within 24 hours after the use of restraint or seclusion, staff involved in an emergency safety intervention and the resident must have a face-to-face discussion. This discussion must include all staff involved in the intervention except when the presence of a particular staff person may jeopardize the well-being of the resident. Other staff and the resident's parent(s) or legal guardian(s) may participate in the discussion when it is deemed appropriate by the facility. The facility must conduct such discussion in a language that is understood by the resident's parent(s) or legal guardian(s). The discussion must provide both the resident and staff the opportunity to discuss the circumstances resulting in the use of restraint or seclusion and strategies to be used by the staff, the resident, or others that could prevent the future use of restraint or seclusion.

b. Within 24 hours after the use of restraint or seclusion, all staff involved in the emergency safety intervention, and appropriate supervisory and administrative staff, must conduct a debriefing session that includes, at a minimum, a review and discussion of:

i. the emergency safety situation that required the intervention, including a discussion of the precipitating factors that led up to the intervention;

ii. alternative techniques that might have prevented the use of the restraint or seclusion;

iii. the procedures, if any, that staff are to implement to prevent any recurrence of the use of restraint or seclusion; and

iv. the outcome of the intervention, including any injuries that may have resulted from the use of restraint or seclusion.

c. Staff must document in the resident's record that both debriefing sessions took place and must include in that documentation the names of staff who were present for the debriefing, names of staff that were excused from the debriefing, and any changes to the resident's treatment plan that resulted from the debriefings.

9. Medical Treatment for Injuries Resulting from an Emergency Safety Intervention

a. Staff must immediately obtain medical treatment from qualified medical personnel for a resident injured as a result of an emergency safety intervention.

b. The psychiatric residential treatment facility must have affiliations or written transfer agreements in effect with one or more hospitals approved for participation under the Medicaid program that reasonably ensure that:

i. a resident will be transferred from the facility to a hospital and admitted in a timely manner when a transfer is medically necessary for medical care or acute psychiatric care;

ii. medical and other information needed for care of the resident in light of such a transfer, will be exchanged between the institutions in accordance with state medical privacy law, including any information needed to determine whether the appropriate care can be provided in a less restrictive setting; and

iii. services are available to each resident 24 hours a day, seven days a week.

c. Staff shall document in the resident's record, all injuries that occur as a result of an emergency safety intervention, including injuries to staff resulting from that intervention.

d. Staff involved in an emergency safety intervention that results in an injury to a resident or staff shall meet with supervisory staff and evaluate the circumstances that caused the injury and develop a plan to prevent future injuries.

C. Grievance Procedure for Residents

1. The provider shall have a written grievance procedure for residents designed to allow residents to make complaints without fear of retaliation.

2. The provider shall document that the resident and the resident's parent(s) or legal guardian(s) are aware of and understand the grievance procedure.

3. The provider shall document the resolution of the grievance in the resident's record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 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 30:

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 inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Monday, November 24, 2003 at 9:30 a.m. in the Wade O. Martin, Jr. Auditorium, State Archives Building, 3851 Essen Lane, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

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

**RULE TITLE: Psychiatric Residential Treatment
Facilities Licensure**

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

It is anticipated that there will be no costs to the state as a result of implementation of this proposed Rule. It is anticipated that \$7,752 (\$3,876 SGF and \$3,876 FED) will be expended in SFY 2003-2004 for the state's administrative expense for promulgation of this proposed Rule and the final Rule.

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

It is anticipated that the implementation of this proposed Rule will not affect federal revenue collections. It is anticipated that \$3,876 will be expended in SFY 2003-2004 for the federal

share of the expense for promulgation of this proposed Rule and the final Rule.

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

This Rule proposes to adopt minimum licensure standards for all Psychiatric Residential Treatment Facilities in the State of Louisiana that participate in the Louisiana Medicaid Program. It is anticipated that implementation of this proposed Rule will cost providers of Psychiatric Residential Treatment Facility services approximately \$2,440 for SFY 2003-2004, \$4,880 for SFY 2004-2005 and \$4,880 for SFY 2005-2006 as a result of the collection of annual fees from the licensing of approximately eight non state-owned Psychiatric Residential Treatment Facilities at a cost of approximately \$610 for each facility. It is assumed that four of the non state-owned facilities will enroll the first year.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Ben A. Bearden
Director
0310#064

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Natural Resources
Office of Conservation**

Statewide Order No. 29-BC General Requirements
(LAC 43:XIX.303)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the power delegated under the laws of the State of Louisiana and particularly Title 30 of the Louisiana Revised Statutes of 1950, R.S. 4.C, the Louisiana Office of Conservation hereby proposes to amend an existing Rule at Statewide Order No. 29-B (LAC 43:XIX.303). The Rule concerns the authorization of subsurface disposal of wastes associated with the exploration, development, and production of oil and gas resources in disposal wells under the jurisdiction of the Office of Conservation. The amended Rule will allow for the administrative approval for produced water disposal into a productive zone, in which the productive mechanism of the zone is aquifer expansion (water drive).

The amended Rule addresses authorization procedures, establishes disposal zone and disposal well status standards, citing and written consent requirements. The proposed Rule will have no impact on family formation, stability, and autonomy as prescribed in R.S. 49:972.

Title 43

NATURAL RESOURCES

Part XIX. Office of Conservation—General Operations

Subpart 1. Statewide Order No. 29-B

**Chapter 3. Pollution Control—Onsite Storage,
Treatment and Disposal of Nonhazardous
Oilfield Waste (NOW) Generated from the
Drilling and Production of Oil and Gas
Wells (Oilfield Pit Regulations)**

§303. General Requirements

A. Produced water generated from the drilling and production of oil and gas wells shall be disposed of into subsurface formations, unless discharged or disposed of

according to the provisions of §303.E, or transported offsite in accordance with LAC 43:XIX, Subpart 1, Chapter 5.

B. - C. ...

D. Produced water and other NOW generated in the drilling and production of oil and gas wells shall not be disposed of into a zone producing or productive of hydrocarbons except as provided for in LAC 43:XIX.303.O or such disposal is approved by the Office of Conservation after a public hearing or unless prior approval to use the proposed zone for such disposal can be documented.

E. - M.3. ...

N. Evidence of contamination of a groundwater aquifer or USDW may require compliance with the monitoring program of §309, compliance with the liner requirements of §307.A.1, or immediate closure of the pit.

O. The Commissioner may authorize, without the necessity of a public hearing, the disposal of produced water into a zone producing or productive of hydrocarbons upon application of the operator of the proposed disposal well. Such application shall include the following:

1. evidence establishing the production mechanism of the proposed disposal zone is aquifer expansion (water drive);
2. evidence demonstrating the proposed disposal well is not productive in the proposed disposal zone;
3. a plat showing the proposed disposal well is not located within 330' of a property line as it is defined in LAC 43:XIX.1901;
4. written consent of all operators of record with existing wells within a 1/4 mile radius of such proposed disposal well; and
5. such other information which the commissioner may require.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2799 (December 2000), amended LR 30:

All interested persons can submit written comments until 4:30 p.m., Friday, December 5, 2003, to Office of Conservation, Injection and Mining Division, P.O. Box 94275, Baton Rouge, LA, 70804-9275. Please reference Docket No. IMD 2003-06. The Commissioner of Conservation will conduct a public hearing at 10 a.m., Tuesday, November 25, 2003, in the LaBelle Room on the first floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA. All interested parties will be afforded the opportunity to submit comments regarding the amended Rule, orally or in writing, at said public hearing in accordance with R. S. 49:953.

James H. Welsh
Commissioner

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

**RULE TITLE: Statewide Order No. 29-B
General Requirements**

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

No additional implementation costs (savings) to state or local; governmental units are anticipated to implement the proposed Rule amendment.

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

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

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

No costs are anticipated to directly affected persons or non-governmental groups. The proposed Rule amends existing Rules concerning the authorization, without the necessity of a public hearing, of subsurface disposal of wastes associated with the exploration, development, and production of oil and gas resources in disposal wells under the jurisdiction of the Office of Conservation. Affected persons may incur economic benefits since the proposed Rule allows for the permitting of additional subsurface disposal zones within oil and gas fields where the existing disposal zones are at or near capacity and where other viable nonproductive disposal zones are unavailable.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Felix J. Boudreaux Robert E. Hosse
Assistant Commissioner General Government Section Director
0310#046 Legislative Fiscal Office

NOTICE OF INTENT

**Department of Natural Resources
Office of Conservation**

Statewide Order No. 29-L-3C Termination of Units
(LAC 43:XIX.3101, 3103, and 3105)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the power delegated under the laws of the state of Louisiana and particularly Title 30 of the Louisiana Revised Statutes of 1950, R.S. 4.C, the Louisiana Office of Conservation hereby proposes to amend an existing Rule, Statewide Order No. 29-L-2 (LAC 43:XIX.3101, 3103, and 3105). The Rule concerns the terminations of oil and gas unit(s) for a pool established by the Commissioner of Conservation. The amended Rule will allow the termination of any unit or units for a pool provided each of the items listed below apply as of the date the application is filed with the commissioner:

1. A period of five years has elapsed without any production from the unit or units.
2. There is no well located on the unit which is capable of producing from the pool for which the unit or units is established.
3. A period of a year and 90 days has elapsed without any drilling, reworking, recompletion, plugging back, or deepening operations having been conducted on a well located on the unit in an attempt to obtain or restore production from the pool for which the unit or units were established.
4. There is no unexpired drilling permit for the drilling of a new well on the unit to a depth which would penetrate the pool for which the unit or units were established.

Title 43

NATURAL RESOURCES

Part XIX. Office of ConservationC General Operations

Subpart 13. Statewide Order No. 29-L-3

Chapter 31. Termination of Units

§3101. Scope

A. This order establishes Rules and regulations for termination of any unit established by the commissioner of conservation pursuant to the authority of Title 30 of the Revised Statutes of 1950.

AUTHORITY NOTE: Promulgated in accordance with RS. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 15:741 (September 1989), repromulgated LR 19:776 (June 1993), amended LR 21:1083 (October 1995) LR 30:

§3103. Definitions

A. Unless the context otherwise requires, the words defined in this Section shall have the following meaning when found in this order.

*District Manager*Cthe manager of any one of the districts of the state of Louisiana under the Office of Conservation, and refers specifically to the manager within whose district the pool for which any unit(s) are sought to be terminated are located.

*Interested Party*Cany person, as person is defined in Title 30 of the Revised Statutes of 1950, who owns an interest in any unit(s) sought to be terminated.

*Pool*Can underground reservoir containing a common accumulation of crude petroleum or natural gas or both. Each zone of a general structure which is completely separated from any other zone in the structure is covered by the term pool.

*Unit*Cany unit(s), whether one or more, established for a particular pool, by order of the commissioner of conservation pursuant to authority of Subsection B of Section 9 or Subsection B or C of Section 5 of Title 30 of the Revised Statutes of 1950.

*Well*Call wells drilled within the confines of any unit(s) sought to be terminated.

AUTHORITY NOTE: Promulgated in accordance with RS.30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 15:741 (September 1989), repromulgated, LR 19:776 (June 1993), amended LR 21:1083 (October 1995), LR 30:

§3105. Order

A. Termination of All Existing Units for a Pool

1. On and after the effective date hereof, a supplemental order terminating all existing units established by the commissioner for a pool may be issued after written application and upon proper showing in the manner provided herein, and in the absence of protest without the necessity of a public hearing, when with respect to the pool for which the unit was established, a period of one year and 90 days has elapsed without:

- a. production from the pool; and
- b. the existence of a well proven capable of producing from the pool; and

c. drilling, reworking, recompletion, deepening or plugging back operations having been conducted on a well to secure or restore production from the pool.

2. Each application for unit termination shall be filed with the commissioner with a copy to the district manager and each interested party. Interested parties need not be furnished information described in §3105.A.2.b, d and e. The application shall include the following:

a. a plat showing all existing units established for the pool, with each well located thereon, together with order number(s) and effective date of the order(s) of the commissioner establishing said units. Each well shall be identified on such plat by operator of record, serial number and well name and number or by reference to an appropriate attachment;

b. a signed statement indicating the status of each well. Should there exist a well which has not been plugged and abandoned in accordance with LAC 43:XIX.137, sufficient geological, engineering, or other data with detailed explanation thereof to clearly demonstrate that said well is not capable of producing from the pool;

c. a signed statement indicating that with respect to the pool for which the unit was established, to the best of applicant's knowledge, a period of one year and 90 days has elapsed without:

i. production from the pool; and
ii. the existence of a well proven capable of producing from the pool; and
iii. drilling, reworking, recompletion, deepening or plugging back operations having been conducted on a well to secure or restore production from the pool;

d. a list of all interested parties identified by the applicant after reasonable search to whom a copy of the application has been sent;

e. an application fee as established by LAC 43:XIX.201 et seq.

3. Notice of the filing of the application of unit termination shall be published in the official journal of the state of Louisiana giving notice that unless a written protest is filed with the commissioner within the 30-day period from the date of publication of notice, the commissioner may issue a supplemental order for such unit termination. In the event written objection is filed within said 30-day period, the applicant may apply for a public hearing for consideration of the application.

B. Termination of Any Existing Unit for a Pool

1. On and after the effective date hereof, a supplemental order terminating any existing unit(s) established by the commissioner for a pool may be issued after written application and upon proper showing in the manner provided herein, and in the absence of protest without the necessity of a public hearing, when with respect to the unit(s) to be terminated, each of the following apply as of the date the application for unit termination is filed with the commissioner:

a. a period of five years has elapsed without any production from the unit(s); and

b. there is no well located on the unit(s) which is capable of producing from the pool for which the unit(s) was established; and

c. a period of one year and 90 days has elapsed without any drilling, reworking, recompletion, deepening or

plugging back operations having been conducted on a well located on the unit(s) to be terminated in an attempt to secure or restore production from the pool for which the unit(s) was established.

