

CONTENTS

I. EMERGENCY RULES

Health and Human Resources Department:
Office of Family Security—Disclosure of information by institutions and organizations providing Medicaid services 1

II. RULES

Commerce Department:
Board of Certified Public Accountants—Rules and Regulations 1

Corrections Department:
Office of the Secretary—Procedure for execution of the death penalty 10

Governor's Office:
Engineers Selection Board—Rules of Organization 10

Health and Human Resources Department:
Office of Family Security—Energy assistance payment program 13
AFDC and GA need standards increase 13
Food stamp coupon allotment adjustment 13
Medical and shelter deductions 13
Office of the Secretary—Amendments to manual for facilities where DHHR funds are used to care for handicapped persons 14

Education:
Board of Elementary and Secondary Education—Certification of assessment teachers 19

Natural Resources Department:
Office of Conservation—Regulation 14 regarding Natural Resources and Energy Act 19

Public Safety Department:
Office of Motor Vehicles—Citizens band operators', consuls', and amateur radio operators' license plates 21
Commercial driver training schools 22

Revenue and Taxation Department:
Corporation franchise tax rules 25

Transportation and Development Department:
Exemption of nonconforming tourist directional information signs 42

III. NOTICES OF INTENT

Agriculture Department:
Dairy Stabilization Board—Amend rules regarding volume discount certificates 44

Commerce Department:
Racing Commission—Use of drugs, etc. 44

Culture, Recreation and Tourism Department:
Office of the State Library—Grants to public libraries 44

Office of Program Development:
Division of Archaeology and Historic Preservation—State Capitol Historic District, standards and administration 44

Education:
Board of Trustees for State Colleges and Universities—Self assessment fees; sabbatical leave 44
Board of Elementary and Secondary Education—Registry of approved project evaluators; certification of elementary French teachers; State Plan for Vocational Education for 1980-81 45
Louisiana Universities Marine Consortium—Bylaws 45
Board of Regents—Amend guidelines for the conduct of off-campus activities 45

Governor's Office:
Tax Commission—Personal property rules; guidelines relating to assessment of drilling rigs and pipelines; guidelines for fair market value of oil and gas producing property; LAT 14; appraisals of commercial property in Orleans Parish 45

Health and Human Resources Department:
Office of Family Security—Claims for medical equipment; disclosure of information by Medicaid service providers 46
Office of Licensing and Regulation:
Division of Health Planning and Development—Capital expenditure review program 46
Board of Pharmacy—Institutional pharmacy supportive personnel 46

Insurance Department:
Division of Property and Casualty Insurance—Guidelines for interlocal risk management agencies 47

Natural Resources Department:
Office of the Secretary—Transfer of interests in solid mineral leases of state-owned lands 50

Revenue and Taxation Department:
Petroleum, Beverage and Tobacco Tax Section—Exemption of gasohol from tax 50

Transportation and Development Department:

Board of Registration for Professional Engineers and Land Surveyors—Revise rule regarding disciplinary action50
Office of Public Works—Rules relating to assisting levee boards in acquiring flood control rights-of-way51

IV. POTPOURRI

Agriculture Department:

Dairy Stabilization Board—Resolution on Board meetings51
--	-----

Education:

Board of Elementary and Secondary Education and Board of Regents—Appreciation expressed to Governor Edwards51
--	-----

Health and Human Resources Department:

Board of Veterinary Medicine—Notice for license examination52
---	-----

Emergency Rules

DECLARATION OF EMERGENCY

Department of Health and Human Resources
Office of Family Security

In accordance with the provisions of R.S. 40:29, the Department of Health and Human Resources, Office of Family Security has implemented the following policy regarding the disclosure of information by institutions and organizations providing Medicaid services:

1. Medicaid providers and fiscal intermediaries/agents are required to disclose to the Medical Assistance Program, certain information about owners, employees, and suppliers (i.e., identification of owners' names, common ownership, ownership in a sub-contractor);

2. The Medical Assistance Program is authorized to refuse to enter into or renew an agreement with a provider, if any of its owners, officers, directors, agents, or managing employees have been convicted of a criminal offense involving any of the programs under Titles XVIII, XIX, or XX of the Social Security Act;

3. The Medical Assistance Program is authorized to terminate an agreement with a provider who fails to disclose fully and accurately the identity of any of its owners, officers, directors, agents, or managing employees who have been convicted of a program-related criminal offense at the time of entering into the agreement;

4. In addition to the Louisiana Medical Assistance Program, the Secretary of the Department of Health, Education and Welfare has been authorized to have access to Medicaid providers' records; and

5. The State Medicaid Fraud Control Unit has been authorized to have direct access to Medicaid providers' records rather than having to access them through the Medical Assistance Program.

This action will allow the Medical Assistance Program to be in compliance with newly published federal regulations, 42 CFR, parts 403, 420, 431, and 455, effective October 15, 1979, which were published in the August 17, 1979, *Federal Register*, Volume 44, Number 138, pages 41636-41646. Compliance with these regulations assures continued federal financial participation in Louisiana's Medical Assistance Program.

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

Rules

RULES

Department of Commerce
Board of Certified Public Accountants

(Editor's Note: The following rules were numbered in accordance with the numbering system to be used in the Louisiana Administrative Code. Numbers in parentheses following each section heading (example: R.S. 37:71) refer to the particular statute which the section implements.)

LAC 11-9:1 Definitions (R.S. 37:71)

1.0 The definitions included in the Act are used herein with the following additions:

1.1 The term "the Act" means Act 510 of the 1979 Regular Session of the Louisiana Legislature or as it may hereafter be amended.

1.2 The term "accountants' report" shall mean a report

1.2.1 rendering any opinion or statement, or denying an opinion, that financial statements or elements thereof are presented, prepared or compiled in accordance with generally accepted accounting principles or any other comprehensive basis of accounting and/or

1.2.2 referring to an audit, examination, review or lack thereof.

1.3 The term "accredited university or college" shall mean a university or college accredited by the Southern Association of Colleges and Schools, Commission on Colleges, or by any one of the six other regional accreditation associations.

1.4 The term "CPA examination" means the examination required for a certificate as a certified public accountant.

1.5 The term "enterprise" shall mean any person or entity, whether organized for profit or not, for which a licensee performs professional services.

1.6 The term "firm" shall mean a proprietorship, partnership, or professional corporation engaged in the practice of public accountancy.

1.7 The term "generally accepted accounting principles" shall mean those standards promulgated by the Financial Accounting Standards Board and its predecessor entities and similar pronouncements issued by other entities having similar generally recognized authority.

1.8 The term "generally accepted auditing standards" shall mean those auditing standards promulgated by the American Institute of Certified Public Accountants or its successor.

1.9 The term "licensee" means a person licensed to practice public accounting by the Board.

1.10 Masculine terms shall include the feminine and, when the context requires, shall include partnerships and/or professional corporations.

1.11 Where the context requires, singular shall include the plural or plural shall include the singular.

LAC 11-9:2 Special Definitions;

Public Accountancy; Exceptions (R.S. 37:72)

2.1 The term "public accounting" as used in the Act shall mean:

2.1.1 Rendering an accountants' report.

2.1.2 All services offered or performed for the public by anyone that involve issuing an opinion or certificate attesting in any way to the reliability of the representation; or that involve an audit, examination, review, or compilation of the financial records leading to a written accountant's report.

2.2 Public accounting shall not include the following if performed by a person who is not a certified public accountant or who is an unlicensed certified public accountant, provided that such person does not indicate, in connection with his signature or otherwise, that he is a public accountant or certified public accountant:

2.2.1 The keeping of books and related accounting records, including payroll records and preparing trial balances.

2.2.2 The compilation of financial statements as long as an accountant's report is not rendered thereon.

2.2.3 The preparation of tax returns to be filed with any federal, state, parish or municipal office or agency, provided the preparation of such returns by persons other than CPAs is not prohibited by law or regulations of the office or agency.

2.2.4 The service or function performed by the Legislative Auditor in the discharge of the duties of his office.

LAC 11-9:3 Domicile: New Appointee (R.S. 37:73)

3.1 The principal office and official address of the Board to which communications should be sent is State Board of Certified Public Accountants of Louisiana, Masonic Temple Building, 333

St. Charles Avenue, New Orleans, Louisiana 70130.

3.2 A new appointee to the Board shall be seated at the first Board meeting he attends following his qualification as required by R.S. 37:74.

LAC 11-9:4 Operating Procedures (R.S. 37:75)

4.1 The officers shall be President, Secretary, and Treasurer. The duties of the respective officers shall be the usual duties assigned to the respective office. The newly elected officers shall assume the duties of their respective offices at the conclusion of the meeting at which elected.

4.2 The fiscal year of the Board shall end on June 30 of each year. The annual meeting shall be held as soon as practical after the close of the fiscal year, at which meeting the Board shall elect its officers who shall serve until the next annual meeting or until their successors are elected.

4.3 Any meeting may be called by the President or by joint call of at least two of its members, to be held at the principal office of the Board, or at such other place as may be fixed by the Board.

4.4 Meetings of the Board shall be conducted in accordance with *Robert's Rules of Order* insofar as such rules are compatible with the laws of the state governing the Board or its own resolutions as to its conduct.

4.5 It shall be the duty of the Secretary to determine when the prerequisites and procedures required by the Act and by the Board for taking the CPA examination have been satisfactorily completed by an applicant.

4.6 The Secretary shall determine when, in his opinion, the prerequisites and procedures required by the Act and by the Board shall have been satisfactorily completed in respect to issuance of certificates and/or licenses and he shall submit at each meeting of the Board, for its approval or disapproval, current tabulations thereof, listing the names of the persons concerned.

4.7 The Secretary shall list in the minutes of the Board all persons approved for the issuance of certificates and/or licenses and all persons whose certificates and/or licenses are revoked, suspended, or reinstated.

4.8 It shall be the responsibility of the Secretary to see that an official register of all certified public accountants who have received certificates from the Board is maintained.

4.9 It shall be the responsibility of the Secretary that an annual listing of all certified public accountants licensed to practice is maintained.

4.10 The Treasurer shall be responsible for the maintenance of the accounts of the Board and the preparation of a financial report once a year, as of June 30, and shall submit an annual budget to the Board for its approval.

LAC 11-9:5 Rules of Professional Conduct (R.S. 37:75)

5.1 Preamble. The services usually and customarily performed by those in the public practice of accountancy involve a high degree of skill, education, trust, and experience which are professional in scope and nature. The use of professional designations carries an implication of possession of the competence associated with a profession. The public, in general, and the business community, in particular, rely on this professional competence by placing confidence in reports and other services of accountants. The public's reliance, in turn, imposes obligations on persons utilizing professional designations, both to their clients and to the public in general. These obligations include maintaining independence of thought and action, continuously improving professional skills, observing, where applicable, generally accepted accounting principles and generally accepted auditing standards, promoting sound and informative financial reporting, holding the affairs of clients in confidence, upholding the standards of the public accountancy profession, and maintaining high standards of personal and professional conduct in all matters affecting fitness to practice public accountancy.

