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Policy and Procedure Memoranda

Office of the Governor
Division of Administration

Policy and Procedure Memorandum No. 64

Subject: Printing Procedures

Effective Date: September 8, 1978

Authorization: R.S. 43:1-31 (Act 130 of 1978 replaces R.S. 43:31)

This policy and procedure memorandum rescinds, supersedes, and cancels Policy and Procedure Memorandum No. 62 revised, including any and all previous delegation of authority pertaining to PPM No. 62.

All administrative boards, commissions, departments, agencies, institutions, and offices within the Executive Branch of State government shall purchase all requirements of printing and engraving through Central Purchasing, Division of Administration. Exceptions: Louisiana State University and Agricultural and Mechanical Colleges, the Department of Transportation and Development, and the port authorities.

All requirements for printing, engraving, and binding shall be submitted directly by the agency to Central Purchasing, Division of Administration, and shall not be handled at the agency level through the printing vendors or their representative. Certified library binding should be handled on a release order through the agency's purchasing section using the correct binding contract for certified library binding and rebinding of books.

Requisition: All items of printing, binding, or engraving shall be requisitioned on a purchase requisition (Form DA 101 or DA 101 A. If agency is on FACS, use FACS 101) and only like items shall be requisitioned on each requisition form.

Examples:

1. Printed letterheads
2. Engraved letterheads
3. Flat forms
4. Snap set (same size)
5. Continuous forms
6. Card forms

Each requisition must be accompanied by complete specifications (size, color, and kind of paper, construction, numbering information, etc.) and a sample or clean layout. The sample must be a complete original. A Xerox copy or a reference to a previous order will not be acceptable.

When preparing a requisition, the agencies must use a fourteen-digit requisition number (first three digits agency number, next five agency cost center, next five requisition number, final digit will be last number of the fiscal year money is to be encumbered), complete specifications, and include an original sample.

Any and all requisitions received by Central Purchasing, Division of Administration, not meeting the above requirements shall be returned to the agency submitting such requisitions prior to entering the job request.

Suspension

Acts 1972, Senate Concurrent Resolution No. 99 provides for suspension of all laws or parts of laws requiring printed reports by State boards, commissions, departments, or agencies as follows: "Therefore, be it resolved by the Senate of the Legislature of the State of Louisiana, the House of Representatives thereof concurring, that all laws or parts of laws that require or authorize State boards, commissions, departments, and/or agencies to prepare, print, or publish and distribute annual or biennial reports to the

Governor, the Legislature, or both of them, or for public distribution, are hereby suspended to the extent of such requirements or authorizations; provided, however, that said suspension shall not apply to any laws or portions of laws requiring or authorizing reports required by laws or regulations of the United States Government or any of its agencies in order to obtain or continue to receive Federal funds, grants, or assistance."

R.S. 43:31—Printed Matter Prohibitions; Uniform Standards; Election Material

A. No branch, department, agency, official, employee, or other entity of State government for which a budget has been approved and for which an appropriation has been made or a transfer of funds effected pursuant to law shall print or cause to be printed any bulletin, leaflet, Christmas card, or other similar communication, house organ, circular, book, report or similar publication, except those required by law. All printed matter so required shall be effected in a uniform manner as to basic content, size, quality of paper, and use of color (Note: See Standard Specifications which follow.) to be established by the Division of Administration, the legislative budgetary control council, and the judicial budgetary control council. The Division of Administration, legislative budgetary control council, and the judicial budgetary control council shall be empowered to make such exceptions affecting their respective branch of government to the provisions of this Subsection as may be in the best interests of the State of Louisiana. In addition, the provisions of this Subsection shall not be construed to prohibit the printing or publication of any printed matter required by any Federal law or regulation in order that the State or any department or agency thereof may obtain or receive Federal funds, grants, or assistance. The provisions of this Section shall apply to printed matter printed pursuant to any such Federal law or regulation to the extent that this Section does not conflict with any such law or regulation.

Explanation: Agencies seeking to print public documents not required by State or Federal law must send copies, facsimiles, or descriptions of these documents with a detailed justification of need for printing and distributing these documents to their respective Undersecretaries. The Undersecretaries with permission from their respective Cabinet Secretaries are delegated the authority to deny permission to print any public document they deem as not necessary for the fulfillment of their agency's or department's purpose or feel not to be in the best interest of the State of Louisiana.

The public document printing requests that pass the Undersecretary's screening process shall be sent (for collection purpose only) to the State Budget Office (10th Floor, State Capitol, Box 44095) along with a signed copy of the public document printing request form for Division of Administration approval. (Note: Do not send forms, letterheads, internal memorandums, etc.)

When submitting a printing request to Central Purchasing, the following information must be included on the requisition:

1. The Federal or State law that requires you to print this material.
2. Division of Administration special exception documentation.

B. All printed matter except documentation in connection with proceedings of the executive, legislative and judicial branches of State government printed or caused to be printed by any branch, department, agency, official, employee, or other entity of State government, shall contain the following statement, with required information inserted, printed on the publication adjacent to the identification of the agency responsible for publication: "This public document was published at an annual cost of \$_____, or \$_____ per copy by (name and address of person, firm, or corporation or agency which printed the material) to (statement of purpose) under authority of (citation of law requiring publication or

of special exception by Division of Administration, the legislative budgetary control council or the judicial budgetary control council as provided in Subsection A). This material was printed in accordance with the standards for printing by State agencies established pursuant to R.S. 43:31." If the printing of the material was not done by a State agency the above statement shall include the following additional language: "Printing of this material was purchased in accordance with the provisions of Title 43 of the Louisiana Revised Statutes." This statement shall be printed in the same size type as the body copy of the document and shall be set in a box composed of a one-point rule.

Explanation: 1. "All printed matter" referred to in Section B is assumed by the Division of Administration to refer to types of printing material described in Section A of Act 130.

2. The required cost statement can be placed on the title page of books. On brochures and other publications, it should be placed below the agency name.

3. When documents are printed by special permission the following statement must be substituted: "Under authority of special exception by the Division of Administration."

4. It will be the agency's option to use total cost or cost per copy.

C. The following three factors shall be utilized in computing cost data: 1) Preparation of the public document for publication; 2) printing, including all expenditures for reproduction, whether on bid or in-house; and 3) circulation, including all estimated expenditures for postage and distribution of the public document.

Explanation: The Division of Administration assumes that the intent of the Legislature was not to increase either administrative or printing costs with the passage of Act 130, therefore in computing cost data estimated costs may be used. The estimated costs should include:

1. An estimated portion of the salaries of agency personnel involved in preparing document.

2. Printing costs should be given by printer, whether in-house, administrative services, or printing contract on quantity ordered.

3. Estimated postage or freight for distribution.

D. No funds appropriated for printing purposes or otherwise shall be used to urge any elector to vote for or against any candidate or proposition on an election ballot nor shall such funds be used to lobby for or against any proposition or matter having the effect of law being considered by the Legislature or any local governing authority. This provision shall not prevent the normal dissemination of factual information relative to a proposition on any election ballot or a proposition or matter having the effect of law being considered by the Legislature or any local governing authority.

E. Any administrative head of any branch, department, agency, or entity who violates any provision of this Section and any employee who, without the authorization of his administrative superior, violates any provision of this Section shall be personally liable for the cost of any printing in violation of this Section. Any State funds expended on any printing in violation of this Section may be recovered by the State in a civil action instituted by the Attorney General or any taxpayer. In addition, any such person who violated the provisions of this Section shall be assessed a fine by the court of not more than five hundred dollars.

Standard Specifications

State Publications

Size: 6 X 9, 5½ X 8½, 8½ X 11, or 9 X 12

Paper: Text 50 lb. or 60 lb. white offset, 60 or 70 lb. enamel

Cover 65 lb. No. 1 Antique cover (standard colors)

or 65 to 80 lbs. coated covers (white only)

Ink: Text one color

Cover one color

Binding: On individual basis

Copy:

1. Camera-ready

Typed, computer printout, or previously printed book, unless it has been copyrighted.

2. Set-type for 6 X 9 or 5½ X 8½

10-point on 12-point slug by 25 picas wide by 45 picas deep including folio. Agency may select type faces from those available. Smaller type may be used in tabular matter to save on the number of pages.

Set-Type for 8½ X 11

10-point on 12-point slug by 42 picas (2 columns with 2-pica gutters) wide by 56 picas deep including folio. Agency may select type face from those available. Smaller type may be used in tabular matter to save on the number of pages.

The method of printing would determine the feasibility of photographs.

Example:

Letterpress-(all type) No photographs should be used.

Offset-Photographs can be used.

Newsletters, Leaflets, Etc.

Size: 8½ X 11 or 17 X 11

Stock: 15 lb. to 20 lb. bond

60 lb. to 80 lb. text offset

60 lb. or 70 lb. enamel

Ink: One color (both sides)

Fold: 8½ X 11 size to 8½ X 5½ or to fit no. 10 envelopes

17 X 11 size to 8½ X 1 or 8½ X 5½ or to fit no. 10 envelope

Copy:

1. Camera-ready or

2. Set type-image area

8½ X 11 size—7½ X 10

17 X 11 size—16 X 10

Agency may select type face and size from those available. Size of type will depend on amount of copy and the number of photographs that will be used in the newsletter, leaflet, etc. Photographs should be held to a limited number.

Where unusual problems are encountered, and an agency considers additional delegated authority necessary, an application for this authority may be submitted to the Commissioner of Administration, or his designated representative may be empowered to make certain exceptions that may be in the best interest of the State. However, application for such exceptions must be in writing and must present detailed information in support of such request.

Classes of Printing: The State printing contract covers thirty-one categories of printing and binding. Central Purchasing, Division of Administration, reserves the right to assign each request for printing to the proper contractor, to the Administrative Services Section of the Division of Administration, or to award to a commercial printer as a result of competitive bids taken by the State Printing Agent.

In all printing contracts, the right shall be reserved for all State boards, commissions, departments, institutions, and offices to do and perform printing, mimeographing, copying, and similar work for which they have existing facilities.

R.S. 43:1B(3) Delegation of Authority: The Commissioner of Administration may delegate the purchase of printing to any instrumentality whenever the best interest of the State will be served; however, the delegation of this authority does not preclude the procurement of these items through the Purchasing Section when the Commissioner deems it more desirable or practical to do so.

Authority is delegated to all agencies covered by this Act to purchase the following items without prior approval by the printing office.

1. Prepublished items specifically limited to:

a. Technical or scientific books

b. Pamphlets, reports, maps, and charts

c. Tax and tariff schedules

- d. Subscriptions to newspapers, magazines, and periodicals.
2. Art work and similar professional services.
3. College yearbooks and student newspaper.
4. Athletic, cultural, or entertainment programs, posters, and tickets.

All purchases, whether made by the Division or by the agency under the delegated authority provision, shall be made in compliance with R.S. 43:1-31.

Forms Management: Forms that are warehoused by the State for State agencies are ordered on a warehouse requisition (DA FM 1). These requisitions are sent directly to Forms Management, 655 Choctaw Drive, Baton Rouge, Louisiana. If you do not have a forms register or the warehouse requisition, you may obtain these by calling Forms Management (342-5095).

Administrative Services: If a State agency is certain their printing will be handled by Administrative Services they can fill out an Administrative Services printing request. This form along with an original sample, may be sent directly to Administrative Services; a DA 101 does not have to be included with this request. If the State agency needs any of these request forms they may call 925-6517.

Information: All requests for information shall be directed to Division of Administration, State Printing Agent, Box 44095, Baton Rouge, Louisiana, phone 342-4475. Questions regarding specifications, deliveries, and other matters pertaining to printing jobs shall be submitted directly by the agency to the Division of Administration and shall not be handled by the agency through representatives or vendors. The facilities of the printing office are available to any agency and all requests will be handled promptly.

Charles E. Roemer, II
Commissioner of Administration and
Executive Assistant to the Governor

Emergency Rules

DECLARATION OF EMERGENCY

Board of Trustees for State Colleges and Universities

At its meeting on September 8, 1978, the Board of Trustees took the following emergency action, effective immediately.

The Board's *Policy and Procedures Manual*, Part VIII, Student Personnel Policies and Procedures, is amended as follows:

Delete No. 7 of Section 8.10, Paragraph A, which reads as follows:

"No student who is a recipient of other financial aid from State funds shall be eligible for one of these scholarships."

Delete Paragraph C of Section 8.10, which reads as follows:

"An academic scholarship recipient is restricted from receiving a second scholarship involving State funds, except in the case of the Louisiana High School Rally Scholarship since it is funded by the State Legislature under the provisions of a special act of the 1972 Legislature."

These sections represent Board policy on academic scholarship and other State financial assistance to students. As long as they are effective, a student receiving a State scholarship of any kind is ineligible for student employment; and in many cases, the cost per student per semester is such that the highest-paying scholarship does not cover minimum expenses. The nature of the emergency is that a large number of economically handicapped young persons would be unable to obtain sufficient financial assistance to

attend college this semester. The deletion of the above paragraphs will enable colleges and universities to offer student employment, as well as other financial aid so that these students will not be denied a higher education.

This action was taken in accordance with the emergency provisions of the Administrative Procedures Act and under the authority of Article VIII, Section 6 of the 1974 Constitution.

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

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

The State Board of Elementary and Secondary Education, at its regular meeting on August 24, 1978, exercised the emergency rule-making provision of the Administrative Procedures Act, R.S. 49:953B, to adopt guidelines for the implementation of Act 718 of 1978 to extend application to those applying for tuition exemption for the 1978 Fall semester. Emergency action was necessary in order to comply with the mandates of the legislative act. Act 718 Guidelines were adopted in lieu of Act 20 Guidelines in order to include vocational-technical instructors.

Rule 5.00.80(1)

Tuition Exemption for Teachers Act 718 Guidelines (Effective August, 1978)

1. The State Department of Education shall prepare an application form for the approval of the tuition exemption. This form will be sent to local public school boards for distribution to eligible public and nonpublic teachers and vocational-technical instructors.

2. A. Teachers will make application for tuition exemption to the Louisiana college or university that they are to attend after receiving continuing education tuition exemption eligibility verification from the appropriate authority:

Public Teachers—Verification from the principal and superintendent or his designee.