2. Each application for unit termination shall be filed with the commissioner with a copy to the district manager and each interested party. Interested parties need not be furnished information described in §3105.B.2.b, d and e. The application shall include the following:

a. a plat showing the existing unit(s) to be terminated, with each well located thereon, together with order number and effective date of the order of the commissioner establishing said unit(s). Each well shall be identified on such plat by operator of record, serial number and well name and number or by reference to an appropriate attachment;

b. a signed statement indicating the status of each well. Should there exist a well which has not been plugged and abandoned in accordance with LAC 43:XIX.137, sufficient geological, engineering, or other data with detailed explanation thereof to clearly demonstrate that said well located on the unit(s) is not capable of producing from the pool for which the unit(s) was created;

c. a signed statement indicating that with respect to the unit(s) to be terminated, to the best of applicant's knowledge, each of the following apply as of the date the application for unit termination is filed with the commissioner:

i. a period of five years has elapsed without any production from the unit(s); and

ii. there is no well located on the unit(s) to be terminated which is capable of producing from the pool for which the unit(s) was established; and

iii. a period of one year and 90 days has elapsed without any drilling, reworking, recompletion, deepening or plugging back operations having been conducted on a well located on the unit(s) in an attempt to secure or restore production from the pool for which the unit(s) was established; and

iv. there is no unexpired drilling permit for the drilling of a new well on the unit(s) to be terminated to a depth which would penetrate the pool for which the unit(s) was established;

d. a list of all interested parties identified by the applicant after reasonable search to whom a copy of the application has been sent;

e. an application fee as established by LAC 43:XIX.201 et seq.

3. Notice of the filing of the application of unit termination shall be published in the official journal of the state of Louisiana giving notice that unless a written protest is filed with the commissioner within the 30-day period from the date of publication of notice, the commissioner may issue a supplemental order for such unit termination. In the event written objection is filed within said 30-day period, the applicant may apply for a public hearing for consideration of the application.

C. The effective date of any supplemental order issued hereunder can not be prior to the expiration of the legal advertisement period, reference §3105.A.3 and §3105.B.3 hereof. Consequently, any activity described in §3105.A.1 and §3105.B.1 hereof, occurring between the date of the

signed statement, reference §3105.A.2.c and §3105.B.2.c hereof and the expiration of the legal advertisement period, shall result in application denial.

D. Any supplemental order issued hereunder approving the application terminating any unit(s) created for the pool shall be filed for record as provided in Section 11.1 of Title 30 of the Revised Statutes of 1950.

E. This order supersedes Statewide Order Number 29-L-2 and shall be effective on and after December 20, 2003.

AUTHORITY NOTE: Promulgated in accordance with R.S.30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 15:741 (September 1989), amended, LR 19:776 (June 1993), repromulgated LR 19:1030 (August 1993), amended LR 21:1083 (October 1995), LR 30:

Family Impact Statement

The proposed Rule will have no impact on family formation, stability, and autonomy as prescribed in R.S. 49:972.

Notice is hereby given that the Commissioner of Conservation will conduct a public hearing at 10 a.m., Tuesday, November 25, 2003, in the LaBelle Room located on the first floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA. All interested parties will be afforded the opportunity to submit comments regarding the amended Rule, orally or in writing, at said public hearing in accordance with R.S. 49:953. Written comments will be accepted until 4:30 p.m., Friday, December 5, 2003. Address written comments to Office of Conservation, Engineering Division, P.O. Box 94275, Baton Rouge, LA 70804-9275. Please reference Docket No. 03-730.

James H. Welsh
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Statewide Order No. 29-L-3

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

There will be no implementation costs/savings to state or local governmental units.

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

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

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

No costs are anticipated to directly affected persons or nongovernmental groups. The proposed amendment to the Rule amends existing rules concerning the termination, without the necessity of a public hearing, of drilling and production units established under the jurisdiction of the Office of Conservation. Affected persons may incur economic benefits since the proposed Rule allows for the termination of individual units. This may encourage the drilling of additional wells in areas where it would not be economically feasible with the existing unit as established.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

James H. Welsh
Commissioner
0310#056

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Correction
Corrections Services**

**Access to and Release of Active and Inactive Records
(LAC 22:I.101)**

The Department of Public Safety and Corrections, Corrections Services, in accordance with R.S. 15:823, and the Administrative Procedures Act, R.S. 49:950, et seq., hereby gives notice of its intent to repeal the current LAC 22:I.101, Records of Adult Offenders and Ex-Offenders, in its entirety and to adopt a LAC 22:I.101, Access to and Release of Active and Inactive Records.

Title 22

**CORRECTIONS, CRIMINAL JUSTICE AND LAW
ENFORCEMENT**

Part I. Corrections

Chapter 1. Secretary's Office

§101. Access to and Release of Active and Inactive Records

A. Purpose. To establish the secretary's policy and procedures for access to and release of active and inactive inmate records.

B. Applicability. This regulation applies to all persons employed by the department and those who are under contract with the department. The assistant secretary/office of adult services, all wardens-adult and the director of probation and parole-adult are responsible for implementing this regulation and conveying its contents to all affected persons.

C. Definitions

Application for Pardon or Parole Cfor the purpose of this regulation, an application for pardon or parole is defined as any time that an inmate has made an application for pardon or parole, (including medical parole) or has been released on diminution of sentence (Good Time Parole Supervision-GTPS).

Law Enforcement Agencies Cthose agencies designed to enforce federal, state or municipal laws and who receive public funds as their primary source for operation, i.e., sheriff's offices, local and state police departments, departments of corrections, U.S. attorneys, district attorneys, and the Federal Bureau of Investigation (FBI).

Sex Offender, Serial Sexual Offender, Sexually Violent Predator, Child Predator Cmates committed to the Department for a crime listed in R.S. 15:536 and 15:541. (See N.1. List of Sex Offenses.)

D. Release of Information and Records

1. The pre-sentence investigation report, the pre-parole report, the clemency report, the information and data gathered by the staffs of the Board of Pardons and Board of

Parole, the prison record, and any other information obtained by the Boards or Corrections Services, in the discharge of official duties shall be confidential and shall not be subject to public inspection nor be disclosed directly or indirectly to anyone except as in accordance with this regulation.

2. Following an application for pardon and parole, all information pertaining to an individual's misconduct while incarcerated, statistical information, information pertaining to disposition of criminal charges and incarcerations, and information of a general nature including an individual's age, offense, date of conviction, length of sentence, any correspondence by a public official which requests, or may be determined to be in support of, or in opposition to, the pardon or parole of an individual, and discharge date shall be released to the general public at any time upon request.

NOTE: This provision shall not apply to any public official correspondence which requests, or may be determined to be in support of, or in opposition to, the pardon or parole of an individual, which was received prior to August 15, 1997.

3. An inmate's DOC number and assigned location may be released without restriction.

4. Except as noted below, any communication with the Board of Pardons or Board of Parole urging parole, pardon, clemency, or commutation of sentence or otherwise regarding an inmate shall be deemed a public record and subject to public inspection.

a. Exception. Any letter written by, or on behalf of, any victim of a crime committed by an inmate under consideration for parole, pardon, clemency, or commutation of sentence, or any letter written in opposition to pardon, clemency, or commutation of sentence shall be confidential and shall not be deemed a public record and subject to public inspection. This exception shall not apply to any elected or appointed public official.

5. Information on a particular inmate may be released without special authorization, subject to other restrictions that may be imposed by federal law or by other provisions of state law, to the following:

- a. Board of Parole;
- b. Board of Pardons;
- c. governor;
- d. sentencing judge;
- e. district attorneys;
- f. law enforcement agencies;
- g. Department of Public Safety and Corrections personnel, including legal representatives and student workers;
- h. appropriate governmental agencies or public officials, when access to such information is imperative for the discharge of the responsibilities of the requesting agency, official or court officer and the information is not reasonably available through any other means; and
- i. court officers with court orders specifying the information requested.

6. Fingerprints, photographs, and information pertaining to arrests and disposition of criminal charges, as well as information regarding escapes may be released to law enforcement agencies without special authorization.

7. The secretary or his designee may approve the reading (but not copying) of confidential information by the following:

a. social service agencies assisting in the treatment of the inmate or ex-offender; and

b. approved researchers who have guaranteed in writing anonymity of all subjects.

8. The secretary or his designee may approve the selective reading (but not copying) of information by a private citizen or organization aiding in the rehabilitation of, or directly involved in the hiring of, the inmate or ex-offender under the following conditions:

a. it appears that the withholding of the information would be to the inmate's or ex-offender's disadvantage;

b. the requested information is necessary to further the rehabilitation or the likelihood of hiring the inmate or ex-offender;

c. the requested information is not reasonably available through other means; and

d. the inmate or ex-offender has given his written consent to release the information.

NOTE: Each unit will develop and use a "release of information consent form" for this purpose prior to the release of information and a copy will be placed in the inmate's record.

E. Release of Information on Sex Offenders

1. In addition to information which may be released pursuant to Section 6, criminal history record information regarding sex offenders, serial sexual offenders, sexually violent predators and child predators which pertains to a conviction for which an inmate is currently sentenced to the Department's custody may be disseminated without restriction.

2. For the purpose of this regulation, criminal history record information includes the following:

- a. date and parish of conviction;
- b. offense;
- c. docket number;
- d. sentence; and
- e. release dates.

3. A written record pertaining to the dissemination of criminal history record information on sex offenders (see N.1. List of Sex Offenses) shall be maintained at the unit level. The record shall contain the following information:

- a. to whom the criminal history record information was disseminated;
- b. the date the information was disseminated;
- c. the individual to whom the information relates; and

d. a brief description of the information disseminated.

4. The written record pertaining to the dissemination of criminal history record information on sex offenders shall be retained for a period of not less than one year.

F. Release of Information to Crime Victims

1. Both the information contained in a Victim Notice and Registration Form and the fact that a notification request has been made are confidential. Any questions from outside the Department about whether particular persons have requested notification or whether there has been a notification request for particular inmates should be referred to the Crime Victims Services Bureau.

2. Information may be released to victims, witnesses, and others directly injured by the criminal acts of persons under the state's authority in accordance with Department Regulation No. C-01-007 "Crime Victims Services Bureau."

G. Subpoenaed Records

1. Whenever records of an inmate or ex-offender are subpoenaed, they shall be submitted to the appropriate court for a ruling as to whether the information should be turned over to the party who caused the subpoena to be issued. The court shall make this determinate in camera. If the court makes any one of the following determinations, the information shall be withheld:

a. the information is not relevant to the proceedings; or

b. the information was derived from communications which were obviously made in the confidence that they would not be disclosed; or

c. the confidentiality is essential to the future useful relations between the source and the recorder of the information.

2. Should the court authorize disclosure of the records in accordance with the subpoena, the party who caused the subpoena to be issued shall pay a fee for the cost of production of the records in accordance with R.S. 39:241 (see Department Regulation No. A-03-003 "Collection of Fees for Reproduction of Public Records"), unless the court determines that the party has been granted pauper status in accordance with law.

H. Records Not Subpoenaed Submitted to the Courts for Review. The department reserves the right to submit any record to the appropriate court for a ruling as to whether the information should be turned over to the party requesting the information.

I. Access and Release of Medical Records. Access to and release of medical records is governed by Health Care Policy No. HC-33 "Inmate Medical Records."

J. Department's Access to Information and Records of Other Agencies. During the course of any investigation which the department is authorized by law to conduct, or which is necessary for the rehabilitation of persons in the custody of the department, the department shall have access to information and records under the control of any state or local agency which are reasonably related to the rehabilitation of the inmate.

K. Inmate Access to Records. Information contained in the inmate's record shall be confidential and shall not be released to the inmate except in accordance with this regulation.

1. An inmate may have access to his Master Prison Record, a sentence computation worksheet, any court documents that are related to the term of his instant incarceration, non-confidential unusual occurrence reports, disciplinary reports, information related to educational achievements and participation.

2. An inmate may view and make notes of his State Police and/or FBI rap sheet, but shall not be given a copy.

3. An inmate shall not have access to another inmate's active or inactive records.

4. The following is a non-exhaustive list of additional information that will not be accessible to the inmate:

- a. pre-sentence reports;
- b. post-sentence reports;
- c. pre-parole reports;
- d. clemency investigations;

e. information revealing or tending to reveal the identity of confidential informants;

f. admission summary;

g. correspondence from any non-departmental source directed solely to prison officials;

h. correspondence or inquiries originated by institutional personnel;

i. investigations conducted by non-departmental agencies, i.e., District Attorney, State Police, FBI, etc.;

j. investigations conducted by Corrections Services;

k. non-disciplinary court-related institutional investigations; and

l. correspondence from victims or witnesses, including Victim Notice and Registration Forms.

5. Each institution shall establish procedures for inmates to follow when requesting copies of documents from their records and the fees charged for such copies.

L. Information Requests. Verbal requests for information are acceptable. However, the secretary or his designee reserves the right to require a written request before releasing any information. In that case, the individual or agency must certify in writing that they will not release the information to any other agency.

M. Fees. The fee schedule for copies of public records is established in Department Regulation No. A-03-003 "Collection of Fees for Reproduction of Public Records."

N.1. List of Sex Offenses

- | | | |
|----|-------------|---|
| a. | 14:41 | Rape |
| b. | 14:42 | Aggravated Rape |
| c. | 14:42.1 | Forcible Rape |
| d. | 14:43 | Simple Rape |
| e. | 14:43.1 | Sexual Battery |
| f. | 14:43.2 | Aggravated Sexual Battery |
| g. | 14:43.3 | Oral Sexual Battery |
| h. | 14:43.5 | Intentional Exposure of AIDS Virus |
| i. | 14:78 | Incest |
| j. | 14:78.1 | Aggravated Incest |
| k. | 14:80 | Felony Carnal Knowledge of a Juvenile |
| l. | 14:80.1 | Misdemeanor Carnal Knowledge of a Juvenile |
| m. | 14:81 | Indecent Behavior with Juveniles |
| n. | 14:81.1 | Pornography Involving Juveniles |
| o. | 14:81.2 | Molestation of a Juvenile |
| p. | 14:89 | Crime against Nature |
| q. | 14:89.1 | Aggravated Crime against Nature |
| r. | 14:92(A)(7) | Contributing to the Delinquency of Juvenile |
| s. | 14:93.5 | Sexual Battery of the Infirm |
| t. | 14:283(E) | Video Voyeurism |

2. A conviction for any offense provided in the above list includes a conviction for an equivalent offense under the laws of another state.

3. A conviction for the attempt of the above offenses shall be considered as a sex offender for the purpose of this regulation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:7, 15:540-542, 15:546-548, 15:549(C), 15:574.12, 15:840.1, C.Cr.P. Art. 877 and 894.1.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, LR 30:

Family Impact Statement

In accordance with the Administrative Procedures Act, R.S. 49:953(A)(1)(a)(viii) and R.S. 49:972, the Department of Public Safety and Corrections, Corrections Services, hereby provides the Family Impact Statement.

Repeal of the current LAC 22:I.101, records of adult offenders and ex-offenders, and adoption of the replacement LAC 22:I.101, access to and release of active and inactive records, will have no effect on the stability of the family, on the authority and rights of parents regarding the education and supervision of their children, on the functioning of the family, on family earnings and family budget, on the behavior and personal responsibility of children or on the ability of the family or a local government to perform the function as contained in the proposed Rule amendments.