The Board has an underlying duty to the public to insure that these obligations are met in order to achieve and maintain a vigorous profession capable of attracting the bright, young minds

essential for adequately serving the public interest.

The rules are intended to have application to all kinds of professional services performed for the public in the practice of public accountancy, including services relating to accounting, auditing, taxation, and management advice and consultation, to mention only the broad areas in which services are currently being offered by those in the practice of public accountancy. A licensee who is engaged in the practice of public accountancy outside the United States may conduct that practice in accordance with the standards of professional conduct applicable to the country in which he is practicing. However, if a licensee's name is associated with financial statements so as to indicate that he is acting as an independent certified public accountant using principles applicable in this country, he shall comply with the rules of competence and technical standards.

In the interpretation and enforcement of these rules, the Board may consider relevant interpretations, rulings, and opinions issued by the Boards of other jurisdictions and appropriate committees of professional organizations, but will not be bound thereby.

5.2 Independence, Integrity, and Objectivity.

5.2.1 Independence. A licensee shall not express an opinion on financial statements of an enterprise in such a manner as to imply that he is acting as an independent public accountant with respect thereto unless he is independent with respect to such enterprise. A licensee who signs or uses his name in connection with a professional service as to which he is not independent as contemplated herein shall indicate clearly that he is not independent by use of a title to reflect his status or by some other means. Independence will be considered to be impaired if, for example:

A. During the period of his professional engagement or at the time of expressing his opinion, the licensee:

1. Had or was committed to acquire any direct or material indirect financial interest in the enterprise; or

2. Was a trustee of any trust or executor or administrator of any estate if such trust or estate had, or was committed to acquire, any direct or material indirect financial interest in the enterprise; or

3. Had any joint, closely-held business investment with the enterprise or any officer, director, or principal stockholder thereof which was material in relation to the net worth of either the licensee or the enterprise; or

4. Had any loan to or from the enterprise or any officer, director, or principal stockholder thereof other than loans of the following kinds made by a financial institution under normal lending procedures, terms, and requirements:

a. Loans obtained by the licensee which are not material in relation to the net worth of the borrower; and

b. Home mortgages; and

c. Other secured loans, except those secured solely by a guarantee of the licensee.

B. During the period covered by the financial statements, during the period of the professional engagement, or at the time of expressing an opinion, the licensee:

1. Was connected with the enterprise as a promoter, underwriter, or voting trustee, a director or officer, or in any capacity equivalent to that of an owner, a member of management, or of an employee; or

2. Was a trustee for any pension or profit sharing trust of the enterprise.

The foregoing examples are not intended to be all-inclusive. For the purposes of this rule, the licensee, his spouse, descendants, and relatives living in the same household shall be considered together.

5.2.2 Integrity and objectivity. A licensee in the performance of professional services shall neither knowingly misrep-

resent facts not subordinate his judgment to that of others. In tax practice, however, a licensee may resolve doubt in favor of his client as long as there is reasonable support for his position.

5.2.3 Commissions. A licensee shall not pay a commission to obtain a client or accept a commission for a referral to a client of products or services of others. This rule does not prohibit payments for the purchase of all, or a part, of an accounting practice, or retirement payments to persons formerly engaged in the practice of public accountancy, or payments to the heirs of estates of such persons.

5.2.4 Contingent fees. A licensee shall not offer or perform professional services for a fee which is contingent upon the findings or results of such services; provided, however, this rule does not apply to professional services involving federal, state, or other taxes in which the findings are those of the tax authorities and not those of the licensee, nor does it apply to professional services for which the fees are to be fixed by courts or other public authorities and which are therefore indeterminate in amount at the time the professional services are undertaken.

5.2.5 Incompatible occupations. A licensee shall not concurrently engage in the practice of public accountancy and in any other business or occupation which impairs his independence or objectivity in rendering professional services, or which is conducted so as to augment or benefit the accounting practice unless these rules are observed in the conduct thereof.

5.3 Competence and Technical Standards.

5.3.1 Competence. A licensee shall not undertake any engagement for the performance of professional services which he cannot reasonably expect to complete with due professional competence, including compliance, where applicable, with Rules 5.3.2 and 5.3.3 below.

5.3.2 Auditing standards. A licensee shall not permit his name to be associated with financial statements in such a manner as to imply that he is acting as a certified public accountant with respect to such financial statements unless he has complied with applicable generally accepted auditing standards. Statements on auditing standards issued by the American Institute of Certified Public Accountants, and other pronouncements having similar generally recognized authority, are considered to be interpretations of generally accepted auditing standards, and departures therefrom must be justified by those who do not follow them.

5.3.3 Accounting principles. A licensee shall not express an opinion that financial statements are presented in conformity with generally accepted accounting principles if such statements depart from such accounting principles so as to produce a material effect on the financial statements taken as a whole, unless the licensee can demonstrate that by reason of unusual circumstances the financial statements would otherwise have been misleading. In such a case, the licensee's report must describe the departure, the approximate effects thereof, if practicable, and the reasons that compliance with the principle would result in a misleading statement.

5.3.4 Forecasts. A licensee shall not in the performance of professional services permit his name to be used in conjunction with any forecast of future transactions in a manner which may reasonably lead to the belief that the licensee vouches for the achievability of the forecast.

5.4 Responsibilities to Clients.

5.4.1 Confidential client information. A licensee shall not, without the consent of his client, disclose any confidential information pertaining to such client obtained in the course of performing professional services.

A. This rule does not

1. Relieve a licensee of any obligations under Rules 5.3.2 and 5.3.3, or
2. Affect in any way a licensee's obligation to comply with a validly issued subpoena or summons enforceable by order

of a court, or

3. Prohibit disclosures in the course of a quality review of a licensee's professional services, or

4. Preclude a licensee from responding to any inquiry made by the Board or any investigative or disciplinary body established by law or formally recognized by the Board.

B. Members of the Board, their duly authorized agents, and professional practice reviewers shall not disclose any confidential client information which comes to their attention from licensees in disciplinary proceedings or otherwise in carrying out their responsibilities, except that they may furnish such information to a duly authorized investigative or disciplinary body of the kind referred to above.

5.4.2 Records. For a reasonable charge, a licensee shall furnish to his client or former client, upon request made within a reasonable time after original issuance of the document in question:

A. A copy of a tax return of the client; and

B. A copy of any report, or other document, issued by the licensee to or for such client; and

C. Any accounting or other records belonging to, or obtained from, or on behalf of, the client which the licensee removed from the client's premises or received for the client's account, but the licensee may make and retain copies of such documents when they form the basis for work done by him; and

D. A copy of the licensee's working papers, to the extent that such working papers include records which would ordinarily constitute part of the client's books and records and are not otherwise available to the client.

5.5 Other Responsibilities and Practices.

5.5.1 Discreditable acts. A CPA shall not commit any act that reflects adversely on his fitness to engage in the practice of public accountancy.

5.5.2 Acting through others. A CPA shall not permit others to carry out on his behalf, either with or without compensation, acts which, if carried out by the CPA, would place him in violation of the Rules of Professional Conduct.

5.5.3 Advertising.

A. Licensees shall have the right to advertise. However, a licensee shall not use or participate in the use of any public communication or advertisement which contains a false, fraudulent, misleading, deceptive, or unfair statement or claim. A false, fraudulent, misleading, deceptive, or unfair statement or claim includes but is not limited to a statement or claim which:

1. Contains a misrepresentation of fact; or

2. Is likely to mislead or deceive because it fails to make full disclosure of relevant facts; or

3. Contains any testimonial or laudatory statement, or other statement or implication that the licensee's professional services are of exceptional quality, or statements intended to attract clients by use of showmanship, hucksterism, slogans, jingles, or other garish language; or

4. Is intended or likely to create false or unjustified expectations of favorable results; or

5. Implies educational or professional attainments or licensing recognition not supported in fact; or

6. States or implies that the licensee has received formal recognition as a specialist or claims any specialized expertise in any aspect of the practice of public accountancy, if this is not the case; or

7. States or implies that the licensee's ingenuity and/or prior record are principal factors likely to determine the results of the services rather than the merit of the facts involved, or contains statistical data or information so as to reflect past performance or predict future success; or

8. Represents that professional services can or will

be completely performed for a stated fee when this is not the case, or makes representations with respect to fees for professional services that do not disclose all variables affecting the fees that will in fact be charged; or

9. Contains other representations or implications beyond those set forth in B below that in reasonable probability will cause an ordinarily prudent person to misunderstand or be deceived; or

10. Implies the ability to influence any court, tribune, regulatory agency or similar body or any official thereof; or

11. Makes comparison with other CPAs.

B. As an example, a licensee may use or participate in the use of a public communication which states in a dignified manner the following information about the licensee and any associated licensees:

1. Name, firm name, address, telephone numbers, office hours, and telephone-answering hours;

2. Biographical and educational background;

3. Professional memberships and attainments;

4. Description of services offered;

5. The limitation of practice to certain areas of service;

6. The opening or change in location of any office and changes in personnel;

7. Fees charged for the initial consultation, for specific services of average complexity, and hourly rates. Quoted fees must be adhered to for a reasonable period not less than thirty days after the publication.

C. All licensees shall retain copies or recordings of all public communications by date of publication for a period of at least three years.

5.5.4 Solicitation. A licensee shall not by any direct personal communication solicit an engagement to perform professional services

A. If the communication would violate Rule 5.5.3 above if it were a public communication; or

B. By the use of coercion, duress, compulsion, intimidation, threats, overreaching, or vexatious or harrasing conduct; or

C. Where the engagement would be for a person or entity not already a client of the licensee, unless such person or entity has invited such a communication or is seeking to secure the performance of professional services and has not yet engaged another to perform them.

5.5.5 Form of practice. A licensee may practice public accountancy only in a proprietorship, a partnership, or a professional corporation organized in accordance with the Louisiana Professional Accounting Corporations Law or similar law of another state.

5.5.6 Firm name. The name under which a licensee practices public accounting must indicate clearly whether he is an individual practicing in his own name or a named member of a partnership or professional accounting corporation. The words "and Associates" or "and Company" or similar words shall be used only to denote unnamed partner(s) of a partnership or shareholder(s) of a professional accounting corporation. However, names of one or more past partners or shareholders may be included in the firm name of a successor partnership or corporation. Also, a partner or shareholder surviving the death or withdrawal of all other partners or shareholders may continue to practice under the partnership or corporate name for up to two years after becoming a sole practitioner or sole shareholder. No licensee shall allow a person who is not a licensee, and who is not in partnership with him or in his employ on a salary, to practice in his name. If a firm is incorporated, words so indicating must appear in or with the firm name each time it is used.

5.5.7 Communications. A CPA shall, when requested, respond to communications from the Board within thirty days of

the mailing of such communications by registered or certified mail.

5.5.8 Applicability. All of the Rules of Professional Conduct shall apply to and be observed by licensees. Notwithstanding anything herein to the contrary, they shall also apply to and be observed by CPAs not in public practice, where applicable.

