

Rules

RULE

Department of Agriculture and Forestry Horticulture Commission

Retail Florists (LAC 7:XXIX.102, 117 and 123)

In accordance with R.S. 49:953(A)(1)(a), notice is hereby given that the Horticulture Commission adopts amendments to its regulations. The amendments add a preamble to the definitions in the regulations, define floral design, clarify the wording of existing professional standards and requirements for retail florists, establish additional professional standards for retail florists, and consolidate into one Section professional and occupational requirements that were in two Sections.

These regulations comply with the statutory law administered by the Horticulture Commission and are enabled by R.S. 3:3801(F) and R.S. 3:3804(A).

Title 7

AGRICULTURE AND ANIMALS

Part XXIX. Horticulture Commission

Chapter 1. Horticulture

§102. Definitions

A. The words and terms defined in R.S. 3:3803 are applicable to this Chapter.

B. The following words and terms are defined for the purpose of enforcing the provisions of R.S. 3:3801 et seq.

* * *

Floral Design—an arrangement of cut flowers, ornamental plants, other living or freshly cut plant materials, or any combination thereof intentionally constructed so as to constitute a planned relationship among them.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3801 and R.S. 3:3804.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Horticulture Commission, LR 26:627 (April 2000), amended LR 33:1854 (September 2007).

§117. Professional and Occupational Standards and Requirements

A. Retail Florist

1. Professional Standards

a. All cut flowers, ornamental plants, and living or freshly cut plant materials sold or offered for sale must be fresh, of high quality, and free from injurious insects, diseases, and other pests. No plant material of low quality and no wilted or dead plant materials may be offered for sale to the general public or sold to a consumer except when specifically requested by the consumer.

b. Floral designs, cut flowers, ornamental plants, and living or freshly cut plant materials must be cared for in a manner that, to the extent reasonably possible, maintains their freshness and increases their longevity.

c. Coolers where floral designs, cut flowers, ornamental plants, or living or freshly cut plant materials, are kept or stored must be clean and maintained at a

temperature conducive to prolonging the freshness of the said products kept or stored in the coolers.

d. Containers holding cut flowers or living or freshly cut plant materials must be maintained in a manner that does not adversely affect the cut flowers or plant material. Water in containers must be changed periodically so as to remain clean at all times.

e. Floral designs shall be prepared in a good and workmanlike manner and shall satisfy the consumer's requests that are objective in nature. All reasonable efforts should be made to satisfy the consumer's requests that are subjective in nature. All floral designs must be constructed in such a manner as to remain intact during transportation.

f. All wires, steel picks, corsage pins, and other sharp objects employed in the construction of a floral design must be used in a manner that will maintain the integrity of the floral design while minimizing the risk of injury to any person handling the floral design.

g. Compliance with equivalent procedures and techniques set forth in James L. Johnson, William J. McKinley, Jr. and M. Buddy Benz, *Flowers: Creative Design* (San Jacinto Publishing Co. 7th ed. 2001; distributed by Texas A&M Univ. Press) will establish a rebuttable presumption of compliance by the licensee with these professional standards.

2. Requirements

a. Retail florist shops that lose their licensed florist will be granted a grace period of 90 days of operating without the services of a full-time licensed florist. This grace period shall end 90 days from that date. The purpose of this grace period is to provide the florist shop an opportunity to employ a licensed person. This grace period can only be used once in a 12-month period. Retail florist shops shall cease to engage in the profession of retail florist after the grace period has been exhausted. In the event a retail florist shop, despite reasonable prevention efforts, loses its only or only remaining regularly employed licensed retail florist, the florist shop must replace the regularly employed licensed retail florist as soon as possible but in no event more than 90 days from the first day the retail florist shop operated without a regularly employed licensed retail florist. Notwithstanding the foregoing, no retail florist shop shall operate without a regularly licensed retail florist for more than a total of 90 days in any 12-month period that follows the first day of operation without a regularly employed licensed retail florist.

b. Retail florists may rent potted ornamental plants for special events such as weddings, conventions, trade shows, etc., if such plants are normally and customarily sold by florists and such plants do not require maintenance, other than normal watering. Plants rented by retail florists for a special event shall be rented only for the duration of that special event.

B. Landscape Architect

1. - 5.h. ...

C. Wholesale Florist

1. - 3. ...

- D. Horticulturist
 - 1. - 5. ...
- E. Arborist
 - 1. - 9. ...
- F. Landscape Contractor
 - 1. - 6. ...
- G. Nursery Stock Dealer
 - 1. - 6. ...
- H. Cut Flower Dealer
 - 1. - 3. ...

4. The restriction against a cut flower dealer locating within 300 feet of an established retail florist shall not apply to cut flower dealers in permanent locations. In addition, cut flower dealers operating from a mobile unit shall not sell cut flowers, within 300 feet of place of business that holds a cut flower dealer's permit.

- I. Utility Arborist
 - 1. - 5. ...
- J. Landscape Irrigation Contractor
 - 1. - 4. ...

5. The following clarifications apply to licensed landscape irrigation contractors.

a. A licensed landscape irrigation contractor is not required to have a water supply protection specialist endorsement from the State Plumbing Board in order to install an irrigation system up to the point of connecting the irrigation system to a public or private water supply system or installing a backflow prevention device.

b. A licensed landscape irrigation contractor shall also have a water supply protection specialist endorsement from the State Plumbing Board before connecting any irrigation system to a public or private water supply system or installing a backflow prevention device, pursuant to R.S. 3:3808(P)(4), (5).

c. A governing authority, such as a parish or municipality, shall issue all necessary permits, including necessary electrical permits, to a licensed landscape irrigation contractor who does not hold a water supply protection specialist endorsement for the installation of an irrigation system, except for those permits that would allow such a licensed landscape irrigation contractor to connect the irrigation system to a public or private water supply system or install a backflow prevention device.

d. A governing authority, such as a parish or municipality shall issue all necessary permits to a licensed landscape irrigation contractor who holds a water supply protection specialist endorsement from the State Plumbing Board for the installation of an irrigation system, including necessary electrical permits and those permits that would allow such a licensed landscape irrigation contractor to connect the irrigation system to a public or private water supply system or install a backflow prevention device.

e. A licensed landscape irrigation contractor who also holds a water supply protection specialist endorsement from the State Plumbing Board is required by R.S. 3:3816(6) to install backflow prevention devices in accordance with ordinances adopted by local governing authorities, such as parishes and municipalities, regulating the installation of backflow prevention devices. If a local governing authority does not have an ordinance regulating the installation of backflow prevention devices, such devices shall be installed

in accordance with the requirements of Part XIV (Plumbing) of the Sanitary Code, State of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3808, and R.S. 3:3801.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:185 (April 1982), amended LR 9:410 (June 1983), LR 11:317 (April 1985), amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 14:8 (January 1988), LR 20:640 (June 1994), LR 27:1832 (November 2001), LR 31:1054 (May 2005), LR 32:78 (January 2006), LR 32:1010 (June 2006), LR 33:1854 (September 2007).

§123. Clarifications

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3808 and R.S. 3:3801.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:187 (April 1982), amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 31:1054 (May 2005), repealed LR 33:1854 (September 2007).

Bob Odom
Commissioner

0709#020

RULE

**Department of Agriculture and Forestry
Office of Agriculture and Environmental Sciences**

**Restriction on Application of Certain Pesticides
(LAC 7:XXIII.143)**

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, amends existing regulations for the implementation of regulations governing the use of the pesticide 2, 4-D and products containing 2, 4-D.

The applications of 2, 4-D in certain parishes, in accordance with the current regulations and labels, have not been sufficient to control drift onto non-target areas. Failure to prevent the drift onto non-target areas will adversely affect other crops, particularly cotton. The adverse effects to the cotton crop and other non-target crops will cause irreparable harm to the economy of central Louisiana and to Louisiana agricultural producers.

The department has, therefore, determined that these Rules implement further restrictions on the application of 2, 4-D, and products containing 2, 4-D.

This Rule complies with and is enabled by R.S. 3:3203.

Title 7

AGRICULTURE AND ANIMALS

Part XXIII. Pesticides

Chapter 1. Advisory Commission on Pesticides

Subchapter I. Regulations Governing Application of Pesticides

§143. Restrictions on Application of Certain Pesticides

A. In addition to all other pesticides classified by EPA as restricted use pesticides, the pesticides listed in §143.B are classified as restricted use pesticides within the state of Louisiana, except:

1. when formulated in concentration of 2 percent or less; or
2. when formulated with fertilizer for use by homeowners; or
3. when formulated in containers of 1 quart or less or 2 pounds dry weight or less.

B. - O. ...

P. Regulations Governing Aerial Applications of 2, 4-D or Products Containing 2, 4-D

1. Registration Requirements

a. Prior to making any commercial aerial or ground application of 2, 4-D or products containing 2, 4-D, as described in LAC 7:XXIII.143.P.3.a.i, the owner/operator must first register such intent by notifying the Louisiana Department of Agriculture and Forestry, Division of Pesticides and Environmental Programs ("DPEP") in writing.

b. All permits and written authorizations of applications of 2, 4-D or products containing 2, 4-D in the areas listed in LAC 7:XXIII.143.P.3.a.i., shall be a part of the record keeping requirements, and be in the possession of the owner/operator prior to application.

2. Grower Liability. Growers of crops shall not force or coerce applicators to apply 2, 4-D or products containing 2, 4-D to their crops when the applicators, conforming to the Louisiana Pesticide Law and rules and regulations promulgated there under or to the pesticide label, deem it unsafe to make such applications. Growers found to be in violation of this Section may be subject to a stop order, subject to an appeal to the Advisory Commission on Pesticides.

3. 2, 4-D or Products Containing 2, 4-D

a. Application Restriction

i. Aerial application of 2, 4-D or products containing 2, 4-D is limited to only permitted applications annually between April 3 and May 1 in the following parishes: Allen (East of U.S. Highway 165 and North of U.S. Highway 190), Avoyelles (West of LA Highway 1), Evangeline, Pointe Coupee (West of LA Highway 1 and North of U.S. Highway 190), Rapides, and St. Landry (North of U.S. Highway 190).

ii. Applications of 2, 4-D, or products containing 2, 4-D, shall not be made in any manner by any commercial or private applicators between May 1 and August 1 in the areas listed in LAC 7:XXIII.143.P.3.a.i., except commercial applications of 2, 4-D or products containing 2, 4-D is limited to only permitted applications annually between May 1 and August 1 in the area south of LA Highway 104 and LA Highway 26 and north of U.S. Highway 190 between U.S. Highway 165 and LA. Highway 13 in the parishes of Allen and Evangeline, and except upon written application to and the specific written authorization by the Assistant Commissioner of the Office of Agricultural and Environmental Sciences, or in his absence the Commissioner of Agriculture and Forestry.

4. Procedures for Permitting Applications of 2, 4-D or Products Containing 2, 4-D

a. Prior to any application of 2, 4-D, or products containing 2, 4-D, a permit shall be obtained in writing from DPEP. Such permits may contain limited conditions of applications and shall be good for five days from the date

issued. Growers or commercial ground or aerial applicators shall obtain permits from DPEP. Commercial ground and aerial applicators shall fax daily to DPEP all permitted or written authorized applications of 2, 4-D or products containing 2, 4-D. The faxed information shall include but not be limited to the following:

- i. wind speed and direction at time of application;
- ii. temperature at time of application;
- iii. field location and quantity of acreage;
- iv. time of application;
- v. grower name, address and phone number;
- vi. owner/operator firm name, address and phone number;
- vii. applicator name, address, phone number and certification number;
- viii. product name and EPA registration number;
- ix. any other relevant information.

b. The determination as to whether a permit for application is to be given shall be based on criteria including but not limited to:

- i. weather patterns and predictions;
- ii. wind speed and direction;
- iii. propensity for drift;
- iv. distance to susceptible crops;
- v. quantity of acreage to be treated;
- vi. extent and presence of vegetation in the buffer zone;
- vii. any other relevant data.

5. Monitoring of 2, 4-D or Products Containing 2, 4-D

a. Growers or owner/operators shall apply to the DPEP, on forms prescribed by the commissioner, all requests for aerial applications of 2, 4-D or products containing 2, 4-D.

b. All owner/operators and private applicators shall maintain a record of 2, 4-D or products containing 2, 4-D applications.

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

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

Bob Odom
Commissioner

0709#021

RULE

**Department of Education
Board of Regents**

Proprietary Schools (LAC 28:III.Chapters 1-21)

In accordance with the Administrative Procedure Act, R.S. 17:3141 et seq., the State Board of Regents has amended LAC 28, Part III, Proprietary Schools.

**Title 28
EDUCATION**

Part III. Proprietary Schools

Chapter 1. General Provisions

§101. Citation and Abbreviation

A. These rules and regulations of the Board of Regents ("Board") govern the licensing and monitoring of proprietary schools operating in Louisiana upon the recommendation and advice of the Proprietary Schools Advisory Commission ("Commission").

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3141.3(D)(2) and (E).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:1857 (September 2007).

§103. Definitions

Proprietary Schools, hereinafter referred to as "school"—any business enterprise operated on a profit or on a nonprofit basis which maintains a place of business within this state, or which sells or offers for sale any course of instruction in this state, either by correspondence using the mails or by any other means of communication, or by personal solicitation, at which place of business such course or course of instruction or study is available through classroom instruction, or both, to a person or persons for the purpose of training or preparing such person(s) for a field of endeavor in a business, trade, technical, or industrial occupation, except as hereinafter excluded. For purposes of this definition, a school that sells or offers for sale any course of instruction in this state through the internet or by correspondence is deemed a school only if it is also domiciled in the state or has a physical presence in the state. Physical presence shall include a mailing address in the state, a solicitor recruiting students in the state, or actual facilities in the state. The definition of a school shall not include:

1. a school or educational institution supported entirely or partly by public funds from either a local or state source. This provision only exempts from the board's regulation those schools that derive direct and significant support from public funds (such as through direct appropriation, and not schools that derive indirect benefit from public funds, such as through contractual payments from governmental agencies);

2. a parochial, denominational or eleemosynary school or institution that provides religious training or theological education; however, any such school or institution that also offers training in a secular field of endeavor shall be subject to the provisions of this Chapter;

3. a school or training program which offers instruction primarily in the field of recreation, health, entertainment or personal enrichment and which does not purport to prepare or qualify persons for employment as determined by the commission;

4. a course or courses of instruction or study sponsored by an employer exclusively for the training and preparation of its own employees when the employer is not primarily engaged in the business of selling or offering course of instruction or study. This includes those businesses that engage in contract training exclusively, and where admission/enrollment is not available to the general public;

5. a course or courses of study or instruction sponsored by a recognized trade, business or professional

organization for the instruction of the members of such organization;

6. private colleges and universities which only award a baccalaureate or higher degree and which maintain and operate educational programs for which academic credits are given;

7. a private school which provides a basic academic education comparable to that provided in the public schools of the state;

8. a school offering a program only for children under six years of age;

9. a school which is otherwise regulated and licensed under the laws of this state;

10. a private tutor, teacher or individual engaged in giving private tutoring or lessons to five persons or less in non-school connected activities severed from the regular curriculum of a school as determined by the commission;

11. a day camp;

12. a training program that does not have attendance requirements in place for persons taking the courses and which offers for sale only non-sequential and non-continuous courses of one week duration or less which do not exceed 20 hours of training;

13. a manufacturer-certified training center that offers, at no additional charge to the person receiving training, manufacturer-authorized training that is included as part of the manufacturer's pricing package to prepare persons for certification conferred by the manufacturer and that uses course equipment and materials which are developed and sold by the manufacturer and course instructors and facilities which are certified by the manufacturer;

14. a school or business enterprise which offers instruction to prepare students for tests which are required for entry into a post secondary program of study; or

15. a business which engages in contract training and is reimbursed by the business.