Interested persons may submit written comments to Richard L. Stalder, Secretary, Department of Public Safety and Corrections, Corrections Services, 504 Mayflower Street, Baton Rouge, LA 70802, or by facsimile to (225) 342-3095. All comments must be submitted by 4:30 p.m., November 20, 2003.

Richard L. Stalder
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Access to and Release of Active and Inactive Records

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

There are no estimated implementation costs or savings to state or local governmental units. The Rule provides clarification to the institutions and other as to current procedures for access and release of Department records.

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

There is no estimated effect on revenue collections.

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

There are no estimated costs and/or economic benefits to directly affected persons since this is merely a clarification of procedures.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Robert B. Barbor
Deputy General Counsel
0310#037

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections Corrections Services

Youth Placement Review Process

In accordance with the Administrative Procedures Act, R.S. 49:953(B), and in order to comply with the Legislative mandates in Act 1225 of the 2003 Regular Session, the

Department of Public Safety and Corrections, Corrections Services, hereby gives notice of its adoption of the Youth Placement Review Process, Department Regulation No. B-02-012, effective September 15, 2003, as an Emergency Rule.

The text of this proposed Rule may be viewed in the Emergency Rule portion of this edition of the *Louisiana Register*.

Family Impact Statement

In accordance with the Administrative Procedures Act, R.S. 49:953(A)(1)(a)(viii) and R.S. 49:972, the Department of Public Safety and Corrections, Corrections Services, hereby provides a Family Impact Statement.

The adoption of LAC 22:I.309, youth placement review process, by the department of public safety and corrections, corrections services, will have no effect on the stability of the family, on the authority and rights of parents regarding the education and supervision of their children, on the functioning of the family, on family earnings and family budget, on the behavior and personal responsibility of children or on the ability of the family or a local government to perform the function as contained in the proposed Rule amendment.

Interested persons may submit oral or written comments to Richard L. Stalder, Secretary, Department of Public Safety and Corrections, P.O. Box 94304, Capitol Station, Baton Rouge, LA. 70804-9304, (225) 342-6741. Comments will be accepted through the close of business at 4:30 p.m., November 20, 2003.

Richard L. Stalder
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Youth Placement Review Process

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

ACT 1225 of the 2003 Regular Session states by December 31, 2004 Swanson Correctional Center for Youth-Madison Parish Unit shall no longer be used as a juvenile facility. This will result in the reduction of 150 secure beds within the correctional centers for youth. It is estimated that these youth will need non-secure residential or non-residential services. First year costs for those community programs are estimated at \$2,388,750 and will be provided through private sector contracts [(75 residential beds x 182 days (6 months) x \$100 per diem = \$1,365,000) + (75 nonresidential x 182 days (6 months) x \$75 per diem = \$1,023,750) = \$2,388,750]. The subsequent two years cost for community-based programs is approximately \$4,790,625 per year [(75 residential beds x 365 days (12 months) x \$100 per diem = \$2,737,500) + 75 nonresidential x 365 days (12 months) x \$75 per diem = \$2,053,125) = \$4,790,625].

Year 2 (FY 04-05) fiscal impact includes the transition of Swanson Correctional Center for Youth-Madison (SCCY-MAD) to an adult facility for third and fourth offense DWI offenders. The net projected annual fiscal impact for year 2 is \$2,056,378 (\$2,734,247 net savings from transition of youth facility to adult facility plus \$4,790,625 for 150 community program slots). The net projected fiscal impact for Year 3 is \$882,178 (\$3,908,447 net savings plus \$4,790,625).

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

Federal fund participation will be case specific, but due to federal foster care regulations none of the youth currently in secure care may qualify for participation in Title IV-E. As youth are diverted from the secure system and are placed in community programs, federal participation could approximate 20 percent of the total cost of care. Some local governments should see an impact to sales tax as additional community beds/programs are increased (Locations have not been determined).

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

Services for community programs are usually obtained through contracts with non-government entities. The dollars allocated for these services will flow directly to those organizations.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Employment changes to Madison Parish and the surrounding parishes will be minimized due to the conversion of SCCY-MAD to an adult institution.

Robert B Barbor Deputy General Counsel 0310#002
Robert E. Hosse General Government Section Director Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Correction
Corrections Services

Access to and Release of Active and Inactive
Records C Juvenile (LAC 22:I.102)

The Department of Public Safety and Corrections, Corrections Services, in accordance with R.S. 15:823, and the Administrative Procedures Act, R.S. 49:950, et seq., hereby gives notice of its intent to adopt LAC 22:I.102, Access to and Release of Active and Inactive Records- Juvenile.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW
ENFORCEMENT

Part I. Corrections

Chapter 1. Secretary's Office

§102. Access to and Release of Active and Inactive
Records C Juvenile

A. Purpose. To establish the secretary's policy and procedures for access to and release of records of active and inactive juvenile records.

B. Applicability. This regulation applies to all persons employed by the department and those who are under contract with the department. The deputy secretary, assistant secretary of the Office of Youth Development, wardens of juvenile facilities, and the probation and parole program director/juvenile are responsible for implementing this regulation and conveying its contents to all affected persons.

C. Definition

Law Enforcement Agencies C those agencies designed to enforce federal, state or municipal laws and who receive public funds as their primary source for operation, i.e., sheriff's offices, local and state police departments, departments of corrections, state attorneys general, U.S.

attorneys, district attorneys, and the Federal Bureau of Investigation.

D. Release of Information and Records

1. All information obtained on a juvenile shall be confidential and shall not be subject to public inspection or be disclosed directly or indirectly to anyone except in accordance with this regulation. None of the provisions contained herein are intended to restrict the ability of the department to provide any contract facility with full and complete information on any juvenile housed therein.

2. Generally, written consent by the juvenile, parent or guardian or attorney of record is required before a person may be granted access to the juvenile's case files. Access includes viewing the record and receiving copies of documents from a juvenile's record.

3. Release of Initial Documents to Attorney (Initial Contact C No Attorney Client Relationship Yet). Upon receipt of a completed written consent form executed by the juvenile (see Subsection M), the institution may provide copies of the following information to an attorney who has met with the juvenile and requested information:

- a. JIRMS Master (JPRNMASA);
- b. disciplinary reports for the quarter;
- c. court documents;
- d. time computation worksheet;
- e. custody classification/reclassification for the preceding two quarters;
- f. a listing of programs completed including alcohol/drug abuse education. However, no acknowledgment of the juvenile's alcohol/ drug abuse treatment may be given.

4. Release of Records upon Establishment of Attorney Client Relationship. An attorney client relationship sufficient to allow release of a juvenile's record is established upon the occurrence of the following:

- a. juveniles age 18 and older:
 - i. receipt of a written consent form executed by the juvenile (see Subsection N) of his intent to be represented by the attorney named therein;
 - b. juveniles under age 18:
 - i. in order to release information from the record of a juvenile, the institution will require receipt of a written consent form (see Subsection O) executed by the parent/guardian of the juvenile; or
 - c. alternatively, release may also be accomplished through the occurrence of all of the following:

- i. juvenile has affirmed his intent through execution of a written document to enter into an attorney client relationship with a particular attorney or law firm and a release form is executed by the juvenile which allows general access by the attorney to the juvenile's record (see Subsection N). Additionally, if the juvenile intends to allow release of records pertaining to education, alcohol/drug abuse treatment or HIV/AIDS status, the juvenile must execute a specific confidentiality waiver for each individual category of documents; and

- ii. receipt by the institution housing the juvenile of a copy of the letter written by the attorney, notifying the juvenile's parent/guardian that the juvenile has requested the attorney to represent him. The letter must contain language directing the parent/guardian to notify the institution or the court of juvenile jurisdiction, should the parent object to the representation and/or access to records; and

iii. receipt of postal "Proof of Mailing" verifying that the letter in Section D.4.c.i. above has been mailed to the parent/guardian; and

iv. receipt of a written statement made by the attorney attesting that he/she has made efforts to contact the parent/guardian; and

v. at least 10 business days have elapsed since receipt by the institution of all documents listed in Section D.4.c.i. through iv. above, and the parent/guardian has not voiced an objection. Once the attorney client relationship is established whether through a consent form executed by the parent/guardian or through the provision of documents required in Section D.4.c.i through v above, the documents shall be filed in the juvenile's case file at Clip 8. Establishment of the attorney client relationship shall also be entered in the JIRMS.

5. Information on a particular juvenile may be released without special authorization, subject to other restrictions that may be imposed by federal law or by other provisions of state law, to the following:

- a. Board of Parole;
- b. Board of Pardons;
- c. governor;
- d. sentencing judge;
- e. counsel for a juvenile in a delinquency matter;
- f. district attorneys;
- g. law enforcement agencies;
- h. Department of Public Safety and Corrections personnel, including legal representatives and student workers;
- i. appropriate governmental agencies or public official, when access to such information is imperative for the discharge of the responsibilities of the requesting agency, official or court officer and the information if not reasonably available through any other means; and
- j. court officers with court orders specifying the information requested.

6. Fingerprints, photographs, and information pertaining to arrests and disposition of delinquent offenses, as well as information regarding escapes may be released to law enforcement agencies without special authorization.

7. The secretary or his designee may approve the reading of information to the following:

- a. social services agencies assisting in the treatment of juvenile;
- b. appropriate governmental agencies or officials;
- c. approved researchers who have guaranteed in writing anonymity of all subjects.

8. The secretary or his designee may approve selective reading (but not copying) of information by a private citizen or organization aiding in the rehabilitation of, or being directly involved in the hiring of, the juvenile under the following conditions, when:

- a. it appears that the withholding of the information would be to the juvenile's disadvantage;
- b. the requested information is necessary to further the rehabilitation or the likelihood of hiring the juvenile;
- c. the requested information is not reasonably available through other means;

d. the juvenile or his parent or guardian has given written consent for the release of information.

E. Release of Information to Crime Victims

1. Both the information contained in a Victim Notice and Registration Form and the fact that a notification request has been made are confidential. Any questions from outside the department about whether particular persons have requested notification or whether there has been a notification request for particular juveniles should be referred to the Crime Victims Services Bureau.

2. Information may be released to victims, witnesses, and others directly injured by the criminal acts of persons under the state's authority in accordance with Department Regulation No. C-01-007 "Crime Victims Services Bureau."

F. Subpoenaed Records

1. Whenever the records of a juvenile are subpoenaed, they shall be submitted to the appropriate court for a ruling as to whether the information should be turned over to the party who caused the subpoena to be issued. The court shall make this determinate in camera. If the court makes any one of the following determinations, the information shall be withheld:

- a. the information is not relevant to the proceedings; or
- b. the information was derived from communications which were obviously made in the confidence that they would not be disclosed; or
- c. the confidentiality is essential to the future useful relations between the source and the recorder of the information.

2. Should the court authorize disclosure of the records in accordance with the subpoena, the party who caused the subpoena to be issued shall pay a fee for the cost of production of the records in accordance with R.S. 39:241 (see Department Regulation No. A-03-003 "Collection of Fees for Reproduction of Public Records"), unless the court determines that the party has been granted pauper status in accordance with law.

G. Records Not Subpoenaed Submitted to the Courts for Review. The department reserves the right to submit any record to the appropriate court for a ruling as to whether the information should be turned over to party requesting information.

H. Access to and Release of Medical Records. Refer to Department Regulation No. B-06-001J "Health Care" and LSUHSC JCP Policies J/HC-RT 02-01 and 05-01 for specifics governing access to and release of medical records.

I. Department's Access to Information and Records of Other Agencies. During the course of any investigation which the department is authorized by law to conduct, or which is necessary for the rehabilitation of persons in the custody or under the supervision of the department, the department shall have access to information and records under the control of any state or local agency which is reasonably related to the rehabilitation of the juvenile.

J. Juvenile Access to Records. Information contained in the juvenile's record shall be confidential and shall not be released to him except in accordance with the following.

1. A juvenile may, upon request, have access to his JIRMS Master (JPRNMASA); a time computation worksheet; any court documents that are related to his incarceration; disciplinary reports; custody classification/reclassification and case plan.

2. A juvenile shall not have access to another juvenile's record.

3. The following is a list of additional information that will not be accessible to the juvenile (This is not an exhaustive list.):

- a. disposition reports;
- b. social history;
- c. information revealing or tending to reveal the identity of a confidential informant;
- d. unusual occurrence reports;
- e. admission summary;
- f. correspondence from any non-corrections source directly solely to institutional officials;
- g. correspondence or inquiries originated by institutional personnel;
- h. investigations conducted by non-departmental agencies (district attorney, state police, FBI, etc.);
- i. progress notes;
- j. progress reports to the court;
- k. investigations conducted by Corrections Services; and
- l. non-disciplinary court-related institutional investigations.

4. Each institution shall establish procedures for juveniles to follow when requesting copies of documents from their records and the fees charged for such copies.

K. Information Requests. Verbal requests to the department for information may be acceptable. However, the secretary or his designee reserves the right to require a written request before releasing any information. In that case, the individual or agency must certify in writing that they will not release the information to any other agency.

L. Fees. The fee schedule for copies of public records is established in Department Regulation No. A-03-003 "Collection of Fees for Reproduction of Public Records."

M. Consent for Release of Initial Information to Attorney

CONSENT FOR RELEASE OF INITIAL INFORMATION TO ATTORNEY

My name is _____ . My date of birth is _____ . I am in the custody of the Louisiana Department of Public Safety and Corrections and housed at _____ Correctional Center for Youth.

I talked and met with _____ , an attorney at law. I want this attorney and the law firm _____ to have copies of my JIRMS Master (JPRNMASA), disciplinary reports for the quarter, court documents, time computation worksheet, custody classification/reclassification for the two preceding quarters, and a listing of programs I have completed.

Date

Signature

Witness

N. Statement of Representation and Release of Records

STATEMENT OF REPRESENTATION AND RELEASE OF RECORDS

My name is _____ . My date of birth is _____ . I am in the custody of the Louisiana Department of Public Safety and Corrections and housed at _____ Correctional Center for Youth.

I want to have _____ , an attorney at law, represent me.

I give my consent for my record to be copied or looked at by this attorney. This includes records contained in my medical file, mental health information and social history.

I understand that if I want to release certain records to my attorney I must waive my rights of confidentiality specifically as to those records.

_____ By placing my initials here I am confirming that I want to waive my rights as to psychological and psychiatric documents, including but not limited to evaluations, reports and progress notes.

