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Executive Orders

EXECUTIVE ORDER EWE-77-5

WHEREAS, present ferry transportation crossing of the Mississippi River services the communities of Lutchter and Vacherie in St. James Parish and the communities of Reserve and Edgard in St. John the Baptist Parish, as well as adjacent areas; and

WHEREAS, potential economic development, increased mobility of the people, increased use of the ferry, traffic hazards on the river, and other factors appear to justify the construction of a single fixed bridge crossing in order to service these parishes and surrounding communities; and

WHEREAS, a fixed crossing to replace the out-moded ferry service should enhance and stimulate the commercial and industrial development of the parishes of St. James and St. John the Baptist, as well as surrounding and adjacent areas; and

WHEREAS, such a river crossing facility would improve the social and human standards of safety, and would stimulate and foster the well-being and convenience of the citizens of these developing river parishes.

NOW, THEREFORE, I, EDWIN EDWARDS, Governor of the State of Louisiana, do hereby direct the Secretary of the Department of Transportation and Development and the commission hereby established to study the economic feasibility of constructing and maintaining a bridge, located in either St. James or St. John the Baptist parishes, or both, to cross the Mississippi River, and, in connection therewith, to use such powers, discharge such duties and perform such functions as may be required, in accordance with the provisions of R.S. 48:1093, and other laws which may be applicable to such a project.

FURTHER, I do hereby create and establish the St. James-St. John the Baptist Bridge Authority as an advisory commission to me and to the Legislature. Such commission shall be composed as follows: The Secretary of the Department of Transportation and Development (who shall serve as Chairman), two members who are electors of and domiciled in St. James Parish, and two members who are electors of and domiciled in St. John the Baptist Parish, and such other members the Governor may appoint from time to time. The initial members shall be Durel J. Matherne, Jr. and Monseigneur Arthur

J. Lieux, of St. James Parish, and Donald J. Boudreaux and Janice Meadox, of St. John the Baptist Parish. Members shall serve at the pleasure of the Governor and without compensation.

This authority shall report periodically to the Governor and the Legislature on its findings.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this the 9th day of March, 1977, A.D.

EDWIN EDWARDS

Governor of Louisiana

Emergency Rules

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

The following emergency policy was adopted by the State Board of Elementary and Secondary Education at its regular meeting on March 24, 1977, in order to guarantee due process to schools under the provisions of Act 274 of 1975; thereby, delay cutting off of transportation and other services and materials to any schools in Louisiana as provided in the Attorney General's Opinion No. 77-479.

Rule 4.01.11

Adoption of Attorney General's Opinion No. 77-479, dated March 21, 1977, as policy and procedure regarding bus transportation, thereby rescinding and setting aside any present policy.

Earl Ingram, Director
Board of Elementary and
Secondary Education

* * * *

Opinion No. 77-479
March 21, 1977

Brother Felician Fourrier, S.C.
Member, State Board of Elementary
and Secondary Education
P. O. Box 2028
Baton Rouge, Louisiana 70821

Dear Brother Fourrier:

You have requested an opinion from this office which has as its subject matter the public bus transportation of children attending nonpublic schools. Your concern is with our State law that limits this service to the children attending only those nonpublic schools which have been approved by the Board of Elementary and Secondary Education (BESE).

Specifically, your question is whether or not, at this particular point in time, either BESE or any local school board may properly discontinue the providing of public bus transportation for the benefit of students attending a nonpublic school which has been adjudged by either BESE or the Department of Education as not meeting the requirements for approval of such school.

It is our understanding that, at the present time, BESE through the Department of Education has defined the academic standards that must be met by public schools in order to obtain State approval. These academic standards and requirements are specifically set out in Bulletin 741. Your concern is the legality of the action by BESE or the Department of Education in applying Bulletin 741 to nonpublic schools as State academic standards for approval.

It is opinion that BESE cannot, constitutionally or legally, deny approval to any nonpublic schools unless and until it adopts proper criteria for such approval consistent with the mandate of the Louisiana Constitution of 1974.

Essentially, the Constitution, as adopted, provides that:

"Article VIII, Section 4. Upon application by a private elementary, secondary, or proprietary school with a sustained curriculum or specialized course of study of quality at least equal to that prescribed for similar public schools, the State Board of Elementary and Secondary Education shall approve the private school. A certificate issued by an approved private school shall carry the same privileges as one issued by a state public school."

This section of Article VIII makes it abundantly clear that BESE is mandated by the Constitution to approve any private school upon its providing the Board satisfactory evidence that such a school has implemented a sustained curriculum of a quality at least equal to that prescribed for similar public schools.

It is our opinion that this mandate clearly implies that the Board must, of necessity, create and adopt appropriate regulations and procedures for the evaluation of private schools, and that such evaluation must be based upon the singular consideration of whether the sustained curriculum of that school is of a quality at least equal to that of similar public schools. By further implication, this constitutional mandate necessarily precludes BESE from implementing standards of criteria for approval which addresses any other aspect of the operation and conduct of the private school other than in the area of what the Constitution has termed "sustained curriculum".

We find it necessary at this time to clarify Opinion No. 76-1878 issued by this office on January 13, 1977. The sole impact of Opinion No. 76-1878 is to the effect that a local school board does not have the power to provide bus transportation to any student attending a school which is not approved by BESE. It is not, by

implication or otherwise, authority for BESE to disapprove nonpublic schools under its existing regulations and standards as set out under Bulletin 741.

An even cursory examination of Bulletin 741 leads one to conclude that the requirements thereof relate to a variety of criteria other than a mere examination of school curriculum. Furthermore, the language of the Constitution implicitly mandates the Board to create standards for nonpublic school approval of a different nature than the standards which they have adopted for the public schools.

Were this not the case the Constitution would have merely provided that private schools shall be approved upon their meeting the same standards as BESE would fix for the public sector. However, when the Constitution speaks in terms of standards which are measured by the quality of the curriculum of the private school being equal to that of the quality of the curriculum in a similar public school, this concept must be interpreted as meaning BESE cannot apply Bulletin 741 in toto, as the measure by which nonpublic schools should be approved.

The Board has clearly recognized this self-evident constitutional limitation in implementing the provisions of Act 274 of 1975 (R.S. 17:11) in that they have appointed a nonpublic advisory committee to submit to the Board a proposed set of standards and guidelines for the approval of nonpublic schools.

We find it necessary to suggest that an imminent curtailment of bus transportation to children of nonpublic schools constitutes a disastrous and serious irreparable injury to countless citizens of this state without their being afforded any adequate due process of law in terms of review process of the suitability of the schools which their children attend for approval.

With these considerations in mind, it is our opinion that the Board of Elementary and Secondary Education cannot within the limitations of the Constitution of 1974, either approve or disapprove any nonpublic schools on the basis of the criteria as contained in Bulletin 741, and BESE should, therefore, defer any consideration of nonpublic schools' approval until such time as they have adopted criteria by way of regulations or amendments to Bulletin 741 and an administrative due process procedure for review of these schools' application. Meanwhile, under our existing laws and the Constitution, it is imperative that public bus transportation be continued to the children on nonpublic schools without interruption pending appropriate criteria as above mentioned.

After approval, these children are entitled, under our Constitution, to the same privileges and rights, as any other child attending school in our state, be it public or private.

If this office can be of any further assistance, please do not hesitate to contact us.

William J. Guste, Jr.
Attorney General

Rules

RULES

Board of Trustees for Colleges and Universities

(Editor's Note: The following rules were adopted by the Board of Trustees for Colleges and Universities on March 25, 1977, to become effective on April 20, 1977.)

Part I, Bylaws of the Board of Trustees for State Colleges and Universities, Article III, Section 1, Election of Officers, shall read as follows:

"Section 1. Election of Officers

At the first regular or special meeting of the Board in the calendar year, the Board shall elect a President and a Vice-President. The President and Vice-President shall be members of the Board. Each of these officers shall hold office for one year or until a successor has been elected."

Part II, General Operating Procedures, Section 2.7, Committees, shall read as follows:

"A. The Board shall have seven standing committees: 1. Finance, 2. Physical Plants, 3. Academic Affairs, 4. Student Affairs, 5. Athletic, 6. Grievance, and 7. Legislative.

Each committee shall be composed of at least five members appointed by the President."

(This is a technical amendment to bring Section 2.7 into conformity with the Bylaws passed in public hearing on June 25, 1976).

Part VII, Faculty and Staff Policies and Procedures, Section 7.1 shall read as follows:

A. Extension Beyond Age Sixty-five for Non-classified Personnel

1. The policy of retirement at age sixty-five shall be retained with the option of requesting, on a year by year basis, an extension of service for not more than three years when the applicant shall reach the age of sixty-eight. The applying faculty member shall submit the request for extension of employment by September 30 of the fiscal year in which he/she becomes eligible.
2. Each college or university shall form a Faculty Review Committee composed of five members:
 - a. The current Student Government Association President shall appoint a senior-level student from within the appropriate department;
 - b. The faculty shall elect annually from within its ranks seven members. Three of these seven faculty will serve on the Review Committee. In order to arrive at the three committee members, the applying faculty member and the college or university administration will, on a rotating basis, each withdraw two of the seven elected faculty members; and
 - c. The President of the college or university shall appoint one member of the Review Committee who shall serve as chairman.
3. The Committee shall be charged with the responsibility of interviewing the applicant, recording testimony from any interested faculty or student of the college or university, or any person called upon to testify before the Committee, and of securing all required application forms including records from two physicians attesting to the mental and physical fitness of the applicant. The Chairman of the Committee shall write the committee report and forward this to the college or university President.
4. The President shall receive all information from the Review Committee and shall make his recommendation for approval or disapproval and forward all information to the Board of Trustees for State Colleges and Universities for its action.

B. Extensions Through Summer Sessions

Persons reaching age sixty-five before June 30 who are currently teaching summer school shall be allowed to continue teaching the remainder of that summer session only.

C. Extension Beyond Age Sixty-Five for Board Staff

1. The Executive Director of the Board shall make recommendation to the full Board for staff extension of service beyond age sixty-five.

D. President Emeritus

Remuneration for the rank of president emeritus shall be discontinued with attrition taking care of those presidents presently drawing president emeritus pay.”

Part IX, Athletic Policies. Section 9.11A(5) shall read as follows:

- (5) Faculty and Full-time Employees—Reduced price on purchase of season tickets only.”

Bill Junkin, Executive Director
Board of Trustees for Colleges and
Universities

RULES

Board of Elementary and Secondary Education

Rule 3.01.51a

Revision to Bulletin 741, Handbook for School Administrators, Revised 1977, Requirements for High School Graduation.

Adoption of requirements of Act 83 of the 1976 Legislature which mandates a one-semester or one-half credit in the Free Enterprise System as a prerequisite to graduation for all students graduating from Louisiana public high schools during and after the 1977-78 school session.

Approved teachers certified in social studies, business education, and distributive education to teach the Free Enterprise System Course.

Earl Ingram, Director
Board of Elementary and
Secondary Education

RULE

**Department of Health and Human Resources
Office of Family Services**

The Department of Health and Human Resources, Office of Family Services, has adopted regulations to allow reimbursement under Title XIX for medically necessary services rendered at an ambulatory surgical center. The recommended policy and procedures are as follows:

I. Definition of Ambulatory Surgical Center Services.

The services rendered must be medically necessary preventative, diagnostic, therapeutic, rehabilitative, or palliative items or services furnished to an outpatient by or under the direction of a physician, osteopathic physician or dentist (for emergency and life threatening situations and for early and periodic screening, diagnosis, and treatment eligibles with prior authorization) in a facility which is not part of a hospital but which is organized and operated to provide medical care to patients.

This type facility will not provide services or other accommodations for patients to stay overnight. Therefore, the ambulatory surgical center shall have a system to transfer patients requiring emergency admittance or overnight care to a fully licensed and certified Title XIX hospital following any surgical procedure performed at the facility.

II. Basis of Payment.

Reimbursement for services rendered at an ambulatory surgical center to eligible Title XIX patients will be paid on a per diem basis per patient. This fee covers all operative functions attendant to medically necessary surgery performed at the center by a private physician, osteopathic physician or dentist; including admitting and laboratory tests, patient history and physical, operating room staffing and attendants, recovery room cases, and discharge. It includes all supplies related to the surgical care of the patient while in the center. The per diem payment excludes the physician fee, the radiologist fee, or the anesthesiology fee.

William H. Stewart, M.D., Secretary
Department of Health and Human Resources

RULE

**Department of Health and Human Resources
Office of Family Services**

The Department of Health and Human Resources, Office of Family Services, has adopted a rule which limits to eighteen the number of days per calendar year for which the Medicaid program will make payment for the reservation of a bed in all intermediate care facilities for the mentally retarded (IFC/MR).