Branch School—a separate facility established by a main school, under the main school's management, control and supervision. The branch may offer full student services and is under the supervision of a designated on-site employee responsible for the day-to-day operation of the branch. Each branch school shall be separately licensed and bonded.

Commission Staff—the staff of the board's Proprietary Schools Section, authorized to aid in the administration of the commission's functions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3141.2(5).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:1857 (September 2007).

§105. Proprietary Schools Law and the Administrative Procedure Act Incorporated

A. R.S. 17.3141.1 et seq., inclusive, known as the Proprietary Schools Law, and R.S. 49:951 et seq., known as the Administrative Procedure Act, in their currently existing form and as may be amended, are hereby incorporated herein. All remedies and procedures available to the public under these laws, as they pertain to this commission, are hereby made available herein as rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3141.1, R.S. 49:954.1(A), R.S. 17:3141.3(E).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:1857 (September 2007).

§107. Computation of Time

A. In computing a period of time allowed or prescribed by these rules, by law or by order of the commission or of court, the date of the act, event, or default after which the period begins to run is not to be included. The last day of the period is to be included, unless it is a legal holiday or a day of the weekend, in which event the period runs until the end of the next day, which is not a legal holiday or a day of the weekend.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3141.3(E), La. C.C.P. art. 5059.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:1858 (September 2007).

Chapter 3. Procedures

Subchapter A. General Procedural Rules

§301. Initiation of Proceedings

A. Proceedings. Proceedings for the adoption, amendment, or repeal of a rule may be commenced by the board or commission upon its own initiative or pursuant to reasonable grounds therefore. The commission however, shall initiate procedures to adopt, amend or repeal a rule whenever the attorney general requests same.

B. Process for Initiation. Any interested person may petition the commission requesting the adoption, amendment, or repeal of a rule. The petition shall be filed in the office of the commission located at the Claiborne Building, the Louisiana Board of Regents, Proprietary Schools Section, 1201 N. Third St., Suite 6-200, Baton Rouge, LA 70802 or P.O. Box 3677, Baton Rouge, LA 70821, or such other address in the event the commission relocates, at any time during normal office hours, from 8 a.m. to 4:30 pm, except for legal holidays and the weekend. Within 90 days after submission of a petition, the commission shall either deny the petition in writing stating reasons for the denial, or shall initiate rule-making proceedings in accordance with these rules. Any person whose petition is not deemed by the commission sufficient to warrant the holding of a rule-making proceeding will be promptly notified of that determination and may be given an opportunity to submit additional data.

C. Investigations and Conferences. In connection with any rule-making proceedings, the commission at any time may conduct such investigations, make such studies, and hold such conferences as it may deem necessary.

D. Notice. Prior to the adoption, amendment, or repeal of any rule, the commission shall give notice of its intended action in accordance with R.S. 49:953(A)(1). The notice shall include a statement of either the terms or substance of the intended action or a description of the subjects and issues involved, and the time when, the place where, and the manner in which interested persons may present their views thereon. The notice shall be mailed to all persons who have made a timely request of the agency for advance notice of its rule-making proceedings and shall be published at least once in the official state journal.

E. Opportunity to be Heard. Prior to the adoption, amendment, or repeal of any rule, the commission shall afford all interested persons reasonable opportunity to submit data, views, or arguments, orally or in writing, in accordance with R.S. 49:953(A)(2).

F. Emergency Rules. If the commission finds that an imminent peril to the public health, safety, or welfare requires adoption of a rule upon shorter notice than that provided above, it may proceed to adopt emergency rules in accordance with R.S. 49:953(B). The emergency rule thus adopted may be effective for a period not to exceed 60 days, but the adoption of an identical rule otherwise under these rules is not precluded.

G. Filing, Publication and Effective Date of Rule. The commission shall file with the Office of State Register a certified copy of any rule or regulation adopted upon the completion of a rule-making proceeding and publish the same in the official state journal in accordance with R.S. 49:954. Such rules or regulations shall become effective pursuant to R.S. 49:954(B).

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:953, R.S. 49:954.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:1858 (September 2007).

Subchapter B. Pleadings

§303. Petition to Adopt, Amend or Repeal a Rule

A. Petition to Adopt, Amend, or Repeal a Rule

1. A petition to adopt, amend, or repeal a rule shall be typed or printed on either standard letter size bond paper or on standard legal size bond paper;

2. the petition shall be dated and shall contain the following:

a. the title of the pleading (i.e., "petition");

b. the names of the petitioners;

c. the names of representatives and legal counselors of such petitioners (if applicable);

d. all pertinent allegations of fact, data, views, arguments and reasons supporting the action sought by the petition;

e. a statement or prayer expressing the exact action sought by the petition; and

f. the signatures of all petitioners, if individual, natural persons, or the signatures of duly qualified representatives of petitioner, if a governmental agency or subdivision or an association of persons;

3. the petition, in setting forth all pertinent allegations of fact, data, views, arguments, and reasons supporting the action sought by the petition, shall contain separate, numbered paragraphs, one for each fact, data, view, argument, and reason set forth;

4. the petition, in expressing the exact action sought by it, shall cite and quote the rule to be adopted, amended, or repealed; and if a rule is sought to be amended, the petition shall quote the rule as it would read after amendment, if it were in fact amended; and

5. only substantial compliance is necessary to meet the requirements of form, and to that end, the provisions of this section shall be liberally construed in favor of accepting the petition.

B. Other Pleadings. Pleadings of any type may be submitted to the commission. They shall be similar in form to that of petitions, except that they may exclude those things peculiar to petitions and shall include those things to which they pertain.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:953.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:1858 (September 2007).

Subchapter C. Citation and Production of Evidence for Rule-Making Procedures

§305. Voluntary Submission of Evidence

A. Any interested person may voluntarily submit evidence, testimonial or real, to the commission, such evidence being relevant and material to any issue involved in the adoption, amendment or repeal of any rule, to the corroboration of or to the unreliability or inaccuracy of any witness or other source of evidence submitted, or to the credibility or non-credibility of any witness or other source of evidence submitted, in the same form and manner as otherwise provided herein or by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:953.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:1859 (September 2007).

Subchapter D. Public Hearings

§307. Adjudication

A. Process. In any matter defined as adjudication in R.S. 49:951(1), notice shall be given, hearings held and a decision or order issued, all in accordance with the procedures provided for adjudications in R.S. 49:955-961. Upon the conclusion of the hearing and consideration of all evidence presented, the commission shall submit a recommended decision or order to the board for board approval.

B. Rules of Evidence

1. The commission may admit and give probative effect to evidence which possesses probative value and which is commonly accepted by reasonably prudent men in the conduct of their affairs. It shall give effect to the rules of privilege recognized by law. It shall exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written form;

2. all evidence, including records and documents in the possession of the commission of which it desires to avail itself, shall be offered and made a part of the record, and all such documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference. In case of incorporation by reference, the materials so incorporated shall be available for examination by all interested persons before being received in evidence; and

3. notice may be taken of judicially recognizable facts. In addition, notice may be taken of generally recognized technical or scientific facts within the commission's specialized knowledge. All persons who have shown an interest therein shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material noticed, including any staff memoranda or data, and they shall be afforded an opportunity to contest the material so noticed. The commission's experience, technical competence, and specialized knowledge may be utilized in the evaluation of the evidence.

C. Admission of Depositions. The presiding officer or any person interested in a proceeding before the commission may take the depositions of witnesses, within or without the state, in the same manner clothed with all the formalities as

provided by law for the taking of depositions. Depositions so taken shall be admissible in any proceeding affected by this Chapter. The admission of such depositions may be objected to at the time of hearing and may be received in evidence or excluded from the evidence by the presiding officer in accordance with the rules of evidence provided in this Chapter above.

D. Reopening Hearing and Rehearings. The commission may reopen any hearing for good cause shown, and may grant a rehearing in accordance with R.S. 49:959.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:955, R.S. 49:956, R.S. 49:959.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:1859 (September 2007).

Subchapter E. Declaratory Orders and Rulings

§309. Declaratory Orders and Rulings

A. The commission shall consider petitions for a declaratory order or ruling as to the applicability of any statutory provision or of any rule or order of the board, submitted pursuant to R.S. 49:962, hold hearings if necessary, and submit a recommended declaratory order or ruling. A petition for a declaratory order or ruling shall contain:

1. the title of the pleading (e.g., "Petition for Declaratory Order");
2. the names of the petitioners;
3. the names of representatives and legal counselors of such petitioners (if applicable);
4. a concise statement of the issue posed, along with citations to the statute, rule or order at issue;
5. a clearly organized statement of all pertinent allegations of fact and data, and if the petitioner takes a specific position on the issue, the arguments and reasons supporting such position;
6. a statement or prayer expressing the exact action sought by the petition;
7. the signatures of all petitioners, if individual, natural persons, or the signatures of duly qualified representatives of petitioner, if a governmental agency or subdivision or an association of persons; and
8. only substantial compliance is necessary to meet the requirements of form, and to that end, the provisions of this section shall be liberally construed in favor of accepting the petition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:962.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:1859 (September 2007).

Chapter 5. License Requirements

§501. Applications

A. General

1. All applications must comply with the provisions of R.S. 17:3141.4, as well as any applicable provisions of these regulations. All applications concerning licenses are to be submitted to the commission at the following address or such other address in the event the commission relocates:

Louisiana Board of Regents
Proprietary Schools Section
Post Office Box 3677
Baton Rouge, LA 70821-3677

2. All applicable fees, as provided below, must be by company, institutional, certified check, or by money order and must be made payable to the "Louisiana Board of

Regents", with the exception of the Student Protection Fund which is to be made payable to the "Student Protection Fund." Except for overpayments toward the Student Protection Fund, no portion of any license fee shall be subject to refund.

B. Initial Application and License Fee. The initial license application fee shall be \$2,000. A payment of \$1,000 toward the student protection fund must be paid along with the license fee.

C. Renewal Application and Fee

1. The annual renewal application fee is based on the school's gross tuition revenues for the previous year as follows:

- a. under \$50,000—\$500;
- b. \$50,000 and up—greater of \$1,000 or 0.25 percent of gross tuition income.

2. If a complete license renewal application is not received at least 30 days prior to its expiration date, in addition to the renewal fee, there shall be a delinquent fee of \$500. In addition to the renewal application fee and any delinquent fee, a payment to the Student Protection Fund, if applicable, must be made in accordance with R.S. 17:3141.16.

D. License Fee for Solicitors. The annual license fee for each solicitor/sales representative of a school shall be \$100.

E. Reinstatement Licensure Fee. The reinstatement licensure fee for a suspended school shall be \$500.

F. Change of Ownership Application and License Fee. All changes of ownership are contingent upon approval from the board. Applications for a new license must be requested within 10 days of the change of ownership. No license shall be transferable. The application fee is \$2,000. A payment of \$1,000 toward the student protection fund must be made along with the application fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3141.4, R.S. 17:3141.9(A)(1).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:1859 (September 2007).

§503. Student Protection Fund

A. First Payment. Initial (new) schools and change-of-ownership schools shall be required to submit their first payment of \$1,000 made payable to the "Student Protection Fund" with their application.

B. Annual Payment. The required annual payments, if applicable, to the Student Protection Fund shall be collected based on the schedule provided in R.S. 17:3141.16.

C. Collection Schedule. Annual payments shall cease when the fund accumulates to \$800,000 but shall resume when the fund drops below \$750,000.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3141.16.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:1860 (September 2007).

§505. Affidavits

A. Applications and renewal applications must be accompanied by affidavits (PSC-9 Form) by each owner, director, instructor, and all office and clerical personnel, unless previously approved, and Solicitor Permit Applications (PSC-4 Form) by each solicitor containing the information prescribed by Subsection C(11) or R.S. 17:3141.1 (for solicitor renewal, see Section 703). In the case of office and clerical personnel, in lieu of the affidavits of such personnel, the owner may submit an affidavit setting

forth the information prescribed by Subsection C(11) of R.S. 17:3141.4 concerning such personnel. Such information shall be based on the owner's investigation and knowledge. For solicitor renewal, see Section 703.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3141.4(D).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:1860 (September 2007).

§507. Surety Bond

A. Each license application must be accompanied by a surety bond in the amount of \$10,000 issued by a surety authorized to do business in Louisiana. The bond must meet the requirements set forth in R.S. 17:3141.5 and the PSC-3 Form. Bond releases and terminations shall be as provided in R.S. 17:3141.5(D) and (E), and suspension of operating license for lack of surety bond coverage is governed by R.S.17:3141.5(F). A school may be exempted from filing a surety bond if it meets all of the following requirements:

1. does not require students to pay tuition for course of study more than one month in advance;
2. has been in continuous operation for at least five years; and
3. has met all the requirements of the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3141.5(D), R.S. 17:3141.5(E).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:1860 (September 2007).

§509. Other Provisions Concerning License

A. A license shall be valid only for the school and shall not include other schools or branches operated by the owner. Each separate location or branch school shall be licensed and bonded. No new courses shall be offered by any school holding a license until it is approved by the commission staff in accordance with procedures to be established by the commission.

B. Each license must be displayed on the premises. No license shall be transferable. In the event of a change of ownership of the school, the license shall be revoked unless the new owner, within 10 days after the change of ownership, requests an application for a license to operate the school.

C. Any person who contemplates the purchase of a school may apply for a license. If the board grants such a license, it shall become a valid license only upon completion of the proposed sale.

D. All licenses shall be renewed annually, not less than 30 days prior to expiration date thereof. Updated information must contain all changes in staff, school programs, etc., including all additions and deletions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3141.5(B)(C).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:1860 (September 2007).

§511. Denial of Recommendation of License and Commission Hearing

A. If the commission or commissioner recommends the denial of a license, the commission shall hold a hearing upon the applicant's request, as provided in R.S. 17:3141.6. The applicant may appear in person or by counsel and may present evidence in support of granting the license. The decision or order resulting from a hearing before the commission is subject to rehearing, reopening, or reconsideration by the commission within 10 days from the

date of its entry on the grounds set forth in R.S.49:959 and in accordance with the procedures therein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3141.6.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:1860 (September 2007).

§513. Revocation of License

A. Licenses may be revoked by the board in accordance with the standards and procedures set forth in R.S.17:3141.8 and statutory and regulatory provisions applicable thereto.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3141.8.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:1861 (September 2007).

Chapter 7. Personnel Affidavits/Permits

§701. Completion of Affidavits by Non-Instructional Personnel/Instructional Personnel

A. Completion of Affidavit by Non-Instructional Personnel

1. An affidavit (PSC-9 Form) containing the following information must be submitted by the owner of each school (if a corporation, by each officer and by each director) and by each staff person, except solicitors:

a. full name and address of said person and the capacity in which he/she serves the school;

b. the city, parish/county, and state of said person's permanent residence and places of residence for the past five years;

c. the names and addresses of said person's employer or employers for the past five years;

d. whether or not said person has ever been convicted of a felony for a crime involving fraud or any misdemeanor other than a traffic violation; and

e. three persons who may be contacted concerning such person's good moral character.