Nonpublic Teachers—Verification from the principal and, in cases of parochial schools, the diocesan superintendent or his designee.

Vocational-Technical Instructors—Verification from the vocational-technical director.

B. Applications for tuition exemption should be submitted at the time of registration at the college or university in which a student wishes to enroll. Application for admission to the university must be made in compliance with university regulations and deadlines.

C. Course eligibility will be determined according to these guidelines by the college or university to which application is made.

D. All qualified applicants will be granted only the tuition exemption. Tuition exemption shall be limited to the amount of tuition assessed for on-campus courses.

E. Courses for reimbursement shall be limited to those that commence no sooner than the first day of the regular semester or quarter and/or no later than fifteen days after the beginning of the regular semester or quarter. The deadline date for submitting applications for this program shall be the fourteenth class day of the semester or quarter.

F. No student shall be allowed to pursue courses at more than one college or university simultaneously under this program.

G. No student shall be allowed to participate in this program outside the geographical boundaries of the state of Louisiana.

3. Elementary and secondary teachers: Any certified teacher teaching in, or on approved leave from, a State approved elementary or secondary school, or a degreed teacher eligible to teach in a public school and teaching in an approved nonpublic elementary or secondary school in compliance with nonpublic school standards, shall be eligible for the tuition exemption providing the teacher attends a Louisiana college or university. This tuition exemption shall not apply to those teachers holding temporary certificates but will apply to those teachers holding regular certificates with temporary certification in a particular area.

A. Interpretation of "attend": The teachers shall enroll in an on-campus course or an off-campus course for credit. Correspondence courses will not be considered.

B. Interpretation of "teacher": Any employee listed on the annual school report as a member of the faculty of an elementary or secondary school whose position requires a standard teacher certificate and who possesses such a certificate.

C. Interpretation of "approved elementary and secondary school": Any school that is involved in the day-to-day teaching of students in grades kindergarten through 12 or any combination thereof that is on the approved list of schools under the direction of the State Board of Elementary and Secondary Education. This shall include only the approved public, nonpublic, alternative, and special schools listed in Bulletin 741.

D. Only full-time teachers who are regularly employed, or those who are on approved leave, are eligible under this act. Day-to-day substitute teachers are not eligible.

4. Vocational-technical instructors: Teachers teaching in vocational-technical schools under the jurisdiction of the State Board of Elementary and Secondary Education shall be eligible for the tuition exemption, providing the instructor attends a Louisiana college or university.

A. Interpretation of "attend": The instructors shall enroll in an on-campus course or an off-campus course for credit. Correspondence courses will not be considered.

B. Interpretation of "vocational-technical instructor":

1. Any employee listed on a composite report listing instructional personnel to be submitted to the State Board of Elementary and Secondary Education by September 1, 1978.

2. All full-time instructors who are required by Bulletin 746 to earn 15 credit hours in Vocational, Technical and Industrial Education (VTIE) courses for certification, or;

3. Any degreed full-time instructor or guidance counselor who desires to further his education in his field of specialization.

C. Only full-time teachers who are regularly employed, or those who are on approved leave, are eligible under this act. Day-to-day substitute teachers are not eligible.

5. Only those courses of instruction in the teacher's field or discipline may be taken under this program. Course load for reimbursement purposes shall not exceed six semester hours per semester while teaching full-time.

6. Interpretation of "field or discipline" for elementary or secondary teachers:

A. Course work in the area of certification endorsed on the applicant's valid Louisiana Standard Teaching Certificate;

B. Methods and professional education courses that deal directly with the area of certification endorsed on the teaching certificate;

C. Course work outside the area of certification endorsed on the teacher's certificate, provided the principal recommends the area of instruction in which the teacher shall enroll. This must be attested to by the principal or immediate supervisor and the local superintendent;

D. Required course work in a Board of Regents' approved

advanced degree program in an area in which the applicant is presently teaching.

7. The State Superintendent of Education shall reimburse each Louisiana college or university for only the tuition funds lost due to this program, for applicants who are eligible according to the guidelines adopted by the State Board of Elementary and Secondary Education. The funds shall be paid from monies appropriated therefor or otherwise made available for this program.

8. Nonpublic universities included in this program are the following: Centenary College, Dillard University, Louisiana College, Loyola University, Our Lady of Holy Cross College, St. Mary's Dominican College, Tulane University, Xavier University.

A. Tuition paid to the above nonpublic universities shall be equal to but not greater than the highest tuition charged by a public college or university in Louisiana. The difference in the amount of tuition paid by the State and the amount charged by private universities shall be the obligation of the student.

B. State funds may not be used toward tuition courses in theology or divinity.

9. Appeals.

A. Any enrolled student whose tuition expense is not honored by the Department of Education shall have the right to a due process appeal to the State Board of Elementary and Secondary Education.

B. The individual should contact the Director of State Board of Elementary and Secondary Education for procedures to be followed for the appeal.

James V. Soileau, Director
Board of Elementary and Secondary Education

DECLARATION OF EMERGENCY

Office of the Governor Tax Commission

The Office of the Governor, Tax Commission has adopted the attached rules on an emergency basis under the provisions of R.S. 49:951, et seq.

The Tax Commission feels that the adoption of these rules must take place on an emergency basis to facilitate the certification of the tax rolls to the assessor on a timely basis so as to permit taxes to be collected by the sheriffs. Without proper rules, the Tax Commission would be required to postpone hearings on public service property protests until after publication on September 20, 1978.

These rules will be effective September 5, 1978, and remain in effect through September 20, 1978.

Public Service Properties Hearings

1. The Tax Commission or its designated representative as provided by law (that is a hearing officer), shall conduct hearings to consider the written protest, timely filed, of the assessed valuation of public service properties.

2. Three days prior to said hearings, the protesting party may file a signed written statement specifying each respect in which the initial determination is contested, setting forth the specific basis upon which the protest is filed together with a statement of the relief sought.

3. Every party, witness, attorney, or other representative shall conduct himself in all proceedings with proper dignity, courtesy and respect for the hearing officer or the Commission, and all other parties. Disorderly conduct will not be tolerated. Attorneys and other representatives of parties shall observe and practice the standards of ethical behavior prescribed for attorneys at law by the Louisiana Bar Association. Any party, witness, attorney, or other representative may be excluded by the hearing officer or the

Commission from any hearing for such a period and upon such conditions as are just for violation of this rule.

4. Every motion relating to a pending hearing shall, unless made during a hearing, be written, and shall set forth the relief sought and the specific reasons and ground therefor, if based upon matters which do not appear of record, and shall be supported by affidavit. Any motion not made during a hearing shall be considered filed when it is stamped received by the Commission in its office in Baton Rouge, Louisiana.

5. At the close of the time period for filing protests, the Commission shall assign each case to the docket and notify the parties of the time and place of the hearing.

6. Upon written notice by the Commission the parties or their attorneys or other representatives may be directed to meet and confer together by telephone or otherwise, before a specified time, prior to the hearing, and prior to the setting of a date for a hearing, for the purpose of formulating issues and considering:

- a. Simplification of issues.
- b. A limitation, where possible, of the number of witnesses.
- c. Possible consolidation of like protests.
- d. The time required for presentations.
- e. Such other matters as may aid in the simplification of the proceedings and the disposition of the matters in controversy.

7. Action taken at the conference shall be recorded in an appropriate statement by the parties, to be filed with the Commission before the date specified. In the event of a disagreement over the terms agreed upon at the conference, each party may file a separate statement setting forth the grounds for such disagreement.

8. A motion for consolidation of two or more protests, if made prior to hearing shall be in writing, signed by the mover, his attorney or representative, and filed with the Commission prior to the date set for hearing. No two or more protests shall be consolidated or heard jointly without the consent of all parties and by consent of the Commission, unless the Commission shall find that the two or more protests involved common questions of law and fact, and shall further find that separate hearing would result in unwarranted expense or delay or substantial injustice.

9. All hearings shall be open to the public. All hearings shall be held in Baton Rouge, Louisiana, unless the Commission shall designate another place of hearing.

10. Hearings will be conducted by a hearing officer selected and appointed by the Commission. The hearing officer shall have the authority to administer oaths, may examine witnesses in rule upon the admissibility of evidence and amendments to pleadings. The hearing officer shall have the authority to recess any hearing from day to day.

11. The hearing officer will have the responsibility and duty of assimilating testimony and evidence, compiling a written summary of the testimony and evidence and presenting a proposed order to the Commission. The proposed order shall be served upon the protesting party by certified mail, return receipt requested, upon receipt by the Commission.

12. The hearing officer shall direct all parties to enter their appearance on the record. In all proceedings, the protesting party shall open. After the protesting party has presented all its evidence, the hearing officer may call upon any party or the staff of the Commission for further material or relevant evidence upon any issue.

13. The Commission shall provide an official reporter to make and transcribe a stenographic record of the hearing and each protest and shall provide for such copies of the transcript as may be required for the purposes of the Commission.

14. Briefs shall be filed within seven days of receipt of the hearing officer's proposed order. The points involved shall be concisely stated, the evidence in support of each point shall be briefly summarized, and the argument and authorities shall be organized and directed to each point in a concise and logical manner.

15. Any evidence which would be admissible under the general statutes of the State of Louisiana, or under the rules of evidence governing proceedings in matters not involving a trial by jury in the courts of the State of Louisiana, shall be admissible before the Louisiana Tax Commission. Other evidence may be admitted by the Commission if it is at all probative and relevant provided the substantive rights of all parties are protected. The rules of evidence shall be applied liberally in any proceeding to the end that all needful and proper evidence shall be conveniently, inexpensively and speedily heard while preserving the substantive rights of the parties to the proceeding.

16. A protesting party, with leave of the hearing officer of the Commission, may present prepared testimony of a witness upon direct examination, either narrative or question and answer form, which will be incorporated in the record as if read, upon the witnesses being sworn and identifying the same. Such witness shall be subject to cross-examination. One signed original and four reproduced copies of said signed original shall be filed. Only the original of a deposition need be filed.

17. The hearing officer or Commission shall have the right in any proceeding to limit the number of witnesses whose testimony is merely cumulative.

18. Subpoenas for the attendance of witnesses from any place in the State of Louisiana, or for the production of books, papers, accounts or documents at a hearing, may be issued by the Commission upon its own motion, or upon the written motion of the parties showing that there is good cause for the issuance of same. No subpoena shall be issued until the party who wishes to subpoena the witness first deposits with the agency a sum of money sufficient to pay all fees and expenses to which a witness in a civil case is entitled pursuant to R.S. 13:3661 and R.S. 13:3671.

19. Within thirty days following the completion of the hearing the Commission shall notify the company in writing of its final determination.

20. The word Commission as used herein refers to the Chairman and the members or their delegates appointed to conduct the hearings.

C. Gordon Johnson, Chairman
Tax Commission

DECLARATION OF EMERGENCY

Department of Health and Human Resources Office of Family Security

The Department of Health and Human Resources, Office of Family Security, has adopted effective October 1, 1978, policy to be utilized in assuring the provision of medically necessary nonemergency transportation to Title XIX recipients. It was necessary to adopt this by means of an emergency rule because an October 1 effective date was mandated by the federal court suit, Pitts vs. Stewart. The policy reads as follows:

1. Medically necessary nonemergency transportation: general. The term "medically necessary nonemergency transportation" means transportation provided to a Title XIX recipient to and/or from a Title XIX enrolled provider of medical service for a Title XIX covered medical service. The medically necessary nonemergency transportation program is intended to provide transportation when all other reasonable means of transportation have been explored and found to be unavailable (i.e., the client's friends, relatives, personal vehicle, or other State or Federally supported providers). The provision of nonemergency medical transportation is available on a uniform basis throughout the state, upon the recipient notifying the appropriate staff member of the need and provided at least two days advance notice is given.

II. Who is eligible. Payment may be made for medically necessary nonemergency transportation for persons eligible for Title XIX benefits. Eligible persons can be identified by the buff colored medical eligibility card they receive monthly.

III. What services are provided. Payment may be authorized for medically necessary nonemergency transportation by Title XIX funds subject to the following conditions:

A. Relationship with social services. The social services worker shall be responsible for the arrangement of medically necessary nonemergency transportation. Title XIX funds for medically necessary nonemergency transportation shall serve to supplement the recipient's preexisting transportation resources, rather than replace them. Therefore, the social service worker shall not attempt to use Title XIX funds unless:

1. The social service worker receives a request of assistance in securing transportation and explores with the recipient his/her own ability to locate a transportation resource. In exploring with the client, his or her ability to locate a transportation resource, the worker should determine if the client has a friend, relative, or neighbor who can provide the transportation, does the client own his/her own vehicle, or does the client have coverage under any type of insurance which would pay for transportation. The worker shall accept the client's statement as to his/her ability to locate transportation.

2. The social services worker, after determining the client does not have the resources available to provide his/her own transportation, assesses the available community resources. These resources may take the form of existing Title XX contractors, providers (public or private) who exist in the community who give transportation at no cost, or State employees driving their own vehicles or State vehicles.

Only after steps 1 and 2 have been taken and all other available resources have been explored shall the social services worker authorize Title XIX funds to provide medically necessary nonemergency transportation.

B. Relationship with Title XX funds.

1. In order to meet the requirement as outlined in III, A, 2, the worker shall explore the feasibility of using resources funded by Title XX. Before authorizing the use of Title XIX funds to provide medically necessary nonemergency transportation, the worker shall ensure that the use of a Title XX funded resource is not feasible because of one or more of the following:

a. No Title XX provider exists in the area.

b. No title XX provider exists in the area which serves the particular category of recipient who is requesting the transportation service.

c. All Title XX providers which exist in the area cannot provide transportation which is appropriate to meet the recipient's needs.

d. All Title XX providers existing in the area, which can provide appropriate transportation, are at maximum operating capacity under the funds allocated in their Title XX contract and are unable to meet a recipient's need.

2. A Title XX provider may be reimbursed for the provision of medically necessary nonemergency transportation with Title XIX funds when the conditions as outlined in III, B, 1, b, c, or d are met and the Title XX transportation provider participates in the Title XIX program. In assuring the conditions of III, B, 1, b, c, or d are met, the statement of the Title XX provider shall suffice, but under no circumstances are Title XIX funds to be used if a resource funded by Title XX is available and appropriate to meet the needs of the recipient.