LAC 11-9:6 Requirements for Continuing Professional Education (R.S. 37:75)

6.1 Basic Requirements.

6.1.1 Each licensee shall participate in at least one hundred twenty hours of continuing professional education every three years. However, for the three-year period ending December 31, 1982, only sixty hours shall be required and, for the three-year period ending December 31, 1985, only ninety hours shall be required. The hours of a licensee to whom Rule 6.1.2B applies shall be reduced prorata for the compliance period containing his effective date.

6.1.2 Effective date.

A. As to any licensee who was licensed as of January 1, 1980, the effective date of these requirements shall be January 1, 1980.

B. As to any licensee who obtains his initial license after January 1, 1980, the effective date of these requirements shall be January 1 of the following year.

6.1.3 Compliance period.

A. The first compliance period for continuing professional education shall be the three-year period ending December 31, 1982, and subsequent compliance periods shall end on December 31 each third year thereafter.

B. Election to maintain records on other than calendar year (fiscal year).

1. A licensee may elect to maintain records of continuing professional education on a "fiscal year." In such case, the continuing education requirements must be completed in the fiscal year ended within the last year of the compliance period. Also in such case, a licensee may claim credit for qualifying programs completed in the part of the fiscal year falling in the calendar year prior to the effective date applicable to him, if proper records of participation in such programs are maintained in accordance with Rule 6.6 below.

2. Once a calendar or fiscal year has been established, a change therein may be made only with the approval of the Board, which approval shall be based on a pro rata of the requirements having been completed during any months that are not included in a three-year period as a result of the change. The Board may, at its discretion, permit a change where such pro rata of the requirements has not been completed, if it is agreed that such additional continuing education requirements will be completed by a stated future date.

6.1.4 The Board may require of a certified public accountant who wishes to reenter practice after having allowed his license to lapse

A. That he first complete a specified number of hours (not to exceed ten) of continuing education programs and/or

B. That he complete a specified number of hours (not to exceed ten) of continuing education programs each calendar quarter for no more than four quarters following the granting of his license. The Board may specify the subjects which must be taken for no more than ten of the hours required in this section. In determining the number of hours, it will specify, whether any programs must be completed prior to license renewal, and whether any subjects will be specified, the Board will take into consideration the time period the applicant was without a license and recent occupation(s), business responsibilities, and continuing education of the applicant.

6.1.5 The Board may, at its sole discretion, make exceptions

to Rule 6.1 for reasons of hardship or grant extensions of time to obtain hours of continuing professional education to any licensee who is deficient.

6.2 Standards for Programs.

6.2.1 Program development.

A. The program should contribute to the professional competence of the participants.

B. The stated program objectives should specify the level of knowledge the participant should have obtained or level of knowledge he should be able to demonstrate upon completing the program.

C. The education and/or experience prerequisites for the program should be stated.

D. Programs should be developed by individual(s) qualified in the subject matter.

E. Program content should be current.

F. Programs should be reviewed or evaluated by a qualified person(s) other than the preparer(s) to ensure compliance with the above standards.

6.2.2 Program presentation.

A. Participants should be informed in advance of objectives, prerequisites, experience level, content, advance preparation, teaching methods, and Continuing Professional Education credit.

B. Instructors or discussion leaders should be qualified with respect to program content and teaching method used.

C. Program sponsors should encourage participation only by individuals with appropriate education and/or experience.

D. The number of participants and physical facilities should be consistent with the teaching method(s) specified.

E. Programs should include some means of evaluating quality.

6.3 Programs which Qualify.

6.3.1 The overriding consideration in determining whether a specific program qualifies as acceptable continuing education is that it be a formal program of learning which contributes directly to the professional competence of an individual licensed to practice as a certified public accountant.

6.3.2 Accredited university or college courses.

A. Credit courses. Each semester hour credit shall equal fifteen hours toward the requirement. A quarter hour credit shall equal ten hours.

B. Non-credit short courses. Credit allowable for such courses shall be determined by the Board.

6.3.3 Formal correspondence or other individual study programs which require registration and provide evidence of satisfactory completion will qualify as set forth in Rule 6.5.2A of this subsection.

6.3.4 Continuing education programs qualify if they meet the above standards and if:

A. An outline of the program is prepared in advance and preserved.

B. The program is at least one hour (fifty minute period) in length.

C. The program is conducted by a qualified instructor.

D. A record of registration or attendance is maintained.

6.3.5 The following programs are deemed to qualify provided the above are met:

A. Professional development programs of recognized national and state accounting organizations.

B. Technical sessions at meetings of recognized national and state accounting organizations and their chapters.

C. Formal organized in-firm educational programs.

D. Programs of other recognized organizations (accounting, industrial, professional, etc.).

6.3.6 The Board may look to recognized state or national accounting organizations for assistance in interpreting the acceptability of and credit to be allowed for individual courses.

6.4 Subjects which Qualify.

6.4.1 The following general subject matters are acceptable so long as they contribute to the professional competence of the individual practitioner:

Accounting and Auditing

Taxation

Management Services

Computer Science

Communication Arts

Mathematics, Statistics, Probability and Quantitative

Applications in Business

Economics

Business Law

Functional Fields of Business:

Finance

Production

Marketing

Personnel Relations

Business Management and Organization

Social Environment of Business

Specialized Areas of Industry; e.g., Film Industry, Real Estate, Farming, etc.

Administrative Practice; e.g., Engagement

Letters, Fee Structures, Personnel, etc.

6.4.2 Areas other than those listed above may be acceptable if the licensee can demonstrate that they contribute to his professional competence. The responsibility for substantiating that a particular program is acceptable and meets the requirements rests solely upon the licensee.

6.5 Credit Hours Granted.

6.5.1 Class hours.

A. Only class hours or the equivalent (and not student hours devoted to preparation) will be counted.

B. Continuing education credit will be given for whole hours only, with a minimum of fifty minutes constituting one hour. As an example, one hundred minutes of continuous instruction would count for two hours; however, more than fifty minutes but less than one hundred minutes of continuous instruction would count only for one hour. For continuous conferences and conventions, when individual segments are less than fifty minutes, the sum of the segments will be considered equal to one total program.

C. Any one-day program will qualify for eight hours of credit if its timing is such that its class hours require participants to be absent from their work for a normal working day. Travel time cannot be claimed.

D. A participant who is not present for an entire program may claim credit only for the actual time he attended.

6.5.2 Individual study program.

A. The amount of credit to be allowed for correspondence and formal individual study programs (including taped study programs) is to be recommended by the program sponsor based upon one half the average completion time under appropriate "field tests." Licensees claiming credit for such correspondence or formal individual study courses are required to obtain evidence of satisfactory completion of the course from the program sponsor. Credit will be allowed in the renewal period in which the course is completed.

B. The Board will not approve any program that does not offer sufficient evidence that the work has actually been accomplished.

6.5.3 Service as lecturer, discussion leader, speaker.

A. Credit for one hour of continuing professional education will be granted for each hour completed as an instructor or discussion leader to the extent it contributes directly to the individual's professional competence and provided the program would qualify for credit under these rules. No credit will be granted for repetitious presentations of a group pro-

gram.

B. In addition, an instructor or discussion leader may claim up to two hours of credit for advance preparation for each teaching hour awarded in Rule 6.5.3A above, provided the time is actually devoted to preparation.

C. The maximum credit for teaching and preparation therefor cannot exceed fifty percent of the three-year requirements under these rules.

6.5.4 Published articles, books, etc.

A. Credit for published articles and books will be awarded in an amount determined by the Board provided the writing contributes to the professional competence of the licensee.

B. The maximum credit for preparation of articles and books cannot exceed twenty-five percent of the three-year requirements under these rules.

6.5.5 Committee meetings, dinner and luncheon meetings, firm meetings.

A. Credit will be awarded for participation in committee meetings, dinner and luncheon meetings, etc. provided the program portion thereof meets the other requirements of these rules.

B. Credit will be awarded for firm meetings or meetings of management groups if they meet the requirements of these rules. Portions of such meetings devoted to administrative and firm matters cannot be included.

6.6 Maintenance of Records and Control

6.6.1 Each licensee shall maintain records of continuing education in which he has participated showing:

- A. Sponsoring organization.
- B. Location of course.
- C. Title and/or description of content.
- D. Dates attended.
- E. Hours claimed.

6.6.2 Practitioners, partners, or shareholders and employees of a firm of certified public accountants will not be required to maintain the above records personally if the firm has a policy of maintaining such records for its members and professional employees and does maintain the records required herein for the required time and reports to each person at least once each year a summary, which includes the information in Rule 6.6.1 above, of the continuing education file on that person.

6.6.3 Each sponsoring organization shall maintain records of programs sponsored which shall show:

A. That the programs were developed and presented in accordance with the standards set forth in Rule 6.2 above. If a program is developed by one organization and sponsored by another, the sponsoring organization shall not be responsible for program development standards and related record maintenance if

1. It has reviewed the program and has no reason to believe that program development standards have not been met, and

2. It has on record certification by the developing organization that the program development standards have been met and that the developing organization will maintain the required records relative thereto.

B. Dates of program presentations.

C. Instructor(s) and participants.

6.6.4 Records required under this rule shall be maintained for five years and shall be made available to the Board or its designee(s) for inspection at the Board's request.

LAC 11-9:7 Compensation and Expenses of Board Members (R.S. 37:76)

7.1 The officers of the Board shall receive compensation of \$150 per month and other members shall receive \$100 per month. This compensation shall be for time expended by such members in conducting examinations, attending Board meetings

and hearings, issuing of certificates and licenses, conducting investigations, and discharging other duties and powers of the Board. Where and when appropriate, such compensation shall be prorated.

7.2 The compensation of Board members and all other necessary expense incurred by the Board in carrying out its duties as well as expense for operating the office of the Board, conducting investigations (including the hiring of investigators and counsel), examinations and the issuance of licenses and certificates shall be paid out of the treasury of the Board.

LAC 11-9:8 Necessity for Certificate, License, Prohibited Acts (R.S. 37:77)

8.1 No partnership or corporation whether domiciled within or without the State of Louisiana, shall practice the profession of public accounting in Louisiana unless all members or shareholders thereof are holders of licenses issued by the Board and properly renewed. It is recognized that shareholders of Louisiana professional accounting corporations could, in some instances, be persons who are not certified public accountants; therefore, the reference to shareholders above refers to persons entitled to vote shares and participate in the corporate earnings.

LAC 11-9:9 CPA Examination (R.S. 37:78)

9.1 General Requirements.

9.1.1 Examinations are ordinarily held in May and November of each year. Applications for the May examination must be filed by March 1. Applications for the November examination must be filed by September 1. The official postmark (not a postage meter) on the mailing envelope is the controlling date.

9.1.2 The examination shall consist of the "Uniform Certified Public Accountant Examination" prepared and graded by the American Institute of Certified Public Accountants.

9.1.3 Applicants shall each be given a number and this number only shall be used on examination papers for identification.