2. In the case of office and clerical personnel, in lieu of affidavits by the office and clerical personnel, the owner may submit the information in the form of an affidavit by the owner, based on the owner's investigation and knowledge. (Refer to §505.)

B. Completion of Affidavit by Instructional Personnel

1. An affidavit (PSC-9 Form) containing the following information must be submitted by each person who will be serving as an instructor at the school:

a. full name and address of said person and the capacity in which he/she serves the school;

b. the names and addresses of said person's employer or employers for the past five years; and

c. three persons who may be contacted concerning such person's good moral character.

2. Minimum qualifications of an instructor include the following:

a. an instructor in an academically-credentialed area shall have a baccalaureate degree from a bonafide, accredited college or university, and demonstrate appropriate familiarity with the subject matter taught as evidenced by an academic transcript and/or occupational experience;

b. an instructor, in other than an academically-credentialed area, shall have a high school diploma or its equivalent; a license, diploma, certificate, or other degree from a recognized institution or organization in the area taught; and four years of documented occupational experience in the area taught;

c. as used in this Subsection, a "recognized institution or organization" shall mean any bonafide, licensed, chartered or traditionally accredited business or association legally engaged in commerce, education, training, or advocacy. Recognized institutions or organizations shall include, but not be limited to, governmental agencies, labor unions, trade and professional corporations, and retail, financial, and commercial entities. The commission shall reserve the right to use all reasonable means in verifying the validity of credentials;

d. at the board's discretion, the minimum four years experience required for instructors may be waived for those disciplines where teaching credentials are officially certified, licensed, or otherwise approved or granted by a federal agency; and

e. employees employed prior to May 30, 1989 will be exempted from occupational experience.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3141.8.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:1861 (September 2007).

§703. Solicitor Application, Bonds, Renewal, Denial, and Revocation

All forms are prepared and provided by the Commission Staff.

A. Permits and Applications. No person shall sell any course of instruction or solicit students therefore in Louisiana for any school unless he has obtained a solicitor's permit from the commission. A separate permit is required for each school the solicitor represents. A separate application (PSC-4 Form) with required fee and bond must be submitted for each permit sought (i.e., for each school to be represented).

Louisiana Board of Regents
Proprietary Schools Section
Post Office Box 3677
Baton Rouge, LA 70821-3677

B. Bonds. Surety bonds for permits must be in the amount of \$1,000 for each permit issued. The bond must be continuous and must be issued by a solvent surety authorized to do business in Louisiana (see PSC-5 Form). The bond may be supplied as a blanket bond by a school covering each agent, \$1,000 in amount for each agent. This bond is set forth in PSC-6 Form. If a surety cancels a bond (as provided in R.S. 17:3141.9B) then a substitute bond (meeting all conditions for the original) must be furnished and the solicitor's permit shall be in a state of suspension for any period of time not covered by a proper bond.

C. Renewals. Each permit is valid for one year from date of issuance unless revoked and must be renewed not less than 30 days prior to expiration date. At the time of renewal, the owner/director must submit a PSC-4 Form, (unless the owner/director submits written notification of continued employment of solicitor); a \$100 renewal fee (made payable to the "Louisiana Board of Regents"); and proof of continuous bond coverage.

D. Denial of Permits. The commission may deny recommendations of issuance of a permit when proper grounds exist therefore. The procedures in such cases shall be in accordance with the applicable provision of R.S. 17:3141.1-3141.14 and R.S. 49:951-966.

E. Revocation of Permits. A permit may be revoked for any of the causes set forth in R.S. 17:3141.11. Notice of contemplated revocation must be given in writing at least

30 days prior to the effective date of revocation. At any time within 30 days prior to the revocation, upon request of the solicitor, the commission shall afford the solicitor an opportunity to be heard in person or by counsel. On or before 30 days prior to the date set for hearing, the commission shall notify the aggrieved solicitor of the date and purpose of the hearing and the grounds for the contemplated revocation of the permit. The procedure for revocation shall be in accordance with those prescribed by R.S. 49:951-966 and by R.S.17:3141.1-14 as applicable to such action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3141.3(E), R.S. 17:3141.8, R.S. 17:3141.9.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:1861 (September 2007).

Chapter 9. Proprietary Schools Applications

§901. Initial License or Change of Ownership

A. Please refer to the PSC-14 Form, Proprietary Schools License Requirements Checklist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3141.4, R.S. 17:3141.5.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:1862 (September 2007).

§903. License Renewal

A. Renewal letters are mailed to the school owners annually. A license renewal application must be received in this office 30 days prior to the license expiration. If it is not, there shall be a \$500 delinquent fee. Failure to furnish all the renewal information prior to the license expiration date will cause the license to expire. There can be no exceptions or any other extension. The following paperwork must be submitted:

1. a completed PSC-1 Form;
2. the original verification from the bonding company that the surety bonds (\$10,000 for school and \$1,000 per solicitor) are still in effect must accompany the renewal application. The premium period must coincide with the school's licensure period. For example, August 26, 2006-August 26, 2007;
3. a completed PSC-12 form;
4. the renewal fee based upon the school's previous year's gross tuition revenues. The check is to be made payable to the "Louisiana Board of Regents." Refer to the PSC-12 form;
5. financial statements:
 - a. for those schools which participate in Title IV funding, an original set of financial statements that have been audited by an independent Certified Public Accountant licensed in the state of Louisiana, including a current balance sheet and an income statement showing gross tuition receipts for the school's last fiscal year, and in the case of a corporation, signed by an officer of the corporation, sole proprietorship or partnership, signed by the owner(s) or a duly authorized agent acting on behalf of the owner(s), stating that it is true and correct; and
 - b. for those schools which do not participate in Title IV funding, an original set of financial statements that have been reviewed by a Independent Public Accountant licensed in the state of Louisiana, including a current balance sheet and an income statement showing gross tuition receipts for the school's last fiscal year, and in the case of a corporation or sole proprietorship or partnership, signed by the owner(s)

or a duly authorized agent acting on behalf of the owner(s) stating that it is true and correct;

6. an internal compilation reflecting the school's most recent quarter, if the audit/review submitted with the renewal materials, reflects a business year that ended more than 120 days prior to the submission of the renewal materials;

7. a completed PSC-18 Form reflecting the application date listed on the PSC-1 Form;

8. a completed PSC-4 Form for any new solicitor employed with the school. The initial and/or renewal fee is \$100 per solicitor is to be made payable to the "Louisiana Board of Regents";

9. a completed PSC-9 Form on all instructors and staff employed since the last school renewal, unless previously approved during the year;

10. a current school catalog;

11. a current copy of the Enrollment Agreement/Enrollment Contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3141.4, R.S. 17:3141.5.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:1862 (September 2007).

§905. Associate in Occupational Studies (AOS) Degree Application

A. Requirements. An eligible post-secondary school may award a non-academic degree entitled "The Associate in Occupational Studies."

1. The school must be licensed by the board, domiciled in the state of Louisiana, and accredited by a regional or national accrediting agency recognized by the United States Department of Education.

B. The board shall revoke the degree-granting status of any post-secondary school that loses or withdraws its accreditation.

C. No school shall be licensed to award the Associate of Arts or Associate of Science. All advertising, recruiting, and publications shall state clearly that such occupational degree awarded by a post-secondary school is non-academic and does not imply, promise, or guarantee transferability.

D. Each student admitted to an occupational degree program in an accredited post-secondary school shall be required to:

1. have a high school diploma or equivalent; and
2. complete a minimum of two years, four semesters, or six quarters of course work for each occupational degree program.

E. Each AOS degree program shall have a minimum of 75 percent of its course of study in a specific occupational area.

F. Each course of study shall have a minimum of 96 quarter hours if using quarter hours, a minimum of 1800 clock hours if using clock hours, and a minimum of 64 semester hours if using semester hours.

G. Application Enclosures. Enclose one original and eight copies, in binders with tabs, of the following:

1. a completed PSC-1 Form, including the title of the proposed AOS degree program;
2. the completed PSC-11 Form;
3. a blank copy of the diploma that would be awarded upon successful completion of the AOS degree program;
4. a detailed program outline including subject numbers, subject titles, clock hours, quarter hours or

semester hours (whichever is used for each subject), and total clock hours, quarter hours, or semester hours (whichever is used for each program);

5. a description of each subject listed on the outline; and

6. an inventory list of equipment/supplies/furnishings available for the AOS degree program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3141.15.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:1862 (September 2007).

Chapter 11. Student Protection Fund

§1101. Policies and Procedures

A. Student Protection Fund Policy

1. The Student Protection Fund is administered by the board and the commission; shall be subjected to audit and review by the Legislative Auditor's Office.

2. Required refunds due from the Student Protection Fund will be provided on a pro rata basis, or other means as appropriate. Prior to any funds being released from the Student Protection Funds, the school's surety bond must be exhausted.

3. For students that have loans, the administrator of the Student Protection Fund will enter into an agreement with the state guaranty agency that any refunds will be allocated as follows:

a. present holder of the loan, whether lender or LOSFA, and any remaining balance to the borrower;

b. for students without loans, appropriate tuition repayment.

4. Administration of the Student Protection Fund is subject to review by the U.S. Department of Education and the state guaranty agency:

a. the commission staff shall retain all records pertaining to the determination of payment or denial of refunds for a period of not less than one year after the final determination has been made;

b. records shall be maintained in an organized manner; and

c. records shall be readily accessible to the U.S. Department of Education and guaranty agency auditors.

B. Student Protection Fund Procedures

1. The application for tuition recovery (PSC-15 Form), may be submitted after reasonable efforts to compensate the student from the following resources have been exhausted (see PSC-15 Form for instructions):

a. provide teach-out;

b. acquire refund from the school;

c. acquire refund from any other school resources; and

d. acquire refund from U.S. Department of Education, Closed School Section;

2. lenders holding loans eligible for refunds under the Student Protection Fund may submit the claims to the commission without undertaking any additional collection activity, if the commission determines that the student has not submitted a claim. Submission of a claim by the lender will preclude the student from filing a claim at a later time;

3. refund calculations will be based upon copies of enrollment contracts, student ledger cards, and other pertinent documents submitted by the student; and

4. students and/or lenders applying for relief to the Student Protection Fund will be notified of the status of the

request within 60 days of receipt of the application by the commission staff.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3141.16.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:1863 (September 2007).

Chapter 13. Advertising Rules for Proprietary Schools §1301. Advertising Rules

A. Advertising. All advertising shall forthrightly disclose the purpose of the advertising, that education or training, not a job, is offered, and that the advertiser is a school. Advertising includes any form of public notice however disseminated or utilized. Within this definition would be all publications, communications, promotional items, and efforts which could normally be expected to be seen or encountered by significant numbers of prospective students or their sponsors. Examples include catalogs and other school publications, signs, mailing pieces, radio, television, audio-visual, newspaper, internet or any other form of public notice resulting from the school's recruiting and promotional activities.

B. Solicitation. In the solicitation of students, a school shall not directly, or by implication, misrepresent the services it renders. All advertisements and promotional literature used shall be truthful, informative and constructive; and avoid conveying any false, misleading or exaggerated impressions with respect to the school, its personnel, its courses and services, or the occupational opportunities for its graduates. The true purpose and nature of a school's offerings shall be evident in all advertising. Every advertisement shall constitute to the reader a clear statement of a bonafide offer or announcement made in good faith. It shall be written to its anticipated readership, normally persons unsophisticated in the traditional word usage of the education industry. Therefore, all solicitation must be truthful and conducted with extreme care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3141.13, R.S. 17:3141.5(A)(2).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:1863 (September 2007).

Chapter 15. Violations

§1501. Authority, Investigation, and Sanctions

A. Violations. The following is an illustrative, but not exclusive, list of actions constituting a violation:

1. failure to provide the commission with an item of information required by R.S. 17:3141.1 et seq.;

2. misrepresentation about a school's credentials or accreditation;

3. a false claim or guaranty of employment by a school or solicitor;

4. failure to disclose to a student a necessary requirement for employment;

5. false or misleading advertising;

6. unethical behavior by a solicitor;

7. failure to disclose liability for repayment of a student loan;

8. failure to respond to student complaints as provided in the student complaint rule, R.S. 17:3141.3(D)(2)(b) and 17:3131.3(E);

9. employment of an instructor who is unqualified;

10. unsafe or unhealthy condition of a school;

11. unsafe, unhealthy, or inadequate instructional equipment;

12. failure to teach the number of hours claimed;
13. failure to maintain attendance records and to provide them for inspection;
14. failure to comply with a contractual relationship with a student;
15. failure to release the grades of a student;
16. failure to cooperate with an investigator from the commission;
17. attempting to obtain, obtaining, or renewing a license to operate a school by fraudulent misrepresentation or bribery;
18. placement of classified advertisement under "employment" or other similar categories related to employment rather than "education" or "instruction";
19. upon closure, failure to transfer student records to the board; and
20. failure to comply with the provision of R.S. 17:3141.1 et seq., or any written rule or regulation of the board.

B. Authority and Scope. The definition of "school" for the purpose of this rule shall include a licensed school and school owners, employees, operators, agents and solicitors. The commission shall use the following procedures prior to making a recommendation to the board under R.S. 17:3141.8(A) that a school license should be revoked, canceled, or suspended.

1. Any school found to be in violation of any provision of R.S. 17:3141 et seq., or any other state regulation adopted by the commission pursuant to the Administrative Procedure Act governing the administration or operation of a school may be sanctioned by one or more of the following remedies:

- a. restitution and remedial measures;
 - b. civil money penalties (fines); and
 - c. revocation, suspension, cancellation, or other restrictions on the license.
2. The commission's assessment of a sanction shall be based on the following considerations:
- a. whether the violation or substantially similar violation has previously occurred;
 - b. the duration of the violation;
 - c. the severity of the violation;
 - d. the school's history of compliance with the regulations;
 - e. what sanction is most likely to bring the school into compliance in the shortest time;
 - f. the "good faith" exercised by the school in attempting to stay in compliance with the regulations; and
 - g. such other factors as the commission deems appropriate.

C. Investigation

1. When the commission's staff becomes aware of a violation, it may conduct an onsite investigation of a school. The inspection may or may not be announced at the discretion of the staff.

2. The agent conducting the investigation shall have the authority to:
- a. privately interview administrators, teachers, solicitors, and students;
 - b. inspect school records, documents, catalogs, forms, and advertisements; and
 - c. inspect the school facilities and equipment.

3. The school shall cooperate fully with the agent.
4. Within five days of the investigation the agent shall prepare a written report which shall be furnished to the commission staff and the school. The report shall contain:
 - a. factual findings relevant to the initial violation;
 - b. factual findings of any additional violations;
 - c. recommendations of remedial measures to be taken by the school; and
 - d. recommendations of any sanctions to be taken by the commission including the commission's petition for an injunction to terminate the violation;
 - e. the procedure by which an administrative hearing may be requested.
5. Additional or follow-up visits may be made to the school to monitor violations or to monitor remedial measures taken to correct prior violations.

D. Notice of a Violation

1. When a violation of state statutes or regulations governing the administration or operation of a school has occurred, in accordance with R.S. 17:3141.8, the commission staff shall give notice of the violation to the school's director by certified mail, return receipt, and shall afford the school an opportunity to be heard in person or by counsel.