William H. Stewart, M.D., Secretary
Department of Health and Human Resources

RULE

**Department of Health and Human Resources
Office of Family Services**

The Department of Health and Human Resources, Office of Family Services (OFS), has adopted rules and regulations pertaining to eligibility requirements for implementation and administration of that part of Public Law 94-401(1976 Amendments to Title XX of the Social Security Act) which provides for grants to child day care providers to employ welfare recipients. Public Law 94-401 was administratively detailed in the Federal Register, Volume 42, No. 20, page 5,864, January 31, 1977.

The time period for which grants may be paid to child day care providers for employing welfare recipients dates retroactively from September 7, 1976, and continues through September 30, 1977. The limited period in which the program is operative made it urgent to implement the program timely in Louisiana.

Grants are made by the Office of Family Services to qualified child day care providers for employment of eligible welfare recipients. A qualified child day care provider is defined as an individual in whose facility at least twenty per cent of the total number of children regularly served are partly or totally funded under Title XX. In addition, the day care facility must have a day care license issued by the Office of Family Services.

An eligible welfare recipient is defined as an individual who meets the following requirements:

1. Must have been certified for Aid to Families With Dependent Children continuously during the ninety-day period immediately preceding the date on which the employee was hired.

2. Must have been employed by the day care provider on or after September 7, 1976.
3. Must have been a full-time employee of the center for a period in excess of thirty calendar days before the center can bill OFS for reimbursement.
4. Must not have displaced any other individual from employment in the center.
5. Is not a migrant worker.

Grants (reimbursement of expenses related to employment of AFDC recipients) may be paid to qualified public, nonprofit private, and proprietary child day care providers, through contracts with the Office of Family Services, for salaries paid to employ eligible welfare recipients provided the grants do not exceed the following amounts: (1) \$5,000 to public and nonprofit private providers for each recipient per year, and (2) \$4,000 to proprietary providers for each recipient per year.

Implementation and administration of this employment program has been accorded a high priority within the Office of Family Services in order that eligible AFDC recipients may participate in the program.

William H. Stewart, M.D., Secretary
Department of Health and Human Resources

RULES

Department of Natural Resources Office of Conservation

In Volume 2, Number 9, of the Louisiana Register of September 20, 1976, and in the Official State Journal of September 17, 1976, the Commissioner of Conservation gave notice of intention to give approval of a complete revision of the Louisiana Radiation Regulations and to hold a public hearing thereon.

The public hearing was held on October 14, 1976, with several members of the public giving oral testimony before the Commissioner and members of the Nuclear Energy Advisory Committee. In addition, numerous written comments were submitted prior to the hearing.

All substantive comments were given careful consideration, and the proposed revision of the Louisiana Radiation Regulations was reviewed by the Nuclear Energy Advisory Committee.

Having received a favorable recommendation for adoption by the Nuclear Energy Advisory Committee,

the Commissioner of Conservation hereby announces the adoption and promulgation of this revision of the Louisiana Radiation Regulations, to take effect immediately.

The Department of the State Register has exercised its option under R.S. 49:954.1C to decline publication of the new Radiation Regulations in the Louisiana Register. Copies of the Radiation Regulations may be obtained after printing from: Office of Conservation, Division of Radiation Control, P. O. Box 14690, Baton Rouge, Louisiana 70808.

R. T. Sutton
Commissioner of Conservation

RULES

Board of Nursing

Unit I

1.01 Statement of Purpose.

The Louisiana State Board of Nursing is a legally created administrative agency acting within the governmental structure of the State and possessing legal power. To safeguard life and health of the citizens of Louisiana, the Law Governing the Practice of Nursing, Louisiana Revised Statutes of 1950, as amended by Act 351 of 1976, delegates to this Board the responsibility to establish and publish standards of nursing practice; to regulate the practice of nursing by the registered nurse; to provide for examination and licensure of the nurse practicing as a registered nurse; and to establish standards for educational programs preparing individuals for nursing practice.

1.02 Purpose of Rules.

The purpose of these rules and regulations is to assist in the transaction of the business of administering and implementing the spirit and intent of the Law Governing the Practice of Nursing in accordance with Chapter 11 of Title 37 of Louisiana Revised Statutes of 1950, as amended by Act 351 of 1976.

1.03 History

Louisiana nurses were among the first in the nation to recognize the value of having a nurse practice act administered by a board of nursing to set standards for nursing education, to examine candidates, and to license practitioners. The first proposal for a nurse practice act

in Louisiana in 1904 was unsuccessful. Prior to 1904 only three states had boards of nursing.

The Louisiana State Board of Nursing came into existence in July, 1912, when Act 138 became law. At that time the name was "The Louisiana Nurses' Board of Examiners." Five physicians were designated to administer the provisions of that law because women were not permitted to hold public office. They could not vote.

The original Act was amended in 1922 and stipulated that there should be at least one nurse member. By that time women could vote. The Act was subsequently amended in 1926 to provide for three registered nurse members and two physician members. The Board became known as "The Louisiana State Board of Nurse Examiners" in 1942 when the Act was amended. The 1966 amendment called for five registered nurses and two physicians. Act 351 of 1976 designated seven registered nurse members and two physicians to serve as ex officio nonvoting members of the Board. The name was changed to "The Louisiana State Board of Nursing."

1.04 Philosophy.

The Board of Nursing, both by virtue of its legal status and its professional character, is dedicated to the belief that its purpose is to serve the people of Louisiana and to protect their health and welfare.

The Board members believe that their major responsibility is to see, in so far as possible, that those persons who practice nursing are competent and safe.

Further, they believe that sound nursing education is a prerequisite for the attainment of high standards of nursing practice. They believe that each member is obligated to demonstrate personal integrity, impartial judgment, wisdom and dedication to a high standard of service in Board activities.

Unit II

2.01 Duties of the Board directly related to nursing education programs as cited in Section 918 of Act 351.

The Board shall:

1. Establish and publish minimum curriculum requirements and standards for persons seeking to be licensed.
2. Approve schools which meet the licensing requirements of the Board.
3. Provide for hearings for nurse education programs when approval is withdrawn or denied.
4. Adopt and revise rules and regulations.

5. Have all other powers necessary and proper to the performance of their duties.

2.02 Definitions

1. Approval: The program has fulfilled requirements set forth in Board rules and regulations. Graduates from Board-approved programs are eligible to apply for registered nurse licensure.
2. Board: The Louisiana State Board of Nursing.
3. Clinical facility: An institution, agency or organization whose primary purpose is to provide care or services supportive to the promotion or maintenance or restoration of health.
4. Cooperating agency: An organization, institution or agency which by agreement accepts students for educational experiences selected by the nursing program.
5. Course: A distinct unit of instruction which has been organized for presentation within a specific time frame. In a nursing course this refers to all the related learning experiences deemed necessary by the faculty to meet the stated objectives.
6. Curriculum: The planned studies and learning activities designed to lead to graduation and eligibility for registered nurse licensure.
7. Director: The registered nurse with the authority and responsibility for the administration of the program and implementation of the curriculum. This title is used regardless of the person's official title in the controlling institution.
8. Faculty: The group of persons employed for administration, teaching, guidance or research functions in the program preparing candidates for registered nurse licensure.
9. Objectives: The aims, goals, or purposes of the nursing program.
10. Philosophy: A statement which includes and identifies the beliefs accepted by the faculty and the controlling institution about nursing education.
11. Recommendations: Statements of desirable standards for the development of quality program. Strongly urged by the Board, but not mandatory.
12. Requirements: Mandatory standards with which schools shall comply in order to be approved.
13. School or Nursing Education Program: These terms are used interchangeably to designate an educational unit whose purpose is to prepare practitioners of nursing and whose graduates are eligible to apply to write the registered nurse licensing examination.
 - A. Associate: A program leading to an associate degree in nursing conducted by an educational unit that is an integral part of a college, community college or university.
 - B. Baccalaureate: A program leading to a baccalaureate degree in nursing, conducted by an

educational unit (department, division, school or college) that is an integral part of a college or university.

C. Diploma: A program leading to a diploma in nursing conducted by a single purpose unit controlled by a hospital, a corporation, or other authority.

14. Shall: Requirements which must be met.
15. Should: Recommendations or desirable standards that are not mandatory.
16. Sponsoring institution: The organization or agency responsible for the administration and operation of the nursing program.
17. Standard: A criterion by which quantity, quality, and extent of performance is measured.
18. Survey: The Board's collection of information for review purposes in granting, continuing, renewing, or denying approval. At the discretion of the Board, this information may be collected by such methods as on-site visits with review of records, reports and other data; or by submission of records, reports or other data as required or requested by the Board.

2.03 Approval.

All nursing education programs, and courses in Louisiana preparing persons for examination, licensure, and registration to practice nursing under Title 37, Louisiana Revised Statutes, Chapter 11, as amended by Act 351 of 1976, shall meet the requirements of the Board of Nursing, in order to receive Board approval.

2.04 Purposes of Approval.

1. To insure the safe practice of nursing by establishing curriculum requirements and standards for persons seeking registered nurse licensure in Louisiana.
2. To assure that graduates of these programs meet the educational and legal requirements for admission to State Board licensing examinations and to facilitate their endorsement to other states and countries.
3. To foster continuous evaluation and improvement of nursing programs and nursing education.
4. To grant legal recognition to schools which, upon survey and evaluation, are determined by the Board to have met the requirements.

2.05 Types of Approval

1. Initial: Approval is granted to a new program which, upon application by the controlling institution and after survey and Board evaluation, is determined by the Board to be ready to admit students. Initial approval terminates when the Board considers the program's application for full approval upon graduation of its first class of students. The

controlling institution shall submit an application for full approval to be considered at the first regularly scheduled Board meeting following graduation of its first class of students.

2. Full: Approval is granted to a program which after survey and evaluation is determined by the Board to have complied with Section 918 and these rules. Eligibility to apply for full approval follows graduation of the first class of students.
3. Conditional: Approval is accorded for one year to any school previously having initial or full approval if there is evidence of deficiencies in meeting minimum requirements. If Board standards are not met within the defined period, they may extend the period of conditional approval or remove the school's approval status by written notice to the controlling institution.

2.06 Approval Procedure.

Surveys of schools are made at least every five years or at the discretion of the Board. A written report of the survey is made by a representative of the Board and a copy is sent to the chief administrative officer of the institution, the director of the nursing program and each Board member. Directors are at liberty to submit comments, corrections, or additional materials. The report is reviewed at the next regularly scheduled Board meeting following the survey visit.

School representatives have the right to be present when their survey report is reviewed by the Board.

Action on the approval status of the program is taken following the review of the survey. The Board shall make its decision regarding the approval status of a school, based on considerations of the program's pre-survey report, annual report, and the survey report. If standards are not met, the Board shall specify the deficiencies and may make recommendations for corrective action. If deficiencies are not corrected within the specified time, and following a hearing before the Board, the Board shall exercise its legal authority to set the type of approval or to withdraw the approval status of the school.

2.07 Standards and Requirements for Nursing Education Programs.

2.071 Philosophy, Objectives, and Goals.

1. The nursing education program shall have a clear statement of philosophy consistent with that of the controlling institution and congruent with current concepts in nursing education.

2. The faculty shall develop, accept, periodically review, and revise philosophy as needed.
3. The philosophy shall include, but not be limited to, a definitive statement of faculty's beliefs about: (a) nursing, (b) man, (c) health, (d) society, and (e) teaching and learning.
4. There shall be a delineation of the characteristics of the graduate being prepared as differentiated from those of other types of nursing programs.
5. There shall be a written description of the competencies of the graduate. Knowledge and skills shall be appropriate to the type of graduate being prepared. Broad areas for consideration include, but are not limited to: (a) nursing process or problem solving, (b) nursing skills, and (c) role behaviors.

2.072 Administration, Organization, and Control.

1. There shall be a governing body which has legal authority to conduct the nursing program, determine general policy, and assume financial support.
2. The sponsoring institution and cooperating agencies shall be approved by the appropriate accrediting bodies.
3. The program shall have comparable status with other educational units in the controlling institution.
4. The controlling institution shall have an organizational chart showing relationships and channels of communication within the institution. There shall be on file documents which show relationships with cooperating agencies.
5. The controlling institution shall have a written and current contract with each cooperating agency used by the program for clinical learning experiences.
6. There shall be a registered nurse (director) with the authority and responsibility to administer the program in compliance with established policies of the controlling institution. The director shall provide for:
 - A. Developing and maintaining productive relationships within the controlling institution and the community.
 - B. Participating in the preparation of the budget and administering monies allocated to the school. Official copies of financial and budgetary documents shall be available to the Board. A fiscal report shall be submitted to the Board annually.
 - C. Screening and recommending candidates for faculty appointment, retention, and promotion.
 - D. Evaluation and distribution of instruction responsibilities in light of quality nursing educational needs; i.e. effective and safe student/faculty ratio.
 - E. Making readily available current administrative policies.