9.1.4 All examinations shall be in writing and must be completed in the time allotted by the Board. The use of calculating equipment is prohibited.

9.1.5 A candidate must sit for all the subjects for which he is scheduled in order to receive his grades and to be able to sit for the next examination.

9.1.6 In order to pass the examination a candidate must receive a grade of at least seventy-five in each subject.

9.1.7

A. If, and only if, a grade of fifty or more is made in each subject, a candidate who passes Practice or at least two other subjects at a single examination shall receive credit for the subject or subjects passed, conditioned upon his passing the remaining subject or subjects as set forth in Rule B below.

B. A candidate who has received credit for passing part of the examination as set forth in Rule A above shall be required to remove the condition in any of the next four consecutive examinations but shall receive no credit for passing a subject or subjects at any examination in which he makes a grade of less than fifty in any other subject.

C. Anyone who is a conditioned candidate as of the effective date of the Act shall have four consecutive examinations, beginning with and including the November, 1979, examination, with which to comply with subsection B above.

9.1.8 Any candidate who makes a grade below 40 (39 or lower) in any subject will not be allowed to take the next consecutive examination; and, before being readmitted for examination, must submit proof of further study in the subject or subjects in which he made the low grade(s). This rule does not apply to conditioned candidates.

9.1.9 Grades shall be accepted from other states when a candidate for transfer of grades has met all the requirements of

Louisiana candidates except that he sat for the examination in another state. He shall submit a completed first-time application with an official transcript and a statement from an officer of the state board from which he is transferring as to dates of passing the examination and grades made. A conditioned candidate shall pay for each examination for which he sits and, in addition, shall pay a \$20 transfer fee at the time he requests the transfer. If a candidate has passed all subjects in another state, he shall be required to pay a \$20 transfer fee, in addition to other requirements.

9.1.10 Each candidate shall be notified by mail, on the date specified by the American Institute of Certified Public Accountants, of the grades earned by him in each subject of the examination. No information concerning grades will be released until such date.

9.1.11 The Board shall not be required to furnish the reason for any grades which it shall grant or for any decision which it may reach.

9.2 Educational Requirements.

9.2.1 Any person who, before September 1, 1975, filed an application which showed compliance with the then effective educational requirements of the Board and which was approved by the Board, shall forever be deemed to have met its educational requirements.

9.2.2 Effective September 1, 1975:

A. All applicants for the CPA examination shall possess a baccalaureate degree, conferred by a university or college recognized by the Board.

B. Such degree shall carry with it adequate concentration in the area of accounting at either the undergraduate or graduate level, as follows:

Undergraduate Level	Hours	
	Semester	Quarter
Elementary Accounting	3	4
Intermediate Accounting	6	8
Advanced Accounting	3	4
Cost Accounting	3	4
Income Tax Accounting	3	4
Auditing	3	4
Accounting Elective	3	4
Commercial Law (As it affects accountancy)	6	8
Graduate Level		
Intermediate Accounting	3	4
Advanced Accounting	3	4
Cost Accounting	3	4
Income Tax Accounting	3	4
Auditing	3	4
Accounting Elective	3	4
Commercial Law (As it affects accountancy)	3	4

If the degree does not carry with it such concentration, the candidate shall have completed the courses prescribed above. Such courses shall be completed in a university, college, night or extension school of recognized standing and approved by the Board.

9.3 Penalties.

9.3.1 Any person who files an application for CPA examination containing false statements, false references, or false signatures, may, at the discretion of the Board, be temporarily or permanently barred from taking the examination.

9.3.2 Any person involved in any irregularities during the administration of the CPA examination may, after a formal

hearing, be temporarily or permanently barred from taking the CPA examination and will receive no credit for the examination.

9.3.3 A Board member may eject from a CPA examination any candidate who is found during the examination to be violating the announced or written instructions governing the examination.

LAC 11-9:10 Certification (R.S. 37:78)

10.1 By Examination. When a candidate has successfully passed the examination and has met all other requirements of the Board, he shall be eligible for certification.

10.2 By Reciprocity.

10.2.1 Each application for a reciprocal certificate shall be considered on its own merits. No reciprocal certificate shall be issued to holders of certificates from other states unless the application is made through the state that issued the original certificate, and then only if the said state grants reciprocity to Louisiana CPAs and if, at the time he passed the examination, the applicant met the educational and conditioning rules provided above for Louisiana candidates.

10.2.2 The provisions of the above rule notwithstanding, if an applicant for a reciprocal certificate has been in public practice as a CPA for four years in the ten years immediately prior to the date of submitting the application, he will not be required to have met the educational or conditioning requirements for receiving a certificate in Louisiana.

10.2.3 Applicants for reciprocal certificates shall not be required to reside or have a place for the regular transaction of business in Louisiana, but shall be required to take the CPA oath.

LAC 11-9:11 Qualification for Licensing - Experience (R.S. 37:79)

11.1 Qualified applicants who apply for licensing prior to March 1, 1983, must have at least one year of qualifying accounting experience, which may be completed before or after passing the CPA examination.

11.2 After February 28, 1983, the one year of qualifying experience is increased to two years. When the two-year experience requirement becomes effective, a Master's degree with a concentration in accounting or a more advanced degree in accounting may be substituted for one year of experience.

11.3 This qualifying accounting experience shall be in public accounting or such other accounting experience as, in the opinion of the Board, is equivalent to the foregoing.

11.4 Qualifying experience requirements as stated below shall be experience in the six years immediately preceding the date of application for the license:

11.4.1 Qualifying experience in public accounting shall mean experience gained by full-time employment as a staff accountant by a practicing certified public accountant or firm of such duly licensed accountants who are licensed to practice public accounting under the laws of this state or the duly constituted laws of any other state.

11.4.2 Qualifying experience, in lieu of such years experience in public accounting, may be met by evidence, satisfactory to the Board, of employment in the accounting field in industry, business, government or college teaching, any combination of the above, or any combination of the above and practice in public accountancy.

11.4.3 The practical experience of an applicant for licensing must be meaningful with respect to qualifying the applicant for the practice of public accounting. Experience in industry, business, government or college teaching must meet two basic criteria: proper supervision, and sufficient quality and depth of the accounting functions performed during the required years of employment.

A. Proper Supervision. This criteria can be met in any of five ways:

1. Supervision, by an individual holding a CPA certificate, in the application of generally accepted accounting principles. For purposes of this requirement, supervision shall mean any managerial level one or more positions above the applicant's level.

2. Employment by a firm or organization having its financial statements examined on a periodic basis by independent certified public accountants during the term of the applicant's employment. The applicant must have been responsible for providing information, explaining systems and procedures, and/or preparing schedules and analyses.

3. Employed by a government agency, recognized by the Board as having the responsibility and organizational structure for performing auditing and accounting functions.

4. A full-time teacher of subjects primarily in the accounting discipline, with the rank of assistant professor or above (or comparable positions), for an accredited college or university.

5. Such other form of supervision as the Board considers adequate.

B. Sufficient quality and depth. The applicant's experience in the accounting field shall be of sufficient quality and depth to meet the following criteria:

1. A level of responsibility shall have been attained which requires the candidate to exercise professional judgment on significant financial accounting and reporting matters.

2. The applicant shall have experience in the areas of financial accounting and reporting which follow generally accepted accounting principles. Additionally, the applicant may have had experience in other technical areas of the accounting profession, such as financial analysis, budget, management information systems, management accounting techniques (cost accounting, financial appraisal of capital expenditures, etc.), or internal auditing.

3. If the applicant's experience is in college teaching, he shall have taught courses for academic credit in at least three different areas of accounting above the introductory or elementary level. Examples of these areas are intermediate accounting, cost or managerial accounting, income taxes, auditing, accounting systems, advanced problems, and accounting theory.

4. Such other experience of quality and depth as the Board considers adequate.

11.5 In satisfaction of experience requirements, the applicant must submit substantiating written statements, in such form as the Board shall require, from employers or others who have actual knowledge of such facts.

LAC 11-9:12 Application for CPA Examination, Certification, Licensing; Procedures (R.S. 37:80)

12.1 Application for examination and/or certification as a certified public accountant and/or for licensing as a licensed certified public accountant shall be made on the appropriate forms provided by the Board. Reproduction of these forms shall not be accepted.

12.2 A first-time application for examination must be accompanied by an official transcript from the school or schools where the accounting courses were taken and the baccalaureate degree received.

12.3 All documents required to be submitted must be the original or certified copies thereof. For good cause shown, the Board may waive or modify this requirement.

12.4 The Board may reject or refuse to consider any application which is not complete in every detail, including submission of every document required by the application form.

12.5 If, after filing his application, a candidate is unable to sit for

the CPA examination, he must so notify the Board not later than five days prior to the first day of the examination; otherwise, the fee shall be forfeited. A service charge will be assessed on all refunds of examination fees.

12.6 Each application for examination, certification, or licensing shall be accompanied by a fee set by the Board. In no event may the fee exceed \$100. Should such application be rejected, the fee shall be refunded. If a Louisiana candidate requests that he be allowed to sit in a state that requires a proctoring fee he shall be required to pay the proctoring fee in addition to the fee provided in Rule 13.

LAC 11-9:13 Fees and Service Charges for CPA Examination, Certification, Licensing (R.S. 37:80)

13.1 Fees shall be assessed as follows:

CPA examination:

All subjects	\$50
Parts not previously passed:	
One part	\$25
Two parts	\$35
Three parts	\$45
Service charge for refund of examination fee under Rule 12.5	\$10
Original certification	\$15*
Original license	\$15*
Replacement certificate	\$25**

*The examination fee paid by a candidate who passes the examination in Louisiana shall entitle him to be certified and, if all requirements for licensing are met as of the date of certification, licensed for the remainder of the year in which his certificate is issued without payment of any other fees.

**A replacement certificate shall be issued at the holder's request upon payment of fee and compliance with the following requirements:

A. In the event of a certificate which has been lost, the loss must be advertised in an appropriate newspaper at least five times in thirty days and the request for replacement must be accompanied by a sworn statement that the certificate is lost and that the loss has been advertised in accordance with this rule.

B. In the event of a certificate which has been mutilated, the mutilated certificate must be returned to the Board and if it is mutilated beyond the point of being able to be identified, the request must also be accompanied by a sworn statement that the returned document is, in fact, the certificate.

C. If the request for replacement is to have a change in the name in which the certificate is issued, the original certificate must be returned to the Board and the request must be accompanied by appropriate documentation of the name change.

LAC 11-9:14 Issuance of Certificate, License (R.S. 37:81)

14.1 Certificate.

14.1.1 When an applicant has met all the requirements for certification, the Board shall issue to him a certificate that he is a certified public accountant in the State of Louisiana. All such certificates shall be valid only when signed by the President and Secretary of the Board. The issuance of the certificate does not qualify the candidate to practice public accounting in the State of Louisiana.

14.1.2 Simultaneous with the issuance of his certificate, each such applicant shall be required to execute an oath as prescribed by the Board. In addition, the Board may require an examination in ethics.