2. The written notice of the violation shall:
- a. specify the violation(s);
 - b. cite the legal authority which establishes the violation(s);
 - c. cite any sanctions assessed for each violation;
 - d. inform the school's director that the determination of the violation and imposition of the sanction are final, and no further administrative or judicial appeals may be had if a timely appeal is not filed; and
 - e. inform the school's director if the violation is regarded as a repeat or continuing violation and the manner in which the sanction will be imposed.

3. If the school requests a hearing, the commission staff shall hold a hearing and take evidence. Strict rules of evidence shall not apply. A tape recording of the hearing shall be made. The school may deny the violation, admit the violation in part and deny it in part, or admit the violation but request a reduction or modification of the sanction imposed. The school may present witnesses or documentary evidence in its defense bearing directly on the violation asserted. The school is limited to one witness to attest to its reputation or to remedial measures it has taken. The commission may consider reputation and remedial measures in mitigation of the sanction. For continued or repeat violations, reputation or remedial measures shall not be considered.

4. The commission staff shall have authority to determine for purposes of making a recommendation to the board, whether a violation is a repeat or continuing violation:

- a. a repeat violation is the recurrence of the same or a substantially similar violation within a period of 12 months;
- b. a continuing violation is one that may be reasonably expected to continue until corrective action is taken. A continuing violation may be considered as a repeat violation for each day following the day on which the initial violation is established, until such time as there is evidence

establishing a date by which the violation is corrected. A continuing violation may be subject to appropriate sanctions for repeat violations up to the number of days of the violation at the discretion of the commission staff.

5. After holding a hearing, the commission shall submit its findings to the board, and may recommend any of the penalties listed in Paragraph 1501.B.1 and Subsection 1501.F, as it deems appropriate. The commission shall also forward a copy of its findings and recommendation to the school, notify the school of the date of the board meeting when the commission's recommendation will be considered, and advise the school of the opportunity to appear at the board's meeting by person or by counsel and be heard. After due consideration of the commission's recommendation and the school's arguments (if the school presents any arguments) and upon a vote of two-thirds of the authorized membership of the board, the board may revoke, cancel, suspend or restrict the school's license, or impose fines or refunds.

6. A sanction which requires monetary payments, either fines or restitution, shall be paid within a timeframe as determined by the board following its notification.

E. Description of Sanctions

1. Restitution and Remedial Measures. The commission may impose sanctions consisting of, but not limited to, the following measures:

- a. rebate of all or a portion of the tuition to the students;
- b. modification or termination of advertising when unwarranted, false, or misleading claims are made, or placement of corrective ads;
- c. counseling of students when they have been misinformed about a material matter;
- d. the posting of a sign in a prominent position in a school correcting a false representation made to the students;
- e. the distribution of an informational leaflet to the students informing them of their rights;
- f. the inclusion or exclusion of information from the student catalog to correct a misrepresentation;
- g. repairs or modification to a physical facility when health or safety is jeopardized;
- h. repairs or modification to equipment when health or safety or delivery of quality instruction is jeopardized;
- i. an order to terminate a gross violation of the statutes or regulations;
- j. an order to cease the enrollment of new students or to limit enrollment to those students who meet more restrictive admission standards; and
- k. modification of the curricula or methods of instruction.

2. Civil Money Penalties (Fines). The commission has the authority to impose a fine up to \$500 for each violation. Repeat or continuing violations may be assessed separate fines up to \$500 for each day of violation. After a fine is imposed, the commission may allow a specified period of time for the correction of the violation. If the violation is corrected, the commission may waive the payment of the fine. The school may be given the opportunity to demonstrate compliance before the fine becomes final. A violation for which a fine is waived shall still be counted for repeat and continued violations. The right to assess civil

fines is not merged in other remedies, and the commission may impose other sanctions in addition to the fines.

3. Revocation of License. The commission may recommend the revocation of a school's license to the board.

F. Appeal Procedure. Any sanction may be administratively appealed as long as the appeal is timely filed in accordance with R.S. 17:3141.8(F).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3141.3(D)(2), R.S. 17:3141.8, R.S. 17:3141.14, R.S. 17:3141.18.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:1863 (September 2007).

Chapter 17. Student Complaint Procedure

§1701. Policies, Conciliation, Conference, Hearing, and Review

A. General Policies

1. The purpose of this complaint procedure is to provide an effective and efficient method by which students may resolve their complaints with the commission staff under the jurisdiction of the board;

2. the commission staff shall prepare and provide a copy of the complaint procedure to each licensed school; and

3. each school shall include in either their catalog or enrollment agreement the following:

- a. complaints relative to actions of school officials may be made and must be in writing, addressed to the Louisiana Board of Regents, Proprietary Schools Section, P.O. Box 3677, Baton Rouge, LA 70821-3677, 225/342-4253. Such complaints may be made only after the student has unsuccessfully attempted to resolve the matter with the school by having first filed a written and signed complaint with that school's officials. Any student who wishes to review the student complaint procedure may make a request for a copy of the procedure, in writing, addressed to the Louisiana Board of Regents, Proprietary Schools Section, P.O. Box 3677, Baton Rouge, LA 70821-3677, (225)342-4253.

B. Conciliation

1. Any student who believes he/she has been aggrieved by actions of school officials shall complain in writing to the commission staff at Louisiana Board of Regents, Proprietary Schools Section, Post Office Box 3677, Baton Rouge, LA 70821-3677, 225/342-4253, only after having first filed a written and signed complaint with the school officials;

2. if the complaint is not resolved, the student may submit a written request for assistance to resolve the matter with the school after having first filed a written and signed complaint with that school's officials;

3. copies of this initial notice of the complaint will be sent to the school and to the complainant. A copy must also be retained in the commission staff files;

4. the notice of complaint will request that the student and the school meet and discuss the complaint in a conciliation effort and/or communicate in writing within 10 days after receipt of the notice;

5. if after 10 days, the complaint has not been satisfactorily resolved, the student may request further assistance from the commission staff; and

6. the commission staff may, at its discretion, eliminate the conciliation procedure where a student has

already contacted the school regarding the problem and may proceed directly to the mediation conference.

C. Mediation Conference

1. If the student advises the Section that no satisfactory resolution has been achieved with the school through the conciliation procedure, at that point the commission staff may forward the complaint and all associated materials to the Louisiana Division of Administrative Law.

2. If no amicable resolution is achieved in the mediation process, either party may request, within seven days, a hearing before the commission. Within five working days following a request for a hearing, the commission staff shall send written notice to the parties containing the following:

- a. an explanation of the hearing procedures; and
- b. the date, time and place for the hearing.

D. Hearing:

1. a public hearing shall be held before the commission. The parties shall be given 15 days notice in advance of the hearing, including the time, place and nature of the hearing and a statement of the alleged complaints to be the subject of the hearing;

2. the hearing shall be conducted in accordance with the provisions of the Administrative Procedure Act; and

3. the commission shall prepare a report of its findings and recommendations and submit it to the board. The board shall render a decision accompanied by written reasons within 30 days following the conclusion of the hearing. This decision will be transmitted to all parties with a notice of the right to judicial review.

E. Judicial Review. Either party may appeal to the Nineteenth Judicial District in accordance with the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3141.3(E), R.S. 17:3141.3(D)(2).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:1865 (September 2007).

Chapter 19. Student Records

§1901. General Policies

A. All schools shall maintain all student records as required under R.S. 17:3141.16(D)(3). All student records shall include, but are not limited to enrollment agreements, attendance records, financial and academic transcripts, and exit interview.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3141.3(E), R.S. 17:3141.16(D)(3).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:1866 (September 2007).

§1903. Transfer of Student Records

A. A school must make arrangements to transfer all student records to the Commissioner of Higher Education at the commission's address within 10 days of closing. If any of the records have been seized or confiscated by legal authorities, the board shall request the authorities for documentation regarding seizure of the records. However, the school remains responsible for turning over unseized records. Any closed school, that maintains student files and electronic files shall make arrangements to electronically transfer such records to the board. The records shall be prepared in the following manner:

1. they shall be filed in alphabetical order;
2. each container will be clearly marked "official records" and will show the alphabetical order within the container (e.g., aa to bc); and

3. the containers shall be sealed to prevent loss or damage and marked in succession.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3141.3(E), R.S. 17:3141.16(D)(3).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:1866 (September 2007).

§1905. Penalties

A. Failure to maintain and/or turn over student records as provided above will result in the assessment of penalties.

B. If necessary, a claim shall be made against the surety bond posted at the time of submission of the license application to satisfy any penalties for failure to maintain and/or turn over student records pursuant to R.S. 17:3141.5(D)(1)(b)(iv).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3141.3(E), R.S. 17:3141.16(D)(3).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:1866 (September 2007).

Chapter 21. Exceptions

§2101. Board Authority

A. The board retains the authority to waive or make exceptions to any provision of these regulations if it deems such waiver or exception to be in the public interest. This authority shall be exercised by majority vote of the Louisiana Board of Regents pursuant to request by a school, any interested party, recommendation of the commission, or upon its own motion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3141.3(E), R.S. 17:3141.3(D)(2).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:1866 (September 2007).

Larry Tremblay
Deputy Commissioner

0709#010

RULE

Department of Environmental Quality Office of the Secretary Legal Affairs Division

USTs Delivery Prohibition
(LAC 33:XI.401 and 403)(UT015)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has adopted the Underground Storage Tanks regulations, LAC 33:XI.401 and 403 (Log #UT015).

The Rule establishes standards for the red tag/delivery prohibition of regulated substances for underground storage tanks (USTs). It sets forth the requirements the owner/operator of the UST must meet in order to continue to receive delivery of fuel, and for when the department may prohibit the delivery of fuel. The 2005 Underground Storage Tank Compliance Act, which amends Section 9003 in Subtitle I of the Solid Waste Disposal Act, mandates states

authorized to administer the Underground Storage Tank Program to take certain actions to reduce the incidence of leaking USTs. One such action is to establish delivery prohibition of regulated substances for USTs that have not met the required 1998 standards or are not compliant with spill prevention, overflow protection, release detection, corrosion protection, or registration requirements. This action must be implemented to maintain funding of the UST program in the state and to provide a serious consequence to those owners and operators that continue to be out of compliance with the regulations. This action will further enhance our effort to maintain protection of human health and the environment. The basis and rationale for this Rule are to prevent contamination to the environment from underground storage tanks.

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

Title 33

ENVIRONMENTAL QUALITY

Part XI. Underground Storage Tanks

Chapter 4. 2005 Federal Underground Storage Tank Compliance Act Mandated Requirements

§401. Purpose

A. This Chapter implements requirements mandated by the Underground Storage Tank Compliance Act, 42 U.S.C. 6991.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:1867 (September 2007).

§403. Delivery Prohibition of Regulated Substances to Underground Storage Tank Systems

A. Underground storage tank (UST) systems, except for those systems deferred or exempted from specified Chapters and Sections of these regulations in accordance with LAC 33:XI.101.C, that do not meet any one of the following requirements, upon discovery by the department, shall be subject to the status of red tag/delivery prohibition of regulated substances:

1. installation of spill prevention equipment in accordance with LAC 33:XI.Chapter 3;
2. installation of overflow protection equipment in accordance with LAC 33:XI.Chapter 3;
3. establishment of release detection methods or installation of release detection equipment in accordance with LAC 33:XI.Chapter 7;
4. installation of corrosion protection equipment in accordance with LAC 33:XI.Chapter 3;
5. compliance with LAC 33:XI.301.C.4; or
6. upon evidence of a below-surface release from an UST system, initiation by the owner/operator of release investigation and confirmation steps in accordance with LAC 33:XI.711, or compliance with the release response and corrective action requirements in LAC 33:XI.715.

B. Noncompliance with these regulations as listed in this Subsection shall result in a red tag/delivery prohibition of regulated substances if response action is not taken by the owner/operator within 30 days of receipt of written

notification by the department to the owner/operator. Response action will be considered as taken if the owner/operator has contracted and scheduled the action to take place within those 30 days and the response action has been initiated within 60 days of receipt of the written notification. The forms of noncompliance are:

1. failure to properly operate and/or maintain release detection equipment in accordance with LAC 33:XI.Chapter 7. Failure to provide records, within 10 days of request by the department, showing proper operation and/or maintenance of release detection equipment shall be considered a failure to properly operate and/or maintain the release detection equipment;

2. failure to properly operate and/or maintain spill, overflow, or corrosion protection equipment in accordance with LAC 33:XI.Chapter 5. Failure to provide records, within 10 days of request by the department, showing the type of spill, overflow, or corrosion protection equipment installed and the proper operation and/or maintenance of spill, overflow, or corrosion protection equipment shall be considered a failure to properly operate and/or maintain the spill, overflow, or corrosion protection equipment;

3. failure to maintain financial responsibility in accordance with LAC 33:XI.Chapter 11;

4. failure to protect from corrosion buried metal piping and/or components that routinely contain regulated substances in accordance with LAC 33:XI.303.B.2 and C.4. Failure to produce records, within 10 days of request by the department, showing procedures and/or practices designed to protect from corrosion buried metal piping and/or components that routinely contain regulated substances shall be considered a failure to protect from corrosion buried metal piping and/or components that routinely contain regulated substances.

C. It shall be unlawful for any person to place, or allow the placement of, a regulated substance into an UST that the department has red tagged/prohibited from delivery of regulated substances under Subsection A or B of this Section. The department may use its discretion in determining whether a non-delivery due to a red tag/delivery prohibition of regulated substances may jeopardize the availability of, or access to, motor fuel in remote areas of the state or in cases where an emergency declaration is in effect. When the department determines that red tagging/delivery prohibition will jeopardize the availability of, or access to, regulated substances, specifically motor fuels, in remote areas or in cases of an emergency declaration, it may allow for continued delivery of regulated substances, for up to 180 days, to an UST that has failed to have equipment required under Subsection A of this Section installed or that has been deemed noncompliant by the department under Subsection B of this Section.

D. The department shall provide adequate notice to UST system owners/operators and regulated substance deliverers that an UST has been determined to be ineligible for delivery, deposit, or acceptance of a regulated substance. Placing or allowing placement of a regulated substance into an UST determined ineligible for delivery, deposit, or acceptance of a regulated substance constitutes a violation of this Section.

E. The owner/operator of an UST that has been determined to be ineligible for delivery, deposit, or

acceptance of a regulated substance must make the necessary system repairs or upgrades, or remedy any form of noncompliance, and must be cleared of the red tag/delivery prohibition in writing by the department, or a person authorized by the department, in order to be removed from the red tag listing and be deemed eligible for delivery of regulated substances. The department, or a person authorized by the department, shall remove the red tag/delivery prohibition status for an UST system within two working days after compliance and/or upgrade or repair has been demonstrated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33: 1867 (September 2007).

Herman Robinson, CPM
Executive Counsel

0709#030

RULE

Department of Health and Hospitals Board of Practical Nurse Examiners

Curriculum Requirements (LAC 46:XLVII.927, 929, 931, and 933)

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

The proposed Rule change is to update and clarify requirements for curriculum development and implementation in practical nursing programs. In addition, while the total number of instructional hours has been maintained, the requirement for a minimum number of hours of instruction in each course has been removed. This is to allow greater flexibility and creativity in curriculum design.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLVII. Nurses

Subpart 1. Practical Nurses

Chapter 9. Program Projection

Subchapter E. Curriculum Requirements

§927. Development

A. The curriculum shall be developed and written by the nursing faculty and shall include the philosophy and objectives of the program. Curriculum development and revision shall consider current concepts in health care and health care delivery systems. The evolution of the role of the practical nurse shall influence the curriculum. The curriculum and all curriculum revisions shall be approved by the board prior to implementation.