C. Authorization of Title XIX funds. The social services worker shall, after exploring all other means of providing trans-

portation, authorize Title XIX funds to ensure the provision of medically necessary nonemergency transportation to Title XIX eligibles. When attempting to use Title XIX funds the social services worker shall verify the client's current eligibility for Title XIX benefits. After verification of the client's eligibility, the worker shall follow the below listed procedures for use of Title XIX funds in all areas.

1. All areas.

a. The worker shall determine if the client seeks transportation to a currently participating Title XIX medical provider for a currently covered Title XIX service. If the medical provider is not currently participating in the Title XIX program or if the medical service is not currently covered by Title XIX, Title XIX funds may not be authorized to provide transportation. Local offices will be provided with a quarterly updated list of eligible Title XIX providers and Title XIX covered services. The eligible recipient shall be given transportation to a Title XIX provider of medical services of his/her choice who is generally available and used by other members of the community (i.e., the desired service is unavailable to the area in which the client lives; therefore, it may be necessary to provide transportation outside of the area).

b. The worker shall issue to the eligible recipient a preauthorization form, which the client will use to obtain the needed transportation service.

IV. Conditions of participation and billing procedures.

A. Condition of participation. Payment will be made to providers of medically necessary nonemergency medical transportation who participate in the Medical Assistance Program. Local office staff shall refer all parties interested in becoming providers to the fiscal intermediary to apply for participation.

B. Billing procedures.

1. Prior authorization of services. All expenditures of Title XIX funds for medically necessary nonemergency medical transportation shall be authorized via the local office social services worker, prior to the provision of service. The procedure for prior authorization of service shall be the same procedure as outlined in III, A, 1 and 2 and III, C, 1.

2. Payment mechanism.

a. Procedure for submitting bills.

1. The provider receives a preauthorization form from a Title XIX recipient and provides the service.

2. The provider of service submits the preauthorization form to the fiscal intermediary for reimbursement.

3. The fiscal intermediary processes the payment forms and forwards reimbursement to the transportation provider in a timely manner.

b. Rate of reimbursement. Providers of services shall be reimbursed at the provider's usual rate for such services as established by the Office of Family Security, minus the amount which is covered by any third party coverage the client may have. In instances in which the provider of services has no usual rate for services, the reimbursement shall be based upon mileage travelled. The rate shall be the same rate as is paid State employees for the use of their personal vehicle for job oriented activities.

This action shall be taken pursuant to R.S. 49:953B. Copies of the emergency rule are available for public examination at the Department of Health and Human Resources, Office of Family Security, 755 Riverside North, Baton Rouge, Louisiana.

William A. Cherry, M.D., Secretary
Department of Health and Human Resources

DECLARATION OF EMERGENCY

Department of Health and Human Resources Office of Family Security

The Department of Health and Human Resources, Office of Family Security, has adopted effective October 1, 1978, policy to provide adult denture service through the Louisiana Medical Assistance Program. The emergency rule was necessitated by State legislation which mandated an October 1 effective date.

The proposed policy reads as follows:

I. Adult dentures. Only those services specified as allowable under the Adult Dental Program are reimbursable and then only under those conditions as described in Section V. In general, it provides for the construction of complete dentures and for the repair and relin of complete or partial dentures. Although the same services are available to Early and Periodic Screening, Diagnosis and Treatment (EPSDT) eligibles (under the age of twenty-one years) a different fee schedule as well as different program guidelines prevail for the adult program.

The provider will be paid his usual and customary fee or that contained in the Maximum Fee Schedule V-D, whichever is less.

The Office of Family Security's payment for covered services must be accepted as payment-in-full. Payment for those services which are not covered by the program, e.g., extractions, fillings, partial dentures, etc., may be made by the patient. This however, is a private matter between the patient and the dentist; the Office of Family Security assumes no responsibility for these financial transactions.

II. Providers authorized to participate. Providers are limited to those dentists which are duly licensed and authorized to practice dentistry in any of the United States. When a dental provider is enrolled in the Title XIX EPSDT Program, it is necessary for him to indicate his willingness to also participate in the Title XIX Adult Denture Program.

III. Who is eligible for adult dentures. Individuals twenty-one years of age and over who are identified in Part 19-105, Sections A and C are eligible for the Adult Denture Program.

Eligibility for dental services in the Title XIX Adult Denture Program requires that the Medicaid patient be referred by the Office of Human Development to the provider. The local office shall have a quarterly quota of denture referrals forwarded from State Office. The recipient will be given the dental claim form at the referral source, the Office of Human Development. The service unit completes the first two short forms of the claim form for their referral purposes. The recipient will bring the four copies of Form 392-106 to the dental provider. This indicates that the patient has been referred by the service worker, Office of Human Development.

The Office of Family Security shall assure the eligibility of the denture screening service when it is rendered in the month of the referral. In situations where the screening is not completed in the referral month, it is incumbent on the provider to verify current eligibility by viewing medical eligibility card for the month of screening.

In those cases where a long range plan of treatment necessitates visits from one calendar month to the next, continuing eligibility must be verified by reviewing the patient's Medicaid I.D. Card for each month of treatment. Dental services can then be provided to the end of that calendar month.

IV. Prior authorization evaluation of adult dentures request. To establish a more effective control in the authorization of services, a second examination of certain patients by regional dental consultants may be performed prior to preauthorization to ascertain if the requested services are within the scope of benefits of the program. Some patients will be selected randomly for this review while

others will be selected when a question arises in the preauthorization determination.

The treating dentist, as well as the patient, will be notified if the patient is designated for a screening prior to authorization. The screening will be done in the office of a regional consultant dentist. This regional consultant dentist will be appointed by the Office of Family Security upon recommendation of the professional dental societies.

The final preauthorization determination will be made by the in-house dental staff of the Office of Family Security based on the findings and recommendations of the regional consultant dentist.

V. Dental services covered under adult denture program.

A. Complete dentures. Prior authorization is required for all complete dentures. Authorization is obtained by submitting a treatment plan on Form 392-106. All missing teeth must be indicated and the request must be accompanied by Form 550 (certification of need for denture). A minimum of five mounted periapical x-rays of the edentulous arch showing there are no retained roots or impacted teeth and two periapical x-rays of the opposing arch, if the dentition is present, to show that the denture will have balance, must accompany a treatment request. Prior authorization requests are to be submitted to Dental Department, Office of Family Security, Box 44065, Baton Rouge, Louisiana 70804.

Complete dentures will be authorized only in those instances in which the patient has a totally edentulous arch. If there are teeth to be extracted, the request for denture should not be initiated until all extractions have been completed and the tissues have healed sufficiently enough to support a denture without necessitating a relin for at least a year. Immediate dentures are not a benefit of the program. A denture will not be authorized if there are insufficient teeth in the opposing arch to provide occlusal balance. This balance can be supplied by either a prosthetic appliance or natural dentition that provides at least four or more posterior teeth being distributed at least two to each side of the arch. The balancing occlusion must be judged to be able to provide adequate balance for at least five years. Only one denture is allowed in a five year period.

Minimum standards for construction of complete denture prostheses.

1. Visual diagnostic examination—Long-standing edentulous patients should be carefully evaluated to determine if the patient is emotionally and/or physically able to adapt to the utilization of dentures and to determine if the patient actually wants the dentures (many times their requests for services are made at the urging of relatives or friends for strictly cosmetic purposes). The patient's oral cavity should be examined for abnormalities such as tori, neoplasms, anatomical anomalies, systemic manifestations present in the mouth, etc.

2. Radiographic examination—To determine whether retained roots on erupted teeth, foreign bodies or diseases are present, a minimum of five periapical x-rays of the edentulous arch and two of the opposing arch, if dentition is present, must be submitted with preauthorization requests.

3. Preliminary impressions—Make first impression of both upper and lower jaws.

4. Stone models—Make upper and lower jaw models from the impressions.

5. Special trays—Construct special contoured container to hold final impression material in a specific recipient's mouth.

6. Final impression—Make final impressions for the construction of denture.

7. Working models—Make final models for fabrication of dentures.

8. Base plates—Adapt and construct bite blocks on model.

9. Centric relations of jaws—Take preliminary working relationship of upper and lower jaws.

10. Mounting models for articulation—Attach stone models to hinge device to duplicate movements of recipient's mouth.

11. Set up of teeth—Set teeth in proper alignment on models of the jaws mounted on articulator by provider or according to prescription of provider by laboratory.

12. Try in of set up—Set up teeth in wax for trial in recipient's mouth.

13. Processing of dentures—Process and polish set up in dental office or laboratory under heat and pressure. Pour technique is acceptable.

14. Delivery of denture—Fit and adjust denture for comfort, function and esthetics.

15. Adjustments—Provide all necessary adjustments for a period of six months in order to make the appliance functional and comfortable.

16. All material must meet American Dental Association specifications.

B. Denture reline. Complete and partial denture relines are allowable only if one year has elapsed since the denture was constructed or last relined. Only one reline is allowed in a five-year period. Reline of existing dentures must be given priority over the construction of new dentures, if it is judged that the existing dentures are serviceable for at least five years. Chairside relines (cold cure acrylics) are not reimbursable.

Prior authorization is required for all denture relines and is obtained by submitting the request on Form 392-106, indicating

which denture is to be relined. Submit all requests to the Dental Department, Office of Family Security, Box 44065, Baton Rouge, Louisiana 70804.

Minimum standards of procedure for reline.

1. All tissue bearing areas of the denture or saddle must be properly relieved to allow for the reline material.

2. Occlusal vertical dimension and centric relationship must be retained or established if lost.

3. Relines must be flaked and processed under heat and pressure in a commercial or office laboratory.

4. Relines must be finished in a workmanlike manner, must be clean, and must exhibit a high gloss void of scratches, abrasions, and rough spots.

C. Denture repairs. Repairs of complete and partial dentures are allowable and do not require preauthorization provided the repair makes the denture fully serviceable and eliminates the need for a new denture unit. A repair is allowable in conjunction with the reline for the same recipient as long as this makes the denture fully serviceable. However, if these services are submitted on the same claim, prior authorization is necessary since relines need prior authorization. Claims for denture repairs are to be submitted on Form 392-106 to the Dental Department, Office of Family Security, Box 44065, Baton Rouge, Louisiana 70804. The nature of the service must be fully described on the claim form. This includes the type of fracture and/or the identity of the teeth replaced or added to the denture unit.

Minimum standards of procedure for repair service.

1. Repairs must be processed in a commercial or office dental laboratory.

Procedure Numbers	Procedures	Maximum Fee	The Following Codes Will be Used for Describing Procedures
Examinations			
0110	Initial examination including x-rays	\$ 30.00	Exam.
9430	Consultant evaluation examination	12.00	Eval. Exam.
Dentures			
05110	Complete upper denture	175.00	CUD
05120	Complete lower denture	175.00	CLD
Relines			
05750	Reline complete upper denture	70.00	Reline CUD
05751	Reline complete lower denture	70.00	Reline CLD
05760	Reline upper partial denture	70.00	Reline UP
05761	Reline lower partial denture	70.00	Reline LP
Repairs			
05610	Repair broken complete upper denture, no teeth damaged	20.00	Repair CUD
05611	Repair broken complete lower denture, no teeth damaged	20.00	Repair CLD
05612	Repair broken upper partial denture, no teeth damaged	20.00	Repair UP
05613	Repair broken lower partial denture, no teeth damaged	20.00	Repair LP
05620	Repair broken complete upper denture and replace tooth or teeth damaged	35.00 8.00 each additional	Repair CUDT
05621	Repair broken complete lower denture and replace tooth or teeth damaged	35.00 8.00 each additional	Repair CLDT
05622	Repair broken upper partial denture and replace tooth or teeth damaged	35.00 8.00 each additional	Repair UPT
05623	Repair broken lower partial denture and replace tooth or teeth damaged	35.00 8.00 each additional	Repair LPT
05630	Replace teeth—lost or damaged, denture not broken	20.00 8.00 each additional	Replace tooth/teeth
05680	Replacing clasp on partial denture	35.00	Replace clasp

2. Repairs must make the denture fully serviceable, retaining actual vertical dimension and centric relation.

3. The denture must be finished in a workmanlike manner, must be clean and must exhibit a high gloss polish without scratches, abrasions or rough spots.

D. Adult Denture Program maximum fee schedule.

VI. Interruption of adult denture treatment. In the event that a patient loses eligibility or discontinues treatment during the course of denture construction, partial payment will be made to the provider for that portion of the treatment which has been completed. For purposes of determining the amount to be paid to the provider under these circumstances, the construction process is divided into four stages: initial impression, final impression, try in, and delivery. The provider will be reimbursed one-fourth of the total denture fee for each stage completed. If treatment is interrupted just prior to denture delivery, the entire fee will be paid upon submission of a laboratory bill indicating that denture processing had been completed.

This action shall be taken pursuant to R.S. 49:953 B. Copies of the emergency rule are available for public examination at the Department of Health and Human Resources, Office of Family Security, 755 Riverside North, Baton Rouge, Louisiana.

William A. Cherry, M.D., Secretary
Department of Health and Human Resources

Rules

RULES

Department of Commerce Board of Architectural Examiners

The Louisiana State Board of Architectural Examiners operates pursuant to the below listed rules, adopted under the authority of Sections 144 and 147 of R.S. 1950, Title 37, Chapter 3 as amended through 1972.

LAC 11-14:1 Organization

§1.1 The name and address of the person designated by the Board upon whom service of process may be served in judicial procedures against the Board is the Director and /or Secretary at the address of the official place of business of the Board.

§1.2 The Board shall elect a President and Secretary-Treasurer at each August meeting, each to hold office until their successors shall have been elected. The term of office shall be for one year beginning the first day of January the ensuing year.

§1.3 The President shall preside at all meetings; appoint all committees; sign all certificates of registration issued; sign all checks, with the Director; and perform all other duties pertaining to his office.

§1.4 The Secretary-Treasurer shall with the assistance of such executive and clerical help as may be required, keep a record of all the proceedings of the Board and of all monies received or expended by the Board, which record shall be open to public inspection at all reasonable times. He shall sign all certificates of registration.