14.2 License.

14.2.1 When a certified public accountant has met all the requirements for licensing, the Board shall issue him a license to practice as a licensed certified public accountant. All such licenses shall be valid only when signed by the Treasurer of the

Board. A facsimile signature is acceptable.

LAC 11-9:15 Renewals of Certification, Licensing (R.S. 37:82)

15.1 Annual Renewals, Reinstatements, Fees.

15.1.1 Each certified public accountant shall renew his certificate and each licensee shall renew his license (such renewals hereinafter sometimes referred to as "register" or "registration") annually on or before the last day of the December preceding the year for which renewal is applicable.

15.1.2 Application for annual renewal of certified public accountant certificates and licenses shall be made on forms furnished by the Board and shall be accompanied by renewal fees fixed by the Board. The fee for annual renewal of a certificate shall not exceed \$25 and the fee for annual renewal of both certificate and license shall not exceed \$50 in total. Reproduction of renewal forms shall not be accepted.

15.1.3 The Board shall mail the necessary forms for renewal of certificates and/or licenses to the last known address of each certified public accountant and licensed certified public accountant on or before the first day of December each year.

15.1.4 The Board shall mail a notice of default to the last known address of each certified public accountant and licensed certified public accountant who fails to renew his certificate and/or license on or before the last renewal date provided in Rule 15.1.1.

15.1.5 The Board may reinstate any certificate or license which has expired because of nonrenewal upon payment of the renewal fee and such penalty fee as may be prescribed by the Board, provided that the applicant for such renewal is otherwise completely qualified for certification and/or licensing.

15.1.6 A delinquent penalty equal to the current registration fee shall be assessed against those certified public accountants who have not registered prior to February 1 of each year; a reinstatement penalty equal to twice the registration fee of the year of reinstatement shall be assessed against those persons whose certificates and/or licenses are automatically suspended for failure to register prior to March 1 of each year. To be reinstated, a person shall pay the delinquent penalty for the year he became delinquent, pay annual registration fees for each year he did not register, and pay reinstatement and registration fees for the year in which he is reinstated. For good cause, the Board may waive in whole or in part the fees provided in this section.

15.2 Annual Notice of Form of Practice.

15.2.1 Every certified public accountant who is registered with the Board and who is engaged in the practice of his profession on his behalf shall file annually with the Board a sworn statement that he is practicing as an individual and that there are no partners or associates practicing with him.

15.2.2 Each firm of certified public accountants practicing accounting in the State of Louisiana as a partnership shall file annually with the Board a sworn statement of its members and shall promptly notify the Board of any changes in its partners.

15.2.3 Each professional accounting corporation practicing public accounting in the State of Louisiana shall, at the time of incorporation and annually thereafter, file with the Board a sworn statement of its shareholders and voting shareholders and shall promptly notify the Board of any changes therein. In addition, such corporation shall furnish to the Board an insurance certificate evidencing that it carries professional liability insurance in the amount of \$50,000 for each voting shareholder and for each certified public accountant in its employ to a maximum of \$2,000,000.

15.2.4 An original letterhead must be attached to the statement referred to in Rules 15.2.1, 15.2.2, and 15.2.3 above. Licensed employees or licensed associates may be shown on stationery but such names shall be separated from that of the individual practitioner or those of the partners or voting shareholders by an appropriate line. Deceased or retired partners or shareholders shall be appropriately identified.

15.3 All certified public accountants and licensed certified public accountants shall promptly notify the Board of any change in mailing address or practice status.

LAC 11-9:16 Renewals of Licensing - Reports on Continuing Professional Education (R.S. 37:82)

16.1 Each licensee shall submit with his application for license renewal, on forms supplied by the Board, a report of programs of continuing professional education completed during the preceding year and other information relative to fulfilling the continuing education requirements, except that such a report will not be required of a licensee who is included in a report in accordance with Rule 16.2 below.

16.2 In lieu of the report required above by each licensee, a firm of certified public accountants which maintains records prescribed under Rule 6.6 may provide a sworn statement, in a form prescribed by the Board, that the members and/or employees which it lists in the statement (not necessarily all the members and/or employees of the firm) have fulfilled the continuing education requirements under these rules.

LAC 11-9:17 Causes for Nonissuance, Suspension, Revocations of Restrictions; Reinstatements (R.S. 37:84)

17.1 Charges against holders of CPA certificates and/or licenses shall be made in writing, signed by the person preferring the charges and addressed or delivered to the Board. Charges initiated by the Board shall be by resolution.

17.2 All charges shall be referred to the member of the Board or other person designated as the investigating officer, who is to be appointed annually by the President of the Board.

17.3 The investigating officer may employ such inspectors, special agents, and investigators as authorized by the Board, to investigate by independent investigations, all charges presented to him.

17.4 Upon completion of each investigation, the investigating officer shall report to the Board as to "no cause for action" or "cause for action."

17.5 If "cause for action" is found, written notice shall be mailed to the holder of the certificate and/or licensee at least thirty days before the day for a hearing by the Board. Such notice shall include the items required in R.S. 49:955B.

17.5.1 Parties who do not waive their rights shall be afforded a hearing conducted under the provisions and requirements of R.S. 49:955-964.

17.5.2 Parties who do waive their rights shall be afforded an opportunity to appear before the Board at an informal hearing, or may agree by stipulation to the findings of the investigating officer and to an agreed settlement.

17.6 The Board may at a hearing:

17.6.1 Revoke any certificate and/or license.

A. When a certificate and/or license is revoked, such certificate and/or license shall be returned to the Board and permanently cancelled.

B. The requirements of the immediately preceding paragraph notwithstanding, the Board may, for good cause and by resolution, issue a new certificate and/or license under a new number to anyone whose certificate and/or license has been revoked.

17.6.2 Suspend any certificate and/or license.

A. When a certificate and/or license is suspended, such suspension shall not be for a period of more than three years; during the time of suspension, the holder shall not be considered a certified public accountant.

B. The Board may invoke additional penalties and/or requirements, such as additional educational requirements, to be complied with before the reinstatement of the certificate and/or license.

17.6.3 Officially censure or reprimand the holder of any certificate and/or license.

A. When a holder of a certificate and/or license is off-

cially censured, or reprimanded, the Board may invoke additional penalties and/or requirements to be complied with or refrained from for a period of not more than two years, such as additional educational requirements, peer review, and/or restrictions on practice.

B. The failure by a person censured or reprimanded to abide by the additional penalties and/or requirements shall be a violation of the rules of the Board.

John J. Sehart, Jr., Secretary
Board of Certified Public Accountants

RULE

Department of Corrections Office of the Secretary

Death Penalty

Purpose. The purpose of this regulation is to set forth the procedures for the execution of the death penalty.

Responsibility. The Assistant Secretary for Adult Services and the Wardens of Louisiana State Penitentiary and Louisiana Correctional Institute for Women are responsible for ensuring implementation of this regulation.

Legal Authority. R.S. 15:567 - 15:571; *Garrett v. Estelle*, 556 F.2d 1274 (5th Cir., 1977).

Incarceration Prior to Execution. Male inmates sentenced to death shall be incarcerated at Louisiana State Penitentiary at Angola, Louisiana. Female inmates sentenced to death shall be incarcerated at Louisiana Correctional Institute for Women at St. Gabriel, Louisiana. Until the time of execution, the Warden shall incarcerate the offender in a manner affording maximum protection to the general public, the employees of the Department, and the security of the institution.

Visits. Inmates sentenced to death shall be afforded the same visiting privileges as other inmates in the same institution. In addition, during the final seventy-two hours before the scheduled execution, the Warden will approve special visits for the following:

- A. Clergy
- B. Family member(s) and friend(s) on approved visiting list.
- C. Attorney.

Except for a priest, minister, or religious advisor, all visits will terminate by 6:00 p.m. on the day immediately prior to the execution date.

Media Access. Properly credentialed reporters may contact the Office of the Warden to schedule interviews. If the inmate and, if represented by counsel, his attorney consent, the Warden shall schedule the interview for a time convenient to the institution. Should the demand for interviews be great, the Warden may set a day and time each week for all interviews to be conducted.

Execution.

A. **Time and Place.** The execution shall take place at Louisiana State Penitentiary, Angola, Louisiana, between 12 Midnight and 1:00 a.m. At 11:45 p.m., the witnesses shall be escorted to the Execution Room.

B. Witnesses.

1. The following are the only persons, other than the condemned, who will be admitted to the Execution Room during the execution:

- a. The Warden of Louisiana State Penitentiary or his designee.
- b. The coroner of West Feliciana Parish or his deputy.
- c. A physician chosen by the Warden.
- d. The operator of the electric chair.
- e. A priest or minister, or religious advisor, if the inmate so requests.

f. Three members of the news media, as follows: One

Louisiana Bureau representative designated by the Associated Press and one Louisiana Bureau representative designated by the United Press International and one representative selected by lot from all other Louisiana media persons requesting to be present. Those so designated must agree to act as pool reporters for the remainder of the media present and to meet with all media representatives present immediately after the execution.

g. A maximum of four additional witnesses selected by the Secretary of the Department of Corrections.

2. No recording devices, either audio or video, will be permitted in the Execution Room.

3. All witnesses must be residents of the State of Louisiana and all must agree to sign the report of the execution (as set forth by law).

C. All arrangements for carrying out the execution shall be completed by 12 Midnight. At that time, the Warden shall order the inmate brought into the Execution Room. He shall then allow the inmate to make any last statement he may have. Upon completion of the statement, the Warden shall order the operator of the electric chair to proceed with the execution.

D. At the conclusion of the execution, the coroner or his deputy shall pronounce the inmate dead. The inmate shall then be immediately taken to a waiting ambulance for transportation to a place designated by the next of kin or in accordance with other arrangements made prior to the execution.

E. The Warden will then make a written report reciting the manner and date of the execution. The Warden and all of the witnesses shall sign the report and it shall be filed with the Clerk of Court in the parish where the sentence was originally imposed.

C. Paul Phelps
Secretary of Corrections

RULES

Office of the Governor Engineers Selection Board

Rules of Organization

Article I. Name.

The name of this Board is the Louisiana Engineers Selection Board, hereinafter referred to as Board, and its domicile shall be in Baton Rouge, Louisiana.

Article II. Authority.

The Louisiana Engineers Selection Board shall be organized in accordance with the provisions of Act 721, 1975 Regular Legislative Session (R.S. 38:2310 through R.S. 38:2316, Revised Statutes of 1950), effective date, September 12, 1975.

Article III. Objective.

The objective of this Board is to provide a system for the nonpolitical selection of services rendered by engineers licensed to practice in the State of Louisiana, that is impartial, equitable and in the best public interest of the citizens of Louisiana.

Article IV. Members.

Section 1. The Board shall be composed of seven members, appointed or elected, serving terms in accordance with the provisions of the authority stated in Article II.

Section 2. Any member desiring to resign from the Board shall submit his resignation in writing by registered mail, to the Governor of Louisiana, with a copy addressed to the Chairman of the Board. The effective date of resignation shall be the date of registered mailing to the Governor's Office.