B. The curriculum shall ensure that program graduates possess the knowledge, skill, ability, and clinical competency to practice safely and effectively as an entry level practical nurse in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969 and R.S. 37:976.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:196 (April 1977), amended LR 8:65 (February 1982), LR 10:339 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 33:1868 (September 2007).

§929. Outline and Rotation Plan

A. A copy of the current board approved curriculum and a copy of the master rotation plan shall be available to the board on request.

B. The master rotation plan for each class shall provide the starting date, course of study, clinical practice areas and scheduled rotations, class schedule, and completion date. The master rotation plan and any revisions to the plan shall be approved by the board prior to implementation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969 and R.S. 37:976.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:195 (April 1977), amended LR 10:339 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 33:1868 (September 2007).

§931. Length of Program

A. A program shall be of sufficient length to ensure that graduates meet the objectives of the program and are clinically competent.

B. A program shall cover a minimum of 1,500 clock hours or an equivalent number of credit hours of scheduled instruction. At least 700 clock hours or an equivalent number of credit hours shall be the minimum number of theory hours and at least 800 clock hours or an equivalent number of credit hours shall be the minimum number of clinical hours.

C. Theory and clinical experience should be concurrent or sequential, progressing from the simple to the complex.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969 and 37:976.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:196 (April 1977), amended LR 8:65 (February 1982), LR 10:339 (April 1984), LR 10:915 (November 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 18:1127 (October 1992), repromulgated LR 18:1260 (November 1992), amended LR 33:1868 (September 2007).

§933. Curriculum

A. The curriculum shall include instruction in the following basic arts and sciences.

1. Body Structure and Function—providing an understanding of the basic anatomy and physiology of the human body and deviations from the normal.

2. Introduction to Microbiology—providing a basic understanding of microbes including their role in health and illness, modes of transmission, reproduction, and methods of control or destruction, with an instructional focus on concepts essential for the safe performance of nursing procedures and for the prevention of illness and/or the transfer of disease to others.

3. Introduction to Practical Nursing—providing instruction and guidance in the identification and personal development of those qualities and personal characteristics needed to practice practical nursing safely, effectively, and with compassion, including increased and ongoing development of self awareness, sound judgment, prudence, ethical thinking and behaviors, problem solving and critical

thinking abilities. This course also provides instruction in the history, trends and the evolution of practical nursing, information related to practical nursing organizations, and an introduction to the laws and rules governing practical nursing practice in Louisiana (the Revised Statutes, Title 37, Chapter 11, Subpart II, Practical Nurses and LAC 46:XLVII, Nurses, Subpart 1, Practical Nurses).

4. Personal, Family and Community Health—providing concepts of personal and family growth and development and an understanding of the unique manner in which people build and define relationships, families, and communities. Instruction is designed to assist the student to identify and respect the unique abilities and qualities of people as they participate and function in society. The student is made aware of the rights of clients to make their own health care decisions and the student learns how to support client decisions through the utilization of local, state and national health resources. Students are guided in coursework designed to increase awareness of and respect for variations in cultural, religious, spiritual, educational, and socio-economic histories and experiences. The student begins to understand how these variations impact health, illness and client participation in the health care delivery system.

5. Nutrition and Diet Therapy—describing concepts of proper nutrition for all age groups and addressing diet modifications for therapeutic purposes.

6. Pharmacology—presenting concepts relating to drug classification, action, dosage, dosage calculation, intended effects, side effects and adverse effects, as well as concepts relating to teaching clients, family, and others about the effects of medications. Instruction provides an opportunity for the development of competence in skills needed in the preparation, administration, documentation, and safe storage of medications.

7. Principles and Practices of Nursing—presenting the application of concepts which will provide basic principles of nursing care and correlated experiences to develop competency in medical-surgical nursing, geriatric nursing, obstetrical nursing, pediatric nursing and mental health nursing. Clinical experience shall include, but not be limited to, the performance of basic and advanced nursing skills, general health and physical assessment, critical thinking and clinical problem solving, medication administration, IV therapy, patient education, health screening, health promotion, health restoration and maintenance, supervision and management, safety and infection control, communication and documentation, and working as a member of an interdisciplinary health care team.

8. Career Readiness—presenting information relating to all aspects of gaining and maintaining a license to practice practical nursing, the nurse's personal accountability to maintain and continue to acquire the knowledge, skills and abilities needed to practice safely, the qualities employers seek and the non-nursing employment skills, abilities, and personal characteristics needed to secure and maintain employment as a practical nurse. The student also develops a deeper understanding of the laws and rules governing practice, including R.S. 37, Chapter 11, Part II and LAC 46:XLVII, Subpart 1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969 and 37:976.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:196 (April 1977), amended LR 8:65 (February 1982), LR 10:339 (April 1984), LR 10:915 (November 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 18:1127 (October 1992), repromulgated LR 18:1260 (November 1992), amended LR 33:1868 (September 2007).

Claire Doody Glaviano
Executive Director

0709#005

RULE

Department of Health and Hospitals Board of Practical Nurse Examiners

Faculty
(LAC 46:XLVII.901)

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

The purpose of the proposed Rule change is to establish new guidelines for the educational preparation and nursing experience of faculty hired to teach in practical nursing programs. These new guidelines remove language requiring faculty to attain a specific educational degree but maintain the requirements that faculty members have clinical experience providing direct patient care and be currently licensed to practice registered nursing in the state of Louisiana. The proposed Rule change also allows programs to hire faculty with specialized clinical experience. These changes give program administrators greater choice, control, and responsibility in hiring qualified faculty and in building a staff with the expertise needed to fulfill program objectives.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

PART XLVII. Nurses

Subpart 1. Practical Nurses

Chapter 9. Program Projection

Subchapter A. Faculty and Staff

§901. Faculty

A. The program shall have a faculty of sufficient size and expertise to fulfill the program objectives. At no time shall a faculty consist of less than two fulltime nurse members, one of whom shall be designated as coordinator/department head. Programs with two fulltime nurse faculty members shall admit a maximum of 36 students per class. The board may, upon application by the school administrator, permit program expansion. Expansion approval must be obtained in writing from the board.

B. Application and Qualifications

1. Application. Each applicant for a faculty position in a practical nursing program shall be approved by the Louisiana State Board of Practical Nurse Examiners prior to employment in the program.

2. Licensure. Each nurse faculty member shall hold a current, valid license to practice as a registered nurse in the state of Louisiana, which license shall be visually inspected annually by the nurse coordinator/department head of the practical nursing program and the administrator of the school. The board may deny and/or rescind approval to a faculty applicant and/or current faculty member whose license has been or is currently being disciplined in any jurisdiction.

3. Nurse Coordinator/Department Head. The coordinator/department head shall be a registered nurse with a minimum of four years experience in medical-surgical nursing or nursing education. At least one of these four years must have been as a medical-surgical hospital staff nurse providing direct patient care. An applicant for nurse coordinator must have practiced as a nurse for a minimum of six full-time months during the three years immediately preceding application.

4. Nurse Instructor. A nurse instructor shall be a registered nurse with a minimum of three years of nursing experience. At least one of these three years must have been as a medical-surgical hospital staff nurse providing direct patient care. An applicant for nurse instructor must have practiced as a nurse for a minimum of six full-time months during the three years immediately preceding application.

5. Specialty Nurse Instructor. The board may consider an applicant for a specialty nurse instructor with experience in one of the clinical specialty areas (maternity, neonatal, pediatric, mental health) provided that this instructor is hired in addition to two full time nurse faculty members who meet the qualifications for nurse coordinator and/or nurse instructor. The specialty nurse instructor must have a minimum of four years of clinical experience in the specific specialty area. The specialty nurse instructor may be utilized only for instruction in the specific specialty area for which application was made.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969 and R.S. 37:976.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:194 (April 1977), amended LR 5:355 (November 1979), LR 10:338 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 16:133 (February 1990), LR 18:1127 (October 1992), repromulgated LR 18:1260 (November 1992), amended LR 21:1244 (November 1995), LR 26:2617 (November 2000), LR 33:1869 (September 2007).

Claire Doody Glaviano
Executive Director

0709#006

RULE

Department of Health and Hospitals Board of Nursing

Prescriptive and Distributing Authority Clinical Practice
Requirements for Licensed APRNs or APRNs
(LAC 46:XLVII.4513)

The Louisiana State Board of Nursing hereby amends LAC 46:XLVII. 4513 in accordance with R.S. 37:918, R.S. 37:919 and R.S. 37:920 and in accordance with the

provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The proposed amendments to LAC 46:XLVII.4513, Authorized Practice, revises the requirements of 500 hours of clinical practice as a licensed APRN or APRN for granting of prescriptive and distributing authority. The proposed amendments require that the applicant shall provide evidence of 500 hours of clinical practice as a licensed APRN or APRN applicant within one year in the clinical specialty for which the applicant was educationally prepared as an APRN immediately prior to applying for prescriptive and distributing authority; practice in another state as a licensed APRN may be accepted to meet this requirement; or 500 hours of clinical practice in medical management of patients in a preceptorship (student experience) in which the APRN applicant is precepted by a physician or another advanced practice registered nurse who has approval for medical management/prescriptive authority by the Board of Nursing. The student experience must occur in a formal board approved educational program preparing graduates to sit for the respective advanced practice specialty licensure exam and certification process.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLVII. Nurses

Subpart 2. Registered Nurses

Chapter 45. Advanced Practice Registered Nurses

§4513. Authorized Practice

A. - C.8. ...

D. Prescriptive and Distributing Authority. An Advanced Practice Registered Nurse (APRN) shall practice in a manner consistent with the definition of advanced practice set forth in R.S. 37:913(3). An APRN may be granted prescriptive authority to prescribe assessment studies, including pharmaceutical diagnostic testing (e.g., dobutamine stress testing) legend and certain controlled drugs, therapeutic regimens, medical devices and appliances, receiving and distributing a therapeutic regimen of prepackaged drugs prepared and labeled by a licensed pharmacist, and free samples supplied by a drug manufacturer, and distributing drugs for administration to and use by other individuals within the scope of practice as defined by the board in R.S. 37.913(3)(b).

1. The applicant shall:

a. hold a current, unencumbered, unrestricted and valid registered nurse license in Louisiana with no pending disciplinary proceedings as stated in R.S. 37:921;

b. hold a current, unencumbered, unrestricted and valid APRN license;

c. submit a notarized application on a form provided by the board with a non-refundable fee as set forth in LAC 46:XLVII.3341;

d. provide evidence of:

i. 500 hours of clinical practice as a licensed APRN or APRN applicant within one year in the clinical specialty for which the applicant was educationally prepared as an APRN immediately prior to applying for prescriptive and distributing authority; practice in another state as a licensed APRN may be accepted to meet this requirement; or

ii. 500 hours of clinical practice in medical management of patients in a preceptorship (student

experience) in which the APRN applicant is precepted by a physician or another advanced practice registered nurse who has approval for medical management/prescriptive authority by the Board of Nursing. The student experience must occur in a formal board approved educational program preparing graduates to sit for the respective advanced practice specialty licensure exam and certification process; and

iii. successful completion of a minimum of 45 contact hours of education (3 credit hour academic course) in advanced pharmacotherapeutics obtained as a component of a formal educational program preparing registered nurses for advanced practice, approved by the board;

iv. successful completion of a minimum of 45 contact hours (3 credit hour academic course) in physiology/pathophysiology in a formal educational program approved by the board for preparation for advanced practice registered nurses;

v. any deviation from Clause 1.d.i, ii or iii shall be submitted to the board for review and approval; and

vi. a collaborative practice agreement as defined in §4513.B.1, 2 and 3, with one or more licensed collaborating physicians which shall include, but not be limited to:

(a). a plan of accountability among the parties that:

(i). defines the prescriptive authority of the APRN and the responsibilities of the collaborating physician or physicians;

(ii). delineates a plan for hospital and other healthcare institution admissions and privileges which includes a statement that the collaborating physician must have said privileges at the same institution before an APRN can receive this determination at said institution;

(iii). delineates mechanisms and arrangements for diagnostic and laboratory requests for testing; and

(iv). delineates a plan for documentation of medical records;

(b). clinical practice guidelines as required by R.S. 37:913(9)(b) shall contain documentation of the types or categories or schedules of drugs available and generic substitution for prescription and be in accordance with current standards of care and evidence-based practice for the APRN specialty and functional role and be:

(i). mutually agreed upon by the APRN and collaborating physician;

(ii). specific to the practice setting;

(iii). maintained on site; and

(iv). reviewed and signed at least annually by the APRN and physician to reflect current practice;

(c). documentation of the availability of the collaborating physician when the physician is not physically present in the practice setting. Physicians shall be available to provide consultation as needed:

(i). physician shall be available by telephone or direct telecommunications for consultation, assistance with medical emergencies, or patient referral, as delineated in the collaborative practice agreement; and

(ii). the secondary (back-up) physician or physicians shall be in good standing and approved by the Louisiana State Board of Medical Examiners and sign the collaborative practice agreement;

(iii). in the event the collaborating physician and any secondary (back-up) collaborating physician(s) are unavailable, the APRN will not prescribe;

(d). documentation shall be shown that patients are informed about how to access care when both the APRN and/or the collaborating physicians are absent from the practice setting; and

(e). an acknowledgement of the mutual obligation and responsibility of the APRN and collaborating physician to insure that all acts of prescriptive authority are properly documented.

2. - 14.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918(K), and R.S. 37:1031-1034.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 10:598 (August 1984), amended by the Department of Health and Hospitals, Board of Nursing, LR 22:283 (April 1996), amended by the Department of Health and Hospitals, Board of Nursing and Board of Medical Examiners, LR 22:981 (October 1996), LR 25:1245 (July 1999), LR), amended by the Department of Health and Hospitals, Board of Nursing, 27:727 (May 2001), amended by the Department of Health and Hospitals, Board of Nursing and Board of Medical Examiners, LR 28:487 (March 2002) repromulgated LR 28:1205 (June 2002), amended by the Department of Health and Hospitals, Board of Nursing, LR 31:2023 (August 2005), amended LR 33:1870 (September 2007).

Barbara L. Morvant
Executive Director

0709#016

RULE

Department of Health and Hospitals Office of the Secretary Office for Citizens with Developmental Disabilities

Home and Community-Based Services Waivers
Children's Choice
Termination of Diaper Coverage
(LAC 50:XXI.11303, 11527 and 12101)

The Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities amends LAC 50:XXI.11303, 11527 and 12101 under 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.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE Part XXI. Home and Community-Based Services Waivers

Subpart 9. Children's Choice

Chapter 113. Service

§11303. Service Definitions

A. - F.2. ...

G. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health

Services Financing, LR 28:1983 (September 2002), amended by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 33:1871 (September 2007).

Chapter 115. Providers

Subchapter B. Provider Requirements

§11527. Direct Service Providers

- A. - A.3.b. ...
- c. Repealed.
- d. ...
- 4. - 12. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1985 (September 2002), amended by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 33:1872 (September 2007).

Chapter 121. Reimbursement

§12101. Reimbursement Methodology

- A. - B.3. ...
- 4. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1987 (September 2002), amended by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 33:1872 (September 2007).

Implementation 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.