§1.5 The Board may employ such executive, stenographic, and office assistance, including a Director, as is necessary and such professional assistance at examinations as is required, and shall rent office space as necessary to house the staff and records.

§1.6 The Board may employ a Director who shall have possession on behalf of the Secretary-Treasurer, of all the official records of the Board and who may, under the supervision of the Board perform such administrative and ministerial duties as the Board authorizes.

§1.7 In discharging its responsibilities, the Board may engage private counsel, or as prescribed in law utilize the services of the Attorney General.

§1.8 There shall be at least four regular meetings each year. If the Director or the President of the State Board of Architectural Examiners, hereinafter called the President, decide additional meetings are necessary, a special meeting may be called by due notification of all members of the Board. A special meeting of the Board shall be called by the President upon the request of any two members by giving at least a ten days written notice to each member of the time and place of such meeting.

§1.9 Unless required otherwise, by law or by these rules, *Robert's Rules of Order* shall be used in the conduct of business by the Board.

§1.10 Three members of the Board shall constitute a quorum, but official action may not be taken upon any question unless at least three members vote in accord.

§1.11 The minutes of all meetings shall be prepared and signed by the Secretary-Treasurer and the President at the next regular meeting. As soon as the minutes are prepared, the Director shall mail them to the membership for their comments.

§1.12 Among other official records required by law, or by rules of other agencies in support of law, there shall be kept in the Board offices accurate and current records including, but not limited to:

§1.12.1 A record containing, in proper order, minutes of all meetings of the Board.

§1.12.2 A record containing the name and registration number of all persons to whom certificates of registration are issued, the last known address of all registrants, and a record of all current renewals effected through annual registrations.

§1.12.3 An individual file for each registrant containing the original application, relevant verification and evaluation data, records of examinations and grades, date of original registration and a record of annual registrations and fees received after original registration, and when applicable, records of alleged violations, suspensions, and revocations.

§1.12.4 A system of record keeping correctly and currently indicating funds budgeted, committed, spent, and remaining, as well as projections of appropriate requests for consideration in budget development.

§1.13 The Board shall maintain membership in the National Council of Architectural Registration Boards (NCARB) and its Regional Conference. Up-to-date information on the examinations syllabus and policies adopted from time to time by NCARB shall be developed by the staff, and reported to the Board regularly.

§1.14 The Board will cooperate with NCARB in furnishing transcripts of records, giving examinations and rendering other assistance calculated to aid in establishing uniform standards of professional qualification throughout the jurisdiction of NCARB.

§1.15 If funds are available the Board shall pay the expenses of the President and board members attending the NCARB national meetings and the Southern Conference meetings. To be eligible for reimbursement of expenses incurred in connection with attending these meetings, a delegate to a NCARB meeting shall attend a minimum of five sessions, one of which shall be the final session. Delegates to a Southern Conference meeting shall attend all sessions.

LAC 11-14:2 Applications for Examination

§2.1 Applications will be received at the office of the Board and shall be filed no less than sixty days prior to date of examination.

§2.2 The applicant will be responsible for distributing requests for references.

§2.3 If an applicant fails to take the examination at the time for which he has applied, his fee will be returned and he will be required to file a new application, for future examination.

§2.4 The Board may request additional evidence or information, or a personal appearance before the Board. Failure to comply within thirty days from the date of written request by the Board may be considered as just and sufficient cause for disapproval of the application.

§2.5 Personal appearance before the Board, if required, shall be at the time and place designated by the Board.

LAC 11-14:3

Registration and Examination Requirements

§3.1 If an applicant has passed either the written or senior examination given by the NCARB, the Board will accept his Council certificate as evidence of qualification for registration.

§3.2 Degrees in landscaping, city planning or allied courses will not be accepted in lieu of a degree in architecture, except as set forth in the NCARB Table of Equivalents for Education.

§3.3 The NCARB requirements for determining the qualifications and eligibility of an applicant to take the written examinations are adopted by the Board.

§3.4 The qualifying test and the professional examination (including a design competency test), as prepared by the NCARB are adopted by this Board as the examinations required to obtain registration.

§3.5 Commencing in 1973 and continuing thereafter a qualifying test for applicants with required experience, whose basis for registration is other than a professional degree in architecture from a National Architectural Accrediting Board (NAAB) accredited college, will be held annually in the month of June. A professional examination for applicants with required experience, whose basis for registration consists of a professional degree in architecture from a NAAB accredited college and those having passed a qualifying test, will be held annually in the month of December. The design competency test will be held annually in the month of June.

LAC 11-14:4 Registration Procedure

§4.1 To obtain information regarding registration to practice architecture in Louisiana the applicant shall write the Board, giving a brief statement of his education, experience, and professional practice. He will then receive instructions on the procedure to follow.

§4.2 Architects who are registered in other states may apply for registration in Louisiana on the basis of NCARB (blue cover) certificate, provided the examination taken and the record of the applicant meets the requirements for registration of architects in Louisiana. The Board will act upon the application at the next Board meeting. If the decision of the Board is favorable, a certificate of registration will be issued.

§4.3 Upon granting registration and issuance of a license to practice architecture, a copy of the Licensing Law and the Rules of the Board shall be forwarded to the registrant.

§4.4 Certificates of registration will be issued to individuals only, and to such individuals only as have met statutory registration requirements through established Board Rules and Regulations. No certificate of registration will be issued to any firm, partnership, corporation, or other group of persons.

§4.5 Each holder of a certificate shall display the certificate in a conspicuous place in his principal office or place of business, and be prepared to substantiate annual registration renewal for the current year.

§4.6 A replacement certificate will be issued to a registrant to replace one lost or destroyed provided the current annual registration renewal is effective, the registrant makes proper request and submits an acceptable explanation of the loss or destruction of the original certificate, and the registrant pays a fee of twenty-five dollars.

§4.7 Registrants sixty-five years of age or older, who have retired from active practice and /or other related professional activities, may request emeritus status. The annual renewal fee for approved emeritus registrants will be five dollars. Revocation and

reinstatement rules will otherwise apply to emeritus registrants, just as they do to all other registrants.

LAC 11-14:5 Administration

§5.1 Every person authorized to practice architecture by a certificate of registration shall obtain an official seal or stamp with which to identify all drawings, specifications, and other documents of service issued from the registrant's office for use in this state.

§5.2 All registrants must affix their seal or stamp, signature, and registration number to the original index cover sheet identifying all drawings covered or bound and to the original cover and index page identifying all specification pages covered or bound, and to other documents of service as well, which are developed and issued under direction or authorship of the registrant.

§5.3 In the absence of index sheets or covers identifying all drawings or pages covered or bound, all original drawings and specifications must have the seal or stamp of the registrant responsible affixed thereto, and the first sheet of each shall have the seal or stamp, signature, and registration number.

§5.4 It is recognized that in certain fields of practice there is a broad overlap between the work of architects and engineers. This is particularly true in the field of buildings and similar structures. It is recognized that an architect, who has complied with all of the current laws of Louisiana relating to the practice of architecture has a right to engage in activities properly classifiable as professional engineering insofar as it is necessarily incidental to his work as an architect. Likewise, it is recognized that the professional engineer, who has complied with all of the current laws of Louisiana, and is properly registered in that branch of engineering for which he may be qualified, has a right to engage in activities classifiable as architectural insofar as is necessarily incidental to his work as an engineer. Furthermore, the architect or the professional engineer, as the case may be, shall assume all responsibility for compliance with all laws or ordinances relating to the designs of projects with which he may be engaged.

LAC 11-14:6

Titles, Firm Names, and Assumed Names

§6.1 Persons holding certificates of registration issued by this Board are authorized to employ the title "architect" and use the word architect, or various constructions thereof, in describing or identifying services he solicits, offers, or executes. No other person, firm, partnership, corporation, or groups of persons may employ the title "architect" or constructions of the work architect to describe persons or services, nor do such unregistered individuals or groups have authority to solicit, offer, or execute architectural services in this state.

§6.2 Without lawful authority to practice architecture in Louisiana, organizations of people are not authorized to solicit or execute architectural services; such groups of persons organized in practice are dependent on the authority of individual registrants responsible to this Board.

§6.3 Corporate practice in architecture is permissible under the statutes, when lawfully constituted, but only then upon the authority of individual registrants responsible to this Board for the acts and conduct of the corporate practice.

§6.4 The person signing a contract or in any manner agreeing on behalf of himself, a proprietorship, partnership, corporation, or other business entity to perform or to furnish architectural services must be a licensed architect who has the right and authority to exercise control over the work to be performed, shares in profits, losses and responsibility for incurred liabilities.

§6.5 Thus, that responsibility of this Board to safeguard the "life, health, and property, and the public welfare" against the irresponsible practice of the profession of architecture is vested in the qualification and responsibility of registrants who are accountable individually.

§6.6 Registrants holding current certificates of registration may organize or engage in any form of individual or group practice of

architecture allowed by statutes of this state, provided the firm name identity of that practice:

§6.6.1 Includes the name of at least one architect, and does not imply architectural registration of others included who are not licensed as architects in Louisiana. Names of nonprofessionals shall not be included in firm names.

§6.6.2 Does not imply registration authority to practice architecture without properly identifying the registrant responsible for that practice, as required by Section 6.7 below.

§6.7 Any person engaged in the practice of architecture in this state, under any firm title other than the real name or names of a registered architect, whether individually, or as an association, partnership, or corporation, shall file in the office of this Board a certificate stating the full name and residence of each person engaging in that practice, the place (including street, number, city, and zip code) where that practice is principally conducted, and the title under which it is conducted.

§6.8 Firms engaging in both engineering and architecture shall first file notice with this office stating that:

§6.8.1 The actual practice of architecture on behalf of such firms, partnerships, or corporations is to be carried on only by architects registered in this state who will be responsible to this Board for acts and conduct of such firms.

§6.8.2 That such architects named in such notice have authority from the governing body of such business entity as would result in it being legally liable for all professional acts and conduct of the architects named.

§6.9 This statement of accepted liability must be over the acknowledgement of a notary public, and if such notice is filed by a corporation it must be accompanied by a properly executed corporate resolution.

§6.10 Authority for practice will be effective only after notices required above are acknowledged and approved by the Board.

§6.11 It will be the responsibility of architects named in these authorizations to advise the Board of organizational changes that would relate to the authority granted under this Rule. Failure to do so could result in disciplinary action leading to suspension or revocation of the registrant's license.

LAC 11-14:7 Violations

§7.1 Complaints alleging violation of law or rules and regulations, the enforcement of which is a responsibility of this Board, should be addressed to the Board office substantiated by evidence, signed by the complainant, and, where appropriate, acknowledged by a notary public.

§7.2 Written complaints alleging violations reaching the Board office shall be confirmed and preliminarily investigated by the Director, with the assistance of counsel and the President who shall dismiss the charges, so notifying the complainant, for lack of evidence, or correspond with the person charged and with the appropriate district attorney and the person making the complaint verifying such evidence as is available and refer the matter to the Board for hearing.

§7.3 In cases referred to counsel by the Board for court action, the Board will direct counsel to initiate and maintain such actions against the named respondent as are possible, in support of the Architects Registration Law and lawful rules and regulations.

§7.4 In support of such requests forwarded to counsel, the Board's Executive Director stands instructed to support and cooperate with counsel and the courts in any manner possible, and to keep the Board advised of relevant matters as the case develops.

§7.5 In the Board office there shall be maintained a current file of all complaints alleging violations reflecting all information and action pertinent thereto.

§7.6 Upon its own motion the Board may reopen any such case on record and direct a reinvestigation of the respondent's actions subsequent to resolution of the earlier complaint.

LAC 11-14:8 Rules of Conduct

§8.1 In practicing architecture, an architect shall act with reasonable care and competence, and shall apply the technical knowledge and skill which is ordinarily applied by architects of good standing, practicing in the same locality.

§8.2 An architect shall undertake to perform professional services only when he or she, together with those whom the architect may engage as consultants, are qualified by education, training, and experience in specific technical areas involved.

§8.3 An architect shall not accept compensation for his or her services from more than one party on a project unless the circumstances are fully disclosed to and agreed to (such disclosure and agreement to be in writing) by all interest parties.

§8.4 If an architect has any business association or direct or indirect financial interest which is substantial enough to influence his or her judgment in connection with his or her performance of professional services, the architect shall fully disclose in writing to his or her client or employer the nature of the business association or financial interest, and if the client or employer objects to such association or financial interest, the architect will either terminate such association or interest or offer to give up the commission or employment.

§8.5 An architect shall not solicit or accept compensation from material or equipment suppliers in return for specifying or endorsing their products.

§8.6 When acting as the interpreter of building contract documents and the judge of contract performance, an architect shall render decisions impartially, favoring neither party to the contract.

§8.7 An architect, making public statements on architectural questions, shall disclose when he or she is being compensated for making such statement.

§8.8 An architect shall accurately represent to a prospective or existing client or employer his or her qualifications and the scope of his or her responsibility in connection with work for which he or she is claiming credit.

§8.9 If in the course of his or her work on a project, an architect becomes aware of a decision taken by his or her employer or client, against the architect's advice, which violates applicable State or municipal building laws and regulations, the architect shall report the decision to the local building inspector or other public official charged with the enforcement of the applicable State or municipal building laws and regulations; refuse to consent to the decision; and in circumstances where the architect reasonably believes that other such decisions will be taken notwithstanding his objection, terminate his services with reference to the project. In the case of a termination, the architect shall have no liability to his or her client on account of such termination.

§8.10 An architect shall not deliberately make a materially false statement or fail deliberately to disclose a material fact requested in connection with his or her application for registration or renewal.

§8.11 An architect shall not assist the application for registration of a person known by the architect to be unqualified in respect to education, training, experience, or character.

§8.12 An architect shall not, in the conduct of his or her architectural practice, knowingly violate any State or Federal criminal law.

§8.13 An architect shall neither offer nor make payment or gift to a government official (whether elected or appointed) with the intent of influencing the official's judgment in connection with a prospective or existing project in which the architect is interested.

§8.14 An architect shall comply with the registration laws and regulations governing his or her professional practice in any United States jurisdiction.