Section 3. The filling of the Board vacancy for the unexpired term due to resignation, or death, or removal from office by just cause, shall be made in the same manner as the original appoint-

ment; or in the case of an elected member, the original electing organization shall select an individual to fill the vacancy.

Article V. Officers.

Section 1. The officers of this Board shall be a Chairman and a Vice-Chairman. These officers shall perform the duties prescribed in Article II, Authority and by these rules.

Section 2. The Chairman shall:

- a. Be the presiding officer at meetings of the Board.
- b. Have the authority to order a special meeting of the Board.
- c. Be responsible for coordinating the activities of the Board.
- d. Appoint all committees and serve as an ex-officio member thereof.
- e. Authenticate by his signature, when necessary, all acts, orders and proceedings of the Board.
- f. Be responsible for implementing all orders and resolutions of the Board.
- g. Have the authority to issue the official advertisement of the intent of an agency to contract for design services.

Section 3. Vice-Chairman. In the event of absence or incapacity of the Chairman, the Vice-Chairman shall assume the duties of the Chairman as outlined above. In the absence of the Secretary, the duties of the Secretary shall be delegated to the Vice-Chairman.

Section 4. Nomination and election of Chairman and Vice-Chairman of the Board shall be held and conducted twice yearly at scheduled meetings.

Section 5. The first of the twice yearly scheduled meetings of the Board, wherein Chairman and Vice-Chairman are elected, shall be held during the period January 1 - June 30; the second during the period July 1 - December 31, of each year.

Section 6. The Chairman and Vice-Chairman shall begin their terms in office immediately upon election. They shall serve a maximum of six months, unless reelected for one term (see Article V, Section 8); however, in no case shall the term in office of the Chairman and Vice-Chairman extend beyond either June 30, (when elections are held between January 1 and June 30), or December 31, (when elections are held between July 1 and December 31).

Section 7. In the event that the term of office of the Chairman and Vice-Chairman expires in accordance with Article V, Section 6 and a meeting is called at a time when there is no duly elected Chairman and Vice-Chairman, upon convening, the first order of business of the Board shall be the selection of a temporary Chairman who shall serve merely for the purpose of conducting the nomination and election of Chairman and Vice-Chairman. Upon election the temporary Chairmanship automatically dissolves and the newly elected officers begin their terms in office. Nothing in this section shall prevent the temporary Chairman from either voting or being nominated for or elected to the office of Chairman or Vice-Chairman.

Section 8. No member shall hold more than one office at a time. A member may serve consecutive terms, not to exceed a total of twelve months.

Article VI. Secretary.

The office of Secretary shall be furnished to the Board by the Division of Administration of the State of Louisiana, subject to approval of the Board.

The Secretary shall:

- a. Be under the general supervision of the Board.
- b. Give notice of all meetings of the Board and its committees, to the Board and general public.
- c. Attend all meetings of the Board and committees and record the minutes of all proceedings in a book to be kept for that purpose and make the minutes and records available upon request.
- d. Keep on file all committee reports.
- e. Receive and conduct the general correspondence of the Board, that is, correspondence which is not a function proper to the officers, or to committees.

f. Cause the official advertisement to be advertised in accordance with Act 721, 1975 Regular Legislative Session (R.S. 38:2316, Revised Statutes of 1950) and the Rules of Selection Procedure as adopted by the Board.

g. Maintain and be the custodian of a file of all applications for projects, as well as all data submitted by engineers, selected by the Board to furnish engineering services for state projects as provided for in the Rules of Selection Procedure.

h. Perform such other duties as may be prescribed by the Board.

Article VII. Meetings.

Section 1. Meetings shall be held by the Board when requested by the Division of Administration to select engineers for state projects, but in no case shall the Board not meet at least once during each of the periods, January 1 - June 30; July 1 - December 31, of each year.

Section 2. Special meetings can be called by the Chairman or Secretary or shall be called upon the written request of a simple majority of the total membership of the Board. Special meetings may be held at any place provided that the time, the place and the purpose of the meeting shall be stated in the call and made public in accordance with applicable laws. Except in cases of emergency, at least three days notice shall be given for special meetings.

Section 3. A simple majority of all members of the Board shall constitute a quorum.

Article VIII. Committees.

Such other committees, standing or special, shall be appointed by the chairman of the Board as shall from time to time deem necessary to carry on the work of the Board.

Article IX. Parliamentary Authority.

The rules contained in the current edition of "Robert's Rules of Order, Newly Revised" shall govern the Board in all cases to which they are applicable and in which they are not inconsistent with these Rules of Organization and any special rules of order that the Board may adopt.

Article X. Voting.

Only the votes of members present at a meeting will be counted in the Board's official actions except as contained in the emergency provisions under Article II of the Rules for Selection Procedure. Proxy votes are not allowed.

Article XI. Amendments to Rules.

These Rules of Organization may be amended at any regular or special called meeting of the Board by an affirmative vote of a simple majority of the attending Board, provided that the proposed amendment has been submitted in writing at the previous regular or special meeting, and is in full compliance with the Louisiana Administrative Procedures Act and other applicable laws. Upon receipt of a proposed written amendment, the Chairman, before the next regular or special meeting, shall cause to give at least fifteen days notice of the Board's intended action as provided in the Louisiana Administrative Procedures Act.

Article XII. Severability.

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

* * * *

Rules for Selection Procedure

Pursuant to the provisions of Act 721, 1975 Regular Legislative Session (R.S. 38:2310 through R.S. 38:2316, Revised Statutes of 1950) effective date, September 12, 1975, the Louisiana Engineers Selection Board, hereinafter referred to as Board, has promulgated such rules and procedures as it deemed necessary to carry out the provisions of the said statutes. These rules were established by the Board, and are subject to change by said Board, in accordance with the Administrative Procedures Act.

Article I. Information.

Any person may obtain information concerning the Board, its

rules, regulations and procedures from the Board's secretary at the Offices of Facility Planning and Control Department, Office of the Governor, Fifth Floor State Capitol Building, Box 44095, Baton Rouge, Louisiana 70804. Request for information shall be made verbally or in writing. There may be nominal fee charged to defray the cost of information furnished.

Article II. Public Notification.

Section 1. Upon being advised by the Division of Administration, Facility Planning and Control Department, that an agency intends to contract for design service, the Chairman shall request the official advertisement to be published by the Division of Administration. There shall be a ten day application period, commencing with the day of the first publication of the office advertisement, and ending on the day of the deadline for receiving applications. During this period, the official advertisement shall be published in the Official State Journal, one time.

Section 2. The official advertisement specified above shall include the following information:

- a. The name, location and user agency for which the engineer is to be selected.
- b. Time and instructions for applicants to submit application to the Board.
- c. A statement that details are available upon request from the user agency.
- d. Time frame in which the engineer must complete the work.
- e. The project budget.
- f. The fee, as determined by the Division of Administration, together with contractual obligations as contained in the current Capital Improvement Projects Procedure Manual for Design and Construction.

Section 3. Special selections for emergency reasons will be made under one of two methods. The first of these methods should be used whenever possible.

Section 4. The first method will require a one week application period. The official advertisement will be published one time in the publication listed in Section 1. The deadline for applications shall be one week after the advertisement. The selection shall be made one week after the deadline for applications.

Section 5. The second method shall be to make a selection within twenty-four hours of the notice to the Board by the Division of Administration. The Division of Administration shall contact the Chairman, Vice-Chairman, and other members in alphabetical order by telephone. The first person contacted shall select a time and place for the meeting which shall be held on the day following notification by the Division of Administration. Members not attending the meeting in person will be contacted by telephone for their vote. The Board shall make the selection from names submitted by the user agency or any Board member. The user agency shall submit names of at least three firms.

Article III. Application.

Section 1. Any applicant (proprietorship, partnership, corporation or joint venture of any of these) meeting the requirements of Title 38 of the Louisiana Revised Statutes of 1950, R.S. 38:2310 through R.S. 38:2316, may submit an application for selection consideration for a particular project upon which official advertisement has been published. The information submitted shall contain data concerning its experience, previous projects undertaken, present state projects now being performed, scope and amount of work on hand, and any other information that the Board deems appropriate.

Section 2. The Louisiana Engineers Selection Board hereby adopts the use of Standard Form LE-1 - Engineer Selection Board Services as the format for submitting a firm's experience to the Board.

Any special information requested in the advertisement shall be submitted with the required LE-1 form. Incomplete submittals become property of the Board, to be disposed of as it sees proper.

Section 3. All selection applications shall be filed with the Sec-

retary within the time prescribed by the Board. The Secretary shall time date, when received, all applications. All applications are to be received by the Board at the Facility Planning and Control Department during the time prescribed in the advertisement. The burden for timely and complete submittal lies solely with the applicant, and additionally will in no way be affected by nondelivery of the application by the United States Postal Service or other common carrier.

Section 4. The submission of an application on a particular project shall be considered by the Board to mean that based on available information:

- a. That the applicant is aware of the scope of work of the project.
 - b. That the applicant can perform the work within the time frame stated.
 - c. That the applicant concurs that the project budget is reasonable.
 - d. That the fee is equitable.
 - e. That the engineering contract shall contain a prohibition against contingent fees.
 - f. That the applicant is familiar with the terms and conditions set forth in the current Capital Improvement Projects Procedure Manual for Design and Construction, and will comply therewith.
- Should an applicant determine that any of the above items are incomplete, inadequate, or insufficient, the applicant is invited to submit a letter stating in detail the applicant's findings, and the Board will consider this information in the selection process. No unsolicited additional information shall be considered. The Board reserves the right to reject all applications for selection consideration and to readvertise any official advertisement.

Section 5. The Board may, at its option and with the concurrence of the Division of Administration and the user agency, conduct design competitions in accordance with nationally accepted professional standards. Final selection of the applicant from among the competition submissions will be made within thirty days of deadline date of receipt of the entries. No closed competitions will be allowed.

Article IV. Application Review.

After the deadline for applications, the Division of Administration shall forward copies of the applications together with any available description of the job to the Board members. A special meeting of the Board shall be called within ten days after the deadline for application.

Article V. Final Applicant Selection.

Section 1. The Board shall make its final selection from the submitted applications. The Board reserves the right to require interviews, or additional information, in excess of that required in the official advertisement, when it deems necessary.

Section 2. The final selection shall occur no later than sixty days following the official advertisement.

Section 3. Upon the final selection of the applicant, the Chairman shall notify the Division of Administration, Facility Planning and Control, said notification to be made in accordance with the terms of Act 721.

Article VI. Selection Procedure.

Selection procedure is as follows:

1. User agency will give scope of project.
2. Call for discussion of applications.
3. Board will take weighted vote (each member may vote for as many as three (or two) or as few as one of the firms under consideration).
4. Select firm from two firms with most votes on a one-vote basis. (If less than eight applicants, select from top two; if more than eight, select from top three.)
5. If there is a tie, revote with discussion. If after voting a second time, there is still a tie, the Board may have additional votes and discussion or may postpone the selection until the next meeting.