_____ By placing my initials here I am confirming that I want to waive my rights to confidentiality as to these particular records and allow my attorney to view/copy my **education** records.

_____ By placing my initials here I am confirming that I want to waive my rights to confidentiality as to these particular records and allow my attorney to view/copy any **alcohol/drug treatment** information which might be in my record.

_____ By placing my initials here I am confirming that I want to waive my rights to confidentiality as to these particular records and allow my attorney to view/copy any **HIV/AIDS** information which might be in my record.

Date

Signature

Witness

O. Parent/Guardian Consent to Release of Juvenile Records

PARENT/GUARDIAN CONSENT TO RELEASE OF JUVENILE RECORDS

I, _____ , parent/guardian of _____ , a juvenile in the custody of the Louisiana Department of Public Safety and Corrections, do hereby give my consent to release the records of my child to _____ , the attorney representing him/her.

I hereby authorize the above-named attorney to view/receive copies of my child's records. I understand that included in my child's records are social, family-history and medical/mental health information.

Further, I have initialed below where it is my intention to waive my child's confidentiality and specifically authorize release to his/her attorney the following named documents.

_____ By placing my initials here I am confirming that I intend to waive my child's rights as to psychological and psychiatric documents, including but not limited to evaluations, reports and progress notes.

_____ By placing my initials here I am confirming that I intend to waive my child's rights to confidentiality and allow the attorney to view/copy my child's **education** records.

_____ By placing my initials here I am confirming that I intend to waive my child's rights to confidentiality and allow the attorney to view/copy any **alcohol/drug abuse treatment** information which might be in my child's record.

_____ By placing my initials here I am confirming that I intend to waive my child's rights to confidentiality and allow the attorney to view/copy any **HIV/AIDS** information which might be in my child's record.

Date

Signature

Witness

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.12, 15:840.1, 15:909, 39:241, C.Cr.P. Art. 875, and Ch.C.Art. 412

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, LR 30:

In accordance with the Administrative Procedures Act, R.S. 49:953(A)(1)(a)(viii) and R.S. 49:972, the Department of Public Safety and Corrections, Corrections Services, hereby provides the Family Impact Statement.

Adoption of LAC 22:I.102, access to and release of active and inactive records-juvenile, will have no effect on the stability of the family, on the authority and rights of parents regarding the education and supervision of their children, on the functioning of the family, on family earnings and family budget, on the behavior and personal responsibility of children or on the ability of the family or a local government to perform the function as contained in the proposed Rule amendments.

Interested persons may submit written comments to Richard L. Stalder, Secretary, Department of Public Safety and Corrections, Corrections Services, 504 Mayflower Street, Baton Rouge, LA 70802, or by facsimile to (225) 342-3095. All comments must be submitted by 4:30 p.m., November 20, 2003.

Richard L. Stalder
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Access to and Release of Active and Inactive Records C Juvenile

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

There are no estimated implementation costs or savings to state or local governmental units. The Rule provides clarification to the institutions and other as to current procedures for access and release of Department records.

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

There is no estimated effect on revenue collections.

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

There are no estimated costs and/or economic benefits to directly affected persons since this is merely a clarification of procedures.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Robert B. Barbor
Deputy General Counsel
0310#038

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue Policy Services Division

Withholding by Professional Athletic Teams
(LAC 61:I.1520)

Under the authority of R.S. 39:100.1, R.S. 47:164(D), R.S. 47:295, R.S. 47:1511, and R.S. 47:1602.1, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to adopt LAC 61:I.1520 relative to the withholding of Louisiana individual income tax by professional athletic teams for nonresident team members who render services to the team.

Act 1203 of the 2001 Regular Session enacted R.S. 39:100.1, which created a fund in the state treasury called the Sports Facility Assistance Fund (the fund). Each year, the treasurer must pay into the fund an amount equal to the income tax collected by the state from nonresident professional athletes and professional sports franchises on income earned in Louisiana. The monies in the fund are appropriated dollar-for-dollar to the owners of the facilities at which the money that generated the income tax was earned. The purpose of this regulation is to enable the Department of Revenue to accurately attribute the income tax collected from nonresident professional athletes and professional sports franchises to the fund.

Act 119 of the 2003 Regular Session enacted R.S. 39:100.1(D) that authorized the Secretary of Revenue to prescribe regulations necessary to carry out the purposes of R.S. 39:100.1. This proposed regulation will require periodic withholding for professional athletic teams domiciled outside Louisiana on their nonresident team members. It will also clarify that these teams are required to follow current withholding provisions for their team members who are residents of Louisiana.

The full text of this proposed Rule can be viewed in the Emergency Rule Section of this issue of the *Louisiana Register*.

Family Impact Statement

The proposed adoption of LAC 61:I.1520, regarding withholding by professional athletic teams, should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically, the implementation of this proposed rule will have no known or foreseeable effect on:

1. the stability of the family'
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;

5. the behavior and personal responsibility of children;

6. the ability of the family or a local government to perform this function.

Any interested person may submit written data, views, arguments or comments regarding this proposed Rule to Michael D. Pearson, Senior Policy Consultant, Policy Services Division, Office of Legal Affairs by mail to P.O. Box 44098, Baton Rouge, LA 70804-4098. All comments must be received no later than 4:30 p.m., Monday, November 24, 2003. A public hearing will be held on Tuesday, November 25, 2003, at 10:00 a.m. in the Calcasieu Room, on the second floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA.

Cynthia Bridges
Secretary

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

**RULE TITLE: Withholding by Professional Athletic
Teams**

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

Implementation of this proposed regulation, which will require periodic withholding for professional athletic teams domiciled outside Louisiana on their nonresident team members, and imposes a penalties for failure to file required withholding tax returns or timely remitting payment, will result in one time expenditures of as much as \$50,000 administrative costs for the department. These costs will be incurred for modifications to withholding and income tax returns, computer program design and specifications, testing and run time. There would be no ongoing cost associated with this legislation. There will be no impact on local government costs.

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

This proposed regulation might result in additional revenue collections if it encourages compliance with existing law. The amount of revenue that could be generated is indeterminable. However, any penalties collected would be deposited as state general fund revenues. In addition to penalties, any taxes collected due to compliance resulting from this legislation would be deposited in the statutory dedicated Sports Facility Assistance Fund. There will be no effect on revenue collections of local governmental units.

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

Any nonresident professional athletic team that pays compensation to a nonresident individual for service rendered to the team within Louisiana shall be required to withhold Louisiana individual income tax from compensation for services rendered for each game played in Louisiana. The team must file a withholding return and remit payment. The return must include a detailed annual reconciliation schedule that includes all team members receiving Louisiana income. Detail for nonresident team members must include total duty days, Louisiana duty days, total compensation, Louisiana compensation, and amount deducted and withheld. An exception can be granted for teams agreeing to file composite returns and remit composite payments. The additional cost of preparing the schedules should be minimal.

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

This proposed regulation should have no effect on competition or employment.

Cynthia Bridges
Secretary
0310#047

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Social Services
Bureau of Licensing**

Adult Residential Care Facility (LAC 48:I.Chapter 88)

The Department of Social Services, Office of the Secretary, Bureau of Licensing, is amending the Louisiana Administrative Code, Title 48, Part I, Subpart 3, Licensing and Certification.

This revision is mandated by Act 301 of the 2003 Regular Session requiring that all adult residential care homes provide for resident support during times of emergency and natural disasters.

Title 48

PUBLIC HEALTHC GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 88. Adult Residential Care Home

§8821. Resident Protection

A. - F.3. ...

a. evacuation of residents to safe or sheltered areas.

Facilities must maintain services for residents in the event of an emergency or natural disaster. No facility may order residents to vacate the facility in advance of an approaching weather event, natural disaster or other emergency.

F.3.b. - H.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2151-2161, and Act 301 of the 2003 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 14:27 (January 1988), amended by the Department of Social Services, Bureau of Licensing, LR 24:2326 (December 1998), LR 30:

Family Impact Statement

In accordance with Section 972 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted the family impact statement regarding the Rule proposed for adoption, repeal or amendment.

1. What effect will this Rule have on the stability of the family? This Rule requires licensed adult residential care facilities to provide shelter for their residents during times of emergency and natural disasters.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? This will have no effect of the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this have on the functioning of the family? This Rule is not anticipated to have any affect on the functioning of the family.

4. What effect will this have on family earnings and family budget? There will be no affect on family earnings and family budget.

5. What effect will this have on the behavior and personal responsibility of children? This Rule will have no effect on the behavior and personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed Rule? While families may be able provide shelter for family members who reside in adult residential facilities, this assures them that their family members will not be unexpectedly required to seek and/or provide their own shelter during times of emergency or natural disasters.

Interested persons may submit written comments by November 20, 2003 to Thalia Stevenson, Director, Bureau of Licensing, P.O. Box 3076, Baton Rouge, LA 70802. She is the responding authority to inquiries regarding this proposed Rule.

Gwendolyn P. Hamilton
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Adult Residential Care Facility**

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

This Rule directs adult residential care facilities to maintain services for residents in the event of an emergency or natural disaster. Some facilities may need to revise their emergency plans to reflect this regulation required by Act 301 of the 2003 Regular Session. Other than the cost of printing in the *Louisiana Register*, there will be no implementation costs. The updated information will only be available through our website.

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

There will be no effect on revenue collection of state or local government units.

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

Residents at licensed adult residential care facilities will not be required to seek or provide for their own shelter in case of an emergency or natural disaster. We are unable to determine the cost to the providers, but anticipate that some providers may incur additional costs related to this proposed Rule. These potential costs cannot be estimated.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no impact anticipated on competition or employment.

Thalia Stevenson
Director
0310#075

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Social Services
Bureau of Licensing**

Transitional Living (LAC 48:1.Chapter 53)

The Department of Social Services, Office of the Secretary, Bureau of Licensing proposes to amend the Louisiana Administrative Code, Title 48, Part 1, Subpart 3, Licensing and Certification. These standards are being enacted per Act 726 of the 2001 Regular Session of the Legislature of Louisiana to include the Transitional Living Program. This Rule is mandated by R.S. 46:1451 et seq.

Title 48

PUBLIC HEALTHC GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 62. Transitional Living

§6201. Purpose

A. It is the intent of the legislature to provide for the care and to protect the health, safety, and well being of youths in the custody or formerly in the custody of the state of Louisiana, who are nearing the age of majority and who, by reason of age, are unlikely to be placed with foster families for adoption. The legislature recognizes that such youth are likely to remain in need of supervision and services, even after reaching the age of majority, to assist them in making the transition from child foster care to independent adulthood. It is the purpose of this policy to establish a system of licensed facilities to care for such persons up to the age of 22; to establish statewide minimum standards; to ensure the maintenance of those standards; and to regulate conditions in these facilities through a program of licensing and inspection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:

§6203. Authority

A. Act 726 of the 2001 Regular Session directs the Department of Social Services, Bureau of Licensing to develop and publish minimum standards for licensing transitional youth residences. The bureau shall review such standards and, if necessary, revise and amend them at least once every six years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:

§6205. Waivers

A. The secretary of the Department of Social Services may waive compliance with any standard if the intent of the standard is being met and if the health, safety, and well being of the persons in care are not affected.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:

§6207. Application for Licensure

A. An application for a transitional youth residence license shall be made by the provider to:

Department of Social Services
Bureau of Licensing
P. O. Box 3078
Baton Rouge, LA 70821

B. There shall be an annual licensing fee of \$200 for each transitional youth residence caring for 6 or fewer youths; \$400 for each transitional youth residence caring for at least 7 but less than 11 youths; and \$600 for each transitional youth residence caring for 12 or more youths.

C. The Department of Social Services, Bureau of Licensing has the power to deny, revoke, or refuse to renew a license for a transitional youth residence if the applicant has failed to comply with the provisions of this policy.

D.1. Upon the refusal of the Bureau of Licensing to grant or renew a license or upon the revocation of a license, the applicant or licensee shall have the right to appeal such action by submitting a written request within 10 days of the receipt of the notification of the refusal or revocation to:

Bureau of Appeals
P. O. Box 2944
Baton Rouge, LA 70821

2. The appeal hearing shall be held no later than 30 days after the request.

E. Whoever operates a transitional youth residence without a valid license or in violation of this policy after being notified of such violation and being given an opportunity to correct such violation, shall be fined not less than \$75 or more than \$250 for each day of such offence. The Department of Social Services may file suit in the District Court for the parish in which the facility is located for injunctive relief.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:

§6209. Definitions

Abuse the infliction of physical or mental injury on an individual by other parties, including but not limited to such means as sexual abuse, exploitation, or extortion of funds or other things of value, to such an extent that his/her health, self-determination, or emotional well-being is endangered.

Administrator the owner or the manager designated by the governing body as responsible for the management, administration, and supervision of the program.

DSS the Department of Social Services.

Documentation written evidence or proof, signed and dated.

Human Services Field means psychology, sociology, special education, rehabilitation counseling, juvenile justice, corrections, nursing, etc.

Shall or Must indicates mandatory standards.

Transitional Youth Residence means any communal or supervised independent living arrangement existing for the primary purpose of providing care for at least 2, but less than

20, youths living in individualized apartment units, alone or jointly with other youths, under the supervision, custody or control, directly or indirectly, of the Office of Community Services.

Transitional Youth Residence Program means a program of services, including counseling, guidance, vocational or education training, and supervision for youths living in transitional youth residences.

Transitional Living a program to provide care, supervision, vocation and education training, guidance and counseling for youth between the ages of 16 and 21 in the custody or formerly in the custody of the Office of Community Services, living in their own apartments (congregate or individual) to assist them in making the transition to adult living.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:

§6211. Inspections

A. The Department of Social Services, Bureau of Licensing shall inspect at regular intervals not to exceed one year, or deemed as necessary by the bureau, and without prior notice, all transitional youth residence administrative offices subject to the provisions of this policy. The facility shall be open to inspection by authorized DSS personnel during working hours or at all times when youths are in care.

B. The bureau shall also investigate all complaints except those alleging abuse against a youth resident and those concerning the prevention and spread of communicable diseases. The bureau may take such action as is authorized in the law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:

§6213. General Requirements

A. A provider shall allow designated representatives of DSS in the performance of their mandated duties to inspect all aspects of a provider's functioning which impact the youth and to interview any staff member or youth.

B. A provider shall make available to DSS any information that the provider is required to have under the present requirements and any information reasonably related to assessment of compliance with these requirements.