- F. Making readily available reports and minutes of faculty committees.
- G. Storing of all school records to prevent loss, destruction, or unauthorized use.
- H. Planning learning experiences and arranging for written agreements between the administration of the nursing program and the providers of resources.

2.073 Faculty and Faculty Organization.

1. Number: There shall be a faculty body adequate in numbers, qualifications and continuity of employment to implement the program in nursing in relation to its stated philosophy, purposes and objectives; number and size of classes admitted annually; experience and preparation of the faculty; the number of community health agencies used in the program as well as their geographic location. (A school-program-experiencing a nurse faculty resignation rate of more than one third of the total faculty, in any given year, shall so notify the Board and write an explanation, justification, and documentation. Action by the Board will be taken following an evaluation and/or hearing to determine the effect on the quality of the educational program. Such action may result in a program being placed on conditional approval.)
2. Qualifications: The nurse faculty members shall have academic preparation and professional work experience appropriate for their positions. In addition, each nurse faculty member shall hold a current license to practice as a registered nurse in Louisiana.
 - A. The director shall hold at least a master's degree, preferably in nursing, with experience in the areas of nursing education and administration. The Board shall be notified immediately when a director vacancy occurs and when the position is filled.
 - B. The nurse faculty member responsible for theory and clinical courses in nursing shall have a master's degree in nursing, effective after January 1, 1983.
 - C. Nurse faculty members with a minimum of a baccalaureate degree in nursing and appropriate experience may continue provided:
 - (1) They are under the direction of a nurse faculty member with master's in nursing preparation; and
 - (2) Have a specific time plan for completing master's degree in nursing; and
 - (3) Constitute less than one third of total full-time equivalent faculty after January 1, 1983. (A school in which more than one third of the faculty do not hold a master's degree, shall so notify the Board. Action by the Board will be taken following an evalua-

tion and/or hearing to determine the effect on the quality of the educational program. This may result in a program being placed on conditional approval.)

- D. Faculty shall maintain expertise in clinical or functional areas of responsibility.
 - E. Nurse faculty members shall have had a minimum of two years of clinical experience.
3. Faculty shall function under the same policies that affect other faculty members in the controlling institution.
 4. There shall be written personnel policies for faculty regarding the following: (a) qualifications for position, (b) faculty workload, (c) contract, (d) salary scale and promotion policies, (e) vacation and sick leave, (f) leave of absence for study, (g) retirement plan, (h) health service, and (i) personal and professional growth.
 5. Individual faculty members shall be furnished with a written job description.
 6. Records on faculty shall be kept current and confidential, and shall include the following data: (a) application for present position, (b) official college transcripts(s) of education received, (c) professional work experience, (d) letter(s) of appointment including areas of responsibility and teaching load, and (e) written evidence of maintenance of expertise in area of responsibility.
 7. Faculty shall be organized with written policies and procedures to guide its activities.
 8. Committees necessary to carry out the school's functions shall be established with the duties and membership of each committee clearly defined.
 9. All nonnurse faculty shall have academic and professional education and experience in the field of their specialization in accordance with the policies of the controlling institution.
 10. Selection of qualified faculty members, faculty policies and practices shall be in accord with State and Federal laws on nondiscrimination.
 11. There shall be secretarial, clerical staff, and support service sufficient to meet the needs of administrative and instructional personnel.

2.074 Student Selection and Guidance.

1. Each program in nursing shall develop admission standards for entry into the nursing major.
2. Each student admitted to the nursing program shall hold a high school diploma or its equivalency.
3. All nursing programs shall have in writing and available to students, policies for:
 - A. Admission, transfer, promotion, termination, and graduation which shall be consistent with those of the controlling institution and with these rules.

- B. Student health and welfare, counseling and guidance, financial aid and scholarships.
- C. Placement and advancement in the program by means of challenge examinations, previous education, or both, provided they are consistent with the policies of the controlling institution.
- D. Reasonable rebates on tuition if the student is unable to complete the program.
- E. Keeping students informed of the approval or accreditation status of the nursing education program.
- F. Assuring that recruitment or program activities present accurate information about the program.
- G. Safeguarding the confidentiality of students' records.
- H. Complying with provisions of Federal and State laws related to nondiscrimination and individual rights to privacy.
- I. Allowing student participation in faculty committees.

2.075 Educational Facilities, Resources, and Services.

1. The controlling institution shall provide facilities, resources, and services needed for effectively developing, implementing, and continuing the nursing program.
2. The location and arrangement of educational facilities shall be such that there is an identifiable center for each nursing education program. The center shall include:
 - A. Facilities for instruction based on the objectives of the program, the size of the student group and the teaching-learning strategies.
 - B. Classrooms, lecture-demonstration room, multi-purpose room, conference room, and library.
 - C. Offices for administrative personnel, faculty and secretarial staff.
 - D. Storage space for equipment and instructional materials.
 - E. Audio-visual equipment and models appropriate to instructional techniques which shall be accessible to students.
3. Library holdings shall be adequate for effective use in teaching and study by faculty members and students:
 - A. Holdings shall include reference books on nursing and related subjects, periodicals of the nursing profession and allied fields.
 - B. Materials shall be organized, maintained, and located so that they are readily available.
 - C. A qualified librarian and staff shall be employed.

4. Cooperating agencies shall be approved by the Board. When an agency is to be used for clinical practice there shall be joint planning by all parties concerned. Written evidence shall be submitted to the Board that there has been cooperative discussion and planning among all schools of nursing utilizing a specific agency thereby providing for the safety and well being of patients (clients) and assuring that learning opportunities for all students shall be safeguarded.
5. There shall be documented evidence that the faculty discusses the knowledge and skills of the graduates with nurses, employers, and consumers in the area served by the program. This discussion should include mutual concerns, mutual understanding of philosophies and goals, and appropriate utilization of the graduates.

2.076 Curriculum.

1. The curriculum shall include content, instructional activities, and learning experiences to achieve curriculum and course objectives.
2. Nurse faculty shall select course content and organize learning activities to provide for continuity, sequence, and integration of learning experiences.
3. Objectives shall be developed within the framework of the philosophy and goals of the program. They shall give direction for development and implementation of courses.
4. The curriculum shall include content from the natural, physical, biological, behavioral, and socio-cultural sciences and nursing.
5. Provision shall be made for developing skills in the utilization of the nursing process essential to effective care of patients of all ages in a variety of settings. These skills include, but are not limited to:
 - A. Utilization of the problem-solving approach to make appropriate judgments.
 - B. Effective communication and interpersonal relationships with patient, family, and colleagues.
 - C. The preventive, comforting, caring and curative roles.
 - D. Essential manipulative and technical tasks.
 - E. Executing prescribed medical regimens.
 - F. Identifying the realities of the medicomoral and legal situations encountered in nursing practice.
 - G. The curriculum should provide for the development of such other knowledge and skills as deemed necessary by the faculty and/or the changing role of the registered nurse.
6. The nursing courses shall provide for classroom and clinical laboratory instruction so that concepts taught in the classroom are applied in the clinical situation. Classroom and clinical instruction shall be

concurrent. Provision shall be made for learning experiences with patients having nursing care needs in all age groups and stages of illness; with adults and children receiving medical and surgical therapy; with those having mental illness; and with mothers and infants.

2.077 Instruction.

1. Nurse faculty members shall select, teach, guide, and evaluate all learning experiences in the classroom and clinical facilities.
2. Nurse faculty shall write objectives for nursing courses in behavioral terms and shall identify the changes expected in the student's behavior as a result of the learning process.
3. Nurse faculty shall recognize individual differences among students and this should be given consideration in the instructional plan.
4. Course outlines shall be written by nurse faculty. They shall be periodically reviewed and revised as indicated. They shall reflect the objectives of the specific course and shall contribute to the objectives of the program.

2.078 Evaluation.

1. Faculty shall have documented evidence of on-going systematic evaluation of each component of the curriculum.
2. Evaluation shall include, but not be limited to:
 - A. Philosophy, objectives, and goals of the curriculum.
 - B. Teaching-learning experiences.
 - C. Expected competencies of the graduate.
 - D. Employment functioning of graduates.
 - E. Student's self-evaluation of courses.
 - F. Instructor's evaluations of students.
 - G. Performance of graduates on State Board test pool examinations. (A school or program experiencing a failure rate of one fifth or more of the first-time candidates on State Board examinations in any given year, shall so notify the Board. Action by the Board will be taken following an evaluation and/or hearing. Such action may result in a program being placed on conditional approval and/or removal of approval status.)
3. Written reports of Board surveys and recommendations (if any) shall be shared with faculty and students.

2.079 Major Change.

1. A program shall obtain Board approval prior to instituting a major change.

2. A request for major curriculum change must be submitted and approved by the Board at a regularly scheduled Board meeting, six months prior to date of implementation. (The schedule for board meetings is published annually.)
3. The following are considered to be major changes:
 - A. Change in the controlling institution, department or division.
 - B. Change in philosophy, goals, and objectives that would result in graduate competencies different from those previously approved by the Board;
 - C. Addition or deletion of a clinical facility providing a large portion of the clinical experiences.
4. A program proposing a major change shall submit:
 - A. Evidence that the sponsoring institution has approved the curriculum change.
 - B. Rationale for the proposed change.
 - C. Course objectives, outlines, bibliographies, and other relevant materials.
 - D. A concise presentation of current and proposed curriculum.
 - E. A time table for implementation of the change.
 - F. An explanation of the anticipated effect on: (1) currently enrolled students, (2) functions and roles of graduates of the changed program.
 - G. A planned method for evaluating the results of the change.
3. The nursing education program (or in the instance of "A," the sponsoring institution) shall notify the Board in writing when:
 - A. There has been a change in administration or control of the program; when there is a director vacancy; and when the vacancy is filled.
 - B. More than one third of the faculty members resign in any calendar year.
 - C. Their State Board examination failure rate on first-time writers is more than twenty percent in any calendar year.
 - D. Changes in the objectives of the program are contemplated.
 - E. There is to be a reorganization of the curriculum.
 - F. There has been a decision to discontinue using an approved agency for clinical practice.
 - G. A new faculty member has been employed, (an official college transcript shall be on file for each faculty member).
 - H. Employment of a faculty member has been terminated.
4. The Board shall require such other reports from schools as deemed necessary to determine eligibility for continued approval.

2.081 Criteria for Selection and Use of Cooperating Agencies.

- #### 2.080 Records and Reports.
1. The nursing education program shall maintain the following records: (a) student records, (b) faculty records, (c) graduates' transcripts, (d) graduates' follow-up studies, (e) minutes of faculty and committee meetings, (f) reports to sponsoring institution, (g) reports to the Board of Nursing, (h) program bulletins, (i) school's self-evaluation reports, (j) budget and fiscal accounting records, and (k) accreditation reports to voluntary agencies, when appropriate.
 2. Each nursing education program in Louisiana shall submit an annual year report to the Board on the designated date. Twelve copies shall be submitted according to guides and forms provided by the Board and shall include but not be limited to information on the following: (a) philosophy, goals, and objectives, (b) organizational structure, (c) major curriculum changes since last report, (d) evaluation of courses and overall program, (e) nurse faculty member's academic preparation, major teaching responsibility and evidence of continuing education, (f) faculty-student ratio, (g) student admissions, withdrawals, graduations, (h) copy of budget or fiscal accounting records, (i) previous Board recommendations and progress in meeting them.
 1. Board approval for use of an agency shall be secured before students are assigned for clinical practice. (Board approval is not required for agencies that are visited on field trips or in which students have limited observational experiences.) At the discretion of the Board, an on-site survey may be made by a Board representative.
 2. Agencies shall have Joint Commission on Accreditation of Hospitals (JCAH) accreditation or that of another appropriate accrediting body. The Board expects that an agency which has such approval offers competent medical and supporting services (i.e., dietary, pharmacy, x-ray, etc.) The Board expects that an agency which has such approval provides a safe and healthy work environment. The Board representative assesses the environment in which learning is expected to occur. The cooperating agency has the right to expect students and faculty to comply with the cooperating agency's policies and procedures.
 3. Four major criteria to be considered by the Board's representative in surveying an agency are:
 - A. Evidence of high quality nursing care:
 - (1) Use of individualized nursing care plans.
 - (2) Methods and criteria for making patient assignments.