Frederick P. Cerise, M.D., M.P.H.
Secretary

0709#075

RULE

Louisiana Citizens Property Insurance Corporation

Regulation 87—Louisiana Citizens Property Insurance Corporation—Producer Binding Requirements (LAC 37:XIII.Chapter 121)

The Louisiana Citizens Property Insurance Corporation, through its Board of Directors, and pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., inter alia, R.S. 22:1430.22, and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby adopts Regulation 87 titled Producer Binding Requirements for property and casualty insurance issued by the Louisiana Citizens Property Insurance Corporation through the Louisiana Joint Reinsurance Plan (FAIR Plan) and the Louisiana Insurance Underwriting Plan (Coastal Plan).

As a result of the devastation and destruction caused by Hurricane Katrina and Hurricane Rita, many Louisiana citizens have lost or could lose homeowners insurance coverage or other property and casualty insurance coverage in areas that were most affected by the impact of these two hurricanes. Many citizens have sought or may be forced to

seek coverage through other insurance companies to address their property and casualty insurance needs.

Recognizing the gravity of the impact left by Hurricane Katrina and Hurricane Rita and the immediate needs of Louisiana citizens to have property and casualty insurance coverage, the Louisiana Legislature in the 2006 Regular Session enacted Act No. 787, which provides authority for producers to bind coverage with the Louisiana Citizens Property Insurance Corporation. Regulation 87 is promulgated to accomplish the purposes required by Acts 2006, No. 787. Through the implementation of Regulation 87, qualified producers will be able to write applications of property and casualty insurance through the FAIR Plan and the Coastal Plan after satisfying certain binding authority requirements. As we enter the 2007 hurricane season, Regulation 87 establishes standards and procedures for these producers to utilize in the application process in order that these producers may provide Louisiana citizens with the property and casualty insurance coverage they need in order to avoid the peril that would result from a property loss due to a hurricane or other natural disaster.

Title 37

INSURANCE

PART XIII. Regulations

Chapter 121. Regulation 87—Louisiana Citizens Property Insurance Corporation Producer Binding Requirements

§12101. Purpose

A. The purpose of Regulation 87 is to establish standards, guidelines, and requirements for licensed and qualified insurance producers to have binding authority to write applications of property and casualty insurance for the FAIR Plan and the Coastal Plan issued by the Louisiana Citizens Property Insurance Corporation. Regulation 87 also sets forth standards and procedures regarding the application process for use by such insurance producers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1430.22 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Citizens Property Insurance Corporation, LR 33:1872 (September 2007).

§12103. Authority

A. Regulation 87 is promulgated by the Board of Directors of the Louisiana Citizens Property Insurance Corporation, pursuant to the authority granted under the Louisiana Insurance Code, Title 22, R.S. 22:1430.22.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1430.22 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Citizens Property Insurance Corporation, LR 33:1872 (September 2007).

§12105. Applicability and Scope

A. Regulation 87 applies to all insurance producers who are duly licensed by the Louisiana Department of Insurance to sell property and casualty insurance, are engaged in and transact the business of insurance in the state of Louisiana, have applied to the Louisiana Citizens Property Insurance Corporation and have met the qualifications for binding authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1430.22 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Citizens Property Insurance Corporation, LR 33:1872 (September 2007).

§12107. Definitions

A. For the purposes of Regulation 87, the following terms shall have the meaning or definition as indicated herein.

Binding Authority—the ability of a duly licensed insurance producer, who has adequate errors and omission insurance, and has completed a training course offered by Citizens, to issue a policy of property and casualty insurance in the FAIR Plan and Coastal Plan that imposes liability upon Citizens. A licensed producer must meet all requirements for binding authority set forth in Regulation 87 and must have applied to and have been authorized by Citizens to qualify for binding authority.

Citizens (when capitalized)—the Louisiana Citizens Property Insurance Corporation, and includes the residual market insurance programs known as the "Coastal Plan" and the "FAIR Plan."

Coastal Plan—the successor to that program established by Act 35 of the 1970 Regular Session to provide a residual market for adequate insurance on property in the coastal areas of the state, now available as a program of Citizens.

Commissioner—the Commissioner of Insurance of the Louisiana Department of Insurance.

Department—the Louisiana Department of Insurance.

FAIR Plan—the successor to that program established by Act 424 of the 1992 Regular Session, and designated as the "Fair Access to Insurance Requirements Plan" to provide a residual market for adequate insurance on property in the state, now available as a program of Citizens.

Insurance Producer—a person required to be licensed under the laws of this state to sell, solicit, or negotiate insurance, and includes all persons or business entities otherwise referred to in the Louisiana Insurance Code as "insurance agent" or "agent," or "insurance broker" or "broker," or "insurance solicitor" or "solicitor," or "surplus lines broker."

Louisiana Policy Management System (LPMS)—the Citizens policy management computer system or its successor.

Procedural Error—an error in an insurance application to bind property and casualty coverage with Citizens that does not materially affect the underwriting risk or rise to the level of a material misrepresentation that does not rise to the level of a substantive error.

Producer Subscriber Agreement—a contractual agreement delineating the terms, provisions and conditions permitting insurance producers and/or producer agencies to bind coverage and write property and casualty insurance issued by Citizens through the FAIR Plan and the Coastal Plan.

Substantive Error—an error in an application to bind property and casualty insurance coverage with Citizens that materially affects the underwriting risk or rises to the level of a material misrepresentation.

Unlicensed Employee—a person hired by an insurance producer who performs administrative or clerical duties authorized by such insurance producer relative to an insurance application, but does not possess an insurance producer license and is not authorized to sell, solicit, or negotiate a contract of insurance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1430.22 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Citizens Property Insurance Corporation, LR 33:1873 (September 2007).

§12109. Licensing

A. Pursuant to R.S. 22:3, no person shall be authorized to transact or shall transact the business of insurance in the state of Louisiana without complying with the provisions of the Louisiana Insurance Code.

B. Except as otherwise provided in R.S. 22:1134(B) and 22:1148(C)(1), no person shall act as or hold himself out to be an insurance producer unless licensed by the department as required by R.S. 22:1133.

C. In accordance with R.S. 22:1133(B), an insurance producer is not authorized to sell, solicit, make an application for, procure, or place for others any policies for any lines of insurance as to which the insurance producer is not qualified and duly licensed in the state of Louisiana.

D. Citizens acknowledges that the granting of an insurance producer license is within the sole province of the department and nothing in Regulation 87 shall be construed or intended to confer upon Citizens any right to the licensure of any insurance producer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1430.22 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Citizens Property Insurance Corporation, LR 33:1873 (September 2007).

§12111. Qualifications for Binding Authority

A. In order to bind coverage for the FAIR Plan and the Coastal Plan through Citizens, each duly licensed insurance producer must meet the following requirements:

1. maintain errors and omission insurance in the minimum amount of \$1 million per occurrence and \$1 million annual aggregate;

2. complete the initial training course and the annual training course approved and offered by Citizens, except that an insurance producer authorized by and conducting business with Citizens on the date Regulation 87 becomes final shall have until December 31, 2008 to complete the educational requirements;

3. demonstrate experience writing property and casualty insurance in Louisiana and maintain an in-force book of residential and/or commercial property insurance business in the lines of insurance offered by Citizens;

4. have a valid insurance producer license issued by the department;

5. submit to Citizens a completed application warranting compliance with applicable requirements established by Citizens;

6. submit to Citizens a properly executed producer subscriber agreement; and

7. demonstrate compliance with all terms and conditions set forth in the producer subscriber agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1430.22 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Citizens Property Insurance Corporation, LR 33:1873 (September 2007).

§12113. Procedures to Implement Binding Authority

A. The insurance producer shall list all unlicensed employees that shall have access to the Louisiana Policy

Management System (LPMS) in order for the insurance producer to bind property and casualty insurance coverage for their clients with Citizens.

B. If the insurance producer is an insurance agency, it shall list each unlicensed employee or insurance producer that shall have access to the Louisiana Policy Management System (LPMS) in order for the insurance producer to bind property and casualty insurance coverage for their clients with Citizens.

C. Each insurance producer, whether an individual or an agency, shall assign an administrator who shall have the responsibility and authority to add and/or delete unlicensed employees, including insurance producers, who have been authorized to access the LPMS. The administrator shall provide each unlicensed employee, including insurance producers, an LPMS access code, and the administrator and insurance producer shall select a secure password to access the LPMS. The administrator shall be responsible for managing the LPMS Interface with the insurance producer, whether an individual or an agency, and maintaining up-to-date information in the LPMS.

D. Citizens will publish and maintain technical computer system requirements for the LPMS. Instructions for using the LPMS will be available on a web site created and maintained by Citizens. Insurance producers are responsible for ensuring that their computer systems and internal resources meet the technical computer system requirements and that their unlicensed employees, including insurance producers if an insurance agency, are properly trained on the use of the LPMS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1430.22 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Citizens Property Insurance Corporation, LR 33:1873 (September 2007).

§12115. Procedures for Application to Bind Coverage

A. The insurance producer shall complete and submit the on-line application for property and casualty insurance coverage to Citizens and shall comply with all requirements of the application process that have been established by Citizens.

B. The insurance producer authorized to bind coverage with Citizens on the LPMS shall provide a valid Louisiana property and casualty insurance producer license number issued by the department in each application for property and casualty coverage with Citizens utilizing the LPMS. The administrator shall be responsible for maintaining an up-to-date list of insurance producers with the current insurance producer license number issued by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1430.22 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Citizens Property Insurance Corporation, LR 33:1874 (September 2007).

§12117. Education and Training

A. Each authorized insurance producer and each authorized employee of an insurance producer shall, within each calendar year, attend at least one certified continuing education seminar that has been previously approved by Citizens in order to maintain their binding authority. Continuing education seminars will be provided by Citizens at least twice during each calendar year in order to facilitate the fulfillment of this requirement.

B. Each new insurance producer and each employee of a new insurance producer shall attend a previously approved Citizens education seminar as a prerequisite for authorization to bind coverage.

C. Any insurance producer who is authorized by and conducting business with Citizens on the date Regulation 87 becomes final shall have until December 31, 2008 to complete the educational requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1430.22 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Citizens Property Insurance Corporation, LR 33:1874 (September 2007).

§12119. Errors and Omission Insurance

A. Each insurance producer, including the insurance agency if applicable, must provide documentary proof to Citizens that it has met and is carrying a required minimum of \$1 million per occurrence and \$1 million annual aggregate of professional liability coverage at the time of application for binding authority. Proof of professional liability coverage shall include, at a minimum, documentation that verifies the liability insurer, the amount of coverage and the duration of coverage. The administrator of the insurance producer shall update this proof of professional liability coverage in the LPMS each year in advance of the expiration date of the coverage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1430.22 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Citizens Property Insurance Corporation, LR 33:1874 (September 2007).

§12121. Underwriting Requirements

A. Each insurance producer, including a producer who is an insurance agency, who has authority to bind coverage with Citizens is responsible to ensure that each producer and unlicensed employee properly follows all of the underwriting procedures established by Citizens. Any insurance producer who attempts to bind coverage with Citizens and fails to follow the underwriting procedures that have been established by Citizens shall be subject to the action that Citizens is authorized to take, including the suspension and termination of binding authority privileges, as prescribed in Section 12125.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1430.22 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Citizens Property Insurance Corporation, LR 33:1874 (September 2007).

§12123. Premium Payments Requirements

A. An insurance producer shall submit the entirety of the premium payment with the application within five calendar days after receipt of the premium. In order to expedite the payment of the premium, any premium money collected from a policyholder by the insurance producer may be electronically drafted from the insurance producer's trust account. The insurance producer shall complete and submit to Citizens the necessary draft forms, including the trust account information, in order to utilize this electronic process. Use of this electronic process is not required. However, each insurance producer is encouraged to utilize the electronic process as a preferred method to guarantee that payment of the premium is remitted timely to Citizens.

B. Failure to timely submit a premium to Citizens may result in suspension of binding authority privileges for one year unless reinstated before the expiration of the one year period by Citizens. Additionally, the insurance producer will be referred to the department for further action authorized under the Louisiana Insurance Code. An insurance producer who has been suspended may be authorized to service existing Citizens' business. However, such insurance producer will not be authorized or entitled to bind any new business unless and until reinstated by Citizens.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1430.22 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Citizens Property Insurance Corporation, LR 33:1874 (September 2007).

§12125. Suspension and Termination of Binding

Authority

A. Citizens has the authority to suspend or terminate the binding authority privileges of an insurance producer if Citizens determines that the insurance producer has failed to adhere to proper underwriting and binding procedures that have been established by Citizens.

B. An insurance producer who demonstrates a consistent practice of submitting multiple procedural errors on applications to bind coverage with Citizens may have his binding authority privileges suspended for a period of not more than 12 months and until such time as Citizens has determined that the subject insurance producer has taken the actions required by Citizens to rectify the procedural errors.

C. An insurance producer who, during a 12 month period, commits a substantive error in five or more applications to bind coverage with Citizens may have his binding authority privileges suspended for a period of not more than 12 months and until such time as Citizens has determined that the subject insurance producer has taken the actions required by Citizens to rectify the substantive errors.

D. An unlicensed employee who demonstrates a consistent pattern of submitting procedural errors or substantive errors on applications to bind coverage with Citizens may be denied the right to access the LPMS on behalf of the insurance producer until such time as Citizens has determined that the subject unlicensed employee has taken the actions required by Citizens to rectify the errors. The insurance producer, and if applicable an insurance agency, who is responsible for the unlicensed employee who has been sanctioned herein shall be subject to suspension or termination of the binding authority privileges as deemed appropriate by Citizens pursuant to the guidelines set forth in Subsections B, C, E and F.

E. An insurance agency, whose producers and/or unlicensed employees, demonstrate a consistent practice of submitting applications to bind coverage with Citizens that contain substantive errors that materially affect the underwriting risk of any contract of property and casualty insurance issued, or to be issued, by Citizens may have all binding authority privileges terminated for a period of not more than 12 months and until such time as Citizens has determined that the subject insurance producer has taken the actions required by Citizens to rectify the substantive errors. After the expiration of the termination period, the insurance producer may apply for reinstatement. Reinstatement shall be at the sole discretion of Citizens and may be subject to

any additional training or educational requirements imposed by Citizens.

F. An insurance producer who has been determined by Citizens to have knowingly or intentionally engaged in fraudulent conduct or committed an act of fraud in or relative to an application to bind coverage with Citizens shall have all binding authority privileges terminated and shall not be eligible for reinstatement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1430.22 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Citizens Property Insurance Corporation, LR 33:1875 (September 2007).

§12127. Appeals

A. An insurance producer aggrieved by any action taken by the chief executive officer of Citizens relative to the suspension or termination of their binding authority privileges shall have the right to file a written appeal to the board of directors of Citizens. The written appeal shall be filed within 30 days of the date of the adverse action taken by the chief executive officer of Citizens against the aggrieved party. The written appeal shall set forth, in detail, each and every reason why the aggrieved party is entitled to the relief requested, including any documents, papers and things tendered in support thereof. The board of directors of Citizens may conduct a hearing or may consider the matter as being submitted on the merits. The board of directors of Citizens shall render a decision within 90 days after the date of the lodging of a timely and complete appeal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1430.22 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Citizens Property Insurance Corporation, LR 33:1875 (September 2007).

§12129. Referral for Regulatory Action

A. Citizens reserves the right to refer any matter involving Regulation 87 to the department for any legal action authorized under the Louisiana Insurance Code, including, but not limited to, fine, probation, suspension or revocation of the insurance producer license issued by the department to the insurance producer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1430.22 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Citizens Property Insurance Corporation, LR 33:1875 (September 2007).