C. A provider will furnish adequate space for the representatives of DSS to work.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:

§6215. Governing Body

A. A provider shall have an identifiable governing body with responsibility for and authority over the policies and activities of the program. The provider, whether it is a corporation, partnership or association, shall identify the names and addresses of its members and officers and shall, where applicable, have a charter, partnership agreement, constitution, and articles of association or by-laws.

B. A provider shall have documents identifying all members of the governing body; their addresses; their terms

of membership; any officers of the governing body; and terms of office of any officers.

C. When the governing body of a provider is composed of more than one person, the governing body shall hold formal meetings at least twice a year.

D. When the governing body is composed of more than one person, a provider shall have written minutes of all formal meetings of the governing body and by-laws specifying frequency of meetings and quorum requirements.

E. A private provider shall have documentation of its authority to operate under state law.

F. The provider's governing body shall:

1. ensure the provider's compliance and conformity with the provider's charter;
2. ensure the provider's continual compliance and conformity with all relevant federal, state, local and municipal laws and regulations;
3. ensure that the provider is adequately funded and fiscally sound;
4. review and approve the provider's annual budget;
5. designate a person to act as director and delegate sufficient authority to this person to manage the facility;
6. formulate and annually review, in consultation with the director, written policies concerning the provider's philosophy, goals, current services, personnel practices, and fiscal management;
7. annually evaluate the director's performance;
8. have the authority to dismiss the director;
9. meet with designated representatives of DSS whenever required to do so;
10. inform designated representatives of DSS prior to initiating any substantial changes in the services provided; and
11. ensure that the director or a person authorized to act on behalf of the director shall be accessible to staff or designated representatives of DSS at all times.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:

§6217. Accounting

A provider shall not permit public funds to be paid, or committed to be paid, to any person to whom any of the members of the governing body, administrative personnel, or members of the immediate families of members of the governing body or administrative personnel have any direct or indirect financial interest, or in which any of these persons serve as an officer or employee, unless the services or goods involved are provided at a competitive cost or under terms favorable to the facility. The provider shall have a written disclosure of any financial transaction with the facility in which a member of the governing body, administrative personnel, or his/her immediate family is involved.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:

§6219. Administrative Files

A. The provider shall maintain records that cover the basic administrative requirements of running a facility.

B. The administrative files shall include at least:

1. an organizational chart of the provider;
2. all leases, contracts and purchase-of-service agreements to which the provider is a party;
3. insurance policies issued in the name of the provider that include commercial comprehensive liability and coverage for any owned and non-owned vehicles utilized to transport clients;
4. annual budgets;
5. master list of all social service providers and other contractors used by the provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:

§6221. Program Description

A. A provider shall have a written program description describing:

1. the overall philosophy and approach to supervised transitional living;
2. the long-term and short-term goals;
3. the types of youth best served;
4. the provider's approach to service planning;
5. ongoing programs available to the youth during placements; and
6. any living arrangements provided.

B. The provider must include a written description of direct services, support services, and services to be arranged to achieve the goals of the transitional living program.

1. Direct services shall include, but are not limited to, the following:

a. services related to education and vocational training e.g.: career planning; preparation for the GED or higher education; job readiness; job search assistance; job placement; job follow-up activities; vocational training; tutoring and other remedial education;

b. programs and services in basic independent living skills e.g.: money management; home management (housekeeping, etc.); consumer skills; identifying community resources; time management; communication skills; use of transportation; physical and mental health care; locating safe and stable housing; problem solving/decision making; sex education; menu planning and nutrition; cooking;

c. individual and/or group counseling as well as workshops and conferences to promote: self-esteem; self confidence; development of interpersonal and social skills; preparation for transition to independence and termination of services; after care.

2. Support services shall include, but not be limited to, the following: vocational assessment or training; GED classes; preparation for college entrance exams; driver's education, if appropriate; counseling.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:

§6223. Records

A. A provider shall ensure that all entries in records are legible, signed by the person making the entry, and accompanied by the date on which the entry was made.

B. All records shall be maintained in an accessible, standardized order and format and shall be retained and disposed of in accordance with state laws.

C. A provider shall have sufficient space, facilities and supplies for providing effective record keeping services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:

§6225. Confidentiality and Security of Files

A. A provider shall have a written policy and procedure for the maintenance and security of records specifying who shall supervise the maintenance of records, who shall have custody of records, and to whom records may be released. Records shall be the property of the provider and he/she, as custodian, shall secure records against loss, tampering, or unauthorized use.

B. A provider shall maintain the confidentiality of all youths' case records. Employees of the provider shall not disclose or knowingly permit the disclosure of any information concerning the youth or his/her family directly or indirectly, to any unauthorized person.

C. When the youth is of majority age or emancipated, a provider shall obtain the youth's written informed permission prior to releasing any information from which the youth or his/her family might be identified.

D. When the youth is a minor, a provider shall obtain written informed consent from the legally responsible person prior to releasing any information from which the youth might be identified.

E. A provider shall, upon request, make available information in the case record to the youth, the legally responsible person, or legal counsel of the youth.

F. A provider may use material from case records for teaching or research purposes, development of the governing body's understanding and knowledge of the provider's services, or similar educational purposes, provided that names are deleted and other identifying information are disguised or deleted.

G. A provider shall not release a personnel file without the employee's permission except in accordance with state law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:

§6227. Staffing Requirements

A. There shall be a director responsible for the day-to-day administration of the program who has at least a bachelor's degree in a human service field, one year of experience relative to the population being served, and is at least 21 years of age. Documentation of director's qualifications shall be on file.

B. There shall be a qualified professional who will have the responsibility for supervising the client's individual service plan. This person shall have at least a bachelor's degree in a human service field and one year of experience relative to the population served (one person can serve in the capacity as director and qualified professional).

C. A provider shall employ a sufficient number of qualified staff and delegate sufficient authority to such staff

to carry out the responsibilities the provider undertakes and to adequately perform the following:

1. administrative functions;
2. fiscal functions;
3. clerical functions;
4. direct youth service functions;
5. supervisory functions;
6. record keeping and reporting functions;
7. social service functions;
8. ancillary service functions.

D. A provider shall ensure that all staff members are properly supervised, certified and/or licensed as legally required.

E. A provider shall ensure that there is staff immediately accessible to the youth 24 hours a day, 7 days a week.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:

§6229. Staff Plan and Practices

A. A provider shall have a written plan for recruitment, screening, orientation, on-going training, development, supervision, and performance evaluations of staff members.

B. There shall be written job descriptions for each staff position.

C. The provider shall have a written employee grievance procedure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:

§6231. Personnel File

A. A provider shall have a personnel file for each employee which shall contain:

1. the application for employment and/or résumé;
2. three reference letters from former employer(s) and personal references or phone notes on such references to assess applicant's qualifications;
3. criminal record clearance;
4. evidence of applicable professional credentials/certifications;
5. job description;
6. annual performance evaluations;
7. personnel actions, reports and notes relating to the individual's employment with the provider;
8. employee's starting and termination dates;
9. driver's license to operate a vehicle used to transport clients (if applicable).

B. The staff member shall have reasonable access to his/her file and shall be allowed to add any written statement he/she wishes to make to the file at any time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:

§6233. Orientation

A. A provider's orientation program shall provide at least 16 hours of training for all direct service workers within one week of the date of employment to include the following topics:

1. philosophy, organization, program, practices and goals of the provider;
2. instructions in the specific responsibilities for the employee's job;
3. implementation of the transitional living plan;
4. emergency and safety procedures including medical emergencies;
5. detecting and reporting suspected abuse and neglect;
6. reporting critical incidents;
7. rights of youth;
8. crisis de-escalation and management of aggressive behavior;
9. assistance with self-administration of medications;
10. universal precautions;
11. methods of facilitating youth development training;
12. issues of adolescents and young adults.

B. A new employee shall sign a statement of understanding certifying that such training has occurred.

C. A new employee shall not be given sole responsibility for the implementation of the service plan until training is completed.

D. Each employee having direct care responsibilities shall have current first aid certification that shall be obtained within the first 30 days of employment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:

§6235. Training

A. A provider shall ensure that each direct service worker participated in an annual review of all the orientation topics.

B. Current first aid certification shall be obtained for employees having direct care responsibilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:

§6237. Staff Communications

A. A provider shall establish procedures to assure adequate communication among staff to provide continuity of services to the youth. Written documentation shall be maintained.

B. Any employee of a provider working directly with youth in care shall have access to information from the youths' case records that is necessary for effective performance of the employee's assigned tasks.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:

§6239. External Professional Services

A provider shall, as necessary, give assistance to youth in obtaining any required professional services not available from employees of the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:

§6241. Admission Policy

A. A provider shall have a written description of an admission policy that shall include the following information:

1. written description of the admission criteria as provided to all placing agencies;
2. the age and sex of the youth to be served by the provider;
3. the needs, problems, situations or patterns best addressed by the provider;
4. pre-admission skills and other criteria for successful participation in and completion of the program; and
5. criteria for discharge as well as the termination of admission agreement;

B. A provider shall not refuse admission to any youth on the grounds of race, color, sex, religion, national origin, handicap, or any non-merit factor in accordance with all state and federal guidelines.

C. A provider shall not accept any youth whose needs cannot be adequately met by the provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:

§6243. Service Agreement

A. The provider shall ensure that a written service agreement is completed prior to placement. A copy of the agreement, signed by the provider, the youth, if applicable the legally responsible party and all those involved in its formulation, shall be kept in the youth's record and a copy shall be available to DSS, the youth, and where appropriate, the legally responsible person.

B. The service agreement shall include:

1. a delineation of the respective roles and responsibilities of the provider and where applicable, the referring agency;
2. specification of all services to be provided including the plan for contact between the youth and provider staff;
3. facility rules that will govern continued participation in the transitional living program, and consequences of inappropriate behavior of youth while in care;
4. the provider's expectations concerning the youth and the youth's responsibility;
5. criteria for discharge;
6. specification of financial arrangements including any fees to be paid by the youth;
7. authorization to care for the youth;
8. authorization for medical care;
9. attendance and absences from the provider to also include curfew times; and
10. criteria for notifying the funding agency of any change of address of the youth and any significant change in the youth's life or program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:

§6245. Service Planning

A. A provider shall make every effort to ensure that service and program planning for each youth is a comprehensive process involving appropriate provider staff; representatives of the referring agency; where appropriate, representatives of other significantly involved agencies; the youth; where appropriate, the legally responsible person; and any other person significantly involved in the youth's life on an ongoing basis.

1. The director, qualified professional, or a designated staff who meets the director qualifications, shall be responsible for the coordination and development of the transitional living plan.

2. A provider shall ensure the youth is in attendance during the development of his/her transitional living plan.

B. Following acceptance of a youth, a provider shall conduct an assessment of his/her transitional living skills and annually thereafter. The assessment shall include the following:

1. life safety skills including ability to access emergency services, basic safety practices and evacuation of the living unit;

2. physical and mental health care; (i.e., health maintenance, scheduling physician appointments);

3. recognizing when to contact a physician;

4. money management, budgeting, and consumer awareness (i.e. paying bills, shopping, food management, sources of income, credit);

5. self-administration of medication;

6. stated purpose and possible side effects of medications prescribed for the youth and other common prescription and non-prescription drugs and other drug use;

7. career planning/career interests;

8. use of transportation (i.e. ability to access public transportation, learning to drive, obtaining insurance);

9. social skills;

10. daily living skills (i.e., housekeeping, cooking, personal appearance, and grooming skills);

11. vocational/job skills/job seeking skills (i.e., employment experience, training);

12. identifying community resources;

13. education (i.e., current grade level; education goals/expectations/plans);

14. locating housing;

15. problem solving/decision making;

16. time management (punctuality and attendance);

17. communication skills;

18. parenting skills;

19. legal issues, knowledge of legal rights; and

20. use of recreation and leisure time.

C. On the basis of the transitional living skill assessment, a provider shall, within one month of placement, formulate a transitional living plan for the youth. The plan shall include:

1. the youth's long term goals;

2. time-limited, measurable objectives addressing training in skill areas identified as needs;

3. the type and frequency of supervision needed;

4. the identification of roles and responsibilities of all persons involved (youth, provider, and others) in the implementation of the plan;

5. the life skills and the criteria necessary for achieving a successful discharge; and

6. the preliminary plan for discharge and aftercare.

D. The plan shall be reviewed monthly and shall be revised whenever necessary. A written progress report shall be completed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:

§6247. Youth's Case Record

A. A provider shall have a written record for each youth that shall include:

1. the name, sex, race, birth date and birthplace of the youth; address of youth's current place of employment, school or other service providers;

2. other identification data including court status and legal status, identifying who is authorized to give consent;

3. youth's history including, where applicable, family data, educational background, employment record, prior medical history and prior placement history;

4. the service agreement;

5. written authorization signed by the youth or, when appropriate the legally responsible person for emergency medical care;

6. written authorization signed by the youth or, when appropriate the person legally responsible for managing the youth's money;

7. assessment of the youth's independent living skills;

8. a copy of the youth's individual service plan and any modifications or updates of the service plan;

9. monthly progress reports;

10. the names, addresses and phone numbers of the youth's physician and dentist;

11. psychological and psychiatric evaluation, if applicable;

12. dates of admission and discharge;

13. signed acknowledgement of rights and grievance procedures; and

14. incident reports.

B. A provider shall maintain health records on a youth including:

1. a description of any serious or life threatening medical condition of the youth;

2. a description of any medical treatment or medication necessary for the treatment of any serious or life threatening medical condition together with the provider's provisions for ensuring the youth's access to such medication or treatment;

3. current medications; and

4. report of general medical examination by a physician within a year prior to admission and annual exams; and

5. dental exams.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:

§6249. Accounting for Youth's Money

A. A provider shall have a written policy describing how they will manage the youth's money.

B. A provider shall only accept a youth's money when such management is mandated by the youth's service plan.

The provider shall manage and account for money of youth who are minors.

C. Providers who manage youth's money shall maintain in the youth's file a complete record accounting for his/her money.

1. The provider shall maintain a current balance sheet containing all financial transactions to include the signature of staff and the youth for each transaction.

2. The money shall be kept in an individual account in the name of the youth.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:

§6251. Supervision and Support

A. A provider shall have a written plan for providing support and supervision to youth in transitional living situations. This plan shall ensure:

1. regular contact between provider personnel and the youth daily and at least two face-to-face visits weekly in the youth's apartment. A youth may not be seen less than the above amount unless specified by his/her plan, which has been signed by the parent or legal guardian;

2. all contacts with the youth shall be documented; and

3. provisions for emergency access by youth to an appropriate provider staff member on a 24-hour basis.