- (3) Availability, completeness, and currency of the policy procedure manuals.
 - (4) Findings of nursing audit and quality control.
 - B. Evidence of excellence of the nursing service department:
 - (1) A stated philosophy of patient care that is utilized to give direction to nursing care activities.
 - (2) The provision of sufficient numbers of nursing personnel to meet the needs of the patients and to serve as role models for students.
 - (3) The adequacy of the preparation of nursing personnel for their roles.
 - (4) The provision for regular, planned evaluation of patient care.
 - (5) The existence of clearly defined written personnel policies including job descriptions for all categories of nursing personnel.
 - (6) The provision for means of communication between faculty and agency administrative personnel and between faculties of all schools using the agency.
 - (7) The provision for a planned program for orientation, for inservice, and for continuing education programs for nursing personnel.
 - (8) Evidence that the agency's personnel understand their relationship to faculty and students and that the responsibility for coordination is specifically identified.
 - C. The availability of teaching facilities and resources:
 - (1) Designated conference areas on, or in close proximity to, units utilized for students' practice.
 - (2) Classroom space with adequate seating and with teaching aids to meet the needs of the program.
 - (3) A library with standard medical and nursing references and a selection of current professional periodicals.
 - (4) Reference materials in the clinical areas such as: hospital procedure and policy manuals, medical dictionary, tests specific to the clinical specialty.
 - (5) An adequate number of patients demonstrating a sufficient variety of nursing care needs to meet the objectives established by the faculty for this experience (as evidenced by unit capacity, average daily census, patient diagnoses, nursing care plans for patients, etc.).
 - D. The suitability of the physical plant as shown by the:
 - (1) Provision of individual patient units and patient care areas arranged so as to facilitate nursing care.
 - (2) Adequacy of supplies needed for effective nursing care.
 - (3) Provisions made for the safety of patients and personnel.
 - (4) Overall plant maintenance.
 - (5) Accessibility of the agency to the school.
 - (6) Physical arrangements made for students and faculty (i.e., locker and dressing room, office space, food service facilities, etc.).
 - 4. There shall be on file a current, written contract (agreement) signed by the administrative heads of the sponsoring institution and the cooperating agency.
 - A. There shall be written contracts (agreements) between each clinical facility utilized for student learning and the administrative head of the sponsoring institution.
 - B. All written contracts (agreements) shall be reviewed by the Director annually and shall be signed on the date of review.
 - C. Copies of all written contracts (agreements) shall be on file.
- 2.082 Closing a Program.
- 1. The Board shall be notified when the controlling institution makes a decision to discontinue an approved program.
 - 2. All requirements for Board approval shall be maintained until all students have transferred or graduated.
 - 3. All students shall have assistance with transfers. A list of students who transfer to another program shall be submitted to the Board.
 - 4. The Board shall be notified of the arrangements for safe storage of the permanent records of the program and its students. It is recommended that the following records be retained: (a) student's application for admission to the program, (b) a copy of the student's final transcript, (c) a copy of each curriculum offered, and (d) a list of each graduation class with date of graduation.
- 2.083 Procedure for Establishing a New Program.
- 1. A controlling institution desiring to establish a new program shall submit a letter of intent to the Board.
 - 2. The letter of intent shall be accompanied by twelve copies of the following:
 - A. General information about the controlling institution.
 - B. Purpose and need for establishing the program.
 - C. Basic data on which need was determined.

- D. Organizational and administrative relationships of the controlling institution and the program.
 - E. Sources, kinds, and amounts of financial support.
 - F. Sources and locations of potential students, faculty, office, library, classrooms, clinical laboratory, conference rooms, and other resources.
 - G. Evidence of community readiness to accept and support the program in appropriate ways.
 - H. Philosophy, purposes, and approval status of the controlling institution.
 - I. The major facilities to be used for clinical laboratory experience.
 - J. Tentative time table for the next twelve months.
 - K. Any other evidence of compliance with the requirements of these rules.
 - L. Request signed by the appropriate administrative officer in the controlling institution.
3. The Board may request further information including substantiating evidence of:
- A. Availability and adequacy of clinical facilities.
 - B. Availability and adequacy of required nursing and general education courses as prescribed in these rules.
4. The Board, after review and evaluation of the information submitted, shall advise the controlling institution of any requirements not met and any recommendation(s) the Board may have. When all aforementioned requirements are met, the controlling institution may proceed by employing a qualified director and in no instance later than twelve months prior to the expected date of admission of students.
5. The Director shall develop and provide the Board with:
- A. A tentative plan for the program, including operational statements of philosophy, objectives, type of curriculum, organizational and administrative policies.
 - B. Plans for use of clinical facilities and resources.
 - C. A budget plan.
 - D. A plan describing qualifications, numbers and conditions of employment of faculty.
 - E. An organization chart indicating lines of administrative and program authorities and control and other relationships of authority and cooperation.
6. The Director shall employ qualified faculty at least six months prior to admission of students. The faculty shall develop the program and plan for its implementation. The faculty shall write:
- A. Statements of philosophy, purposes, and objectives.
 - B. The policies relating to organization and administration of the faculty.
 - C. The curriculum design.
 - D. The course objectives in behavioral terms.
 - E. A description of evaluation methods and tools.
 - F. A plan for the use of all assigned facilities and resources including the clinical areas in co-operating agencies.
 - G. A plan for student's rights, welfare, and guidance.
7. The Director shall confer with and submit progress reports as directed by the Board. Twelve copies of all documents shall be submitted for consideration by the Board at least two regular scheduled Board meetings prior to the date for admitting the first class of students. (The schedule for Board meetings is published annually.)
8. The Board shall grant initial approval when the information submitted and an on-site survey by the representative of the Board shows evidence that the Board's requirements have been met. This must occur prior to any public announcement of the opening of the program or pre-admission of students into the nursing program.

Ms. Merlyn M. Maillian, R.N.
Executive Director
Board of Nursing

RULES

Offshore Terminal Authority

Amendment to the Environmental Protection Plan

At a meeting of the Board of Commissioners of the Offshore Terminal Authority held on Tuesday, March 29, 1977, at 2:00 p.m. in the Executive Suite, 29th floor, International Trade Mart, New Orleans, Louisiana, the Environmental Protection Plan of the Offshore Terminal Authority (hereinafter called the "Plan") was amended. The original Plan was adopted by the Board of Commissioners of the Authority on January 15, 1974, and was filed that same date in the office of the Secretary of State. The entire text of the Plan was also published in the Official Journal of the State of Louisiana. In addition to the March 29, 1977, amendment, the Plan has been amended on September 30, 1975, August 3, 1976, and January 27, 1977. The general subject matter of the March 29, 1977, amendment to the Plan is as follows:

Chapter 1 of the Plan has been amended to change the title of Section 1 from "Scope and Purpose" to "Statutory Authority;" to revise the definitions of "act," "aromatic compounds," "board of com-

missioners," "check-off list," "erosion," "hazardous substance," "national contingency plan," "operational and contingency plan," "receiving terminal," "regional contingency plan," "safety zone," and "three directors;" to add definitions of "environmental monitoring program" and "licensee;" to delete the title and paragraphs a and b of Section 3 and to replace them with a new Section 3 entitled "Scope and Purpose;" to delete paragraph b of Section 4; and to add new Section 5 entitled "Amendment" and to add a new paragraph d thereto concerning further amendment of the Plan; to renumber Section 5 as Section 6; and to combine paragraphs a and b of Section 6 into a single paragraph.

Chapter 2 of the Plan has been amended to remove the list of studies from subsection 2 of Section 2 and to place them in a comprehensive bibliography designated Appendix B to the Plan; to change part of paragraph d of subsection 1 of Section 3 into a footnote; and to delete the last sentence of paragraph c(4) of subsection 2 of Section 3.

Chapter 3 of the Plan has been amended to delete footnotes 1, 4, 5, 6, and 7; to change footnote 2 to footnote 3 and to move it from Section 2 to Section 5; to change footnote 3 to a new footnote 1 and to revise its content based on the State and Local Coastal Resources Management Act of 1976; to eliminate from subsection 2 of Section 2 certain outdated material; to add a new footnote 2; to change paragraph b of subsection 1 of Section 2 to paragraph b of subsection 1 of Section 4; and to change footnote 8 to footnote 4.

Chapter 4 of the Plan has been amended to delete footnotes 1 and 2; to revise subsection 1 of Section 2 by deleting the first sentence of paragraph a and replacing paragraph 6 with subsection 1 of Section 3; to add paragraph b of subsection 1 of Section 2 as a new paragraph f of subsection 2 of Section 2; to subsection 1 of Section 3 and to renumber subsections 2, 3, 4, 5, 6, and 7 accordingly; to revise paragraph c(2) of Section 5 to replace the reference to owners or operators with a reference to the licensee; and to delete paragraph c(3).

Chapter 5 has been amended to delete footnote 1; to revise paragraphs b and c of Section 3 to reflect the issuance of State and Federal deepwater port licenses; to delete paragraphs d through r of Section 3; and to revise paragraphs c and h(7) of Section 4, and paragraphs b, c, and h of Section 6, to change the references to the Louisiana Wildlife and Fisheries Commission to the Department of Wildlife and Fisheries.

Chapter 7 has been amended to delete footnote 1; to change the title of Section 3 from "Federal Agencies" to "Coordination with Federal, State, and Local Agen-

cies" and to revise Section 3 to provide for coordination by the Authority with the environmental protection programs of Federal, State, and local agencies and to eliminate the descriptions of the programs and functions of the agencies discussed in former Section 3; and, to delete Section 4.

Chapter 8 has been amended by deleting from paragraph d the reference to the Division of Administration and by providing that any amendments to the Plan shall take effect as provided in the Authority's General Rules and Regulations and the Louisiana Administrative Procedures Act.

Copies of the Plan, as amended, are available and may be obtained from the Offshore Terminal Authority, 1844 International Trade Mart, New Orleans, Louisiana 70130.

The Department of the State Register has determined that the publication of these rules and regulations, as amended, would be unduly cumbersome, expensive, and otherwise inexpedient, and has accordingly exercised its right to omit them from the Louisiana Register pursuant to R.S. 49:954.1C, and has published instead this notice stating the general subject matter of the omitted rules and stating how a copy thereof may be obtained.

Shepard F. Perrin, Jr., Executive Director
Offshore Terminal Authority

RULES

Board of Practical Nurse Examiners

Section I General Board Policies

1. **Organization.**
The Louisiana State Board of Practical Nurse Examiners consists of nine members appointed by the Governor and is the regulatory agency created by statute to act with legal authority on matters related to practical nursing education and the practice of practical nursing in Louisiana as determined by R.S. 37:961-979.
2. **Location.**
The domicile of the Louisiana State Board of Practical Nurse Examiners shall be 1408 Pere Marquette Building, New Orleans, Louisiana.
3. **Executive Staff.**
There shall be an executive staff comprised of the

Executive Director and Associate Executive Director, who shall be professional nurses currently registered in the State of Louisiana.

4. Advisory Committee.

4-1. There shall be an Advisory Committee for Practical Nursing Education to the Louisiana State Board of Practical Nurse Examiners which shall consist of not less than eight and not more than ten active members. The Chairman of the committee shall be a registered nurse member of the Board.

4-2. The purpose of the Advisory Committee shall be to advise the Board of Practical Nurse Examiners in matters which require study and/or investigation relating to practical nursing or practical nursing education in Louisiana. Committee action shall take the form of recommendations only.

5. Duties and Powers of the Board.

The Board in accordance with R.S. 37:969 shall have all such powers and duties as written. In addition the Board shall:

5-1. Appoint an executive director and associate executive director.

5-2. Adopt, amend, or repeal rules in accordance with procedures set forth in the provisions of R.S. 49:953.

5-3. Establish rules and regulations for adjudication and license suspension and revocation proceedings.

5-4. Deny, revoke, or suspend any license to practice practical nursing.

5-5. Determine the passing score for the State Board Test Pool Examination.

6. Procedure for Adoption of Rules.

6-1. All rules of the Board shall be adopted, amended, or repealed in accordance with the Administrative Procedures Act, R.S. 49:953.

6-2. Any interested person may petition the Board requesting the promulgation, amendment, or repeal of a rule.

a. Such petition shall:

- (1) Be in writing.
- (2) State the name and address of its author.
- (3) Contain a statement of either the terms of substance of the proposed rule, amendment, or repeal.
- (4) State the reasons or grounds for the proposed rule, amendment, or repeal.
- (5) Include any data, views, or arguments in support of the rule, amendment, or repeal.

b. The Board shall consider the petition within ninety days after receipt of said petition, at which time the Board shall deny the petition in writing, stating reasons therefore, or shall ini-

tiate rule-making proceedings in accordance with this part.