§12131. Severability

A. If any provision of Regulation 87 or its application to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of Regulation 87 which can be given effect without the invalid provision or application, and to that end, the provisions of Regulation 87 are severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1430.22 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Citizens Property Insurance Corporation, LR 33:1875 (September 2007).

§12133. Effective Date

A. Regulation 87 shall become effective on the date of the publication of the final Rule in the *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1430.22 and the Administrative Procedure Act, R.S. 49:950 et seq.

J. William Newton
Chairman

0709#024

RULE

Department of Revenue Policy Services Division

Natural Resources—Severance Tax (LAC 61:I.2903)

Editor's Note: This Rule is being promulgated to correct a citation error. The original Rule may be viewed on pages 1614-1615 of the September 20, 2006 edition of the *Louisiana Register*.

Under the authority of R.S. 47:633 and 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, has amended LAC 61:I.2903 to extend the time allowed for filing certifications for reduced oil and gas severance tax rates from the fifteenth day of the second month following the month of production to the twenty-fifth day of the second month, which is the same due dates as the severance tax returns. In addition, proposed amendments require the filing of continuing certification forms for gas wells, which is consistent with the oil well requirements.

Acts 2005, No. 446 amended R.S. 47:635(A) and 640(A) to extend the oil and gas severance tax return and payment due dates to the twenty-fifth day of the second month following the month to which the tax applies effective for tax periods beginning on or after October 1, 2005. Act 38 of the 2006 Regular Legislative Session amended R.S. 47:633(7)(b) and (c)(i)(aa) to extend the due date for filing the oil reduced severance tax rate certifications. The due date for filing reduced gas severance tax rate certifications is not specified by the severance tax statutes, R.S. 47:633(9)(b) and (c). These amendments make the reduced oil and gas severance tax rate certification due dates the same as the severance tax return due dates.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue

Chapter 29. Natural Resources—Severance Tax §2903. Severance Taxes on Oil; Distillate, Condensate or Similar Natural Resources; Natural Gasoline or Casinghead Gasoline; Liquefied Petroleum Gases and Other Natural Gas Liquids; and Gas

A. ...

B. Certification for Reduced Tax Rates. A taxpayer may qualify for the lesser tax rates levied in R.S. 47:633(7)(b) and (c), and R.S. 47:633(9) by certifying and reporting production and test data, on forms prescribed by the secretary.

1. Oil. Oil production is certified for reduced severance tax rates provided by R.S. 47:633(7)(b) or (c)(i)(aa) by individual well. To receive the reduced tax rate

on the crude oil production from an oil well, an application must be filed with the secretary on or before the twenty-fifth day of the second month following the month in which production subject to the reduced rate applies.

a. After a well has been certified for the reduced tax rate, it is necessary to file continuing certification forms on or before the twenty-fifth day of the second month following the months of production.

i. It is not necessary to include stripper wells that are certified with a "B" prefix code on the continuing certification forms.

ii. Failure to file or delinquent filing of the continuing certification forms may result in certification denial for the month's production that the report is delinquent or not filed.

b. Wells cannot be certified as both a stripper and an incapable oil well.

c. Recertification is required whenever the well operator changes.

d. All wells are subject to redetermination of their reduced rate status based on reports filed with the Department and the Office of Conservation. When a well no longer meets the qualifications for the reduced tax rate for which it was certified, the full tax rate becomes due.

2. Gas. Gas production is certified for reduced severance tax rates provided by R.S. 47:633(9)(b) and (c) by individual wells. To receive the reduced severance tax rate on natural gas or casinghead gas production, an application must be filed with the secretary on or before the twenty-fifth day of the second month following the month in which production occurs.

a. After a well has been certified for the reduced tax rate, it is necessary to file continuing certification forms on or before the twenty-fifth day of the second month following the month of production.

i. It is not necessary to include incapable gas wells that are certified with an "F" prefix code on the continuing certification forms.

ii. Failure to file or delinquent filing of the continuing certification forms may result in certification denial for the month's production that the report is delinquent or not filed.

b. The well cannot be certified as both an incapable gas well and an incapable oil well.

c. If the well changes from one tax rate status to another a new certification is required.

d. Recertification is required whenever the well operator changes.

e. All wells are subject to redetermination of their reduced rate status based on reports filed with the Department and the Office of Conservation. When a well no longer meets the qualifications for the reduced tax rate for which it was certified, the full tax rate becomes due.

C. - G.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:633, 47:648.3, and 47:1511.

HISTORICAL NOTE: Adopted by the Department of Revenue and Taxation, Severance Tax Division, August 1974, amended LR 3:499 (December 1977), amended LR 20:1129 (October 1994), repromulgated LR 20:1299 (November 1994), amended by the Department of Revenue, Severance Tax Division, LR 23:1167 (September 1997), LR 24:2321 (December 1998), Department of

Cynthia Bridges
Secretary

0709#048

RULE

Department of Revenue Policy Services Division

Returns and Payment of Tax; Penalty for Absorption of Tax (LAC 61:I.4351)

Under the authority of R.S. 47:306, 47:337.2, 47:337.18, and 47:1511, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, amends LAC 61:I.4351 to provide guidance to taxpayers concerning the filing of sales tax returns.

The department has traditionally approved applications of dealers to combine the sales tax filing data from several locations of the same legal entity into a single monthly or quarterly sales tax return, and will continue to do so. The Rule provides, however, that when a dealer operates a location within the boundaries of a tax increment financing district, the department might require that the sales tax data for the location within the district be reported on a separate return. The department might require a dealer to file a separate return in any other instance where tax data is required for an individual sales location.

The Rule also provides with respect to the filing of quarterly sales tax returns with the Louisiana Department of Revenue and for the filing with the department of returns for periods other than a calendar month or quarter. The filing of quarterly sales tax returns with political subdivisions of the state is provided for by R.S. 47:337.18(A)(1)(b)(i), and is not affected by this Rule.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue

Chapter 43. Sales and Use Tax

§4351. Returns and Payment of Tax, Penalty for Absorption of Tax

A. General. All persons and dealers who are subject to state or local sales or use tax are required to file a tax return monthly, unless otherwise provided, and to remit the amount of tax due. Forms will be provided by the collector, and failure to receive a form will not relieve the dealer of the necessity to file and remit the tax due. For the purpose of collecting and remitting state and local sales or use tax, the dealer performs as the agent of the taxing authority.

1. After a dealer is properly registered for sales and use tax purposes, a sales tax identification number is assigned and the dealer is required to file monthly sales tax returns. Failure to file returns timely will cause the collector to issue an estimated proposed assessment. For those months when the dealer has no taxable sales or amounts to report, a return must still be filed marked "no sales or taxable amounts" and signed by the dealer. Monthly returns must be

filed on or before the twentieth day of the month following the month in which the tax is due.

a. Taxpayers may request approval to file consolidated sales tax returns to report sales made from multiple locations on one consolidated monthly return.

b. The collector may require taxpayers to file separate tax returns if the taxpayer is located within a tax increment financing zone or in any other instance when tax data is required by taxpayer location.

2. - 6. ...

B. Exceptions. Not all dealers are required to file returns on a monthly basis.

1. After registration, all dealers will be required to file monthly tax returns.

2. Quarterly Filing. Solely for state sales or use tax purposes, after the dealer has filed tax returns for a few months and it is determined that their tax liability averages less than \$500 per month, the dealer will be notified and required to file returns quarterly.

a. It is not necessary to apply for quarterly filing because once a determination is made by the secretary that quarterly filing is appropriate, the dealer will be notified.

b. Quarterly returns must be filed on or before the twentieth day of the first month of the next succeeding quarter.

c. Any dealer required to file on a quarterly basis, may apply for approval to file and pay taxes on a monthly basis.

i. Requests to file monthly must include justification for the exception.

ii. Monthly filing requests must be approved before the dealer may begin filing monthly.

d. Solely for filing local sales or use tax returns, R.S. 47:337.18(A)(1)(b)(i) requires dealers to file their tax returns quarterly if their tax due averages less than \$30 per month.

3. Irregular Filing. Dealers with occasional sales or use tax purchases may apply for approval to file and pay taxes on an irregular filing basis.

a. Sales and use tax returns must be filed on or before the twentieth day of the month following the month in which the taxable transaction occurred.

b. Each line of the tax return must be completed and all nontaxable amounts should be identified.

4. Alternate Filing Periods

a. Dealers must apply for approval to file sales tax returns using an alternate method.

b. Approval will only be granted if the total filings do not exceed 12 filings in a 12-month period.

c. The number of short periods during a year must be greater than or equal to the number of long periods during that same year.

d. At the beginning of each year the dealer must, after obtaining approval for the alternate period filing method, file with the collector a calendar for the year showing the alternative filing periods for that year. Amendments to approved calendars must be submitted for approval prior to the affected periods. The taxpayer's account will be reviewed to determine if the taxpayer has correctly filed returns, according to the calendar submitted at the beginning of the year. If the taxpayer does not follow the approved alternate filing method, the returns for the year

under review will be converted to a calendar month basis and the taxpayer's request to use an alternate period filing method for the subsequent year will be denied. Alternate period returns must be filed on or before the twentieth day following the close of the alternate filing period. Failure to file on or before this date will subject the dealer to delinquency charges, loss of vendor's compensation, and other charges as prescribed by law.

C. - C.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:306, R.S. 47:337.2, R.S. 47:337.18, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987), amended by the Department of Revenue and Taxation, Sales Tax Division, LR 22:852 (September 1996), amended by the Department of Revenue, Sales Tax Division, LR 23:1530 (November 1997), amended by the Department of Revenue, Policy Services Division, LR 30:2868 (December 2004), LR 31:1101 (My 2005), LR 32:111 (January 2006), LR 33:1877 (September 2007).

Raymond E. Tangney
Senior Policy Consultant

0709#025

RULE

Department of Social Services Office of Family Support

Electronic Benefits Transfer—Methods of Issuing Benefits Electronically (LAC 67:III.401-409 and 901)

The Department of Social Services, Office of Family Support, amended LAC 67:III, Subpart 1, Chapter 4, Electronic Benefits Issuance System to provide delivery of benefits through electronic disbursements. Electronic disbursement has allowed the agency to provide effective and efficient disbursement of payments to our clients while eliminating the need to print and mail checks.

The agency amended Chapter 4 Electronic Benefits Issuance System in its entirety which adds the types of electronic disbursements utilized and to address program payments by Electronic Benefits Transfer (EBT) to Family Independence Temporary Assistance Program (FITAP), Kinship Care Subsidy Program (KCSP), and Food Stamp Program Benefits. Sections in Chapter 4 have been recodified and renumbered.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 1. General Administrative Procedures

Chapter 4. Electronic Benefits Issuance System

§401. Electronic Benefits Transfer (EBT)

A. The Office of Family Support utilizes an electronic benefits issuance system referred to as Electronic Benefits Transfer (EBT) that allows eligible individuals and households to have their governmental benefits deposited into an account to pay for products purchased or to obtain authorized cash payments. Programs that utilize the EBT are Family Independence Temporary Assistance Program (FITAP), Kinship Care Subsidy Program (KCSP), and Food Stamp Program Benefits.

B. - B.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:450.1, 7 CFR 274.12 and 45 CFR 95(F). Section 404(g) of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 22:1231 (December 1996), amended LR 23:869 (July 1997), LR 33:1878 (September 2007).

§403. Cash Benefits

A. Cash benefits and Food Stamp Program benefits shall be available through EBT in staggered cycles to on-going households beginning on the first day of each month. The last digit of the Social Security number determines the date that benefits are issued. Cash benefits will be available within the first five days of each month. Food stamp benefits will be available within the first 14 days of each month. Food stamp cases that contain elderly or disabled persons will have benefits available during the first four days of each month. Other issuance authorizations will be posted to the EBT account the day after they are authorized except in emergency circumstances in which case benefits will be available on the same day.

B. Benefits are delivered in this manner for households certified on an on-going basis. Benefits can accumulate but are accounted for according to the month of availability and will be withdrawn on a first-in-first-out basis. Each month's benefits with no activity by the client for a period of 90 days from the date of availability will be moved to dormant status. These benefits can be returned to active status at the local Office of Family Support offices upon request of the head of household or upon reapplication for assistance if the case is in inactive status. Benefits that remain in dormant status for a period of 270 days will be expunged and will not be available to the household after expungement. FITAP benefits which have been expunged may be reauthorized for availability if the recipient has good cause for not having accessed them during the original availability period.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 272.3(c)(1)(ii) and P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:1322 (July 1998), amended LR 33:1878 (September 2007).

§405. Participation of Retailers (Effective October 1, 1997)

A. Retail establishments which are U.S. Department of Agriculture, Food and Nutrition Service (FNS), authorized food stamp benefit redemption points must be allowed the opportunity to participate in the state EBT system. FNS approved retailer may choose to accept EBT cards for cash transactions (FITAP and KCSP). All other retail establishments must be approved by the Agency in order to participate in the cash access component of the system. Retailers approved by the Agency to participate in cash access may be charged connection fees and/or monthly lease fees for electronic and telephone equipment lines necessary to establish connection to the EBT System.

B. Retail establishments found guilty of abuse, misuse or fraud of the system by using the EBT "Louisiana Purchase" card in a manner or intent contrary to the purpose of the card, in providing benefits to eligible recipients, shall be permanently disqualified from participating as a cash redemption point and shall have all equipment provided by

the vendor disconnected and removed from the establishment after due process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:106 (January 1998), amended LR 33:1878 (September 2007).

§407. Service Fees Effective October 1, 1997

A. Recipients of cash assistance may be charged fees for accessing cash only benefits. Retailers may charge their usual and customary check cashing fee for providing cash only benefits to FITAP recipients under the following circumstances:

1. the recipient presents a valid EBT system card (known as the "Louisiana Purchase Benefit Card"); and

2. the recipient is not using the card to obtain cash in conjunction with the purchase of goods or services through the EBT system.

B. Retailers may process cash transactions through the EBT system only while the system is available. Retailers shall not dispense cash to recipients using vouchers or other means of implied payment to the retailer.

C. Retailers are prohibited from recovering losses through the EBT system due to their errors that are discovered after the transaction is completed and the recipient has left the place of business.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:450.1(C)(3), R.S. 46:231.13, R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:107 (January 1998), amended LR 33:1879 (September 2007).

§409. Participation of Approved Prepared-Meal Facilities

A. Facilities providing prepared meals that are authorized by the United States Department of Agriculture, Food and Nutrition Service and, in some instances, the agency, to accept food stamp benefits for prepared meals may be authorized redemption points using the EBT card. Participating facilities are subject to all applicable regulations of this provision. If found guilty of abuse, misuse or fraud by using the EBT card or benefits in a manner or intent contrary to the purpose of the Food Stamp Program, a facility may be permanently disqualified from participation and have all equipment provided by the vendor disconnected and removed from the facility after due process.

1. A facility must maintain confidentiality in accordance with Food Stamp Program rules by requiring privacy when accepting payments or payment/contributions from recipients.

2. Settlement of funds to a facility will be made electronically as a direct deposit to the financial institution selected by the facility.

3. A facility must sign a contract with the agency's EBT vendor and be certified to the vendor's system prior to participation.

B. Types of Facilities

1. Duly authorized non-residential facilities such as communal dining facilities or Meals-on-Wheels may accept food stamp benefits for single meals.