§8.15 An architect shall not sign or seal drawings, specifications, reports or other professional work for which he or she does not have direct professional knowledge and direct supervisory

control; provided, however, that in the case of the portions of such professional work prepared by the architect's consultants registered under this or under another professional registration law of this jurisdiction, the architect may sign or seal that portion of the professional work if the architect has reviewed such portion, has coordinated its preparation, and intends to be responsible for its adequacy.

§8.16 An architect shall neither offer nor make any gifts, other than gifts of nominal value (including for example, reasonable entertainment and hospitality), with the intent of influencing the judgment of an existing or prospective client in connection with a project in which the architect is interested.

§8.17 An architect shall not engage in conduct involving fraud or wanton disregard of the rights of others.

LAC 11-14:9

Architects Selection Board Election

§9.1 As provided in Act 721 of 1975, the Louisiana State Board of Architectural Examiners will accept nominations for the Architects Selection Board on the following basis:

§9.1.1 Spring Election (Two persons elected to serve a one year term beginning July 1)—Beginning March 1, any resident architect holding a current Louisiana license must furnish a petition (sample may be obtained from State Board Office) by certified mail to the State Board Office by 4:15 p.m. on or before the first Friday in April.

§9.1.2 Fall Election (Two persons elected to serve a one year term beginning January 1)—Beginning September 1, any resident architect holding a current Louisiana license must furnish a petition (sample may be obtained from State Board Office) by certified mail to the State Board Office by 4:15 p.m. on or before the first Friday in October.

§9.2 The official ballots will be mailed approximately forty-five days after the closing date for accepting nominations. The ballots will be tabulated at a meeting of the State Board held no less than two weeks prior to the beginning of each term.

§9.3 The two nominees elected in each election will be based on plurality. No write-in candidates will be counted.

§9.4 The Tabulation Committee shall consist of at least two members of the Architectural Licensing Board, and a representative of the administrative agency for the Board.

LAC 11-14:10 Amendments

§10.1 These rules and regulations may be amended by majority vote of the members at any meeting at which there is a quorum present, provided that a notice of each proposed amendment shall have been mailed or delivered to each member at least one week prior to the date of the meeting; they may also be amended without such notice having been given by unanimous vote at any meeting at which all members of the Board are present.

LAC 11-14:11 Separability

§11.1 If any provision or item of the Rules and Regulations of the Board or the application thereof is held invalid, such invalidity shall not affect other provisions, items or applications of the Rules and Regulations of the Board which can be given effect without the invalid provisions, items or applications, and to this end the provisions of the Rules and Regulations of the Board are hereby declared severable.

Teeny Simmons, Director
Board of Architectural Examiners

RULES

Department of Culture, Recreation and Tourism Office of the State Library

A. Definitions. The following terms have the respective mean-

ings ascribed to them, except in those instances where the context clearly indicates a different meaning:

1. "Parish library" means a library, established by a parish governing authority, as provided by law to serve all residents of the parish.

2. "Municipal library" means a library, established by one or more municipal governing authorities as provided by law to serve all residents of the municipality or municipalities and which may or may not serve additional persons.

3. "Consolidated library system" means a library system, established by the governing bodies or authorities of two or more parishes as provided in R.S. 25:211, which crosses parish lines and is governed by a single board of trustees, administered by a single head librarian, and within which all of the service outlets are branches of a single institution.

4. "Nonconsolidated library system" means a library system which is composed of two or more autonomous member libraries, each having its own board of trustees, controlled by representatives of member libraries, and operated from a designated library center under the supervision of a system director, and which receives special financial support from local, regional or State appropriations to provide more comprehensive library service in the geographical area served by the system.

5. "Audiovisual materials" means educational materials directed at both the senses of hearing and sight, and includes motion pictures, videocassettes, sound and silent filmstrips, slide sets, recordings, microprint, and art works used in library collections.

B. Submission of applications.

1. The State Librarian shall establish a program of supplemental grants to libraries for the purchase of books, audiovisual materials, newspapers, and periodicals in accordance with the provisions of this Part. The State Librarian may establish rules and regulations for implementation of this program in accordance with the Administrative Procedures Act. Grants shall be made from funds appropriated to the State Library for allocation to libraries as provided herein.

2. Any parish library which serves all residents of the parish, any municipal library which serves all residents of a parish which does not have a parish library, and any consolidated library system shall be entitled to apply annually to the State Librarian to receive supplemental grants in accordance with the provisions of this Part.

3. Applications to receive supplemental grants shall be submitted with the written approval of the library board of control.

4. Grants shall be made by the State Librarian on the basis of annual applications for grants submitted to him. Applications for State fiscal year 1979 only must be made by October 1, 1978. For each succeeding fiscal year applications must be made by October 1 of the preceding State fiscal year.

5. Applications shall contain such information as may be requested by the State Librarian to establish the eligibility of the library under the provisions of this Part and rules and regulations promulgated by the State Librarian. Applications shall also contain a proposal for expenditure of funds for which application is made. Funds granted under the provisions of this Part shall be expended only for the purchase of books, audiovisual materials, newspapers, and periodicals.

C. Eligibility.

1. Each library or consolidated library system represented by the applicant must be legally established according to Louisiana Revised Statutes Title 25, Section 211, except for the New Orleans Public Library which was established prior to the enactment of Title 25.

2. Each library or consolidated library system must agree to serve all patrons with no denial of service by reason of sex, race, or political or religious persuasion.

3. Each library or consolidated library system shall show evidence of working toward the standards for public library service in Louisiana as adopted by the Louisiana Library Association.

4. Each library or consolidated library system participating in the program of supplemental grants shall endorse and comply with the interlibrary loan code adopted by the Louisiana Library Association to assure the interlibrary availability of materials purchased from funds granted herein.

5. A parish library which serves all residents of the parish, a municipal library which serves all residents of a parish which does not have a parish library, and a consolidated library system shall be eligible to apply to receive supplemental grants if other conditions of eligibility are met.

D. Maintenance of local effort.

1. Beginning with the current fiscal year of the receiving library or consolidated library system as the base year, the total income from local sources of the library or consolidated library system in any fiscal year must not fall below that received in the preceding year; neither may the amount expended from local sources for library materials in the same period fall below the level spent for this purpose in the preceding year. The State Library may waive these requirements in the event of a natural disaster to the area.

2. In determining the level of the maintenance of local effort the ordinary and usual sources of funding for the individual library will be included, and extraordinary and unusual sources shall be excluded. (Examples of those sources of funding which may be excluded are gifts, "special" appropriations from governing authorities, special purpose grants, funds for the purpose of construction and/or renovation, and other nonrecurring, unanticipated receipts.) However, if funds are identified as being extraordinary and unusual, but continue for three consecutive years, the average amount of the funds over the three-year period shall be, for the purpose of this Part, considered as part of the maintenance of effort.

3. Nothing in these rules and regulations shall be construed to effect a substitution of State funds for local funds for library service.

E. Distribution of supplemental grants.

1. The State Librarian shall grant funds under the provisions of this Part to any library or consolidated library system which makes application therefor and which is eligible for such funds as provided herein. Grants shall be made on an annual basis and distributed quarterly, the first no later than August 31 of each year, except that for fiscal year 1979 when the first and second quarterly payments shall be made simultaneously no later than October 31, 1978. In succeeding fiscal years, quarterly payments shall be issued in the months of August, October, January, and April. No funds shall be granted to any library which is not eligible for such funds under the provisions of this Part, as determined by the State Librarian.

2. Supplemental grants, made as provided in this Part, shall be distributed to each eligible recipient by the State Librarian in an amount equal to the proportion of the total appropriation for the program for the fiscal year which the population of the area served by the recipient library represents of the total population served by all recipients for said fiscal year.

3. Recipient libraries or consolidated library systems failing to spend the grant funds in accordance with the purpose of this Part shall have that amount withheld from subsequent annual grants. Failing to provide timely and adequate documentation on the semiannual report will also delay the issuance of the August payment until the report is received and/or fully documented.

F. Semiannual reports to the State Library.

1. Each library or consolidated library system applying annually to the State Librarian for and receiving supplemental fund-

ing grants shall furnish to the State Librarian a semiannual report of such information concerning library materials purchased as the State Librarian may require, specifically including a description and financial accounting of all library materials purchased from funds received under the provisions of this Part. The Legislative Auditor of the State of Louisiana shall have the option of auditing all accounts pertaining to State aid grants made to public libraries or consolidated library systems.

G. Appeal process.

1. If a public library or consolidated library system is denied the State aid grant for library materials, the avenue to appeal this decision will be first to the State Librarian, next, the Secretary of the Department of Culture, Recreation and Tourism, and, finally, to the Governor of the State of Louisiana.

Thomas F. Jaques, State Librarian
Office of the State Library

RULES

Board of Elementary and Secondary Education

Rule 4.00.04

The Board approved for final adoption rules and regulations for the implementation of Act 754 of 1977. The Department of the State Register has elected to omit publication of these rules at this time in accordance with R.S. 49:954.1C. However, the complete text of the rules will be published in a later issue. The rules may now be obtained from the Board of Elementary and Secondary Education, Box 44064, Baton Rouge, Louisiana 70804.

Rule 3.01.51.m

The Board approved for final adoption restoration of language in Bulletin 741, *Handbook for School Administrators*, page 21, to read as follows:

State-approved private and sectarian high schools may include offerings in religion in the program of studies, and grant a maximum of two elective units in this field toward meeting the requirements for high school graduation. Such credits shall be accepted when transferred to other State-approved high schools.

Rule 4.03.01 (Addition to present policy)

The Board approved for final adoption the Annual Program Plan for the Administration of Vocational Education for Fiscal Year 1979. The Department of the State Register has elected to omit publication of the Plan in accordance with R.S. 49:954.1C. Copies of the Plan may be obtained from the Board of Elementary and Secondary Education, Box 44064, Baton Rouge, Louisiana 70804.

James V. Soileau, Director
Board of Elementary and Secondary Education

RULES

Office of the Governor Tax Commission

The Tax Commission has amended, deleted and adopted personal property report forms from its guidelines.

The following forms were amended:

1. LAT 5—General Business Report
2. LAT 6—Loan and Finance Companies
3. LAT 11—Watercraft
4. LAT 12—Oil and Gas Property
5. LAT 13—Drilling Rigs and Related Equipment

The following forms were deleted:

1. LAT 7—Warehouse Stock or Leased Equipment
2. LAT 8—Insurance Companies
3. LAT 9—Industrial and Tax Exempt Companies
4. LAT 10—Automobile Dealers

The following forms were adopted:

1. LAT 5a—Tax Exemption Analysis
2. LAT 14—Pipelines
3. LAT 15—Aircraft

The Department of the State Register has elected not to publish these forms nor those forms which accompany the following rules in accordance with R.S. 49:954.1C. Copies of the forms may be obtained from the Louisiana Tax Commission, Box 44244, Baton Rouge, Louisiana 70804.

The Tax Commission has also adopted the following rules.

Public Service Properties Hearings

1. The Tax Commission or its designated representative as provided by law (that is a hearing officer), shall conduct hearings to consider the written protest, timely filed, of the assessed valuation of public service properties.

2. Three days prior to said hearings, the protesting party may file a signed written statement specifying each respect in which the initial determination is contested, setting forth the specific basis upon which the protest is filed together with a statement of the relief sought.

3. Every party, witness, attorney, or other representative shall conduct himself in all proceedings with proper dignity, courtesy and respect for the hearing officer or the Commission, and all other parties. Disorderly conduct will not be tolerated. Attorneys and other representatives of parties shall observe and practice the standards of ethical behavior prescribed for attorneys at law by the Louisiana Bar Association. Any party, witness, attorney, or other representative may be excluded by the hearing officer or the Commission from any hearing for such a period and upon such conditions as are just for violation of this rule.

4. Every motion relating to a pending hearing shall, unless made during a hearing, be written, and shall set forth the relief sought and the specific reasons and ground therefor, if based upon matters which do not appear of record, and shall be supported by affidavit. Any motion not made during a hearing shall be considered filed when it is stamped received by the Commission in its office in Baton Rouge, Louisiana.

5. At the close of the time period for filing protests, the Commission shall assign each case to the docket and notify the parties of the time and place of the hearing.

6. Upon written notice by the Commission the parties or their attorneys or other representatives may be directed to meet and confer together by telephone or otherwise, before a specified time, prior to the hearing, and prior to the setting of a date for a hearing, for the purpose of formulating issues and considering:

- a. Simplification of issues.
- b. A limitation, where possible, of the number of witnesses.
- c. Possible consolidation of like protests.
- d. The time required for presentations.
- e. Such other matters as may aid in the simplification of the proceedings and the disposition of the matters in controversy.

7. Action taken at the conference shall be recorded in an appropriate statement by the parties, to be filed with the Commission before the date specified. In the event of a disagreement over the terms agreed upon at the conference, each party may file a separate statement setting forth the grounds for such disagreement.

8. A motion for consolidation of two or more protests, if made prior to hearing shall be in writing, signed by the mover, his attorney or representative, and filed with the Commission prior to the date set for hearing. No two or more protests shall be consolidated or heard jointly without the consent of all parties and by

consent of the Commission, unless the Commission shall find that the two or more protests involved common questions of law and fact, and shall further find that separate hearing would result in unwarranted expense or delay or substantial injustice.

9. All hearings shall be open to the public. All hearings shall be held in Baton Rouge, Louisiana, unless the Commission shall designate another place of hearing.

10. Hearings will be conducted by a hearing officer selected and appointed by the Commission. The hearing officer shall have the authority to administer oaths, may examine witnesses in rule upon the admissibility of evidence and amendments to pleadings. The hearing officer shall have the authority to recess any hearing from day to day.

11. The hearing officer will have the responsibility and duty of assimilating testimony and evidence, compiling a written summary of the testimony and evidence and presenting a proposed order to the Commission. The proposed order shall be served upon the protesting party by certified mail, return receipt requested, upon receipt by the Commission.

12. The hearing officer shall direct all parties to enter their appearance on the record. In all proceedings, the protesting party shall open. After the protesting party has presented all its evidence, the hearing officer may call upon any party or the staff of the Commission for further material or relevant evidence upon any issue.

13. The Commission shall provide an official reporter to make and transcribe a stenographic record of the hearing and each protest and shall provide for such copies of the transcript as may be required for the purposes of the Commission.