7. Rules for Adjudication and License Suspension and Revocation Proceedings.

All adjudication proceedings (as defined in R.S. 49:951) and license suspension and/or license revocation proceedings conducted by the Board shall be in accordance with the Administrative Procedures Act, R.S. 49:955-965.

8. Declaratory Orders and Rulings.

8-1. Any interested party may petition the Board for a declaratory order or ruling as to the applicability of any statutory provision or of any statutory provision or of any rule or order of the Board.

8-2. Said petition shall contain the following information:

- A. The full name, address, and telephone number of the petitioner.
- B. The interest asserted by the petitioner.
- C. Specific reference to the statute, rule, or order with respect to which the declaratory order or ruling is sought.
- D. A concise statement of the purpose, reasons, and nature of the declaratory order or ruling sought.

8-3. Said petition shall be considered by the Board at its next regularly scheduled meeting provided that the petition has been filed at least thirty days prior to said meeting.

8-4. The order or ruling rendered by the Board on said petition shall be in writing and mailed to petitioner at the last address furnished to the Board.

**Section II
Definitions**

In addition to those definitions in R.S. 37:961, the following terms used in this manual are defined as follows:

1-1. Accreditation—To certify officially indicates that minimum requirements of the Board have been met.

1-2. Adult Program—A program conducted for individuals who have completed high school and are seventeen years of age or older.

1-3. Approval—Examination to determine suitability, subject to refusal.

1-4. Board—Louisiana State Board of Practical Nurse Examiners.

1-5. Cooperating agencies—Those outside the administrative control of the school that provide educational resources for the program.

1-6 Coordinator/charge instructor—A professional nurse licensed in the State of Louisiana responsible for the development and supervision of the program.

1-7. Course outline—A systematic plan presenting a summary of the significant courses to be included in the curriculum.

1-8 Curriculum—The complete group of courses, hours, laboratory, skills, and clinical experiences that are organized in a systematic manner to meet the objectives of the program.

1-9 Licensure examination—Refers to the National League of Nursing State Board Test Pool Examination for Practical Nurse Licensure.

1-10. Policy—A course of action adopted and followed by an institution or program.

1-11. Program—Refers to a practical nursing course within a school.

1-12. Requirements—Minimum standards which schools must meet to be approved or accredited.

1-13. Secondary program—A program conducted for individuals who are enrolled in high school, have completed the tenth grade and are sixteen years of age or older.

1-14. Shall—Denotes mandatory compliance.

1-15. School—An educational institution conducted by the Board of Elementary and Secondary Education.

Section III Program Establishment

1. Initial Request.

1-1. A school contemplating the establishment of a program of practical nursing shall submit the following preliminary information:

- A. Purpose for establishing a program to include community needs and readiness to support a program.
- B. Sources of potential students, faculty, and funds.
- C. Availability of physical and clinical facilities.
- D. Tentative timetable for initiating program.
- E. Survey of employment opportunities for potential graduates.

2. Initial Requirements.

2-1. Programs in practical nursing shall be established in an educational institution approved and conducted by the Board of Elementary and Secondary Education.

2-2. A school shall provide appropriate and adequate facilities for a practical nursing department to include: (a) classroom, (b) laboratory, (c) office, and (d) library.

2-3. A school shall have sufficient funds available to employ qualified persons and to maintain adequate equipment and supplies.

2-4. Cooperating agencies shall have appropriate accreditation and be approved by the Board.

3. Initial Survey.

3-1. A Board representative shall conduct a survey of the school and proposed clinical facilities to ascertain that the initial requirements have been met.

3-2. A report of the initial survey shall be submitted to the Board and the school shall be notified of the Board's decision.

4. Application and Approval.

4-1. Upon approval of the initial survey, the school director shall complete and submit an application form supplied by the Board office.

4-2. The application form and proposed plans shall be submitted for Board approval and the school shall be notified of the Board's decision.

4-3. Upon approval of the application, a coordinator/charge instructor shall be employed to develop a tentative plan for the overall program.

4-4. The school's program of practical nursing shall be given initial approval status upon the date of enrollment of the first class.

Section IV Program Projection

1. Faculty and Staff.

1-1. Qualifications—All practical nursing instructors shall:

- A. Be professional nurses currently registered with the Louisiana State Board of Nursing.
- B. Continue their professional preparation through continuing education, workshops, seminars, and membership in professional organizations.

1-2. Minimum Number of Faculty.

A. Registered nurses—No less than two, one of whom shall be designated coordinator/charge instructor. The instructor-student ratio shall be no less than one instructor to each twelve students in the clinical area.

B. Dietitian/nutritionist—Shall teach a minimum of thirty hours of normal nutrition and thirty hours of diet therapy.

C. Clerical staff—On a part or full-time basis, appropriate to the needs of the program, shall be assigned to the practical nursing department and the number of work hours per week shall be reported on the biannual report.

1-3. Faculty Meetings—Shall be scheduled regularly to evaluate and improve the program progressively and continually. Minutes shall be recorded and filed for Board review at the time of survey.

2. Organization and Administration.

2-1. The controlling body shall insure adequate financial support, facilities, and leadership which will provide an appropriate educational environment for students and faculty.

2-2. An organizational chart shall be developed to depict the relationship of the practical nursing program to the school administration, other school programs, institutions, and agencies.

2-3. Appropriate channels of communication for requisitioning, purchasing, and grievance for students and faculty shall be clarified in writing.

2-4. The charge instructor/coordinator shall be responsible for the implementation of the program plan.

2-5. An advisory committee shall be formed. Members shall be representative of a broad spectrum of the community selected for their interest in practical nurse education and willingness to serve. Minutes of the meetings shall be recorded and copies shall be filed for Board review at the time of survey.

2-6. The school shall provide for the protection of all student records, faculty personnel records, contractual agreements, communications, and other pertinent program information against loss, destruction, and unauthorized use.

2-7 A master rotation schedule shall be developed for each class to show: (a) beginning date, (b) course of study, (c) clinical practice areas, (d) term hours and dates, and (e) completion date.

3. Student Personnel Policies.

3-1. Policies for admission, evaluation, level advancement, and completion shall be developed, implemented, and evaluated by the faculty and shall be consistent with the policies of the school.

3-2. Policies shall be planned to provide for student welfare as related to health, counseling and guidance, financial aid, hospitalization and liability insurance.

3-3. Policies shall be developed to provide opportunity for students to participate in appropriate student organizations which foster development of skills in self-direction, leadership, and professional activity.

3-4. Policies shall be clearly stated concerning student employment during enrollment in the program.

3-5. Policies regarding absences shall be in writing. Students unable to achieve the program objectives due to excessive absence shall be advised to withdraw with permission to reenter when the course is repeated.

3-6. The school bulletin shall give an accurate description of the practical nursing program policies.

3-7. A student handbook shall be developed by the nursing faculty to include the policies relating to:

(a) admissions, (b) grading system, (c) suspension and/or dismissal, (d) itemized list of fees, (e) attendance requirements, (f) health policies, and (g) completion requirements.

4. Educational Facilities.

4-1. Classrooms, laboratories, teaching equipment, and supplies shall be adequate to meet the needs of the curriculum and the size of the program in both the school and the cooperating agency.

4-2. Offices shall be of sufficient size and number to provide for uninterrupted work and to insure privacy for conferences with students and staff. There shall also be adequate space for clerical staff, school files, and other essential equipment.

4-3. A library, readily accessible to students and faculty, shall provide current reference books and periodicals.

5. Cooperating Agencies.

5-1. Clinical affiliation with cooperating agencies shall meet the following requirements:

A. Hospitals providing one or more of the major clinical nursing fields shall be accredited by the Joint Commission on Accreditation of Hospitals.

B. Nursing homes shall be licensed by the Louisiana Department of Health and Human Resources, Licensing Section, Division of Management.

C. Other facilities shall be approved by proper authorities or the Board.

5-2. Contractual agreements shall be executed between the program and cooperating agencies specifying their respective responsibilities, conditions or reservations held by hospital or school, and provisions for revising or terminating the contract.

5-3. All contracts and agreements shall be current.

5-4. Hospital Administrator, Director of Nursing Service, and others responsible for patient care shall be aware of the objectives of the practical nursing program and shall participate in the furthering of such objectives in so far as it is consistent with the objectives of the hospital staff.

5-5. Where there is a single cooperating hospital to be used for clinical practice, the hospital shall maintain an average daily census which will permit selected student assignments in the four basic areas of nursing, namely medical, surgical, obstetrical, and pediatric.

5-6. Prior to student assignment to the practice area, a consultation between the administrative agents of the hospital and the program shall be held. It shall include information pertaining to:

A. Student skill level.

- B. Specific details relating to days, hours and areas of practice, uniforms, student medical evaluations, liability insurance, and hospitalization.
 - C. Delineation of classroom and/or conference area available to students and instructors.
 - D. Provision for periodic conferences between nursing service personnel and instructors to discuss student assignments and evaluations.
- 5-7. All students assigned to clinical practice areas shall be supervised by an instructor within the required ratios.

6. Curriculum Requirements.

6-1. Development—The curriculum shall be developed and written by the nursing faculty to reflect their philosophy and objectives and within the Board approved Curriculum Guide for Practical Nurse Education issued by the Louisiana State Department of Education.

6-2. Length of Program—A program shall be no less than 1,440 hours of scheduled instruction with at least 630 hours being classroom instruction. Theory and practice shall be concurrent progressing from the simple to the complex.

- A. Adult program instruction and clinical experience shall be no less than twelve months and no more than fourteen months including vacation and holidays.
- B. Secondary program instruction and clinical experience shall be no longer than two years.

C. Part-time evening program instruction and clinical experience shall be no less than twelve months and no longer than two years.

6-3. Levels of Instruction—The curriculum shall be divided into five terms with diet therapy and pharmacology being integrated into Terms III, IV, and V. Clinical experience shall be planned to coincide with theory, however the progression may vary according to the availability of clinical facilities.

Term I—Introduces vocational adjustments, basic nursing practice, normal nutrition, body structure, and normal function.

Term II—Provides theory and practice in nursing skills, principles of microbiology, pharmacology, growth and development, and introduction to abnormal body conditions.

Term III—Presents the theory of medical-surgical nursing care, maternal-newborn nursing, nursing care of children, and provides clinical experiences concurrently.

Term IV—Emphasizes total patient care, patients with common medical-surgical problems, pediatric disorders, and aging changes. Psychiatric nursing care, concepts and principles are introduced.

Term V—Permits nursing care in more complex nursing situations, enabling the student to adjust to the role and responsibility of the graduate.

6-4 Suggested Program of Studies.

		Class and Lab Hours	Clinical Practice
Term I	Fundamentals of Practical Nursing I	195	Selected Experience
	Body Structure and Function	45	
	Nutrition (Normal)	30	
Term II	Fundamentals of Practical Nursing II	100	9 weeks
	Growth and Development	20	
Term III	Medical-Surgical Nursing I	30	2 weeks
	Maternal and Newborn Nursing	40	4 weeks
	Nursing Care of Children	20	3 weeks
Term IV	Introduction to Psychiatric Nursing	20	2 weeks
	Medical-Surgical Nursing II	70	7 weeks
Term V	Medical-Surgical Nursing III	60	9 weeks

7. Admissions.

7-1. Regular admissions shall meet the following requirements:

- A. Grade placement of 9.5 in reading and 8.5 in mathematics on the achievement test battery.
- B. Seventeen years of age or older for adult programs; Sixteen years of age or older for secondary programs.
- C. Citizen of the United States or have filed a declaration of intention.
- D. High school completion verified by transcript or State Department of Education equivalency for adult programs; completion of sophomore year for secondary programs.
- E. Health certification by a licensed physician.
- F. Finger printing.
- G. Demonstrate socially acceptable conduct.
- H. Practice good interpersonal relationships.
- I. Interviewed by faculty and/or admissions committee.
- J. Meet all admission requirements as set by the Board, faculty, and school administration.
- K. Admitted at beginning of Term I by class.

7-2. Advanced Standing.

A. Individuals applying for advanced standing shall meet the following requirements:

- (1) Formal preparation in a planned program of nursing education within the previous five years, documented through an official transcript, records, and references.
- (2) Formal preparation of theory and practice in a health-related field documented through an official transcript, records, and references.
- (3) Louisiana licensed practical nurse who wishes to improve employment opportunities by completing the approved program in practical nursing.
- (4) Meet all admission standards for regular admissions.
- (5) Score satisfactorily on the standardized tests provided by the National League for Nursing: Pre-Admission and Classification Examination (PACE), Three Units of Content (TUC), and Nursing Including Pharmacology (NIP).