2. Duly authorized residential facilities such as homeless shelters or battered women's shelters may accept food stamp benefits for multiple meals or on-going food maintenance. Such establishments may accept food stamp

payments or contributions not to exceed the biweekly rate of the facility. This requirement will ensure that recipients have adequate benefits remaining in their accounts upon departure from the establishment.

C. A facility with redemption of food stamp benefits of \$100 or more per month will be provided a Point-of-Sale (POS) terminal to enable acceptance of the EBT card. A facility with redemption of less than \$100 per month will utilize paper voucher authorizations for the acceptance of food stamp benefits.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 282.1(a).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:1322 (July 1998), amended LR 33:1879 (September 2007).

Chapter 9. Benefit Delivery

§901. Benefit Delivery

A. The Office of Family Support delivers benefits in the following manner:

1. Electronic Benefits Transfer; or
2. direct deposit; or
3. stored value cards; or
4. checks.

AUTHORITY NOTE: Promulgated by 7 CFR 274.12; and ACF Guidance: ACYF—IM-CC-05-03, Section 404(g) and Section 454b(b) of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 33:1879 (September 2007).

Ann Silverberg Williamson
Secretary

0709#058

RULE

Department of Social Services Office of Family Support

TANF—Adjustment of Child Support Orders (LAC 67:III.2512)

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Social Services, Office of Family Support, amended LAC 67:III.2512, which provides the formula for support obligation.

The Deficit Reduction Act of 2005 amends the provisions of the Social Security Act at Subsection 466 (a)(10) effective October 1, 2007. This amendment requires states to enact laws requiring the use of procedures under which every three years (or such shorter cycle as the state may determine), upon the request of either parent or if there is an assignment under Title IV-A of the Act, the state shall review and, if appropriate, adjust an order: using guidelines; a cost-of-living adjustment; or automated methods to identify orders to review and adjust, if appropriate.

Amendment of this Section is necessary to ensure continued compliance with federal regulations and avoid federal penalties and sanctions that could be imposed by the Administration for Children and Families, Office of Child Support Enforcement, the governing authority of the Support Enforcement Services program in Louisiana.

Title 67
SOCIAL SERVICES

Part III. Family Support

Subpart 4. Support Enforcement Services

Chapter 25. Support Enforcement

Subchapter C. Formula for Support Obligation

§2512. Adjustment of Child Support Orders

A. SES will send a notice every three years advising both parties to the support order of the right to request a review. If either party requests a review or if there is an assignment under Temporary Assistance to Needy Families (TANF), SES will conduct the review and, if appropriate, judicially seek adjustment of the order in accordance with the guidelines if the amount of the child support in the order differs from the amount of the child support award in accordance with the guidelines.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, §351, R.S. 9:311C, and the Social Security Act [466(a)(10)].

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 19:1178 (September 1993), amended LR 23:748 (June 1997), LR 24:957 (May 1998), LR 33:1880 (September 2007).

Ann Silverberg Williamson
Secretary

0709#057

RULE

Department of State
Elections Division

Election Expense Reimbursement
(LAC 31:I.Chapter 7)

Under the authority of R.S. 18:18(A)(5) and R.S. 36:742 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Secretary of State hereby adopts uniform rules, regulations, forms, and instructions as to allowable election expenses and other expenses for clerks of court, registrars of voters, parish boards of election supervisors, and other election related expenses.

Title 31
ELECTIONS

Part I. Election Process

Chapter 7. Election Expense Reimbursement

§701. Department of State's Election Expense Manual

A. The department shall develop and adopt an Election Expense Manual that shall be utilized by clerks of court, registrars of voters, parish boards of election supervisors, and other sources (e.g., law enforcement officers) as needed to determine eligibility of reimbursement and/or payment of election expenses and other related expenses. The manual shall provide information as to the required supporting documents that must be attached to the invoice before payment can be made. In the event of an unusual expense, the manual will provide information on how to obtain approval in advance of the expense.

B. Under the provisions of the Election Code, R.S. 18:1400.3 and 1400.4, election expenses incurred by either the clerk of court, the registrar of voters, or the parish board of election supervisors will be reimbursed or paid by the

Department of State from funds appropriated for that purpose. After all election expenses have been paid and reconciled, these expenses will be allocated to the state or parish governing authorities under the prorated provisions of R.S. 18:1400.3, R.S. 18:1400.4, and R.S. 18:1400.5. Invoices will then be generated to the appropriate party.

C. The procurement of all goods and services shall be done in accordance with purchasing procedures established by the Office of State Purchasing or the parish governing authority.

D. The payment for mileage shall be based upon the mileage rate established by the Office of State Travel in General Travel Regulations (Policies and Procedure Memorandum Number 49).

E. Reimbursement for copies will be based upon the state's uniform copy rate (LAC 4:I.301) established for all state agencies. If a parish has officially adopted their own rate, a copy of the adoption of a rate must be provided to the Department of State with a request to allow the parish's copy rate.

F. The Election Expenses Manual shall be submitted to the state attorney general's office for approval. Any updates to the manual shall also receive approval by the state attorney general's office.

G. The Election Expense Manual shall be submitted to the Committee on House and Governmental Affairs and the Senate and Governmental Affairs Committee for informational purposes. Both committees shall receive any changes to the manual.

H. Copies of the final Election Expense Manual may be viewed at the Office of State Register (Claiborne Building, 1201 N. Third St., Suite 3-220, Baton Rouge, LA) or at the Department of State (Broadwing Building, Elections Division, 8549 United Plaza Blvd., Baton Rouge, LA).

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:18(A)(5), R.S.18:1400.3, R.S. 18:1400.4, R.S. 18:1400.5, R.S. 36:742, and R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 33:1880 (September 2007).

§703. Clerk of Court Expenses

A. The Election Expense Manual shall clearly set forth a listing of expenses for clerks of court which are authorized for reimbursement and/or payment, and a listing of expenses for which advance approval by the Secretary of State is required, and a listing of unauthorized expenses.

B. If a clerk of court's expense requires written approval in advance, the request should be submitted two weeks in advance of the anticipated expense to the Secretary of State, or his designee. The approval letter or request should accompany the invoice for payment.

C. Request for approval for any emergency expense may be done by telephone or email and reduced to writing thereafter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:18(A)(5), R.S.18:1400.3, R.S. 36:742, and R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 33:1880 (September 2007).

§705. Registrar of Voters Expenses

A. The Election Expense Manual shall clearly set forth a listing of expenses for registrars of voters which are authorized for reimbursement and/or payment, and a listing of expenses for which advance approval by the Secretary of State is required, and a listing of unauthorized expenses.

B. If a registrar of voters' expense requires written approval in advance, the request should be submitted two weeks in advance of the anticipated expense to the secretary or his designee. The approval letter or request should accompany the invoice for payment.

C. Request for approval for any emergency expense may be done by telephone or email and reduced to writing thereafter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:18(A)(5), R.S.18:1400.3, R.S. 36:742, and R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 33:1880 (September 2007).

§707. Parish Board of Election Supervisors Expenses

A. The Election Expense Manual shall clearly set forth a listing of expenses for the parish boards of election supervisors which are authorized for reimbursement and/or payment, and a listing of expenses for which advance approval by the Secretary of State is required, and a listing of unauthorized expenses.

B. If a parish board of election supervisors' expense requires written approval in advance, the request should be submitted two weeks in advance of the anticipated expense to the secretary or his designee. The approval letter or request should accompany the invoice for payment.

C. Request for approval for any emergency expense may be done by telephone or email and reduced to writing thereafter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:18(A)(5), R.S.18:1400.4, R.S. 36:742, and R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 33:1881 (September 2007).

§709. Deadline for Submission of Expenses to Department of State

A. All requests for reimbursement or payment of expenses shall be submitted to the department no later than 60 days following an election or the transaction.

B. If the request for reimbursement or payment is not received within this 60 day period, the department may notify the appropriate party by certified mail that the request will be disapproved for payment if not made within 10 days from receipt of this notice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:18(A)(5), R.S.18:1400.3, R.S. 18:1400.4, R.S. 18:1400.5, R.S. 36:742, and R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 33:1881 (September 2007).

Jay Dardenne
Secretary of State

0709#080

RULE

**Department of State
Elections Division**

**Election Night Transmission of Results
(LAC 31:I.Chapter 5)**

Under the authority of R.S. 18:576(B), R.S. 36:742, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Secretary of State hereby adopts uniform rules and regulations for the

transmission of election results by the clerk of court's office to the Department of State on election night.

**Title 31
ELECTIONS**

Part I. Election Process

Chapter 5. Election Night Transmission of Results

§501. Responsibility of Secretary of State

A. The Secretary of State shall provide each clerk of court's office with written instructions on the election results transmission process.

B. These written instructions shall provide specific uniform tasks that must be performed by the clerk of court's office to effectively transmit election night results.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:576(B) and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 33:1881 (September 2007).

§503. Responsibility of Clerk of Court

A. The clerk of court shall follow proper procedures for transmitting all election results, as provided by the transmittal procedures established by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:576(B) and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 33:1881 (September 2007).

§505. Transmission of Election Night Returns

A. The clerk of court's office shall immediately load the contents of election results cartridges onto the Department of State's laptop as they are received by the clerk of court. Once all of the cartridges for a whole precinct are loaded onto the laptop, the clerk of court's office shall immediately transmit the election results to the Louisiana Secretary of State's Elections and Registration Information Network (ERIN) and verify that the system is properly transmitting election results. The clerk of court may verify by checking ERIN and/or the Secretary of State's website (www.GeauxVote.com) for the posting of the first transmission of election returns, or by telephoning the department's election division.

B. Once it has been verified that the first transmission was successful, the clerk of court shall transmit all remaining election results to the Department of State at least every 30 minutes or less, until all election results cartridges have been loaded and transmitted according to transmittal procedures established by the department.

C. The transmission of election results shall begin no later than 45 minutes after the polls are closed unless there is a technical or unforeseen problem which prevents the clerk of court from doing so, in which case the clerk shall contact the department to communicate such information.

D. If the clerk of court's office has its own computer system to display election results, the results shall be loaded onto that system only after the information has been properly transmitted to the department, and such results shall be displayed and clearly identified as the unofficial results of the clerk of court. However, in the event of a technical or unforeseen problem which prevents the clerk of court from transmitting election results to the department, after communicating such information to the department, the clerk may display election results on his own computer system.

E. Any election results posted in the clerk of court's office obtained or displayed from of the Department of State's webpage or ERIN shall be clearly identified as the Department of State's unofficial results.

F. The clerk of court shall check ERIN and/or the Secretary of State's website (www.GeauxVote.com) for the posting of the election returns in their parish to verify that all precincts are posted, with 100 percent reporting before closing their office for the evening. Each race must show all precincts reporting prior to ending the transmission process. The clerk of court should contact the Department of State before leaving for the night.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:576(B) and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 33:1881 (September 2007).

Jay Dardenne
Secretary of State

0709#079

RULE

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

Fur Trapping Season (LAC 76:V.129)

The Wildlife and Fisheries Commission does hereby establish a fur trapping season for the state of Louisiana.

Title 76

WILDLIFE AND FISHERIES

Part V. Wild Quadrupeds and Wild Birds

Chapter 1. Wild Quadrupeds

§129. Fur Trapping Season

A. The statewide open trapping season for nongame quadrupeds shall open on November 20 and close on March 31. The secretary shall be authorized to close, extend, delay, or reopen the season as biologically justifiable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:259(A).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 33:1882 (September 2007).

Bryant O. Hammett, Jr.
Secretary

0709#038

RULE

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

White Lake Wetlands Conservation Area (LAC 76:III.335)

The Wildlife and Fisheries Commission does hereby revise the White Lake Wetlands Conservation Area management plan in accordance with the following Rule.

Title 76

WILDLIFE AND FISHERIES

Part III. State Game and Fish Preserves and Sanctuaries

**Chapter 3. Particular Game and Fish Preserves,
Wildlife Management Areas, Refuges and
Conservation Areas**

§335. White Lake Wetlands Conservation Area

A. The general framework for public use of consumptive resources of the White Lake Wetlands Conservation Area Management Plan is as follows.

White Lake Wetlands Conservation Area Management Plan		
Activities	Season	Cost
Alligators Wild Alligator Harvest Alligator Egg Collection	LDWF Season June & July	40% of public bid Public bid
Waterfowl Teal Lottery Hunts Youth/Physically Challenged	LDWF Season First Weekend	\$100 per gun No cost
Hunts Marsh Lottery Hunts Rice Lottery Hunts Group Hunts	LDWF Season LDWF Season LDWF Season	\$150 per gun \$150 per gun \$25,000 per group
Fishing	March 15-August 15	\$40 per permit

1. The number/quantity of alligators, eggs, hunters, groups and permits for the above activities shall be established annually based upon biological and technical data presented by the department to the board.

2. Commission members and their immediate families are prohibited from participating in any consumptive activities on the White Lake Wetlands Conservation Area, including lottery and group hunts and lottery fishing.

B. Schedule of Costs for Public Use of Facilities for Non-Consumptive Activities

1. Daily Use

a. \$300—includes one day use of lodge for meetings with nothing provided (for up to 15 people, weekdays only).

b. \$300 + \$10/person—includes one day use of lodge for meetings with coffee, cold drinks and bottled water provided.

c. \$300 + \$20/person—includes one day use of lodge for meetings with coffee, cold drinks, bottled water and lunch provided. The lunch provided will consist of a sandwich tray and chips or something similar. It will not include a hot lunch.

d. Exemptions from Cost. When a state, federal or local agency or university conducts research or educational activities in cooperation with the department, or conducts activities of benefit to White Lake or the department, the above costs shall be exempt. Costs for food and drink (\$10 per person for drinks, \$20 per person per meal) may be assessed.

2. Overnight Use

a. \$400 + \$25/person/night—includes overnight stay at lodge with nothing provided except linens. (For up to 12 people, weekdays only).

b. \$400 + \$35/person/night—includes overnight stay at lodge with coffee, cold drinks, bottled water and linens provided.

c. \$900 + \$35/person/night—includes overnight stay at lodge with coffee, cold drinks, bottled water, meals (breakfast, lunch and supper) and linens provided.

d. Exemptions from Cost. When a state, federal or local agency or university conducts research or educational activities in cooperation with the department, or conducts activities of benefit to White Lake or the department, the above costs shall be exempt. Costs for food and drink (\$10 per person for drinks, \$20 per person per meal) may be assessed.

e. Exemptions from all costs apply to all persons invited by the department to department sponsored events related to education, conservation or fish or wildlife related issues.

3. Skeet Range

a. \$10/person/25 clay pigeons.

b. \$15/person/25 clay pigeons, 25 shotgun shells provided.

c. Exemptions from all costs apply to all persons invited by the department to department sponsored events related to education, conservation or fish or wildlife related issues.

4. Boat Tours

a. \$10/person/ride. Limited to authorized function attendees.

b. Exemptions from Cost. When a state, federal or local agency or university conducts research or educational activities in cooperation with the department, or conducts activities of benefit to White Lake or the department, the above costs shall be exempt. Costs for food and drink (\$10 per person for drinks, \$20 per person per meal) may be assessed.

5. Use of facilities is subject to availability as well as staff availability and other scheduled events on the area. The facilities shall not be made available for political fundraisers.

6. The department shall determine appropriate insurance or indemnity requirements for use of the facilities.

AUTHORITY NOTE: Promulgated in accordance with Act 613 of the 2004 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 33:538 (March 2007), amended LR 33:1882 (September 2007).

Bryant O. Hammett, Jr.
Secretary

0709#037