Article VII. Severability.

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

J. Ben Meyer, Jr., Director
 Facility Planning and Control Department

15	1361 (1228)	1394 (1258)
16	1448 (1307)	1488 (1343)
17	1536 (1386)	1560 (1408)
18	1623 (1465)	1659 (1497)

For each additional person,
 add \$94 (85)

For each additional person,
 add \$103 (94)

RULE

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

The Department of Health and Human Resources, Office of Family Security, does hereby adopt effective February 1, 1980, the Energy Assistance Payment Program to reduce the burden of high heating costs for low income households in the winter of 1979-80.

There shall be a single payment amount in February, 1980, to those families who received Aid to Families with Dependent Children (AFDC) or General Assistance (GA) for the month of December, 1979. This payment is a one-time unrestricted Federal money payment, with single-person assistance units receiving \$16.70 and multi-person assistance units receiving \$33.40.

For detailed information, a copy of the Energy Assistance State Plan can be seen at the following address: Mr. Alvis D. Roberts, Assistant Secretary, Office of Family Security, Box 44065, Baton Rouge, Louisiana 70804.

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, does hereby adopt effective January 1, 1980, the following increases in the Aid to Families with Dependent Children (AFDC) and General Assistance (GA) Need Standards.

Using a 10.8 percent increase standard, the new AFDC and GA Need Standards are proposed as follows (The current need standards are shown in parentheses.):

AFDC Need Standards

Size of Household	Non-Urban	Urban
1	\$ 139 (125)	\$ 151 (136)
2	259 (234)	289 (261)
3	366 (330)	402 (363)
4	456 (412)	494 (446)
5	543 (490)	583 (526)
6	622 (561)	664 (599)
7	704 (635)	742 (670)
8	782 (706)	821 (741)
9	856 (773)	896 (809)
10	933 (842)	972 (877)
11	1014 (915)	1054 (951)
12	1098 (991)	1138 (1027)
13	1187 (1071)	1219 (1100)
14	1273 (1149)	1306 (1179)

GA Need Standard

1 person - \$229 (207)
 2 persons - \$289 (261)

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 a rule providing for the semi-annual adjustments for the coupon allotments and standard deduction in the Food Stamp Program effective January 1, 1980.

The Food Stamp Act of 1977, as amended, requires that the semi-annual adjustments in the Thrifty Food Plan (coupon allotments) reflect food price changes published by the Bureau of Labor Statistics and that the standard deduction shall be adjusted every July 1, and January 1 to the nearest \$5 for the six months ending the preceding March 31, and September 30, respectively to reflect changes in the Consumer Price Index for items other than food.

The following is the Thrifty Food Plan (TFP) amounts and standard deduction:

Household Size	TFP	Household Size	TFP
1	\$ 63	11	\$517
2	115	12	564
3	165	13	611
4	209	14	658
5	248	15	705
6	298	16	752
7	329	17	799
8	376	18	846
9	423	19	893
10	470	20	940

For each additional person in excess of twenty, add forty-seven dollars.

The new standard deduction is seventy-five dollars.

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, effective January 1, 1980, a rule

which allows persons sixty years of age or over and persons who receive Supplemental Security Income (SSI) Benefits under Title XVI of the Social Security Act or Disability Benefits under Title II of the Social Security Act to deduct from the household's income that portion of medical expenses in excess of thirty-five dollars per month excluding special diets. Spouses or other persons receiving benefits as a dependent of the SSI or disability recipient are not eligible to receive this deduction but persons receiving emergency SSI benefits based on presumptive eligibility are eligible for this deduction.

Allowable medical costs are:

A. Medical and dental care including psychotherapy and rehabilitation services provided by a licensed practitioner authorized by state law or other qualified health professional.

B. Hospitalization or outpatient treatment, nursing care, and nursing home care including payments by the household for an individual who was a household member immediately prior to entering a hospital or nursing home provided by a facility recognized by the state.

C. Prescription drugs when prescribed by a licensed practitioner authorized under state law and other over-the-counter medication (including insulin) when approved by a licensed practitioner or other qualified health professional; in addition, costs of medical supplies, sick-room equipment (including rental) or other prescribed equipment are deductible.

D. Health and Hospitalization insurance policy premiums. The costs of health and accident policies such as those payable in lump sum settlements for death or dismemberment or income maintenance policies such as those that continue mortgage or loan payments while the beneficiary is disabled are not deductible.

E. Medicare premiums related to coverage under Title XVIII of the Social Security Act; any cost-sharing or spend-down expenses incurred by Medicaid recipients.

F. Dentures, hearing aids, and prosthetics.

G. Securing and maintaining a seeing eye or hearing dog including the cost of dog food and veterinarian bills.

H. Eye glasses prescribed by a physician skilled in eye disease or by an optometrist.

I. Reasonable cost of transportation and lodging to obtain medical treatment or services.

J. Maintaining an attendant, homemaker, home health aide, or child care services, housekeeper, necessary due to age, infirmity, or illness. In addition, an amount equal to the one person coupon allotment shall be deducted if the household furnishes the majority of the attendant's meals. The allotment for this meal-related deduction shall be that in effect at the time of initial certification. The state agency is only required to update the allotment amount at the next scheduled recertification; however, at their option, the state agency may do so earlier. If a household incurs attendant care costs that could qualify under both the medical deduction and dependent care deduction, the state agency shall treat the cost as a medical expense.

Monthly shelter costs is the amount in excess of fifty percent of the household's income after all other deductions have been applied. The shelter deduction alone or in combination with the dependent care deduction shall not exceed ninety dollars unless the household contains a member who is age sixty or over or who receives SSI (including emergency benefits based on presumptive eligibility) under Title XVI or disability payments under Title II of the Social Security Act. These households shall be given an excess shelter deduction for the monthly cost that exceeds fifty percent of the household's monthly income after all other applicable deductions. That portion of an allowable medical expense which is not reimbursable shall be included as part of the household's medical expenses. Households entitled to the medical deduction shall have the nonreimbursable portion considered at the time the amount of

the reimbursement is received or can otherwise be verified.

Households reporting one time only medical expenses during their certification period may elect to have a one-time deduction or to have the expense averaged over the remaining months of the certification period. Averaging would begin the month the change would become effective.

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

RULE

Department of Health and Human Resources Office of the Secretary

The Department of Health and Human Resources has adopted a revised Facility Manual for Facilities Where Department of Health and Human Resources Funds Are Used to Care for Handicapped Persons. The rules are amended under the authority granted to the Department by R.S. 46:1757 (6), R.S. 40:2125, and R.S. 15:1084. This revised manual is necessary to provide for the determination of cost of service and care.

The description of levels of care has been deleted from this manual; however, a description of these levels of care is available from Department of Health and Human Resources, Licensing and Certification, and are still in effect.

Rate Determination Manual For Nonstate Operated Residential Facilities Where Office of Human Development Funds Are Used To Care for Children, Youth, and Handicapped Persons Introduction

The Department of Health and Human Resources (DHHR) currently places clients, whose needs cannot be appropriately met through other state programs, in private residential facilities. Placement is provided under the supervision of the Office of Human Development (OHD).

Children, youth, and handicapped individuals placed in such programs include three major, broad client categories: (1) children and youth who are legally adjudicated abandoned, neglected, and/or abused, and those in need of care due to the inability of the parent or caretaker to adequately provide for them, (2) adjudicated delinquents and children in need of supervision, and (3) children, youth, and other individuals who are handicapped physically, mentally, emotionally, or neurologically to such an extent that they cannot satisfactorily participate in community living without the special care and treatment provided by a residential facility.

The determination of appropriate placement for any client in any of these broad categories is made by the placing agency within the Department of Health and Human Resources, and all referrals for placement must originate and/or be approved through the placing agency of the Department, before OHD funding will be committed for a particular client. Private facilities from which placement services are purchased retain the right of acceptance or rejection of the clients referred by the Department's supervising agencies with the exception of emergency shelter-care facilities which do not have the right of rejection.

The procedures and rules set forth herein have been developed to assure an equitable, cost-related reimbursement formula for the services purchased from private providers for the care and treatment of these clients. These procedures and rules will clearly identify the allowable expenses as to type which shall determine the total maximum amount subject to reimbursement by OHD, dependent on the limits of reimbursement noted within.

These procedures shall apply to all facilities wherein OHD funds are spent for the purchase of residential services for the Department's clients, unless the rate has been established under the approved Louisiana State Plan for Title XIX or through an

approved budget- or grant-approved mechanism for emergency shelter care or respite care. Specifically, this includes all nonstate operated child caring agencies, child placement agencies, emergency shelter care facilities, and maternity homes (not under special contracts or grants), as mandated by Act 786 of the 1978 Louisiana Legislature.

The rates established through these procedures will have an effective date no earlier than the first day of the succeeding state fiscal year and will remain in effect for at least that entire succeeding fiscal year. All facilities receiving OHD reimbursement are required to conform to the *Minimum Standards for Certification of Facilities* and appropriate licensing standards.

Cost-Related Reimbursement

The Department of Health and Human Resources has developed the attached procedures and cost report form with the intent of relating as closely as possible the actual costs a facility incurs to provide appropriate client care and the rate at which they are reimbursed by DHHR for the care of clients of the Office of Human Development.

Implicit in these procedures is the intention that actual costs shall be paid only to the extent that the costs claimed for reimbursement are reasonable, that all facilities will seek to minimize actual costs, and that actual costs will not exceed that which a prudent and cost-conscious buyer would pay. Only allowable costs directly related to client care will be used in cost computations to establish reimbursement rates, and facilities must utilize all other available public resources, such as the Department of Agriculture for food commodities, the Department of Education for school lunches, and Title XIX vendors for medical services. No payments above the facility's established cost-reimbursement rate will be paid for care and treatment by DHHR except in cases where a client's unique needs necessitate a prior special contractual agreement with the placement agency. Extraordinary expenses not covered by such an agreement are, foremost, the responsibility of each client's parents/guardian. Payments made by parents/guardians to the facility for such costs do not affect the rate reimbursed by DHHR, nor does the parental contribution collected by DHHR as mandated by law affect the rate a facility will be reimbursed.

The cost report for the facility's previous fiscal year which provides the basis for determining a facility's rate will be submitted on forms provided by DHHR and shall be completed in its entirety by both established and new facilities. Facilities which have been in operation for less than 12 months must submit a report for their period of operation through June 30, in addition to the projected annual budget, which shall include detailed information to substantiate the projections based on allowable costs as set forth in this manual. The projected budget shall form the basis for the establishment of the rate for the facility's initial year of operation, subject to modification based on certification requirements, the cost of comparable services in other facilities, other available funding sources, the available appropriation to OHD, and so on.

Facilities which provide several distinct programs, i.e., levels of care, must segregate and report actual direct expenditures on a program-by-program basis.