- B. Evaluations for advanced standing shall be made by the nursing faculty based upon the above requirements.
- C. A course of study shall be developed and recommended by the nursing faculty to include a minimum of six weeks enrollment to provide sufficient theory and practice to meet the requirements for completion.
- D. Records of advanced standing admission tests, course of study, and program achievement shall

be maintained in addition to those records maintained for regular students.

7-3. Readmission.

- A. A student who has been away from the program for more than one year shall be considered a new applicant.
- B. At the discretion of the nursing faculty, based upon individual evaluations, credit may be granted for units of the program previously completed.

8. Withdrawals

8-1. A student shall attend five consecutive days to be considered officially enrolled in the program.

8-2. A student withdrawing during the initial five day period is not considered officially enrolled.

8-3. An officially enrolled student withdrawing after the initial five days shall be considered a drop-out.

8-4. A record of each drop-out including name, date, and reason shall be maintained and submitted to the Board on the biannual report.

9. School Records.

9-1. Student Records—Individual files shall be maintained for each student officially enrolled and shall contain: (a) application, (b) admission test scores, (c) high school transcript, (d) health certification, (e) progress reports, (f) student instructor conference reports, (g) course of study—theory and clinical, (h) evaluation form, (i) final record form, (j) transcript, and (k) licensing examination score.

9-2. Faculty records—Individual files shall be maintained for each instructor to include: (a) application, (b) job description, (c) terms of employment, (d) advancement, (e) educational improvements, (f) participation in professional organizations, and (g) research and/or publication.

9-3. General records—Shall be maintained and shall include: (a) faculty minutes, (b) advisory committee minutes, (c) reports to the Board, (d) materials of historical interest, and (e) master rotation plan for each class.

10. Board Reports and Records.

10-1. Appropriate forms are to be obtained from the Board office.

10-2. All programs shall submit the following reports:

- A. Student evaluation—to be submitted in duplicate accompanied by one dollar fee for each student officially enrolled in the program.
- B. Biannual report—to be completed in triplicate; one copy to remain at the school; two copies to be submitted on July 1 and January 1 to Health

Occupations Division, Bureau of Vocational Education.

- C. Final record—to be completed in duplicate for each student upon completion of the program. One copy to remain in the student's file; one copy to be submitted to the Board office.
- D. Faculty qualification record—to be submitted on each newly appointed faculty member and to be up-dated as additional preparation is acquired.
- E. Contractual agreement—copies for each co-operating agency.

Section V Program Progression

- 1. Program Changes.
 - 1-1. Regular evaluation, revision, and improvement of programs is encouraged.
 - 1-2. Changes which require Board approval before implementation are: (a) admission policies, (b) organization, (c) curriculum, (d) expansion of existing program, (e) nursing faculty, and (f) hospital affiliation.
- 2. Teaching Methods.
 - 2-1. The teaching assignment shall be reasonable, allowing time for preparation of classes, counseling of students, and improving methods of instruction.
 - 2-2. Course outlines shall be developed on a current basis and used by faculty and students.
 - 2-3. The program shall use a variety of teaching tools and methods including: lectures, discussions, reports, audiovisual aids, field trips, resource lectures, role-playing, demonstration and laboratory practice.
 - 2-4. Nursing care plans shall be presented in a pre-clinical session.
 - 2-5. Post clinical conferences shall be held to provide opportunity for sharing experiences, evaluating, and improving patient care.
 - 2-6. Subject matter shall be scheduled concurrently with related clinical assignments.
- 3. Measuring Academic Achievement.
 - 3-1. Evaluation shall be a scheduled progressive activity designed to assist and improve the development of the student, faculty, and program.
 - 3-2. Policies regarding the level of achievement which a student must maintain to progress in the program shall be well defined.
 - 3-3. Level advancement shall be made on an individual basis, dependent upon test scores, clinical performance, interpersonal relationships, and ethical conduct.
 - 3-4. Student self-evaluation is recommended.

3-5. Evaluation and grading systems shall be realistic and consistent with the objectives of the program.

3-6. Instructional evaluations shall be made based upon the performance of students, standardized tests, and the State Board Test Pool Licensure Examination.

3-7. Programs having a class in which there is a twenty percent failure rate on the State Board Test Pool Examination shall be required to:

- A. Administer pre-admission tests recommended by the Board.
- B. Determine the probable factor.
- C. Submit progress reports at stated intervals.

4. Completion.

4-1. Requirements for completion shall be clearly stated and shall include satisfactory evidence of having met the total requirements of personal fitness, scholastic and skill achievement.

4-2. Final record forms shall be completed and submitted to the Board for each student completing the program.

4-3. Transcripts for each student shall be completed, filed, and made available upon request of the graduate.

4-4. Placement and follow-up studies of graduates are recommended.

Section VI Program Approval and Accreditation

A practical nursing program which has been established, projected, and has progressed within the minimum requirements as set forth in this manual shall be issued accreditation status.

A Board representative shall conduct a survey of each program periodically, at the discretion of the Board, to determine that minimum requirements are being met.

1. Objectives shall be to:

1-1. Assure students that the program in which they are enrolled is providing optimum opportunity for nursing education, clinical experience, and eligibility to write the State Board Test Pool Examination for Practical Nurse Licensure.

1-2. Insure those requiring nursing care that students and graduates possess the necessary skills and knowledge to provide safe nursing practice.

1-3. Evaluate the quality and competency of the practical nursing programs in attaining their own stated philosophy and objectives.

1-4. Encourage within each program self-evaluation for the development and improvement of the practical nursing program.

1-5. Assist each program in attainment of all minimum requirements essential for the continuation of quality education.

2. Types shall be:

2-1. Initial approval shall be issued to programs that have received Board approval to establish a program in practical nursing and shall be limited to three years, or until the completion of two classes. Programs with initial approval shall be reviewed annually.

2-2. Accreditation shall be issued to programs that meet the minimum requirements established by the Board. Programs with accreditation shall be surveyed at least every five years.

2-3. Accreditation renewal shall be issued to programs that maintain the minimum requirements established by the Board.

2-4. Provisional approval shall be issued to programs that do not maintain minimum requirements. Programs placed on provisional approval shall be reviewed annually and shall meet the requirements of the Board at the end of a two-year period. Programs on provisional approval shall not admit new students.

Section VII

Discontinuation of a Program

1. Voluntary.

The director of a program shall advise the Board by letter of the decision to close a program of practical nursing and submit a written plan for terminating the program.

1-1. Discontinuation may be accomplished by:

A. Arranging transfer of students to another approved program of practical nursing with provision for a minimal loss of student time.

B. Closing the program gradually by discontinuing admissions and officially closing on the date the last student graduates.

1-2. All requirements and standards shall be maintained until all students are transferred or graduated.

1-3. Provisions shall be made for the protection and accessibility of all records of a practical nursing program that has been discontinued.

2. Involuntary.

If the stipulations of provisional approval have not been met, withdrawal of approval shall be determined at the next regular meeting of the Board.

2-1. The director of the program shall be notified to appear before the Board for a hearing.

2-2. Following withdrawal of approval:

A. The school shall be removed from the list of accredited programs of practical nursing approved by the Board.

B. Only those students presently enrolled and approved by the Board shall be permitted to complete the program and apply for licensure.

2-3. A school may reapply for a practical nursing program after minimum requirements have been incorporated.

Section VIII

Licensure

1. Qualifications.

An applicant for a license to practice as a practical nurse shall:

1-1. Be of good moral character.

1-2. Be a citizen of the United States or have taken out first citizenship papers.

1-3. Be a graduate of an accredited program in practical nursing.

1-4. Attain a score of three hundred fifty or above on the State Board Test Pool Examination for Practical Nurse Licensure.

2. Application.

Each applicant shall complete an application form and submit to the Board office with the appropriate fee.

3. Types.

3-1. Examination—candidates who have completed an accredited program in practical nursing shall:

A. Complete and submit application form accompanied by two passport size photographs bearing the signatures of both the applicant and instructor on back.

B. Remit a twenty-five dollar fee for the State Board Test Pool Examination and original license.

C. Write the first scheduled examination following a program completion and application.

D. Receive notice of the date, time, and location of the examination.

E. Be issued an admit card.

F. Present admit card for admission to the examination center.

G. Score three hundred fifty or above on the State Board Test Pool Examination.

H. Be permitted to write the examination a second and third time if the initial writing is unsuccessful.

I. Be required to return to a program of practical nursing for evaluation of deficiencies if the third examination is unsuccessful.

J. Remit a fee of fifteen dollars for each subsequent examination.

3-2. Endorsement.

3-2-1. An applicant who is licensed under the laws of another state and meets the qualification for

licensure in Louisiana may apply for endorsement and shall:

- A. Complete and submit an application form accompanied by two passport size photographs bearing applicant's signature on the back.
- B. Provide a photostatic copy of current license for temporary permit.
- C. Remit seventeen-dollar fee for application processing and Louisiana license.
- D. Complete application requirements within one year.

3-2-2. An applicant who is licensed under the laws of Louisiana and requests endorsement to another state shall:

- A. Complete and submit a verification form.
- B. Remit two-dollar fee for processing.
- C. Receive verification of licensure by the Board.

4. Temporary Permit.

A temporary permit to practice as a practical nurse in the State of Louisiana pending receipt of the permanent license shall:

- 4-1. Be issued to graduates of an accredited practical nursing program pending the results of the first State Board Test Pool Examination.
- 4-2. Be issued to qualified applicants for licensure by endorsement.
- 4-3. Not be extended beyond the original expiration date.
- 4-4. Be presented at the time of employment.
- 4-5. Require applicant to sign their names as "P.N. (T.P.)."

5. Renewal.

Each license shall be renewed annually. Renewal forms shall be:

- 5-1. Mailed annually by the Board office to the last known address.
- 5-2. Completed and returned with a fee of five dollars before January 31 of each year.
- 5-3. Delinquent after January 31 of each year, reinstated upon completion of renewal application and remittance of five-dollar renewal fee and five-dollar delinquent fee. A list of delinquent licenses shall be compiled and mailed to all health-related agencies on March 1 of each year.

6. Inactive Status.

A licensee desiring to retire from practice shall:

- 6-1. Notify the Board by registered mail.
- 6-2. Be placed on inactive status.
- 6-3. Not remit annual renewal fee.
- 6-4. Be reinstated by applying for renewal and remitting five-dollar renewal fee.

7. Change of Name.

A licensee who requests change of name shall submit

a photostatic copy of legal document and fee of two-dollars.

8. Change of Address.

A licensee who has a change of address shall notify the Board office as soon as possible.

9. Lost, Stolen, or Destroyed License.

A licensee requesting a duplicate license shall:

- 9-1. Obtain verification of renewal form from the Board office.
- 9-2. Complete and submit with one-dollar fee.

10. Roster.

A roster of all persons licensed as practical nurses in Louisiana shall be published annually; it may be purchased through the Board office for a fee of one dollar.

11. Fees shall be:

- 11-1. Paid by cash, personal check, or money order.
- 11-2. Charged for all non-negotiable checks. The fee is two dollars.
- 11-3. Nonrefundable.

12. Denial, Revocation, or Suspension of License.

12-1. The Board may revoke or suspend any license to practice practical nursing issued by the Board, or applied for, or, other wise discipline a licensee upon proof that the person:

- A. Is guilty of fraud or deceit in procuring or attempting to procure a license to practice practical nursing; or
- B. Is guilty of a crime; or
- C. Is unfit, or incompetent by reason of negligence, habit, or other causes; or
- D. Is habitually intemperate or is addicted to the use of habit forming drugs; or
- E. Is mentally incompetent; or
- F. Is guilty of unprofessional conduct; or
- G. Has violated any of the provisions of this part.