14. Briefs shall be filed within seven days of receipt of the hearing officer's proposed order. The points involved shall be concisely stated, the evidence in support of each point shall be briefly summarized, and the argument and authorities shall be organized and directed to each point in a concise and logical manner.

15. Any evidence which would be admissible under the general statutes of the State of Louisiana, or under the rules of evidence governing proceedings in matters not involving a trial by jury in the courts of the State of Louisiana, shall be admissible before the Louisiana Tax Commission. Other evidence may be admitted by the Commission if it is at all probative and relevant provided the substantive rights of all parties are protected. The rules of evidence shall be applied liberally in any proceeding to the end that all needful and proper evidence shall be conveniently, inexpensively and speedily heard while preserving the substantive rights of the parties to the proceeding.

16. A protesting party, with leave of the hearing officer of the Commission, may present prepared testimony of a witness upon direct examination, either narrative or question and answer form, which will be incorporated in the record as if read, upon the witnesses being sworn and identifying the same. Such witness shall be subject to cross-examination. One signed original and four reproduced copies of said signed original shall be filed. Only the original of a deposition need be filed.

17. The hearing officer or Commission shall have the right in any proceeding to limit the number of witnesses whose testimony is merely cumulative.

18. Subpoenas for the attendance of witnesses from any place in the State of Louisiana, or for the production of books, papers, accounts or documents at a hearing, may be issued by the Commission upon its own motion, or upon the written motion of the parties showing that there is good cause for the issuance of same. No subpoena shall be issued until the party who wishes to subpoena the witness first deposits with the agency a sum of money sufficient to pay all fees and expenses to which a witness in a civil case is entitled pursuant to R.S. 13:3661 and R.S. 13:3671.

19. Within thirty days following the completion of the hearing the Commission shall notify the company in writing of its final determination.

20. The word Commission as used herein refers to the Chairman and the members or their delegates appointed to conduct the hearings.

Appeals to Board of Review and Board of Review Hearings

1. Each assessor shall publish the time and place of the public exposure of the assessment lists of both real and personal property in a newspaper of general circulation in their respective parishes. Notice shall be published at least twice within a period not sooner than twenty one days nor later than seven days prior to the period of exposure.

2. During the period of public exposure each assessor shall provide the taxpayer access to a form entitled "Notice of Request for Review," and will receive and file all oral and written requests for review.

3. After the assessment lists have been completed for public exposure, each assessor shall give notice of public hearings by the Board of Review and hearing dates. Each assessor shall give notice of such public hearings by publication as in paragraph 1 above. Each assessor shall notify the Tax Commission by letter of the date of commencement of hearings before the Board of Review. The Board of Review shall commence its public hearings on the first normal business day after receiving the certified list from the assessor.

4. The Board of Review will hear the complaint of qualified persons as provided by R.S. 47:1992, and, after hearing the evidence, determine if an assessment of real or personal property should be changed, and determine the amount, whether increase or decrease, of such change. If an increase or decrease is required, the Board of Review shall make such change on the assessment list before certification to the Tax Commission.

5. Within three working days after the Board of Review has concluded the public hearings as provided herein, the assessment list, together with any changes in connection therewith, shall be certified and sent to the Tax Commission.

6. The determination of the Board of Review will be final unless appealed in writing to the Tax Commission. Any taxpayer or assessor dissatisfied with the determination of the Board of Review may appeal to the Tax Commission.

7. The Board of Review, during the public hearing, will have available to the public, copies of the rules and regulations for appeal to the Tax Commission, and the form for appeal to the Commission.

Rules and Regulations for Appeal to the Louisiana Tax Commission

1. The Tax Commission or its designated representative as provided by law, shall consider the appeal of any taxpayer or assessor dissatisfied with the determination of the local Board of Review filed within twenty-eight days of the commencement of the hearings of the Board of Review.

2. All appeals to the Tax Commission shall be in writing and signed by the party filing or by the officer, partner, attorney or other representative who appears for such party. An appeal may be made on the form entitled "Appeal to the L. T. C." This form will be available at all Board of Review hearings. The appeal shall contain the address and the telephone number of the party, and if he is represented, the name, business address, and telephone number of the representative.

3. All pleadings shall contain:

- a. Name under which the property is assessed.
- b. Description of the property.
- c. Determination of the Board of Review.
- d. A prayer stating the type of relief, action, or order desired by the pleader.

e. A list of witnesses who may be called and the anticipated time of presentation of the case.

4. Every party, witness, attorney or other representative shall conduct himself in all proceedings with proper dignity, courtesy and respect for the Commission and all other parties. Disorderly conduct will not be tolerated. Attorneys and other representatives of parties shall observe and practice the standards of ethical behavior prescribed for attorneys at law by the Louisiana Bar Association. Any party, witness, attorney, or other representative may be excluded by the Commission from any hearing for such period and upon such conditions as are just for violation of this rule.

5. Any party may appear and be represented by an attorney at law authorized to practice law before the highest court of any state. A natural person may appear in his own behalf, or through a bona fide full-time employee. A corporation, partnership, or association may appear and be represented by any bona fide officer, partner, full-time employee, or other person if authorized to so appear by the Commission.

6. All official hearings conducted in any proceeding shall be open to the public. All hearings shall be held in Baton Rouge, Louisiana, unless the Commission shall designate another place of hearing.

7. The Chairman shall order the docket called and appearances noted on the docket. Cases will be called in docket order for those cases in which an appearance is noted. All cases for which an appearance is not noted will be called prior to adjournment.

8. A continuance shall not be granted to an unexcused absence of a party, his representative, or his attorney, at the time and place set for a scheduled hearing before the Commission. The hearing shall proceed and the case shall be regarded as submitted on the part of the absent party.

9. The hearing shall be conducted informally; a transcript of the proceedings shall not be made unless requested by the party in writing.

10. The appellant and the opposite party may be represented by counsel and the Commission may swear witnesses.

11. The rules of evidence applicable to proceedings in the district court shall apply so far as practicable to a hearing before the Commission but the Commission may admit and give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent men in the conduct of their affairs. The Commission may exclude evidence which is incompetent, immaterial, or unduly repetitious.

12. The Commission shall take official notice without further identification of the contents of the original records and documents in possession of the Commission when duly certified copies thereof are offered in evidence and made a part of the record. The Commission may receive other documentary evidence in the form of copies or excerpts or that which is incorporated by reference.

13. Documents and papers offered in evidence by the parties at a hearing before the Commission shall be marked as exhibits. Exhibits offered by a taxpayer shall be marked "Taxpayer's Exhibit Number _____" and shall be consecutively numbered. Exhibits offered by the assessor shall be marked "Assessor's Exhibit Number _____" and shall be consecutively numbered. Exhibits offered by the Commission or its representative shall be marked "Commission Exhibit Number _____" and shall be consecutively numbered.

14. At the close of evidence, five minutes will be allowed each side to argue its case.

15. The word Commission as used herein refers to the Chairman and the members, or their delegates appointed to conduct the hearings.

Tax Commission Guidelines

At the hearing held on September 5, 1978, in the Louisiana State Library, the following Paragraphs, amending and adding to Sections IV on Page 5 of the Louisiana Tax Commission Guidelines, were adopted:

IV. Leased personal property, when the lessor is not the manufacturer, shall be reported by and assessed to the lessor in the taxing district where the property is located on January 1 of each year. The lessee shall be required to furnish the owner's name and address. The fair market value of such leased personal property shall be determined in the same manner as any other personal property.

Leased personal property, when the manufacturer is the lessor, shall be reported by and assessed to the lessor in the taxing district where the property is located on January 1 of each year. The lessee shall be required to furnish the owner's name and address. The "manufacturer-lessor" shall furnish the present day selling price new of all such items. If such information is not available, the monthly rental shall be reported. The fair market value of such leased personal property shall be determined by one of the following methods.

1. Depreciated present day selling price, new: Under this method the lessor furnishes the present day selling price of the equipment, new. Depending upon type of equipment, depreciation would be deducted based on an economic life of from five to ten years with a forty percent residual.

2. Use of a gross rent multiplier: The fair market value shall be determined to be equal to forty months rent, less five percent allowance for depreciation the first year, plus ten percent for each additional year not to exceed a cumulative allowance of sixty percent.

C. Gordon Johnson, Chairman
Tax Commission

RULE

Department of Health and Human Resources Office of Family Security

The Department of Health and Human Resources, Office of Family Security, has adopted the maximum level (CAP rate) for long term care eligibility for an individual to be \$568.20 and for a couple occupying the same room in a long term care facility the double CAP rate of \$1,136.40. This policy was adopted as an emergency rule effective July 1, 1978.

William A. Cherry, M.D., Secretary
Department of Health and Human Resources

RULE

Department of Health and Human Resources Office of Family Security

The Department of Health and Human Resources, Office of Family Security, has adopted the automatic assignment to the Department of Health and Human Resources of any right to child support an applicant or recipient of Aid to Families with Dependent Children (AFDC) may have without the necessity of written assignment, in accordance with Act 84 of the 1978 Legislative Session.

In accordance with this law, policy in the AFDC Program has been revised to provide:

By accepting aid to families with dependent children assistance for or on behalf of a child or children, the applicant or recipient shall be deemed to have made an assignment to the department of any and all right, title, and interest in any support obligation and arrearages owed to or for such child or children or caretaker up to the amount of public assistance money paid for or on behalf of such child or children or caretaker for such term of time as such

public assistance moneys are paid; provided, however, that the department may thereafter continue to collect any outstanding debt created by such assignment which has not been paid by the responsible person. The applicant or recipient shall also be deemed, without the necessity of signing any document, to have appointed the Support Enforcement Services Program Administrator as his or her true and lawful attorney-in-fact to act in his or her name, place, and stead to perform the specific act of endorsing any and all drafts, checks, money orders or other negotiable instruments representing support payments which are received on behalf of such child or children or caretaker as reimbursement for the public assistance moneys paid to such applicant or recipient.

William A. Cherry, M.D., Secretary
Department of Health and Human Resources

RULES

Department of Wildlife and Fisheries

The Department of Wildlife and Fisheries, via resolution of the Wildlife and Fisheries Commission, has adopted the following rules:

Rockefeller Wildlife Refuge

Whereas, the Rockefeller Wildlife Refuge is a prime wintering area for migratory waterfowl, and

Whereas, approximately one-half million ducks and one-quarter million geese annually spend much of the winter months in this area, and

Whereas, the Louisiana Department of Wildlife and Fisheries has developed a large portion of the wildlife refuge for waterfowl management, and

Whereas, the deed of donation under which the Department received the area provides for public usage of the area, and

Whereas, in January, 1976, the Department expanded the public usage of the area to include year-round use, and

Whereas, this has created management problems for the proper water control within the impoundments, and

Whereas, interference with the Department's waterfowl banding and fur removal programs has occurred

Now, therefore, be it resolved, that the Louisiana Wildlife and Fisheries Commission does hereby close all of the Rockefeller Wildlife Refuge to public use during the months of December, January, and February, except that portion known as the Humble Canal Joseph Harbor systems, the Rollover Bayou system and all of the natural bayous leading into the refuge from the Gulf up to the water control structures.

Waterfowl Seasons

Whereas, the waterfowl hunting regulations for the 1978-79 season have been announced by the U. S. Fish and Wildlife Service, and

Whereas, the Louisiana Wildlife and Fisheries Commission is authorized to establish the dates during which ducks, geese, and coots may be hunted within the Federal frameworks, now

Therefore be it resolved that the Louisiana Wildlife and Fisheries Commission does hereby establish the following dates for the hunting of ducks, geese, and coots:

West Zone

Ducks and Coots,
November 4-December 3 (30 days); December 16-January 9 (25 days).

Geese,
November 4-December 3 (30 days); December 16-January 24 (40 days).

V. Right to request administrative hearing. Within thirty calendar days after notice of the agency's notice of violation or the notice of results of informal discussion, the provider may request an administrative hearing. Such request must be in writing to the Appeals Section. The request must contain a statement and be accompanied by supporting documents setting forth with particularity those asserted violations and discrepancies which the provider contends are in compliance with the agency's regulations and the reasons for such contentions.

Unless a timely and proper request is received by the Appeal's Section, the findings of the agency shall be considered a final and binding administrative determination.

A. Right to counsel: Any party may appear and be heard at any proceeding described herein through an attorney at law or through a designated representative. All persons appearing in proceedings before the Appeals Section shall conform to the standards of conduct practiced by attorneys before the courts of the state. If a person does not conform to those standards, the hearing officer may decline to permit the person to appear in the proceeding, or may exclude the person from the proceeding.

B. Appearance in representative capacity: A person appearing in a representative capacity shall file a written notice of appearance on behalf of a provider identifying himself by name, address, and telephone number, and identifying the party represented, and shall have a written authorization to appear on behalf of the provider. The Appeals Section shall notify the provider in writing of the name and telephone number of the agency's representatives.

C. Form of papers: All papers filed in any proceeding shall be typewritten. All papers shall be signed by the party or his authorized representative or attorney and shall contain his address and telephone number. At least an original and two copies of all papers shall be filed with the Appeals Section.

VI. Preliminary conference.

A. Upon receipt of a request for an administrative hearing, the Appeals Section may schedule a preliminary conference within twenty calendar days of receipt of such request. The purposes of the preliminary conference include but are not limited to the following:

1. Clarification, formulation and simplification of issues;
2. Resolution of matters in controversy;
3. Exchange of documents and information;
4. Review of any audit findings;
5. Reconsideration of any suspension or withholding of payments;
6. Stipulations of fact so as to avoid unnecessary introduction of evidence at the formal review;
7. The identification of witnesses; and
8. Such other matters as may aid disposition of the issues.

When the Appeals Section schedules a preliminary conference, it shall notify the provider in writing. The notice shall direct any parties and their attorneys to appear at a specified date, time, and place.

VII. Results of preliminary conference.

A. Where the preliminary conference resolves all or some matters in controversy, the agency shall send a written summary of the findings agreed to at the conference, the results of the conference and a statement of further actions required of the provider or to be initiated by the agency.