B. A provider shall, through at least monthly visits by staff to the living situation, determine and document that:

1. there is no reasonable cause for believing that the youth's mode of life or living situation presents any unacceptable risks to the youth's health or safety;

2. the living situation is maintained in a clean and safe condition;

3. the youth is receiving any necessary medical care;

4. the current provider plan provides appropriate and sufficient services to the youth.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:

§6253. Rights and Grievance Procedures for Youth

A. The provider shall have a written policy on youths' rights. A copy will be given to the youth to review and sign. The signature page will be maintained in the youth's record. The policy shall assure the youth:

1. are free from physical or psychological abuse or neglect, and from financial exploitation;

2. are able to consult freely and privately with his/her parent(s) or legal guardian(s);

3. are able to possess and use personal money and belongings;

4. are actively and meaningfully making decisions affecting his/her life;

5. are allowed to have privacy;

6. are allowed visits to and from his/her family and friends;

7. are not required to work without compensation;

8. are treated with dignity and respect;

9. are provided due process;

10. have access to records, including information about their finances;

11. participate in self-directed service planning which is developed and modified timely;

12. are provided adequate and appropriate assistance in meal planning;

13. shall not be deprived of any civil or legal rights, benefits, or privileges guaranteed by law or the Constitution of the United States;

14. shall not be denied admission to a program, segregated, or discriminated against on the basis of race, sex, handicap, creed, national background or ancestry, sexual orientation, political beliefs, or any other non-merit factor;

15. are provided access to professional and specialized services, as appropriate;

16. shall be free from mental, emotional, and physical abuse and neglect and assured that no chemical restraints will be used;

17. shall be allowed to participate in religious services in accordance with his/her faith, but shall not be forced to attend religious services;

18. shall be encouraged and assisted to exercise rights as a citizen; to voice grievances;

19. shall be free to consult with legal counsel of their choice;

20. are allowed to meet with representatives of the Bureau of Licensing as well as other state officials.

B. The provider shall have a written grievance policy and procedures for youth designed to allow them to make complaints without fear of retaliation. The youth shall be informed of the advocacy services available.

1. The provider shall make every effort to ensure that all youth are aware of and understand the grievance procedure.

2. The youth's records shall contain a record of any grievances and their resolutions.

C. The provider shall develop written procedures for a Youth Advisory Board consisting of youth representatives receiving services to provide feedback relative to program policies, practices, and services.

1. The Youth Advisory Committee shall be allowed to meet at least monthly.

2. The provider shall maintain documented minutes of the Youth Advisory Board and resolutions of problems addressed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:

§6255. Reporting of Critical Incidents and Abuse and Neglect

A. A provider shall have a written policy and procedures for the reporting and documentation of unusual incidents and other situations or circumstances affecting the health, safety or well being of the youth (i.e., accident or injury to the youth, unexplained overnight absences, death, fights or physical confrontations, suspected incidents of abuse or neglect, etc.).

1. Such procedures shall ensure timely verbal reporting to the director or designee and a preliminary written report within 24 hours of the incident.

2. Copies of all critical incident reports shall be kept as a part of the youth's record.

B. A provider shall have comprehensive written procedures concerning abuse and neglect to include provisions for:

1. training and maintaining staff awareness of abuse prevention, current definitions of abuse and neglect, reporting requirements and applicable laws;

2. ensuring that regulations for reporting critical incidents involving abuse and neglect are followed;

3. ensuring that the administrator completes an investigation report within 10 working days;

4. ensuring that the youth is protected from potential harassment during the investigation;

5. disciplining staff members who abuse or neglect youth; and

6. ensuring that the staff member involved does not work directly with the youth involved or any other youth in the program until the investigation is complete.

C. When and if an incident occurs, a detailed report of the incident shall be made. At a minimum, the incident report shall contain the following:

1. a brief description of the incident;

2. date and time the incident occurred;

3. where the incident occurred;

4. action taken as a result of the incident;

5. name and signature of the person who completed the report and the name(s) of person(s) who witnesses the incident; and

6. date and time and name of responsibility party notified.

D. In the event an incident results in the death of a youth, involves abuse or neglect of a youth, or entails any serious threat to the youth's health, safety or well being, the provider shall:

1. immediately report to the placing agency with a preliminary written report within 24 hours of the incident;

2. immediately notify the appropriate law enforcement authority in accordance with state law;

3. immediately notify the Bureau of Licensing and other appropriate authorities, according to state law, with written notification to the above agencies to follow within 24 hours of the suspected incident;

4. immediately notify to the family or representative of the youth, with written notification to follow within 24 hours;

5. provide follow-up written reports to all the above persons and agencies; and

6. document appropriate corrective action taken to prevent future incidents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:

§6257. Behavior Management

A. A provider shall have a written description of any behavior management strategies to be utilized.

B. No strategy shall deny any of the youth's rights unless approved by the individual plan of care.

C. The youth's record shall document that he/she has acknowledged receiving a copy of the behavior management strategies at admission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR

§6259. Transportation

A. A provider shall ensure that every vehicle used by provider staff to transport youth is properly maintained, inspected, licensed according to state laws, and insured.

B. Any youth who drives must be properly licensed to operate any vehicle which he/she drives and has the required insurance coverage. The youth's record must contain this documentation,

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:

§6261. Physical Environment

A. A provider shall ensure and document in the youth's record that any living situation selected by the provider for the use of youth is:

1. accessible to and functional for the youth, taking into consideration any handicapping condition or other disability of the youth;

2. free from any hazard to health or safety;

3. properly equipped with useable facilities for sleeping, food storage and preparation, sanitation, bathing, personal hygiene and household cleaning;

4. in compliance with applicable health, safety, sanitation and zoning codes. The provider shall, on request, allow DSS to inspect any living situation;

5. each resident shall have his or her own bed; and

6. living situations shall be equipped with operable smoke detectors and fire extinguishers.

B. A provider shall ensure and document in the youth's record that any youth placed in a transitional living situation selected by the provider has:

1. 24-hour access to a telephone;

2. access to transportation; and

3. access to any services mandated by the youth's service program plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:

§6263. Capacity

A. A provider shall ensure that no more than three youths are placed in an apartment utilized as a transitional living situation.

B. A provider who utilizes communal living arrangements (home situation) housing four or more must obtain fire and health approval.

C. A provider's arrangements for selecting youth and youth groups for a specific living situation shall make allowance for the needs of each youth for reasonable privacy and shall not conflict with the program plan of any resident of the living situation or with the overall philosophy of the provider.

D. No youth shall be placed together in a living situation except by mutual agreement between the youth. Signed agreements shall be maintained in each client's record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:

§6265. Emergency Procedures

A. The provider shall ensure the development of an emergency evacuation policy and safety plan for each client that is specific for location of the living unit in the event of a fire, natural or national disaster. The youth's record shall document that the youth has acknowledged receiving a copy of this policy and plan at admission.

B. A provider shall document that all youth are trained in emergency procedures within one week of admission. Such training shall include:

1. instruction in evacuation from the living situation;
2. instruction in contacting police, fire and other emergency services; and
3. instruction in fire and accident prevention.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:

§6267. Food Service

A. When meals are prepared in a central kitchen, the provider shall ensure that menus include the basic four food groups and each youth's nutritional needs are met. Menus shall be maintained on file for at least a month.

B. If youths develop and prepare their menus and meals, the provider shall give assistance to ensure nutritional standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:

§6269. Discharge

A. A provider shall have a written discharge policy detailing the reasons a youth may be discharged.

B. A provider shall, whenever possible, notify the placing agency and the youth's parent(s), tutor or curator as soon as possible or within five working days prior to the planned discharge of a youth.

C. A provider shall compile a complete written discharge summary immediately upon discharge; such summary to be included in the youth's record. When the youth is discharged to another agency, this summary must accompany the youth. This summary shall include:

1. a summary of services provided during involvement in the program;
2. a summary of growth and accomplishments during involvement;
3. the assessed needs which remain to be met and alternate service possibilities that might meet those needs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:

Family Impact Statement

In accordance with Section 972 of title 49 of the Louisiana Revised Statutes, there is hereby submitted the family impact statement regarding the rule proposed for adoption, repeal or amendment.

1. What effect will this rule have on the stability of the family? It is the intent of this rule to provide for the care and to protect the health, safety, and well being of youths in transition from being in the custody of the state of Louisiana, who are nearing the age of majority and who, by reason of age, are unlikely to be placed with foster families for adoption. It should not adversely affect the stability of the family.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? Since these youth are in the custody of the state, there should not be any affect on the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this have on the functioning of the family? This rule is not anticipated to have any affect on the functioning of the family.

4. What effect will this have on family earnings and family budget? There will be no affect on family earnings and family budget.

5. What effect will this have on the behavior and personal responsibility of children? This program should be beneficial to the behavior and personal responsibility of the youth involved in this program.

6. Is the family or local government able to perform the function as contained in this proposed rule? The youth involved in this program are those who are currently in state custody, therefore the family is not performing its usual function.

Interested persons may submit written comments within the next 20 days to Thalia Stevenson, Director, Bureau of Licensing, P.O. Box 3078, Baton Rouge. LA 70821-3078.

Public hearings on this proposed rule will be held on Monday, November 24, 2003 at the Bureau of Licensing, 2751 Wooddale Blvd. Suite 330, Baton Rouge, LA from 10 a.m. to 11 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing at the public hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (Voice and TDD).

Gwendolyn P. Hamilton
Secretary

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

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

This is a new program authorized by Act 726 of the 2001 Regular Session. Other than the cost of printing, there are no other implementation costs to state or local governmental units associated with this proposed rule to adopt minimum licensing standards.

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

The Department of Social Services will collect licensing fees from facilities that are licensed under this category. The fees are based on the capacity of the facility: \$200 for 6 or fewer residents, \$400 for at least 7 but less than 11 residents,

and \$600 for 12 or more residents. There is no way to determine the number of providers who will apply for a license. However, we anticipate that four providers, currently licensed incorrectly, will apply for this license and will generate up to \$2,400 in licensing fees. The four facilities currently serving this population use federal grant money to pay for their operations. Since these four facilities are currently licensed under another program category, there should be no increase in the workload for DSS. There should be no additional state costs.

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

There should be no costs, other than the licensing fee, to directly affected persons or non-governmental groups. There is no way to determine the number of providers who will apply for a license. However, we anticipate at least the four providers who currently work with this population will apply for this license costing up to \$2,400. Each provider is currently licensed through the Supervised Independent Living Program that has no capacity requirement. The Transitional Living Program has a capacity-based license. Additional costs may be incurred if the provider chooses to assist more youth than they now serve. These potential costs cannot be estimated. There are no known additional costs to these providers.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are currently facilities contracting with the Office of Community Services to provide these services. These facilities are already licensed. There should be no impact on competition and employment.

Thalia Stevenson
Director
0310#074

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Transportation and Development
Office of Highways/Engineering**

**Wireless Telecommunications Permit
(LAC 70:II.Chapter 15)**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Transportation and Development intends to amend Chapter 15 of Part II of Title 70 entitled ADOTD Wireless Telecommunications Permit@, in accordance with R.S. 48:381.2.

Title 70

**TRANSPORTATION
Part II. Utilities**

**Chapter 15. DOTD Wireless Telecommunications
Permit**

§1509. Fees

A. The following fees shall apply to wireless telecommunications installations placed within state highway rights-of-way.

Type of Tower	Annual Fee
Self-Supporting Tower/Antenna	\$3,500
Monopole/Antenna	\$2,000
Attachments to Existing Utility/Light Poles	\$1,500
Co-Location on DOTD Tower	\$3,500
Video Cameras	Supply feed to DOTD

B. Repealed.

C - E ...

F. The department may waive fees for those permit applicants who erect facilities, attachments or cameras for the use of the department or other state agencies or political subdivisions to conduct departmental or state work.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 25:98 (January, 1999); amended LR 30:

§1513. Co-Location

A. ...

B. Wireless facility operators, in certain instances, may be permitted to strengthen DOTD-owned towers, at the sole cost of the wireless facility operator, to provide additional structural capacity for multiple users. Alternatively, the tower structure may be replaced, rather than modified. Ownership of the new or modified tower and responsibility for maintaining the tower shall be negotiated prior to issuance of the permit, and shall be stated on the front of the permit. Applicant shall submit a structural analysis with the permit application. DOTD retains the right in perpetuity to have its antennae, pre-existing or added subsequent to permit issue, mounted on the new or modified tower.

C - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 25:99 (January, 1999), amended LR 30:

Family Impact Statement

The proposed adoption of this amendment to a Rule should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically:

1. The implementation of this proposed Rule will have no known or foreseeable effect on the stability of the family.
2. The implementation of this proposed Rule will have no known or foreseeable effect on the authority and rights of parents regarding the education and supervision of their children.
3. The implementation of this proposed Rule will have no known or foreseeable effect on the functioning of the family.
4. The implementation of this proposed Rule will have no known or foreseeable effect on family earnings and family budget.
5. The implementation of this proposed Rule will have no known or foreseeable effect on the behavior and personal responsibility of children.
6. The implementation of this proposed Rule will have no known or foreseeable effect on the ability of the family or a local government to perform this function.

All interested persons so desiring shall submit oral or written data, views, comments or arguments no later than 30 days from the date of publication of this Notice of Intent. Such comments should be submitted to Sherryl J. Tucker, Senior Attorney, P.O. Box 94245, Baton Rouge, LA 70804, telephone (225)237-1359.

Kam K. Movassaghi, Ph.D., P.E.
Secretary

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

RULE TITLE: Wireless Telecommunications Permit

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

There will be no cost to implement the proposed Rule change. DOTD has had a program for utility installation within highway rights-of-way in place since the early 1950's and has permitted wireless tower installations since 1999. This rulemaking makes technical changes in existing Rules and reduces the fees to be assessed in order to attract more permittees.

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

Although the fees to be charged for installation of wireless towers within the highway rights-of-way will decrease, it is anticipated that revenues will increase. Under the current schedule, there is only permittee who currently pays the department \$15,000 per year. It is anticipated that lower fees will encourage new permittees and that revenue for FY 2003-2004 and subsequent years could increase significantly, however, the department cannot accurately estimate this potential increase because any such impact will depend upon private business decisions.

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

The wireless telecommunications industry, which will be directly affected by this rulemaking, should see an economic benefit because new, undeveloped areas will be available for towers at a lower rate than in the existing rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This Rule should have a positive effect on competition and employment.