Mary E. Rogers, R.N., Associate Director
Board of Practical Nurse Examiners

RULES

.01 Applicability; Effective Date

Board of Regents

Regulations and Procedures for Making Payments to Non-Public Institutions of Higher Education for Educating Louisiana Residents Pursuant to Act 562 of the 1975 Regular Session of the Louisiana Legislature as Amended by Act 491 of 1976 and Further Amended by Act 522 of the 1976 Regular Session of the Louisiana Legislature

In promulgating these regulations and procedures, the Board of Regents makes the following findings: That both the Federal and State of Louisiana Constitutions prohibit the enactment of any law respecting an establishment of religion and that Act 562 of the 1975 Regular Session of the Louisiana Legislature, as amended by Act 491 of 1976 and further amended by Act 522 of the 1976 Regular Session of the Louisiana Legislature, was enacted within the framework of such constitutional proscriptions; that the Act as amended has a secular purpose; that the public has an interest in nonpublic institutions of higher education and that a program of reimbursement to such nonpublic institutions will have the effect of saving the taxpayers of Louisiana substantial amounts of money which would have to be expended to expand public institutions of higher education in order to meet the growing demands of such institutions if nonpublic institutions were not available to meet the increasing student load; that the Act as amended specifically prohibits reimbursement thereunder to any institution which discriminates on the basis of race or religion in its admission policies and prohibits reimbursement for educating any student majoring in theology or divinity or for the support of intercollegiate athletics; that, by reason of the Federal and State constitutional proscriptions, the Act as amended also prohibits aid being utilized by a recipient institution for any sectarian or religious purpose or for the support of intercollegiate athletics; and that the Board has the power and authority to promulgate these regulations in order to ensure that the administration of the Act as amended conforms with applicable Federal and State constitutional proscriptions and to provide for the orderly administration and enforcement of the Act as amended within the framework of all constitutional provisions.

Pursuant to the provisions of Act 562 of the 1975 Regular Session of the Louisiana Legislature, as amended by Act 491 of 1976 and further amended by Act 522 of the 1976 Regular Session of the Louisiana Legislature (R.S. 17:2053, et seq.), the following regulations and procedures are adopted by the Board of Regents:

The regulations and procedures contained herein shall apply to the program of reimbursement to non-public institutions of higher education provided for by Act 562 of the 1975 Regular Session of the Louisiana Legislature (R.S. 17:2053, et seq.), as amended by Act 491 of 1976 and further amended by Act 522 of the 1976 Regular Session of the Louisiana Legislature, and as may be further amended from time to time. These regulations and procedures shall be effective beginning with the expenditure, reporting, and verification of reimbursement awarded for the 1977 fiscal year, and shall apply in all respects for subsequent years.

.02 Definitions

In these regulations the following terms have the meanings indicated:

- A. "Act as amended" means Act 562 of the 1975 Regular Session of the Louisiana Legislature, as amended by Act 491 of 1976 and further amended by Act 522 of the 1976 Regular Session of the Louisiana Legislature.
- B. "Board" means the Board of Regents.
- C. "Eligible institution" means an institution designated in paragraph D of the Act as amended provided such institution admits students without regard to race, religion, color, or national origin, and admits and matriculates students without regard to employment status.
- D. "Louisiana resident" is defined in Policy Memorandum 31, dated May 15, 1974, of the Office of the President of the Louisiana State University System, which is attached as Appendix I to these regulations. Section 3 of this Memorandum does not apply to these regulations.
- E. "Program" or "academic program" means any series of courses arranged in a scope and a sequence leading to a degree or certificate or which constitutes a major.
- F. "Religious, seminarian, theological, or divinity academic program" or "majoring in theology or divinity" means matriculation in any series of courses arranged in a scope and a sequence either leading to a degree or certificate from the eligible institution which indicates specialization in the study of religion or in religious, seminarian, theological, or divinity studies, or constituting a major in any of such subject matters under the rules and regulations of the eligible institution.
- G. "Student" means only a student who is enrolled in an eligible institution who is a Louisiana

resident; and who is not majoring in theology or divinity.

- H. "Full-time student" is any student who has, as an undergraduate student, completed not less than twelve hours of recognized credit courses of study during a semester; or who has, as a graduate student, or a professional student, completed not less than nine hours of recognized credit courses of study during a semester.
- I. "Part-time student" is any student who has, as an undergraduate student, completed less than twelve hours of recognized credit courses during a semester; or who has, as a graduate student or a professional student, completed less than nine hours of recognized credit courses during a semester.
- J. "Professional student" is any student who is enrolled in a professional school, such as law, veterinary medicine, dentistry, medicine, etc.
- K. "Graduate student" is a student who has at least a bachelor's degree, and who has been formally accepted for graduate study in pursuit of the master's degree, the specialist degree or the doctorate degree.
- L. "Undergraduate student" is a student who is pursuing a bachelor's or associate degree.
- M. "State funds" are funds paid to an eligible institution pursuant to the Act as amended.

.03 Computation of Amount of Semiannual Award

A. The amount of the semiannual reimbursement available to each eligible institution shall be determined in accordance with the provisions of paragraphs B and C of the Act as amended, and in accordance with the following rules:

- (1) In the computation of the amount of any semiannual award to an eligible institution, the Board shall consider both "full-time students" and "part-time students" for the computations for reimbursement in accordance with paragraphs B and C of the Act as amended.
- (2) In the classification of a student for purposes of computation of reimbursement, there shall be excluded therefrom any student majoring in theology or divinity. Also excluded will be those students who are not students at the primary campuses of the eligible institutions. One or more institutions cannot be reimbursed in aggregate in excess of the limit for any one student.
- (3) An eligible institution cannot claim for reimbursement a student that is concurrently enrolled in a public institution of higher learning.

B. The required information shall be fully completed and filed with the Board and shall reflect the pertinent data for the preceding completed semester or semesters for which reimbursement is allowed under the Act as amended. The information and format required may be revised from time to time by the Board in a manner consistent with these regulations. Information requirements and format will be furnished to all eligible institutions prior to the fall semester each year. However, this does not preclude the possibility of changes occurring at other times either by law or by necessity.

C. For purposes of Section A, a student shall be deemed to be majoring in theology or divinity if, on or before the date of filing for reimbursement for any period, he has become a declared major in religion or in religious, seminarian, theological or divinity studies, or has otherwise advised or indicated to the institution that he is seeking a degree or certificate indicating the type of specialization which characterizes a religious, seminarian, theological, or divinity academic program. In determining reimbursement under the Act as amended, all credit hours of all such students majoring in theology or divinity shall be deducted, even if some credit hours are in nonreligious subjects which do not relate directly to such a program.

D. In the computation of total payments due any eligible institution with respect to the fifteen percent limitation imposed under paragraph F of the Act as amended, the term "total educational and general expenditures" shall mean those expenditures that are generally accepted and as defined and established by the National Association of College and University Business Officers (NACUBO). In order to determine this fifteen percent limitation amount, it will be necessary for the eligible institutions to furnish a copy of their operating budgets to the Board. This will be required since annual financial statements will not be prepared until after disbursements are claimed and dispensed.

E. Reimbursement will be at one hundred percent of the amount generated if sufficient appropriated funds are available and on a pro rata basis if funds are insufficient for a one hundred percent implementation.

F. In the computation of the amount of semiannual reimbursement to an eligible institution, there shall be excluded those students for which the institution is receiving funds under any other program authorized by the Louisiana Legislature.

.04 Administration of Program

A. The Board shall have the authority to verify the information submitted pursuant to Section .03 by

examining the registration or other pertinent data upon which submissions are based and, should there be any discrepancies, to reconcile these differences and make the appropriate revisions to the reimbursement amount. The institution shall be given notice of any changes and an opportunity to discuss these changes with the Board prior to revision of the reimbursement amount.

B. The data required by the Regents must be completed and submitted no later than January 31 and June 27 of each fiscal year for which reimbursement is sought, and shall consist of a Pre-expenditure Affidavit containing statements that the institution shall use State funds solely for academic purposes and shall not use any State funds for the support of intercollegiate athletics and that the institution shall use the State funds only for nonsectarian or nonreligious purposes. Copies of all information constituting an application will be timely distributed to all known eligible institutions, together with a copy of these regulations.

The Pre-expenditure Affidavit shall be in a form as prescribed by the Board; must be executed by the chief executive officer of the institution; and shall contain his certification that State funds shall be used solely for academic purposes; that no funds have been or will be received from the State for educating students then majoring in theology or divinity; that no funds received from the State have been or will be used for sectarian or religious purposes; that no such funds have been or will be used to support a religious, seminarian, theological, or divinity program or to support intercollegiate athletics of said institution; that the institution admits students without regard to race, religion, color, or national origin and without regard to employment status; and that the institution has adopted and will maintain and adhere to the accounting procedures described in Section E (of this Regulation .04) until all State funds applied for have been expended and accounted for to the Board.

C. Following the receipt of applications, and based upon its determination under Section .03, semiannual reimbursements will be paid as soon as possible to the eligible institutions after receipt and verification of all data from all institutions and approval of payment by the Commissioner of Higher Education.

D. No reimbursement shall be paid to any eligible institution if it has failed to submit an adequate Utilization of Funds Report for any preceding semester in compliance with these regulations. (Refer to .04 F.)

E. All eligible institutions shall adhere to the following accounting procedures in connection with their receipt, expenditure, and accounting of State funds pursuant to these regulations:

- (1) Each institution will prepare its annual financial statements in accordance with generally accepted accounting principles as outlined in the National Association of College and University Business Officers' administrative service manual, college and University Business Administration.
- (2) The budget for each institution must identify the specific areas of activity for which State funds will be expended.
- (3) State funds, when received by the institution, must be placed in a special revenue account.
- (4) Each budgeted segment of the institution must have an expense account number, where appropriate, for recording the expenditure of State funds.
- (5) Each institution will retain for a minimum period of one year following reimbursement sufficient documentation of the State funds expended to permit verification by the Board that no funds were spent for sectarian or religious purposes, or in support of a religious, seminarian, theological, or divinity program, or intercollegiate athletics.
- (6) Should it become necessary to conduct a verification or audit of the institution's records in connection with its expenditure of State funds, this process shall be conducted with dispatch and a minimal disruption of the institution's activities. It shall be strictly limited to such information and data as is necessary to determine whether or not there has been a misuse of funds. If the institution fails to cooperate fully with the Board in a manner to facilitate prompt and accurate completion of the verification or audit, it shall be ineligible to receive any further funds under the Act as amended until it complies with the law and these regulations.

F. Prior to the end of each semester, the Board will send to all eligible institutions a Utilization of Funds Report and a Post-expenditure Affidavit. The Utilization of Funds Report shall be certified to by the chief executive officer or chief financial officer of the institution and shall require the institution to describe and itemize the purposes for which State reimbursement funds have been expended during the preceding semester. The Post-expenditure Affidavit shall be executed by the chief executive officer of the institution and shall certify to the same stipulations required in the Pre-expenditure Affidavit. These reports and affidavits must be completed and filed in accordance with the requirements of these regulations before any application for reimbursement for a subsequent semester will be acted upon.

G. Each eligible institution receiving reimbursement under the Act as amended shall maintain complete and sufficient records of the residence status of all students who have been included by the institution in the computation of reimbursement and shall retain all such records for a period of not less than one year from the date upon which reimbursement has been applied for with respect to said students.

H. In addition to certifying in the Pre-expenditure and Post-expenditure Affidavits that it admits students without regard to race, religion, color, or national origin and without regard to employment status, each eligible institution shall submit to the Board, when it first makes application for reimbursement under the Act as amended following issuance of these regulations, copies of all written policies governing the admission of students.

.05 Prohibited Uses of State Funds

A. Act 491 and 522 of the 1976 Regular Session of the Louisiana Legislature amended Act 562, in part, to impose certain prohibitions on the use of funds awarded under Act 562. Specifically, Act 491 and Act 522 require that State funds be used solely for academic purposes and prohibit any use of such funds for religious purposes or for intercollegiate athletics. The Board was specifically directed by Act 491 to promulgate regulations implementing those provisions.

B. An eligible institution receiving funds under the Act as amended will be in compliance with the requirement that it uses those funds solely for academic purposes if it expends those funds in areas and services incidental to and in direct support of its primary missions of instruction, research, and public service. That requirement prohibits the use of State funds for the auxiliary enterprises of the institution, such as dormitories and cafeterias, and for independent operations which are primarily funded by foundation or government grants or other funds not derived through the normal revenue sources of the institution. If an institution is in doubt whether possible uses of State funds might be for something other than an academic purpose, it should consult with and seek the advice of the Board in advance of the commitment.

C. Prior to the 1976 amendments to Act 562, the Attorney General of Louisiana had given the Board a formal opinion that required that the Act be administered in such a fashion that no funds awarded under the Act be used for religious or sectarian purposes. Consistent with that opinion and with the decisions of the United States Supreme Court, the religious use prohibition contained in the Act as amended will be

administered to prohibit the use of any funds awarded under the Act to support religious instruction, religious worship, or other activities of religious nature. Listed below are several potential uses of State funds which would violate the religious use prohibition. This list is not intended to be all-inclusive, and, if any recipient institution is in doubt whether any other possible use of the funds might violate the religious use prohibition, it should consult with and seek the advice of the Board in advance of any such expenditure.