B. Where the preliminary conference does not resolve all matters in controversy, an administrative hearing shall be scheduled on those matters still in controversy. The hearing shall be scheduled within thirty calendar days following the completion of the preliminary conference, or at a time mutually convenient to all parties.

VIII. Notice of administrative hearing. When an administrative hearing is scheduled, the Appeals Section shall notify the provider

and/or his attorney in writing of the date, time and place of the hearing. Notice shall be mailed not less than ten calendar days before the scheduled date of the hearing. The agency shall also include a summary of the results of the preliminary conference.

A. Conduct of hearing:

1. The hearing shall be conducted by a hearing officer who is authorized to conduct such hearings.

2. Testimony shall be taken only on oath, affirmation, or penalty of perjury.

3. Each party shall have the right to call and examine parties and witnesses, to introduce exhibits, to question opposing witnesses and parties on any matter relevant to the issue even though the matter was not covered in the direct examination, to impeach any witness regardless of which party first called him to testify, and to rebut the evidence against him.

4. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil or criminal actions.

5. The hearing officer may question any party or witness and may admit any relevant and material evidence.

6. The hearing officer shall control the taking of evidence in a manner best suited to ascertain the facts and safeguard the rights of the parties. Prior to taking evidence, the hearing officer shall explain the issues and the order in which evidence will be received.

7. A party has the burden of proving whatever facts it must establish to sustain its position except that a provider has the burden of proof to show that services were in fact rendered as billed.

8. The burden of producing evidence as to a particular fact is on the party against whom a finding on that fact would be required in the absence of further evidence.

B. Witnesses and subpoenas:

1. A party shall arrange for the presence of his witnesses at the hearing.

2. A subpoena to compel the attendance of a witness may be issued by the hearing officer upon written request by a party and a showing of the need therefor.

3. A subpoena may be issued by the hearing officer on his own motion.

4. An application for subpoena duces tecum for the production by a witness of books, papers, correspondence, memoranda, or other records shall be made by affidavit to the hearing officer, giving the name and address of the person or entity upon whom the subpoena is to be served. It shall describe the documents, papers, books, accounts, letters, photographs, objects, or tangible things not privileged that are desired to be produced and a showing of the materiality thereof to the issue involved in the proceeding. It shall also include a statement, that to the best of the applicant's knowledge, the witness has such items in his possession or under his control.

C. Amendments: At any time prior to the completion of the hearing, amendments may be allowed on just and reasonable terms to add any party who ought to have been joined, discontinued as to any party, change the allegations or defenses, or add new causes of action or defenses. Where the agency seeks to add a party or a cause of action or change an allegation, notice shall be given to the appropriate parties. Where a party other than the agency seeks to add a party or change a defense, notice shall be given pursuant to section 19-927 B. The hearing officer shall continue the hearing for such time as he deems appropriate.

iate, and notice of the new date shall be given pursuant to section 19-927.

D. Continuances or further hearings.

1. The hearing officer may continue a hearing to another time or place, or order a further hearing on his own motion or upon showing of good cause, at the request of any party.

2. Where the hearing officer determines that additional evidence is necessary for the proper determination of the case, he may at his discretion:

a. Continue the hearing to a later date and order the party to produce additional evidence; or

b. Close the hearing and hold the record open in order to permit the introduction of additional documentary evidence. Any evidence so submitted shall be made available to both parties and each party shall have the opportunity for rebuttal.

3. Written notice of the time and place of a continued or further hearing shall be given except that when a continuance or further hearing is ordered during a hearing, oral notice of the time and place of the hearing may be given to each party present at the hearing.

E. Record of hearing. A complete record of the proceedings shall be made. The testimony shall be transcribed and copies of other documentary evidence shall be reproduced when directed by the hearing officer. The record will also be transcribed and reproduced at the request of a party to the hearing provided he bears the cost of the copy of the transcript.

IX. Decision.

A. At the conclusion of the hearing, the hearing officer shall take the matter under submission and shall submit to the Secretary of the Department of Health and Human Resources a proposed decision.

B. The proposed decision shall be in writing and shall contain findings of fact, a determination of the issues presented, and an order.

C. The Secretary of the agency may adopt the proposed decision or he may reject the proposed decision and have a decision prepared based upon the record, or he may remand the matter to the hearing officer to take additional evidence. In the latter case, the hearing officer thereafter shall submit to the Secretary a new proposed decision.

D. The decision shall be final upon adoption by the Secretary of the agency subject only to judicial review by the courts. Copies of the decision shall be mailed to the provider at his last known address and to any representative thereof.

X. Failure to appear.

A. If a provider fails to appear at a hearing, a decision may be issued by the Appeals Section dismissing the hearing. A copy of the decision shall be mailed to each party together with a statement of the provider's right to reopen the hearing.

B. Any dismissal may be rescinded if the provider makes application to the hearing officer in writing within ten calendar days after the mailing of the decision, showing good cause for his failure to appear at the hearing.

Comments on this proposed policy may be submitted in writing or orally through October 4, 1978, to Mr. Alvis D. Roberts, Assistant Secretary, Office of Family Security, Department of Health and Human Resources, Box 44065, Baton Rouge, Louisiana 70804, Phone (504) 342-3946.

William A. Cherry, M.D., Secretary
Department of Health and Human Resources

NOTICE OF INTENT

Department of Health and Human Resources Office of Family Security

The Department of Health and Human Resources, Office of Family Security, proposes to adopt policy to be utilized in the sanctioning of providers of services in the Medical Assistance Program, after review by the Medical Assistance Program to insure the quality, quantity and need for services.

The proposed policy reads as follows:

I. Introduction. Payments made by the Medical Assistance Program are subject to review by the Medical Assistance Program to insure the quality, quantity and need for services. Administrative sanctions may be imposed against any Title XIX provider who does not meet the guidelines as listed in the following section. Administrative sanction means any administrative action applied by the single State agency against a medical service provider which is designed to remedy inefficient and/or illegal practice which is in noncompliance with the Louisiana medical policies and procedures, statutes and regulations.

II. Levels of administrative sanctions. Listed below are the levels of administrative sanctions which the Medical Assistance Program may impose against a Title XIX provider of service.

A. Give warning through written notice or consultation.

B. Require education in program policies and billing procedures.

Each provider who has been sanctioned may be required by the Director, Medical Assistance Program or the Assistant Secretary, Office of Family Security, to participate in a provider education program as a condition of continued participation. Provider education programs will include a letter of warning or clarification of issues; instruction in claim form completion; instruction on the use and format of provider manuals; instruction on the use of procedure codes; review of key provisions of the Medicaid Program; instruction on reimbursement rates; and instructions on how to inquire about coding or billing problems.

C. Require prior authorization of services.

D. Place claims on manual review before payment is made.

1. Any provider of Medicaid services may be placed on prepayment review as an administrative sanction for misutilization of the Medicaid Program.

2. Prepayment review may be limited to those types of procedures for which misutilization has been detected or it may include one hundred percent review of the provider's submitted claims.

3. The Director, Medical Assistance Program, and/or the Assistant Secretary, Office of Family Security, has the authority to place a provider on prepayment review following a review of the facts of the case.

4. Length of time provider is on review and scope of the review shall be determined by the Director, Medical Assistance Program, and/or the Assistant Secretary, Office of Family Security.

5. Prepayment review shall be conducted by the fiscal intermediary or appropriate program staff under the supervision of the Medical Director, Medical Assistance Program, or an authorized representative. The fiscal intermediary, shall in no case place a provider on prepayment review without written authorization from the Director, Medical Assistance Program, and/or the Assistant Secretary, Office of Family Security.

During such review it shall be the responsibility of the reviewing authority to determine the medical necessity of the service billed or that the service conformed with State and Federal policies and regulations and to authorize denial or

cutbacks on such claims which do not meet program regulations.

The fiscal intermediary shall keep a record by provider of the amount of money denied or cut back and the reason for denial or cutback as a result of prepayment review. This record shall be forwarded to the Director, Medical Assistance Program.

E. Suspend or withhold payments. The agency may withhold payments to any provider during the pendency of any administrative proceeding and/or hearing under these provisions except that if a final administrative decision has not been issued within one hundred eighty days of the initiation of such proceedings, unless delay has been caused by the provider, payments can no longer be withheld, provided, however, that the one hundred eighty-day limit may be extended if said extension is mutually agreed to by the agency and the provider. Payments may be denied for bills submitted with service dates occurring during the pendency of a proceeding where the final administrative decision is to terminate eligibility to participate in the Medical Assistance Program.

F. Recover money improperly or erroneously paid or overpayments either by setoff crediting against future billings or by requiring direct payment.

G. Refer to the appropriate State licensing agency for investigation.

H. Refer for review by appropriate professional organizations.

I. Refer to the Office of the Attorney General for fraud investigation.

J. Suspend participation in the Medicaid Program.

The Assistant Secretary, Office of Family Security, Louisiana Department of Health and Human Resources, shall specify in his suspension order, the period of time of the suspension during which the provider shall not be eligible to participate in the program, except that the period of suspension must be at least as long as the Medicare suspension if such suspension was ordered by the Secretary, United States Department of Health, Education and Welfare pursuant to Public Law 95-142, Section 7. The Assistant Secretary may require the provider to correct any deficiencies which served as the basis for the suspension as a condition of reinstatement.

III. Rules governing the imposition and extent of sanction.

A. Imposition of a sanction.

1. The decision as to the sanction to be imposed shall be at the discretion of the Director, Medical Assistance Program, or the Assistant Secretary, Office of Family Security, except as provided in subsection A3 below.

2. The following factors shall be considered in determining the sanction(s) to be imposed: seriousness of the offense(s); extent of violations; history of prior violations; prior imposition of sanctions; prior provision of provider education; provider willingness to obey program rules; whether a lesser sanction will be sufficient to remedy the problem; and actions taken or recommended by peer review groups or licensing boards.

3. In accordance with Federal law (Public Law 95-142, Section 7), a provider who has been convicted of criminal offenses related to his participation in either Medicare or Medicaid shall be automatically suspended from both programs.

B. Scope of sanction.

1. A sanction may be applied to all known affiliates of a provider, provided that each decision to include an affiliate is made on a case by case basis after giving due regard to all relevant facts and circumstances. The violation, failure, or inadequacy of performance may be imputed to a person with whom the provider is affiliated where such conduct was ac-

complished within the course of his official duty or was effectuated by him with the knowledge or approval of such person.

2. Suspension from participation of any provider shall preclude such provider from submitting claims for payment, either personally or through claims submitted by any clinic, group, corporation or other association to the agency or its fiscal agents for any services or supplies provided under the Medicaid Program except for those services or supplies provided prior to the suspension or termination.

3. No clinic, group, corporation, or other association which is a provider of services shall submit claims for payment to the agency or its fiscal agents for any services or supplies provided by a person within such organization who has been suspended or terminated from participation in the Medicaid Program except for those services or supplies provided prior to the suspension or termination.

4. When the provisions of subsection B3 above are violated by a provider of services which is a clinic, group, corporation, or other association, the agency may suspend or terminate such organization and/or any individual person within said organization who is responsible for such violation.

C. Notification of sanction.

1. A provider in the Medical Assistance Program can be granted due process through an administrative hearing when a sanction is invoked against him by the agency.

2. The agency shall notify a provider who has been sanctioned specifying the nature of and grounds for the sanction and the opportunity for an administrative hearing except that notification is discretionary when the sanctions involved are prepayment review or referral for an investigation or review.

IV. Grounds for sanctioning providers. The Louisiana Office of Family Security may impose sanctions against any provider of medical goods or services if the agency finds:

A. Such provider is not complying with the agency's policy or rules and regulations, or with the terms and conditions prescribed by the agency in its provider agreement and signed claim setting forth the terms and conditions applicable to the participation of each provider group in the program.

B. Such provider has submitted a false or fraudulent application for provider status.

C. Such provider is not properly licensed or qualified, or such provider's professional license, certificate or other authorization has not been renewed or has been revoked, suspended, or otherwise terminated.

D. Such provider has engaged in a course of conduct or has performed an act for which official sanction has been applied by the licensing authority, professional peer group, or peer review board or organization or continuing such conduct following notification by the licensing or reviewing body that said conduct should cease.

E. Such provider has failed to correct deficiencies in his delivery of service after having received written notice of these deficiencies from the Department of Health and Human Resources.

F. Such provider has been excluded from participation in Medicare because of fraudulent or abusive practices pursuant to Public Law 95-142.

G. Such provider has been convicted of a criminal offense relating to performance of a provider agreement with the agency or of fraudulent billing practices or of negligent practice resulting in death or injury to the provider's patient.

H. Such provider has presented or has caused to be presented any false or fraudulent claim for services or merchandise or has submitted or has caused to be submitted false information for the purpose of obtaining greater compensation than to which the provider is legally entitled.

I. Such provider has engaged in a practice of charging and accepting payment (in whole or part) from recipients for services for which a charge was made to and payment was made by the agency.

J. Such provider has rebated or accepted a fee or portion of fee or charge for a patient referral.

K. Such provider has failed to repay or make arrangements for the repayment of identified overpayments or otherwise erroneous payments.

L. Such provider has failed to keep or make available for inspection, audit or copying, after receiving a written request from the agency, such records regarding payments claimed for providing services.

M. Such provider has failed to furnish any information requested by the agency regarding payments for providing goods or services.

N. Such provider has made, or caused to be made, any false statement or representation of a material fact in connection with the administration of the Medical Assistance Program.

O. Such provider has furnished goods or services to a recipient which are: (1) in excess of his or her needs, (2) harmful to the recipient, or (3) of grossly inferior quality, all of such determinations to be based upon competent medical judgment and evaluations.

P. The provider; a person with management responsibility for a provider; an officer or person owning, either directly or indirectly, five percent or more of the shares of stock or other evidences of ownership in a corporate provider; an owner of a sole proprietorship which is a provider; or a partner in a partnership which is a provider, either:

1. Was previously terminated from participation in the medical assistance program; or

2. Was a person with management responsibility for a previously terminated provider during the time of conduct which was the basis for that provider's termination from participation in the Medical Assistance Program; or

3. Was an officer, or person owning either directly or indirectly, five percent or more of the shares of stock or other evidences of ownership in a previously terminated corporate provider during the time of conduct which was the basis for that provider's termination from participation in the Medical Assistance Program; or

4. Was an owner of a sole proprietorship or partner of a partnership which was previously terminated during the time of conduct which was the basis for that provider's termination from participation in the Medical Assistance Program.