Kam K. Movassaghi, P.E., Ph.D.
Secretary
0310#045

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of the Treasury
Parochial Employees' Retirement System**

Internal Revenue Code Provisions (LAC 58:XI.Chapter 1)

Editor's Note: This Notice of Intent was promulgated in the August 2003 edition of the Louisiana Register on pages 1750-1756, and is being repromulgated to comply with standards set forth in R.S. 49:950 et seq.

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Trustees for the Parochial Employees' Retirement System has approved for advertisement the adoption of Chapter 1 of Part XI, included in Title 58, Retirement, of the *Louisiana Administrative Code*. This intended action complies with the statutory law administered by the Board of Trustees for the Parochial Employees' Retirement System. The proposed Rules are being adopted pursuant to newly reenacted R.S. 11:1931 (Acts 2003, Number 537, §§1 and 5), the effective date of reenactment of which will be the formal adoption of these Rules. Newly reenacted R.S. 11:1931 provides that Rules and Regulations be adopted which will assure that the Parochial Employees' Retirement System will remain a tax-

qualified retirement plan under the United States Internal Revenue Code and the regulations thereunder. Newly repealed R.S. 11:1930, 1930.1, 1930.2, 1930.3 and 1931 (Acts 2003, Number 537, §§1, 2 and 5), the effective date of repeal of which will be the formal adoption of these Rules, has contained these tax-qualification provisions, which are now being embodied under these proposed Rules without any change to the text. A preamble to this proposed action has not been prepared.

**Title 58
RETIREMENT**

**Part XI. Parochial Employees' Retirement System
Chapter 1. Internal Revenue Code Provisions**

§101. Limitation on Payment of Benefits

A.1. Unless the member has elected otherwise on or before December 31, 1983, the entire benefit of a member shall be distributed over a period not longer than the longest of the following periods:

- a. the member's life;
- b. the life of the member's designated beneficiary or the joint and last survivor lives of the member and his designated beneficiary;
- c. the member's life expectancy;
- d. the joint life and last survivor life expectancy of the member and his designated beneficiary.

2. If the member is married and his spouse survives him, the designated beneficiary shall be his spouse. If a member dies after the commencement of his benefits, the remaining portion of his benefit shall be distributed at least as rapidly as before his death.

B.1. If the member dies before his benefit has commenced, the remainder of such interest shall be distributed to the member's beneficiary within five years after the date of such member's death.

2. Paragraph 1 shall not apply to any portion of a member's benefit which is payable to or for the benefit of a designated beneficiary or beneficiaries, over the life of or over the life expectancy of such beneficiary, so long as such distributions begin not later than one year after the date of the member's death, or, in the case of the member's surviving spouse, the date the member would have attained the age of 70 1/2 years. If the designated beneficiary is the member's surviving spouse and if the surviving spouse dies before the distribution of benefits commences, then Paragraph 1 shall be applied as if the surviving spouse were the member. If the designated beneficiary is a child of the member, for purposes of satisfying the requirement of Paragraph 1, any amount paid to such child shall be treated as if paid to the member's surviving spouse if such amount would become payable to such surviving spouse, if alive, upon the child's reaching age 18.

3. Paragraph 1 shall not apply if the distribution of the member's interest has commenced and is for a term certain over a period permitted in Subsection B.

C. If a survivor benefit is payable to a specified person or persons or if a benefit is payable at death under an option elected pursuant to R.S. 11:1932, the member shall be considered to have designated such person as a designated beneficiary hereunder. If there is more than one such person, then the oldest such person shall be considered to have been so designated, or, if none, then the oldest person entitled to receive a survivor benefit shall be considered to have been

so designated. The designation of a designated beneficiary hereunder shall not prevent payment to multiple beneficiaries but shall only establish the permitted period of payments.

D. Distributions from the system shall be made in accordance with the requirements set forth in Internal Revenue Code Section 401(a)(9), including the minimum distribution incidental benefit rules applicable thereunder.

E.1. A member's benefits shall commence to be paid on or before the required beginning date.

2. The required beginning date shall be April 1 of the calendar year following the later of the calendar year in which the member attains 70 1/2 years of age, or the calendar year in which the employee retires.

F. The provisions of this Section shall be effective July 1, 1987.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1931.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Parochial Employees' Retirement System, LR 30:

§103. Early Payment of Benefits

A. In the event of plan termination, the benefit of any highly compensated employee including an active highly compensated employee and a former employee who was a highly compensated employee, is limited to a benefit that is nondiscriminatory under Internal Revenue Code, Section 401(a)(4) (see 26 U.S.C. 401 et seq.)

B.1. For plan years beginning on or after January 1, 1991, benefits distributed to any of the 25 most highly compensated active and former highly compensated employees are restricted such that the annual payments are no greater than an amount equal to the payment that would be made on behalf of the employee under a single life annuity that is the actuarial equivalent of the sum of the employee's accrued benefit and the employee's other benefits under the plan.

2. Subsection A of this Section shall not apply if:

a. after the payment of the benefit to an employee described in Paragraph 1 of this Subsection, the value of plan assets equals or exceeds 110 percent of the value of current liabilities as defined in Internal Revenue Code Section 412(1)(7); or

b. the value of the benefits for an employee described above is less than 1 percent of the value of current liabilities.

3. For purposes of this Section, benefit includes loans in excess of the amount set forth in Internal Revenue Code Section 72(p)(2)(A), any periodic income, any withdrawal values payable to a living employee, and any death benefits not provided for by insurance on the employee's life.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1931.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Parochial Employees' Retirement System, LR 30:

§105. Compensation Limited

A. In addition to other applicable limitations set forth in the plan, and notwithstanding any other provisions of the plan to the contrary, for plan years beginning on or after January 1, 1994, the annual compensation of each employee taken into account under the plan shall not exceed the Omnibus Budget Reconciliation Act of 1993 annual

compensation limit. The Omnibus Budget Reconciliation Act of 1993 annual compensation limit is \$150,000, as adjusted by the commissioner of Internal Revenue for increases in the cost of living in accordance with Section 401(a)(17)(B) of the Internal Revenue Code (see 26 U.S.C. 401 et seq.). The cost-of-living adjustment in effect for a calendar year applies to any period, not exceeding 12 months, over which compensation is determined (determination period) beginning in such calendar year. If a determination period consists of fewer than 12 months, the Omnibus Budget Reconciliation Act of 1993 annual compensation limit will be multiplied by a fraction, the numerator of which is the number of months in the determination period, and the denominator of which is 12.

B. For plan years beginning on or after January 1, 1994, any reference in this plan to the limitations under Internal Revenue Code Section 401(a)(17) shall mean the Omnibus Budget Reconciliation Act of 1993 annual compensation limit set forth in this Section.

C. If compensation for a prior determination period is taken into account in determining an employee's benefits accruing in the current plan year, the compensation for that prior determination period is subject to the Omnibus Budget Reconciliation Act of 1993 annual compensation limit in effect for that prior determination period. For this purpose, for determination periods beginning before the first day of the first plan year beginning on or after January 1, 1994, the Omnibus Budget Reconciliation Act of 1993 annual compensation limit is \$150,000.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1931.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Parochial Employees' Retirement System, LR 30:

§107. Transfer of Benefits

A. This Section applies to distributions made on or after January 1, 1993. Notwithstanding any provisions of the plan to the contrary that would otherwise limit a distributee's election under this Section, a distributee may elect, at the time and in the manner prescribed by the plan administrator, to have any portion of an eligible rollover distribution paid directly to a retirement plan specified by the distributee in a direct rollover.

B. If a distribution is one to which Sections 401(a)(11) and 417 of the Internal Revenue Code (see 26 U.S.C. 401 et seq.) do not apply, such distribution may commence less than 30 days after the notice required under Section 1.411(a)-11(c) of the Federal Income Tax Regulations is given, provided that:

1. the plan administrator clearly informs the participant that the participant has a right to a period of at least 30 days after receiving the notice to consider the decision of whether or not to elect a distribution (and, if applicable, a particular distribution option); and

2. the participant, after receiving the notice, affirmatively elects a distribution.

C. The following definitions shall apply.

Direct Rollover Ca payment by the plan to the eligible retirement plan specified by the distributee.

Distributee Cincludes an employee or former employee. In addition, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternative payee under a qualified

domestic relations order, as defined in Internal Revenue Code Section 414(p), are *distributees* with regard to the interest of the spouse or former spouse.

Eligible Retirement Plan Can Individual Retirement Account described in Internal Revenue Code Section 408(a), an individual retirement annuity described in Section 408(b), an annuity plan described in Internal Revenue Code Section 403(a), or a qualified trust described in Internal Revenue Code Section 401(a), that accepts the distributee's eligible rollover distributions. However, in the case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan is an Individual Retirement Account or individual retirement annuity.

Eligible Rollover Distribution Any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include:

a. any distribution that is one of a series of substantially equal periodic payments, not less frequently than annually, made for the life, or life expectancy, of the distributee or the joint lives, or joint life expectancies, of the distributee and the distributee's designated beneficiary, or for a specified period of 10 years or more;

b. any distribution to the extent such distribution is required under Internal Revenue Code Section 401(a)(9);

c. the portion of any distribution that is not includable in gross income, determined without regard to the exclusion for net unrealized appreciation with respect to employer securities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1931.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Parochial Employees' Retirement System, LR 30:

§109. Computation of Retirement Benefits

A. This Section is intended to comply with Internal Revenue Code Section 415. It shall cover only those who become members for the first time on or after January 1, 1990, and those qualified participants for whom the benefit is increased after October 14, 1987, to the extent of the benefit increase after October 14, 1987, including cost-of-living adjustments on any such increase.

B. The normal retirement benefit of a member of Plan A shall not exceed the amount set forth in R.S. 11:1942, the normal retirement benefit of a member of Plan B shall not exceed the amount set forth in R.S. 11:1962, and the normal retirement benefit of a member of Plan C shall not exceed the amount set forth in R.S. 11:1972.

C.1. Qualified Participant shall mean a member of the system who first became a member before January 1, 1990. In the case of the merger of, or transfer of assets and benefits of a member or members from, another plan maintained by an employer which joins this system, the accrued benefit under such predecessor plan shall be the accrued benefit referred to above, and the member shall be considered a qualified participant if his participation in such predecessor or merged plan commenced on or before January 1, 1990.

2. All employers contributing to the system on behalf of their employees, and all employers who may join the system, as a condition of such joining, shall elect, and such election is hereby implemented, to have the limitations of Internal Revenue Code Section 415(b) other than Paragraph 2G thereof applied without regard to Paragraph 2F thereof, which limitations are set forth in Subsection D. Such

limitations shall apply to all members who are not qualified participants as described herein and to qualified participants to the extent of the benefit increase after October 14, 1987, including cost-of-living adjustments on any such increase.

D. The retirement benefit of any member of the retirement system who is not a qualified participant, as defined in Paragraph C.1 and which is not attributable to the member's after-tax employee contribution, when expressed as an annual benefit may not exceed the lesser of \$90,000 per year or 100 percent of such member's average compensation for his highest three years. For purposes of determining whether a member's benefit exceeds this limitation, the following shall apply.

1. Adjustment If Benefit Not Single Life Annuity

a. If the normal form of benefit is other than a single life annuity, such form shall be adjusted actuarially to the equivalent of a single life annuity. This single life annuity shall not exceed the maximum dollar or percent limitations outlined above.

b. No adjustment is required for the following:

- i. qualified joint and survivor annuity benefits;
- ii. pre-retirement disability benefits;
- iii. pre-retirement death benefits.

2. Adjustment If Benefit Commences before Social Security Retirement Age. If benefit distribution commences before social security retirement age, the actual retirement benefit shall not exceed the lesser of 100 percent of the member's average compensation or the adjusted dollar limitation. The adjusted dollar limitation shall be the equivalent, determined in a manner consistent with reduction of benefits for early retirement under the Social Security Act, of \$90,000 commencing at social security retirement age.

3. Adjustment If Benefit Commences after Social Security Retirement Age. If benefit distribution commences after social security retirement age, the dollar limitation shall be increased to the equivalent of \$90,000 commencing at social security retirement age.

4. Social Security Retirement Age Defined. For purposes of this Subsection, the term *social security retirement age* means the age used as the retirement age under 42 U.S.C.A. §416(l) of the Social Security Act, except that such section shall be applied:

- a. without regard to the age increase factor; and
- b. as if the early retirement age under Section 416(l)(2) of such Act were 62.

5. Interest Assumption. The interest rate used for adjusting the maximum limitations above shall be:

a. for benefits commencing before social security retirement age and for forms of benefit other than straight life annuity, the greater of:

- i. five percent; or
- ii. the rate used to determine actuarial equivalence for other purposes of this retirement system;

b. for benefits commencing after social security retirement age, the lesser of:

- i. five percent; or
- ii. the rate used to determine actuarial equivalence for other purposes under this retirement system.

6. Adjustment for Less than 10 Years of Participation or Service

a. If retirement benefits are payable under this retirement system to a member who has less than 10 years of participation in the retirement system, the dollar limitation referred to in the first Paragraph of this Subsection (\$90,000) will be multiplied by a fraction, the numerator of which is the member's number of years of participation in the system (not greater than 10), and the denominator of which is 10.

b. If retirement benefits are payable under this retirement system to a member who has less than 10 years of service with the employer, the percentage limitation referred to in the first Paragraph of this Subsection (100 percent of compensation) and the dollar limitation referred to in Paragraph 9 below (\$10,000) will be multiplied by a fraction, the numerator of which is the member's number of years of service with the employer (not greater than 10) and the denominator of which is 10.

7. Annual Adjustment. The \$90,000 limitation provided in this Subsection shall be adjusted annually to the maximum dollar limits allowable by the secretary of the Treasury of the United States under Internal Revenue Code Section 415(d), such adjustments not to take effect until the first day of the fiscal year following December 31, 1987. The adjustment shall not exceed the adjustment in effect for the calendar year in which the fiscal year of the system begins. The adjusted earlier limitation is applicable to employees who are members of the system and to members who have retired or otherwise terminated their service under the system with a nonforfeitable right to accrued benefits, regardless of whether they have actually begun to receive benefits. This system shall be considered specifically to provide for such post-retirement adjustments. For any limitation year beginning after separation from service occurs, the annual adjustment factor is a fraction, the numerator of which is the adjusted dollar limitation for the limitation year in which the compensation limitation is being adjusted and the denominator of which is the adjusted dollar limitation for the limitation year in which the member separated from service. No adjustment shall be permitted with respect to limitations applicable after October 14, 1987.

8. Member or Participant in More than One Plan. If a member is a member or participant in more than one defined benefit pension plan maintained by the state, its agencies, or its political subdivisions, then such member's benefit, considered in the aggregate after taking into account the benefits provided by all such retirement plans, shall not exceed the limits provided in this Subsection.