- (1) Student Aid: State funds may not be used for student aid if the institution imposes religious restrictions or qualifications on eligibility for student aid, nor may they be paid to students then enrolled in a religious, seminarian, or theological academic program.
- (2) Salaries: State funds may not be used to pay in whole or in part the salary of any person who is engaged in the teaching of religion or theology, who serves as chaplain or director of the campus ministry, or who administers or supervises any program of religious activities.
- (3) Maintenance and Repair: State funds may not be used to pay any portion of the cost of maintenance or repair of any building or facility used for the teaching of religion or theology or for religious worship or for any religious activity.
- (4) Utilities: If an institution has any building or facility that it used in whole or in part for the teaching of religion or theology or for religious worship or for any religious activity, State funds may not be used to pay utility bills unless those buildings or facilities are separately metered. If buildings or facilities used for any religious purpose described in the preceding sentence are separately metered, the cost of providing heat, electricity, and water to those buildings or facilities cannot be paid with State funds.
- (5) Capital Construction and Improvements: If State funds are used to construct a new building or facility or to remove an existing one, the building or facility may not be used for the teaching of religion or theology or for religious worship or for any religious activity at any time in the future.

D. State funds may not be used to pay in whole or in part the salary of any person who is engaged, either full-time or part-time, in coaching, recruiting, or any other phase of intercollegiate athletics or to support intercollegiate athletics in any manner. If an institution is in doubt whether possible use of State funds might violate the intercollegiate athletic use prohibition, it should consult with and seek the advice of the Board in advance of the commitment.

E. In the event an institution uses State funds for other than academic purposes or violates the prohibition against a religious use of State funds or a use of State funds to support intercollegiate athletics, it shall be ineligible to receive further State reimbursement until repayment of the funds expended in violation of such prohibitions has been made. If the Board determines that there has been such a violation and that the responsible officers knew or reasonably should have known that it was doing so, the Board shall notify the institution, and the Board may declare that institution ineligible to receive further State funds under the Act, either for a specified number of years or permanently, and so notify the institution. Representatives of the institution shall be given notice and opportunity to appear before the Board and present pertinent information prior to any declaration of ineligibility.

F. An eligible institution's right to have a decision of the Board reviewed shall be such as may be provided by law.

William Arceneaux, Commissioner
of Higher Education
Board of Regents

Appendix I
Policy Memorandum 31
May 15, 1974

1. Regulations Regarding Residence Classification

1.1. A resident student is defined as a student who has been domiciled in the State of Louisiana continuously for at least one full year immediately preceding the first day of classes of the term for which resident classification is sought. A non-resident student is a student not eligible for classification as a resident student under these regulations.

1.2. One who enrolls as a nonresident shall continue to be so classified throughout his attendance as a student, unless and until he demonstrates that he is eligible for reclassification as a resident under these regulations. A nonresident student shall be eligible for reclassification only after he establishes that his previous domicile has been abandoned and that he has been domiciled in Louisiana continuously for at least one full year immediately preceding the first day of classes of the term for which reclassification is sought.

1.3. A person who was eligible to be classified as a resident of Louisiana under these regulations for at least two years and then moves to another state retains the right to enroll himself or any of his dependents as a resident for a period equal to the

number of years he was thus eligible; but the right shall expire upon the person's residing continuously for a period of at least five years in another state, or outside of the State of Louisiana continuously for a period of ten years.

1.4. A person who was eligible to be classified as a resident of Louisiana under these regulations does not lose the right to be classified as a resident during the period of employment in a foreign country. In cases of prolonged employment in a foreign country, evidence of retention of United States citizenship is required.

1.5. An individual on a student visa is to be classified as a nonresident.

1.6. A member of the diplomatic service of another country who is assigned to full-time duties in Louisiana may enroll himself or his dependents as residents.

1.7. A member of the armed forces currently stationed in Louisiana may enroll his dependents as residents.

An individual on active duty in the armed forces currently stationed in Louisiana may be classified as a "temporary resident" upon submission of an appropriate statement signed by his unit commander verifying his being on active duty and stationed in Louisiana. The classification of "temporary resident" is valid only for the semester or summer term for which it is established. It must be renewed at each registration. "Temporary resident" cannot be acquired when assigned to Louisiana for the primary purpose of attending a college or university.

1.8. An individual who was permanently stationed in Louisiana as a member of the armed forces for a continuous three-year period, and his dependents, may be classified as residents provided that the individual has been domiciled continuously in Louisiana during the time between separation from the armed forces and registration. The foregoing requirement for a continuous three-year period may be satisfied if the individual has been permanently stationed in Louisiana for a continuous period of more than two years but less than three years, and has been employed and domiciled full time in the state for a period after separation sufficient to make up the said continuous three-year period.

1.9. A member of the armed forces who was eligible for classification as a resident of Louisiana under these regulations immediately prior to entering the armed forces retains the right to enroll himself and any of his dependents as residents as long as he is in the armed forces and for a two-year period after separation from the armed forces.

1.10. Residence status is not determined for students auditing only or for students enrolled in

extramural or correspondence courses of the Division of Continuing Education.

1.11. Students who have been classified as residents of Louisiana under regulations now superseded shall not be reclassified as a result of these regulations.

2. Classification Procedures

2.1. The residence status of an applicant or student is determined by the Office of the Registrar on each campus in accordance with these regulations and is based upon evidence provided in the application for admission and related documents.

2.2. An application for reclassification from non-resident to resident status shall be filed with the Office of the Registrar not later than twenty-one calendar days following the first day of classes of the term for which such reclassification is sought. Such application shall include any information or documents required by the Office of the Registrar, together with any supporting evidence which the student desires to submit.

3. Appeals Procedures

3.1. Any student may appeal the decision of the Office of the Registrar pursuant to paragraph 2.2., above. This appeal must be filed not later than twenty-one calendar days after notice of such decision is mailed to him by filing with the Office of the Registrar a formal appeal in writing which shall be forwarded to the Chairman of the System Residence Appeals Committee.

3.2. The System Residence Appeals Committee shall consist of three members appointed by the President from the LSU System administrative staff. The Committee shall function as an appellate body with appropriate legal counsel. The Committee shall recommend to the President of the University the reclassification of any student who has appealed his classification as a nonresident if the Committee finds from the evidence submitted that the student is entitled to reclassification under these regulations.

3.3. Failure to comply timely with the appeals procedure shall constitute a waiver of all claims for reclassification for the applicable term or terms.

M. D. Woodin, President
Louisiana State University System

RULES

Department of Revenue and Taxation

Pursuant to the authority vested in me by law, Article 47:303 of the Louisiana Sales Tax Rules and

Regulations published October 1, 1973, is hereby amended to read as follows:

Article 47:303. Collection

R.S. 47:303A deals with the collection of tax from dealers. All of the taxes imposed under R.S. 47:302, and, by reference in R.S. 47:322 to those imposed under R.S. 47:321, are governed by these provisions. Every person engaged as a dealer, which R.S. 47:301 defines to be either party to a transaction creating a tax liability under this Chapter, is made liable for collection of the tax. "Dealer" includes both the seller and the purchaser of tangible personal property, the person who uses, consumes, distributes or stores tangible personal property in this state to be used or consumed here if a Louisiana sales tax has not previously been paid thereon, the lessor or lessee, the rentor or renter of tangible personal property rented or leased within this state, and the person who performs or furnishes any of the services covered by R.S. 47:301(14) or the person for whose benefit the services are furnished.

The importation of tangible personal property from other states or from foreign countries to be used, consumed, distributed, or stored to be used or consumed in this state is treated the same as if the articles had been sold at retail for any of those purposes within the state, and such articles are thereby taxable to the person who causes them to be imported. This tax levies immediately, and can be collected immediately. There shall be no tax on the importer, however, if a Louisiana sales tax has been previously been paid. This section clearly provides that there shall be no duplication of the tax.

If a tax similar to that imposed by this Chapter is imposed by the state from which property is imported and if the state from which imported allows a credit to persons who import tangible personal property into that state for any sales or use tax which might have previously been paid to the State of Louisiana, a credit will be allowed against the Louisiana sales or use taxes for the tax paid to the other state. In order for the credit to be operative, both of the qualifying conditions must be met. The importer must have paid a similar tax upon either the sale or use of the same identical property in another state and the other state must allow a credit similar to this credit. The only exception to the double qualification standard is in the case of military personnel who are enlisted for two years or more who purchase automobiles outside the State of Louisiana while on their tour of active duty. In this instance, the credit will be allowed for the taxes paid the other state, whether or not that state allows a similar credit for Louisiana taxes paid.

The use tax imposed by this Chapter is based on

either the cost of the tangible personal property being imported or its fair market value at the point at which it comes to rest in the State of Louisiana, whichever is the lesser of the two. Most frequently, the value upon which the Louisiana use tax is based will be less than original cost on which the taxpayer paid tax in the state of purchase. In those instances, credit will be allowed against the Louisiana use tax only in an amount equal to the tax rate paid to the other state, as distinguished from local government in the other state, applied to the value being taxed under the Louisiana law. No credit will be allowed against the Louisiana use tax for taxes paid to political subdivisions in another state or to foreign countries. In no event will a credit greater than the tax imposed by Louisiana on any particular piece of tangible personal property be allowed.

In any case in which a taxpayer claims credit for a tax paid to another state, he must be in a position to prove payment of the tax before the credit will be allowed. The precise proof required will vary with the nature of the property and the circumstances surrounding its importation into the State.

R.S. 47:303B deals with the collection of tax on vehicles. In view of the regulatory function performed by the Vehicle Commissioner in issuing license plates for the registration of vehicles and in issuing certificates of title to vehicles, this section provides that all taxes levied by this Chapter on the sale or use of vehicles shall be paid to the Vehicle Commissioner as the agent of the Collector of Revenue before a certificate of title or vehicle registration can be issued. The Vehicle Commissioner serves as agent for the Collector of Revenue only with respect to those vehicles required to be registered and/or titled with the Vehicle Commissioner. Generally, this covers all vehicles which have been found to be safe for highway use and can pass safety inspection. While this subsection makes the Vehicle Commissioner the agent of the Collector of Revenue for purposes of collecting the taxes, the Collector of Revenue is the only proper party to defend or institute any legal action involving the tax imposed by this Chapter with respect to any motor vehicle, automobile, motorcycle, truck, truck-tractor, trailer, semi-trailer, motor bus, house trailer, or any other vehicle subject to the vehicle registration or title requirements. Conversely, the Collector of Revenue has no authority or jurisdiction whatever in the issuance of vehicle registration licenses or vehicle titles. This is the absolute domain of the Vehicle Commissioner.

The sales tax levied by R.S. 47:302A(1) and by R.S. 47:321 is due at the time of registration or transfer of registration as required by the Vehicle Registration License Tax Law. The use tax levied by R.S. 47:302A(2)

and by R.S. 47:321 on the use of a vehicle in this state is due at the time first registration in this state is required by the Vehicle Registration License Tax Law. That law basically requires that a vehicle purchased in Louisiana be registered immediately upon purchase. Consequently, the sales tax is due at the time of the purchase transaction. The Vehicle Registration License Tax Law basically provides that the vehicle shall be registered in this state immediately upon its importation for use in Louisiana. The use tax, therefore, becomes due when the vehicle has entered the state for use.

For purposes of the sales tax, every vendor in this state is required to furnish to a purchaser at the time of a sale, a sworn statement fully describing the vehicle including the serial number, the motor number, the type, year, and model of the vehicle, the total sales price, the amount of any allowance, and a full description of any vehicle taken in trade, the net difference being paid by the purchaser between the vehicle purchased and the one traded in, and the amount of sales or use tax to be paid. Every component of the vehicle attached thereto at the time of the sale and which is included in the salesprice, including any labor, parts, accessories, or other equipment, are considered to be a part of the vehicle and not a separate item of tangible personal property. The Vehicle Commissioner has the right to examine the statement furnished to the purchaser at the time of the sale and in any case in which he determines that the total sales price or the allowance for the vehicle traded in do not reflect reasonable values, he may adjust either to reflect the fair market value of the vehicle involved. Generally, this will be done by reference to current values published by the National Automobile Dealers Association. This revaluation is solely for the purpose of determining the proper amount of sales or use tax due and in no way influences the prices agreed upon between the buyer and the seller. The Vehicle Commissioner also has the authority to require affidavits from either the vendor or the purchaser, or both, to support a contention that some unusual condition adversely affected the cited sales price. In any event, the minimum tax due shall be computed on the consideration cited as the difference paid by the purchaser between the vehicle purchased and the vehicle traded in.

In order for a transaction involving motor vehicles to qualify for "trade-in" treatment for sales/use tax purposes, the following additional conditions must be met:

1. Ownership of the "trade-in" vehicle must be transferred to the seller of the "new" vehicle simultaneously with or prior to the taking of delivery by the purchaser of the "new" vehicle from the seller.