Q. The provider; a person with management responsibility for a provider; an officer or person owning, either directly or indirectly, five percent or more of the shares of stock or other evidences of ownership in a corporate provider; an owner of a sole proprietorship which is a provider; or a partnership which is a provider; or a partner in a partnership which is a provider, either:

1. Has engaged in practices prohibited by Federal or State law or regulation; or

2. Was a person with management responsibility for a provider at the time that such provider engaged in practices prohibited by Federal or State law or regulation; or

3. Was an officer, or person owning, either directly or indirectly, five percent or more of the shares of stock or other evidences of ownership in a provider at the time such provider engaged in practices prohibited by Federal or State law or regulation; or

4. Was an owner of a sole proprietorship or partner of a partnership which was a provider at the time such provider engaged in practices prohibited by Federal or State law or regulation.

Comments on the proposed policy may be submitted in writing or orally through October 4, 1978, to Mr. Alvis D. Roberts, Assistant Secretary, Office of Family Security, Department of Health and Human Resources, Box 44065, Baton Rouge, Louisiana 70804, Phone (504) 342-3946.

William A. Cherry, M.D., Secretary
Department of Health and Human Resources

NOTICE OF INTENT

Department of Health and Human Resources Office of Family Security

The Department of Health and Human Resources, Office of Family Security, proposes to adopt permanent policy to be utilized in assuring the provision of medically necessary nonemergency transportation to Title XIX recipients. This was adopted as an emergency rule, effective October 1, 1978, and is published elsewhere in this issue.

The proposed policy reads as follows:

I. Medically necessary nonemergency transportation: general. The term "medically necessary nonemergency transportation" means transportation provided to a Title XIX recipient to and/or from a Title XIX enrolled provider of medical service for a Title XIX covered medical service. The medically necessary nonemergency transportation program is intended to provide transportation when all other reasonable means of transportation have been explored and found to be unavailable (i.e., the client's friends, relatives, personal vehicle, or other State or Federally supported providers). The provision of nonemergency medical transportation is available on a uniform basis throughout the state, upon the recipient notifying the appropriate staff member of the need and provided at least two days advance notice is given.

II. Who is eligible. Payment may be made for medically necessary nonemergency transportation for persons eligible for Title XIX benefits. Eligible persons can be identified by the buff colored medical eligibility card they receive monthly.

III. What services are provided. Payment may be authorized for medically necessary nonemergency transportation by Title XIX funds subject to the following conditions:

A. Relationship with social services. The social services worker shall be responsible for the arrangement of medically necessary nonemergency transportation. Title XIX funds for medically necessary nonemergency transportation shall serve to supplement the recipient's preexisting transportation resources, rather than replace them. Therefore, the social service worker shall not attempt to use Title XIX funds unless:

1. The social service worker receives a request of assistance in securing transportation and explores with the recipient his/her own ability to locate a transportation resource. In exploring with the client, his or her ability to locate a transportation resource, the worker should determine if the client has a friend, relative, or neighbor who can provide the transportation, does the client own his/her own vehicle, or does the client have coverage under any type of insurance which would pay for transportation. The worker shall accept the client's statement as to his/her ability to locate transportation.

2. The social services worker, after determining the client does not have the resources available to provide his/her own transportation, assesses the available community resources. These resources may take the form of existing Title XX contractors, providers (public or private) who exist in the community who give transportation at no cost, or State employees driving their own vehicles or State vehicles.

Only after steps 1 and 2 have been taken and all other available resources have been explored shall the social services worker authorize Title XIX funds to provide medically necessary nonemergency transportation.

B. Relationship with Title XX funds.

1. In order to meet the requirement as outlined in III, A, 2, the worker shall explore the feasibility of using resources funded by Title XX. Before authorizing the use of Title XIX funds to provide medically necessary nonemergency transportation, the worker shall ensure that the use of a Title XX funded resource is not feasible because of one or more of the following:

- a. No Title XX provider exists in the area.
- b. No Title XX provider exists in the area which serves the particular category of recipient who is requesting the transportation service.
- c. All Title XX providers which exist in the area cannot provide transportation which is appropriate to meet the recipient's needs.
- d. All Title XX providers existing in the area, which can provide appropriate transportation, are at maximum operating capacity under the funds allocated in their Title XX contract and are unable to meet a recipient's need.

2. A Title XX provider may be reimbursed for the provision of medically necessary nonemergency transportation with Title XIX funds when the conditions as outlined in III, B, 1, b, c, or d are met and the Title XX transportation provider participates in the Title XIX program. In assuring the conditions of III, B, 1, b, c, or d are met, the statement of the Title XX provider shall suffice, but under no circumstances are Title XIX funds to be used if a resource funded by Title XX is available and appropriate to meet the needs of the recipient.

C. Authorization of Title XIX funds. The social services worker shall, after exploring all other means of providing transportation, authorize Title XIX funds to ensure the provision of medically necessary nonemergency transportation to Title XIX eligibles. When attempting to use Title XIX funds the social services worker shall verify the client's current eligibility for Title XIX benefits. After verification of the client's eligibility, the worker shall follow the below listed procedures for use of Title XIX funds in all areas.

1. All areas.

a. The worker shall determine if the client seeks transportation to a currently participating Title XIX medical provider for a currently covered Title XIX service. If the medical provider is not currently participating in the Title XIX program or if the medical service is not currently covered by Title XIX, Title XIX funds may not be authorized to provide transportation. Local offices will be provided with a quarterly updated list of eligible Title XIX providers and Title XIX covered services. The eligible recipient shall be given transportation to a Title XIX provider of medical services of his/her choice who is generally available and used by other members of the community (i.e., the desired service is unavailable to the area in which the client lives; therefore, it may be necessary to provide transportation outside of the area).

b. The worker shall issue to the eligible recipient a preauthorization form, which the client will use to obtain the needed transportation service.

IV. Conditions of participation and billing procedures.

A. Condition of participation. Payment will be made to providers of medically necessary nonemergency medical transportation who participate in the Medical Assistance Program. Local office staff shall refer all parties interested in becoming providers to the fiscal intermediary to apply for participation.

B. Billing procedures.

1. Prior authorization of services. All expenditures of Title XIX funds for medically necessary nonemergency medical transportation shall be authorized via the local office social services worker, prior to the provision of service. The procedure for prior authorization of service shall be the same procedure as outlined in III, A, 1 and 2 and III, C, 1.

2. Payment mechanism.

a. Procedure for submitting bills.

1. The provider receives a preauthorization form from a Title XIX recipient and provides the service.

2. The provider of service submits the preauthorization form to the fiscal intermediary for reimbursement.

3. The fiscal intermediary processes the payment forms and forwards reimbursement to the transportation provider in a timely manner.

b. Rate of reimbursement. Providers of services shall be reimbursed at the provider's usual rate for such services as established by the Office of Family Security, minus the amount which is covered by any third party coverage the client may have. In instances in which the provider of services has no usual rate for services, the reimbursement shall be based upon mileage travelled. The rate shall be the same rate as is paid State employees for the use of their personal vehicle for job oriented activities.

Comments on the proposed policy may be submitted in writing or orally through October 4, 1978, to Mr. Alvis D. Roberts, Assistant Secretary, Office of Family Security, Department of Health and Human Resources, Box 44065, Baton Rouge, Louisiana 70804. Phone (504) 342-3950.

William A. Cherry, M.D., Secretary
Department of Health and Human Resources

NOTICE OF INTENT

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

The Department of Health and Human Resources, Office of Family Security, proposes to adopt permanent policy to provide adult denture services through the Louisiana Medical Assistance Program. This policy has been adopted as an emergency rule, effective October 1, 1978, published elsewhere in this issue.

The proposed policy reads as follows:

I. Adult dentures. Only those services specified as allowable under the Adult Dental Program are reimbursable and then only under those conditions as described in Section V. In general, it provides for the construction of complete dentures and for the repair and relining of complete or partial dentures. Although the same services are available to Early and Periodic Screening, Diagnosis and Treatment (EPSDT) eligibles (under the age of twenty-one years) a different fee schedule as well as different program guidelines prevail for the adult program.

The provider will be paid his usual and customary fee or that contained in the Maximum Fee Schedule V-D, whichever is less.

The Office of Family Security's payment for covered services must be accepted as payment-in-full. Payment for those services which are not covered by the program, e.g., extractions, fillings, partial dentures, etc., may be made by the patient. This however, is a private matter between the patient and the dentist; the Office of Family Security assumes no responsibility for these financial transactions.

II. Providers authorized to participate. Providers are limited to those dentists which are duly licensed and authorized to practice dentistry in any of the United States. When a dental provider is

enrolled in the Title XIX EPSDT Program, it is necessary for him to indicate his willingness to also participate in the Title XIX Adult Denture Program.

III. Who is eligible for adult dentures. Individuals twenty-one years of age and over who are identified in Part 19-105, Sections A and C are eligible for the Adult Denture Program.

Eligibility for dental services in the Title XIX Adult Denture Program requires that the Medicaid patient be referred by the Office of Human Development to the provider. The local office shall have a quarterly quota of denture referrals forwarded from State Office. The recipient will be given the dental claim form at the referral source, the Office of Human Development. The service unit completes the first two short forms of the claim form for their referral purposes. The recipient will bring the four copies of Form 392-106 to the dental provider. This indicates that the patient has been referred by the service worker, Office of Human Development.

The Office of Family Security shall assure the eligibility of the denture screening service when it is rendered in the month of the referral. In situations where the screening is not completed in the referral month, it is incumbent on the provider to verify current eligibility by viewing medical eligibility card for the month of screening.

In those cases where a long range plan of treatment necessitates visits from one calendar month to the next, continuing eligibility must be verified by reviewing the patient's Medicaid I.D. Card for each month of treatment. Dental services can then be provided to the end of that calendar month.

IV. Prior authorization evaluation of adult dentures request. To establish a more effective control in the authorization of services, a second examination of certain patients by regional dental consultants may be performed prior to preauthorization to ascertain if the requested services are within the scope of benefits of the program. Some patients will be selected randomly for this review while others will be selected when a question arises in the preauthorization determination.

The treating dentist, as well as the patient, will be notified if the patient is designated for a screening prior to authorization. The screening will be done in the office of a regional consultant dentist. This regional consultant dentist will be appointed by the Office of Family Security upon recommendation of the professional dental societies.

The final preauthorization determination will be made by the in-house dental staff of the Office of Family Security based on the findings and recommendations of the regional consultant dentist.

V. Dental services covered under adult denture program.

A. Complete dentures. Prior authorization is required for all complete dentures. Authorization is obtained by submitting a treatment plan on Form 392-106. All missing teeth must be indicated and the request must be accompanied by Form 550 (certification of need for denture). A minimum of five mounted periapical x-rays of the edentulous arch showing there are no retained roots or impacted teeth and two periapical x-rays of the opposing arch, if the dentition is present, to show that the denture will have balance, must accompany a treatment request. Prior authorization requests are to be submitted to Dental Department, Office of Family Security, Box 44065, Baton Rouge, Louisiana 70804.

Complete dentures will be authorized only in those instances in which the patient has a totally edentulous arch. If there are teeth to be extracted, the request for denture should not be initiated until all extractions have been completed and the tissues have healed sufficiently enough to support a denture without necessitating a reline for at least a year. Immediate dentures are not a benefit of the program. A denture will not be authorized if there are insufficient teeth in the opposing arch to provide occlusal balance. This balance can be supplied by either a

prosthetic appliance or natural dentition that provides at least four or more posterior teeth being distributed at least two to each side of the arch. The balancing occlusion must be judged to be able to provide adequate balance for at least five years. Only one denture is allowed in a five year period.

Minimum standards for construction of complete denture prostheses.

1. Visual diagnostic examination—Long-standing edentulous patients should be carefully evaluated to determine if the patient is emotionally and/or physically able to adapt to the utilization of dentures and to determine if the patient actually wants the dentures (many times their requests for services are made at the urging of relatives or friends for strictly cosmetic purposes). The patient's oral cavity should be examined for abnormalities such as tori, neoplasms, anatomical anomalies, systemic manifestations present in the mouth, etc.

2. Radiographic examination—To determine whether retained roots on erupted teeth, foreign bodies or diseases are present, a minimum of five periapical x-rays of the edentulous arch and two of the opposing arch, if dentition is present, must be submitted with preauthorization requests.

3. Preliminary impressions—Make first impression of both upper and lower jaws.

4. Stone models—Make upper and lower jaw models from the impressions.

5. Special trays—Construct special contoured container to hold final impression material in a specific recipient's mouth.

6. Final impression—Make final impressions for the construction of denture.

7. Working models—Make final models for fabrication of dentures.

8. Base plates—Adapt and construct bite blocks on model.

9. Centric relations of jaws—Take preliminary working relationship of upper and lower jaws.

10. Mounting models for articulation—Attach stone models to hinge device to duplicate movements of recipient's mouth.

11. Set up of teeth—Set teeth in proper alignment on models of the jaws mounted on articulator by provider or according to prescription of provider by laboratory.

12. Try in of set up—Set up teeth in wax for trial in recipient's mouth.

13. Processing of dentures—Process and polish set up in dental office or laboratory under heat and pressure. Pour technique is acceptable.

14. Delivery of denture—Fit and adjust denture for comfort, function and esthetics.

15. Adjustments—Provide all necessary adjustments for a period of six months in order to make the appliance functional and comfortable.

16. All material must meet American Dental Association specifications.

B. Denture reline. Complete and partial denture relines are allowable only if one year has elapsed since the denture was constructed or last relined. Only one reline is allowed in a five-year period. Reline of existing dentures must be given priority over the construction of new dentures, if it is judged that the existing dentures are serviceable for at least five years. Chairside relines (cold cure acrylics) are not reimbursable.

Prior authorization is required for all denture relines and is obtained by submitting the request on Form 392-106, indicating which denture is to be relined. Submit all requests to the Dental Department, Office of Family Security, Box 44065, Baton Rouge, Louisiana 70804.

Minimum standards of procedure for reline.