9. Total Annual Benefits Not in Excess of \$10,000. Notwithstanding the preceding provisions of this Subsection, the benefits payable with respect to a participant under any defined benefit plan shall be deemed not to exceed the limitations of this Subsection if:

a. the retirement benefits payable with respect to such participant under such plan and under all other defined benefit plans of the employer do not exceed \$10,000 for the plan year, or for any prior plan year; and

b. the employer has not at any time maintained a defined contribution plan in which the participant participated.

10. Average Compensation

a. For purposes of R.S. 11:1942, 1962, and 1972, average compensation shall include any amounts properly considered as the regular rate of pay of the member, as

defined in R.S. 11:231 and unreduced by amounts excluded from income for federal income tax purposes by reason of 26 U.S.C.A. 125, 414(h), or 457 or any other provision of federal law of similar effect.

b. For purposes of Subsection D, average compensation shall include total compensation payable by the employer and included in the employee's income for federal income tax purposes and shall exclude amounts not includable in the member's gross income by reason of 26 U.S.C.A. §§125, 414(h) and 457 or any other provision of federal law. A member's highest three years shall be the period of consecutive calendar years (not more than three) during which the member both was an active participant in the plan and had the greatest aggregate compensation from the employer.

11. Benefit Limitations at Age 62

a. Where a retirement benefit is provided at or after age 62 years, but prior to the member's social security retirement age, then the benefit as limited by the provisions of this Section shall not exceed an annual benefit of \$90,000 reduced by:

i. for a member whose social security retirement age is 65, 5/9 of 1 percent for each month by which benefits commence before the month in which the member attains age 65;

ii. for a member whose social security retirement age is greater than 65, 5/9 of 1 percent for each of the first 36 months and 5/12 of 1 percent for each of the additional months, up to 24 months, by which benefits commence before the month in which the member attains social security retirement age.

b. If the benefit begins before age 62, the benefit shall be limited to the actuarial equivalent of the member's limitation for benefits commencing at age 62 years, with the reduced dollar limitation for such benefits further reduced for each month by which benefits commence before the month in which the member attains age 62 years. In order to determine actuarial equivalence for this purpose, the interest rate assumption used by the plan may not be less than the greater of 5 percent or the rate specified in the plan for determining actuarial equivalence for early retirement. Social Security retirement age is age 65 years, if the member was born before January 1, 1938; age 66 years, if born before January 1, 1955; and age 67, if born after December 31, 1954.

12. Treasury Regulation Applicable. That portion of the benefit designated herein which is attributable to member contributions shall be determined in accordance with Treasury Regulations §1.415-3(d)(1).

E. The provisions of this Section shall apply if any member is covered, or has ever been covered, by another plan maintained by the employer, including a qualified plan, or a welfare benefit fund, as defined in Internal Revenue Code Section 419(e), or an individual medical account, as defined in Internal Revenue Code Section 415(l)(2), which provides an annual addition as described in Paragraph 5 of this Subsection.

1. If a member is, or has ever been, covered under more than one defined benefit plan maintained by the employer, the sum of the member's annual benefits from all such plans shall not exceed the maximum permissible amount set forth in Subsection D of this Section.

2. If the employer maintains or at any time maintained, one or more qualified defined contribution plans covering any member in this system, a welfare benefit fund, as defined in Internal Revenue Code Section 419(e), or an individual medical account as defined in Internal Revenue Code Section 415(1)(2), the sum of the member's defined contribution fraction and defined benefit fraction shall not exceed 1.0 in any limitation year, and the annual benefit otherwise payable to the member under this system shall be limited in order to satisfy such limitation.

3.a. *Defined Benefit Fraction* shall mean a fraction, the numerator of which is the sum of the member's projected annual benefits under all of the defined benefit plans, whether or not terminated, maintained by the employer, and the denominator of which is the lesser of 125 percent of the dollar limitation determined for the limitation year under Internal Revenue Code Sections 415(b) and (d) and in accordance with Subsection D of this Section or 140 percent of the highest average compensation, including any adjustments under Internal Revenue Code Section 415(b).

b. Notwithstanding the provisions of Subparagraph 3.a of this Paragraph, if the member was a member as of the first day of the first limitation year beginning after December 31, 1986, in one or more defined benefit plans maintained by the employer which were in existence on May 6, 1986, the denominator of this fraction shall not be less than 125 percent of the sum of the annual benefits under such plans which the member had accrued as of the close of the last limitation year beginning before January 1, 1987, disregarding any changes in the terms and conditions of the plans after May 5, 1986. The preceding sentence applies only if the defined benefit plans individually and in the aggregate satisfied the requirements of Internal Revenue Code Section 415 for all limitation years beginning before January 1, 1987.

4.a. *Defined Contribution Fraction* shall mean a fraction, the numerator of which is the sum of the annual additions to the member's account under all of the defined contribution plans, whether or not terminated, maintained by the employer for the current and all prior limitation years, including the annual additions attributable to the member's nondeductible employee contributions to this and all other defined benefit plans maintained by the employer whether or not terminated and the annual additions attributable to all welfare benefit funds, as defined in Internal Revenue Code Section 419(e) or individual medical accounts, as defined in Internal Revenue Code Section 415(1)(2) that are maintained by the employer, and the denominator of which is the sums of the maximum aggregate amounts for the current and all prior limitation years of service with the employer, regardless of whether a defined contribution plan was maintained by the employer. The maximum aggregate amount in any limitation year is the lesser of 125 percent of the dollar limitation determined under Internal Revenue Code Sections 415(b) and (d) of the Internal Revenue Code in effect under Internal Revenue Code Section 415(c)(1)(A) or 35 percent of the member's compensation for such year.

b. If a member is, or ever has been covered under more than one defined contribution plan maintained by the employer, the sum of the member's annual additions to all such plans for each limitation year shall not exceed the maximum permissible amount and shall be taken into

account for purposes of determining the defined benefit fraction.

c. If the employee was a member as of the first day of the first limitation year beginning after December 31, 1986, in one or more defined contribution plans maintained by the employer which were in existence on May 6, 1986, the numerator of this fraction shall be adjusted if the sum of this fraction and the defined benefit fraction would otherwise exceed 1.0 under the terms of this plan. Under the adjustment, an amount equal to the product of the excess of the sum of the fraction over 1.0 times the denominator of this fraction, shall be permanently subtracted from the numerator of this fraction. The adjustment is calculated using the fractions as they would be computed as of the end of the last limitation year beginning before January 1, 1987, and disregarding any changes in the terms and conditions of the plans made after May 5, 1986, but using the limitation provided in Internal Revenue Code Section 415 made applicable to the first limitation year beginning on or after January 1, 1987.

d. The annual addition for any limitation year beginning before January 1, 1987, shall not be recomputed to treat all employee contributions as annual additions.

5.a. Annual Additions of a member for the limitation year shall mean the sum of the following amounts credited to a member's account for the limitation year:

- i. employer contributions;
- ii. employee contributions;
- iii. forfeitures.

b. Amounts allocated to an individual medical account, as defined in Internal Revenue Code Section 415(1)(2), which is a part of a pension or annuity plan maintained by the employer, are treated as annual additions to a defined contribution plan. Additionally, amounts derived from contributions paid or accrued after December 31, 1985, in taxable years ending after such date, which are attributable to post-retirement medical benefits allocated to the separated account of a key employee, as defined in Internal Revenue Code Section 419A(d)(3), or under a welfare benefit fund, as defined in Internal Revenue Code Section 419(e), maintained by the employer, are treated as annual additions to a defined contribution plan.

c. Until such time as employee contributions become picked up pursuant to Internal Revenue Code Section 414(h)(2), the employee contribution shall be deemed to be a defined contribution plan, and the defined contribution plan fraction shall apply to limit contributions and benefits under this Section. If a member has made nondeductible employee contributions pursuant to the provisions of this system, the amount of such contributions shall be treated as an annual addition to a qualified defined contribution plan, for purposes of this Section.

6. The amount of annual additions which may be credited to the member's account for any limitation year shall not exceed the maximum permissible amount. Contributions and benefits under any other plan of the employer, to the extent that an adjustment is required to satisfy the requirements of this Section in the aggregate, shall be limited or reduced to the extent necessary to satisfy such requirement without reducing accrued benefits; however, only after such other plans have been modified shall the benefits and contributions under this plan be

reduced. As soon as it is administratively feasible after the end of the limitation year, the maximum permissible amount for the limitation year shall be determined on the basis of the member's actual compensation for the limitation year. If there is an excess amount, the excess shall be disposed of as follows.

a. Any nondeductible voluntary employee contribution, to the extent it would reduce the excess amount, shall be returned to the member.

b. If after the application of Subparagraph a of this Paragraph, an excess amount still exists, then any nondeductible mandatory contribution to the extent it would reduce the excess amount, shall be returned to the member.

c. If after the application of Subparagraph b of this Paragraph, an excess amount still exists, and the member is covered by the plan at the end of the limitation year, the excess amount in the member's account shall be used to reduce employer contributions, including any allocation of forfeitures, for such member in the next limitation year if necessary.

d. If after the application of Subparagraph b of this Paragraph, an excess amount still exists, and the member is not covered by the plan at the end of the limitation year, the excess amount shall be held unallocated in a suspense account. The suspense account shall be applied to reduce future employer contributions for all remaining members in the next limitation year, and each succeeding limitation year if necessary.

e. If a suspense account is in existence at any time during a limitation year pursuant to the provisions of this Section, it shall not participate in the allocation of the trust's investment gains and losses. If a suspense account is in existence at any time during a particular limitation year, all amounts in the suspense account shall be allocated and reallocated to members' accounts before any employer or any employee contributions may be made to the plan for that limitation year. Excess amounts shall not be distributed to members or former members.

7. *Excess Amount* of a member for a limitation year shall mean the excess of the member's annual additions for the limitation year over the maximum permissible amount.

8. The *Limitation Year* shall be the calendar year, or the 12 consecutive month period elected by the employer hereunder.

9.a. The Maximum Permissible Amount for a member for a limitation year shall be the maximum annual addition that may be contributed or allocated to a member's account under the plan for any limitation year and shall not exceed the lesser of:

i. the defined contribution dollar limitation;

ii. 25 percent of the member's compensation for the limitation year.

b. The compensation limitation provided for in Clause 9.a.ii. of Subparagraph a of this Paragraph, shall not apply to any contribution for medical benefits, within the meaning of Internal Revenue Code Sections 401(h) or 419A(f)(2), which is otherwise treated as an annual addition pursuant to Internal Revenue Code Sections 415(l) or 419A(d)(2).

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1931.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Parochial Employees' Retirement System, LR 30:

Family Impact Statement

The proposed adoption of LAC 58:XI.101-105, regarding Internal Revenue Code provisions applicable to the Parochial Employees= Retirement System, should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically, there should be no known or foreseeable effect on:

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

Any interested person may submit written data, views, arguments or comments regarding these proposed rules to Dainna S. Tully, Assistant Director, Parochial Employees= Retirement System by mail to P.O. Box 14619, Baton Rouge, LA 70898-4619. All comments must be received no later than 4:30 p.m., September 10, 2003.

Thomas B. Sims
Administrative Director
and
Dainna S. Tully
Assistant Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Internal Revenue Code Provisions

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

There will be no net estimated implementation costs or savings to state or local governmental units. R.S. 11:1931 requires that provisions relating to the tax-qualification status of the Parochial Employees' Retirement System be contained in rules and regulations. Previously, these rules were contained in repealed R.S. 11:1930, 1930.1, 1930.2, 1930.3 and amended and reenacted R.S. 11:1931, all of which are now adopted in these Rules and Regulations without any change.

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

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

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

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

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no estimated effect on competition or employment.

Dainna S. Tully
Assistant Director
0310#025

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Treasury Teachers' Retirement System

Management of DROP Accounts (LAC 58:III.503)

In accordance with R.S. 49:950 et seq., the Administrative Procedures Act, notice is hereby given that the Board of Trustees of Teachers' Retirement System of Louisiana approved an amendment to policies governing the Management of DROP Accounts, LAC 58:III.503 as follows.

Title 58 RETIREMENT

Part III. Teachers' Retirement System of Louisiana Chapter 5. Deferred Retirement Option Plan (DROP)

§503. Management of DROP Accounts

A. - B.2. ...

3. interest earnings will begin accruing the day after termination of DROP participation and will be compounded daily;

a. members eligible to enter DROP prior to January 1, 2004, will have interest deposited to their DROP accounts once a year when the actuarially realized rate of return is approved by the Public Retirement System's Actuarial Committee. This interest will be equal to the approved actuarially realized rate of return less an administrative fee. Interest deposits will reflect the interest earned on the account during the previous fiscal year and will be entered on quarterly statements issued after this approval is obtained. No interest will accrue on the DROP account after the date the account has been liquidated. No interest is paid on any interest only balance. *Liquidated* means all funds have been withdrawn from the DROP account except for the possible final interest earnings due but not yet posted;

b. members eligible to enter DROP on or after January 1, 2004, will have their DROP funds transferred to a Liquid Asset Money Market Account after the termination of DROP participation. Interest will be deposited monthly based on the interest earned on the Liquid Asset Money Market Account less an administrative fee. Final payouts of DROP accounts will have interest posted through the date of

the payment. Quarterly statements issued will reflect the interest earned and posted;

4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:739 and R.S. 11:786-791.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 18:621 (June 1992), repromulgated LR 24:500 (March 1998), amended LR 25:1655 (September 1999), LR 30:

Interested persons may comment on the proposed Rule in writing until 4:30 p.m., November 3, 2003, to Bonita B. Brown, Director, CPA, Teachers' Retirement System of Louisiana, P. O. Box 94123, Baton Rouge, LA 70804-9123.

Bonita B. Brown, CPA
Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Management of DROP Accounts

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

It is estimated that this Rule will cost TRSL approximately \$258,000 over the first few years of implementation, but will ultimately save TRSL money in the future. Interest rates on DROP/ILSB accounts will be controlled by liquid asset money market accounts, after January 1, 2004. Actuarial rates of return will no longer be used to compute interest accruals.

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

There is no effect on revenue collection of state and local governmental units.

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

TRSL members who join DROP, or who establish ILSB accounts may receive interest credit to their accounts sooner than they would have without the provision of Act 962. The interest to be accrued will be based upon interest paid by liquid asset money market accounts.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Bonita B. Brown, CPA
Director
0310#024

H. Gordon Monk
Staff Director
Legislative Fiscal Office