Any financial adjustments to the rate determined according to the instructions below will either be based on the limitations to reimbursement mentioned in a subsequent section or will be considered upon submission by August 1, of documentation by the responsible licensing or regulatory and/or placement authority that certain specified changes are necessary, which could include:

1. Depreciation on major repairs or renovations to meet established State and City Licensing, Health, and Fire Codes.
2. Expenses related to Federal and State regulations not previously in effect or not previously implemented at the individual facility.
3. Mandated additions to personnel made by licensing and certification.
4. Allowable on-going expenses which were previously provided through other funding mechanisms (i.e., LEAA Grants)

will be considered as adjustments to cost with prior approval from OHD. Notification and documentation must be provided to OHD by August 1.

Increases such as minimum wage requirements shall not be included because they are reflected in the general inflation index which will be utilized to determine an appropriate inflation factor for each individual facility, based on its reporting period, and added to the allowable cost, determined by the cost report.

Such adjustments to the determined rates, if approved by DHHR and the Legislature, would not go into effect until the first day of the succeeding state fiscal year, as mandated by Act 786. These adjustments should be recorded in the regular accounting books. During the initial year, these adjustments must also be recorded separately, and quarterly reports on the utilization of these funds must be submitted to the audit section for the purpose of accountability. If these expenses are not incurred as stated and approved, the facility will be required to reimburse DHHR for the adjustments.

A facility, administrator, board, or other governing body may appeal the rate determined for the facility by submitting specific grievances in writing to the Secretary of DHHR. The decision of the Secretary shall address each specific grievance and be provided in writing to the appealing party within thirty days of the receipt of the written appeal, or shall notify the appealing party of the reasons why a decision cannot be made within that time period.

If a legitimate error, according to these procedures, has been made in the computation of figures or in the determination of allowable expenses or adjustments, the facility's rate for the succeeding fiscal year will be adjusted accordingly, subject to legislative approval and appropriations.

General Instructions for Cost Reporting

1. Effective January 1, 1979, each facility must provide a cost report, which will serve as a statement of intent to participate the following state fiscal year, no later than August 1, of each year, as follows:

A. The cost report must be submitted within three months after the end of the facility's fiscal year or August 1 whichever comes first.

B. If a facility has changed its reporting period, a cost report covering the short period must be filed along with IRS Form 1128 if required or other proof of intent to change. The intent of change must be made prospectively. Short period shall mean the period from the end of the facility's regular year to the beginning of the facility's new reporting period. (Example: regular report period January 1, 1978, to December 31, 1978, and changing report period to July 1, 1979, to June 30, 1980. The short period report would cover January 1, 1979, to June 30, 1979.)

2. Delinquent Cost Reports

A. If a cost report is not received by August 1, of each year, the most recent cost report on file will be used for revising the rate for reimbursement for the succeeding year, but, in any case, the facility will only continue to be utilized if a notice of intent to participate in the program has been submitted by August 1, and if a cost report is submitted before January 1, of the following calendar year. Unless an official extension has been granted for necessitous circumstances, any cost report received after August 1, will not result in an increased rate the following state fiscal year, but it could result in a decreased rate if the report so indicates.

B. If a cost report is not received within three months after the end of the cost reporting period, or by August 1, a recommendation will be made to the Assistant Secretary of OHD that a fifty percent suspension of the current OHD claim payments be implemented. A thirty-day warning of this action will be provided before it takes effect.

C. If the cost report is still not received within six months of the reporting period, or by January 1, whichever comes first, a

one hundred percent suspension of current claims/payments will be implemented.

3. Cost reports will be sent to: Health Services Audit Director, Box 2944, Baton Rouge, Louisiana 70821. Questions regarding these procedures should also be addressed to the Health Services Audit Director.

4. Accounting records must be kept (or converted at year end) on an accrual basis.

5. Accounting records must be kept (or converted at year end) in accordance with the attached Chart of Accounts.

6. Each facility must maintain all accounting records, books, invoices, cancelled checks, payroll records, and other documents relative to client-care costs for a period of six years.

7. All fiscal and other records pertaining to client-care costs shall be subject at all times to inspection and audit by the Department of Health and Human Resources, the Legislative Auditor, and auditors of appropriate Federal funding agencies.

8. Each facility must maintain statistical information related to the daily census and/or attendance records for all clients receiving care in the facility.

9. Each facility receiving funds from other public sources must so note such on the cost report form, even if the funding is provided for other programs, and make available additional information on this funding as requested by DHHR.

10. Purchase discounts, allowances, and refunds will be recorded as a reduction of the cost to which it relates.

11. Cost to related organizations: Cost applicable to services, facilities, and supplies furnished to the facility by related organizations are allowable costs at the cost to the related organization. However, such costs must not exceed the price of comparables purchased in the open market and the goods and services must be common to and generally purchased by client-care facilities.

12. Proof of competitive bidding must be available on request for:

- A. Insurance (property, casualty and liability)
- B. Acquisitions in excess of \$500
- C. Repairs and renovations in excess of \$1,000
- D. Leases in excess of \$1,000 annually
- E. Food purchases, if the raw food cost exceeds the limit established by DHHR. The limit will be established annually for prospective reporting periods.

Allowable Costs for Services Provided

1. Shelter Costs.

A. Living space (both indoor and outdoor) used by the clients, including rent, depreciation, or building use allowance. Depreciation must be computed by the straight-line method only. The estimated useful life of fixed assets will be based on the Internal Revenue Service's approved useful life of fixed assets. Depreciation will be allowed only on buildings and equipment related to direct client-care services. Facilities must maintain adequate records to determine cost, value, and reasonable useful life of buildings and equipment.

To be allowable the depreciation must: be identifiable and recorded in the provider's records; give historical cost and accumulated depreciation; indicate useful life and depreciation method.

Note that, if provider has previously used an accelerated depreciation method, the required record keeping information may be kept in a subsidiary ledger to be used for program purposes only.

The estimates listed below are average ranges for asset depreciation. For all depreciable assets, even those not included in the guidelines, an estimate is acceptable if it is proven reasonable.

Land Improvements	Years
Fencing	15-25
Paving	15-20
Landscaping	10-12
Underground sewer and water	25-30
Outdoor Lighting	10-15

Buildings

Wood Frame	25-30
Masonry	30-50

Fixed Equipment

Electrical Wiring, AC Systems, Heating Systems, Sprinkler and Fire Alarm Systems, Telephone, Plumbing, Sewerage, Roofing, Lighting, etc.	20-25
--	-------

Major Movable Equipment

Kitchen Equipment, Therapy Equipment, Laundry Equipment, Cleaning Equipment, etc.	8-20
---	------

Other Items

Automobiles	3-05
Furniture and Furnishings	5-10
Office Machines	5-10

B. Depreciation of furniture and upkeep for items related directly to shelter space used by the clients, for example, living room, dining room and bedroom equipment and furniture, and furnishings, such as draperies, blinds, rugs, etc.

C. Fuel and utilities for space used by the clients, for example, heat, air conditioning, electricity, etc., if these charges are not a part of the rent.

D. Routine maintenance and upkeep of property and equipment used in daily living activities of the clients. This includes staff and supplies for janitorial services, maintenance, and minor repairs to grounds and equipment.

2. Food Costs. Actual food costs and kitchen and dining room operational costs including personnel, depreciation of equipment and supplies associated with planning meals, ordering, preparing, and serving food, cleanup work, and the cost of planned meals away from the facility.

3. Clothing and Other Personal Need Costs.

A. Clients' personal wardrobe, when necessary, not to exceed four hundred dollars per client annually, including initial and replacement clothing; such items will be the clients' personal property which they may take with them upon discharge.

B. Expenses incurred in the upkeep of clients' clothing, including staff and supplies on grounds, and for services provided off grounds, such as shoe repair, mending, dry cleaning, alterations, etc.

C. Medicine chest supplies, personal hygiene items such as comb, brush, toothbrush, soap, shampoo, deodorant, sanitary needs and other sundries and incidentals.

D. Cost of hair grooming, limited to two haircuts per month for males and a comparable expenditure for females.

E. Clients' personal allowance must be provided by the facility for all residents, not to exceed \$5.00 per week for clients ages thirteen and up and \$2.50 per week for clients below age thirteen.

4. Recreation Costs.

A. Recreational program and services, including, but not limited to, such items as reading materials, athletic equipment, games, etc.

B. Individual client's dues for youth clubs, scouts, community centers, etc., if not financed from personal allowance.

C. Clients' admission fees to sporting or other recreational and cultural events, including cost of snacks and treats purchased on outings, if not financed from personal allowance.

5. Education Costs. Educational cost items which must be reported are listed on the cost reporting forms provided by DHHR. The entire cost of educational services must be recorded and reported separately.

6. Care Costs.

A. Client-care staff, social workers, other specialized staff and direct-line supervisors of staff responsible for the twenty-four-hour program of care and supervision of the clients, including salary, wages, maintenance and fringe benefits if not met

through the State's program under Titles XIX, XX, IV-B, grants, vocational rehabilitation, Department of Education, or other state or federally funded programs.

B. Transportation intrinsic to the well-being of the client, including but not limited to visits with relatives, prospective foster or adoptive parents, and other activities or events that are an integral part of the twenty-four-hour program of care and not available through another resource. Expenses for an attendant, when required, may be met if not already charged to the state's program under Titles XIX, XX, IV-B, or other publicly funded programs.

7. Health Cost. In all of the examples of allowable expenses below, it is expected that a facility will attempt to utilize public resources prior to employment of or contracting with totally private medical vendors or purchase of medical supplies. Examples of public resources would include Title XIX medical vendors for eligible OHD individuals; state or city supported clinics and hospitals for immunizations, examinations and other screening services, emergency treatment, and on-going special treatment needs (such as the Handicapped Children's Program for orthopedic problems, the Charity Hospital system for dialysis needs, and mental health clinics for counseling and medication, the local education agencies for evaluation services for individuals under age twenty-two, local civic organizations for glasses, wheelchairs, etc.

Routine medical services shall be provided by the facility and may be reimbursed as part of the rate when not available through public resources. These routine services shall include:

A. Periodic medical examinations that include vision, hearing, and routine screening and laboratory examinations as determined necessary by the physician.

B. Immunization.

C. Tuberculosis control.

D. Physician services, minimally to supervise the general health conditions and practices of the facility and be available for emergencies on a twenty-four-hour, seven-days-a-week basis.

E. Nursing services as appropriate.

F. Initial and periodic dental examinations and routine treatment, including provisions for emergency treatment at all times.

G. Dental hygiene program.

H. Psychological testing and counseling when provided routinely to all clients.

I. Psychiatric examination and treatment when provided routinely for facility clients.

J. Medical appliance upkeep, repairs, and purchase of medical supplies for the general facility population.

Extraordinary medical services provided by a facility shall be reimbursable if prior approval for the expense has been secured from the Office of Human Development for a particular child. Examples of extraordinary medical services might include eye glasses and other corrective appliances, special diagnostic tests or treatment needed by a particular child, psychiatric treatment purchased for a particular child, special dental needs such as orthodontics and oral surgery, and so on. At the time the extraordinary need is identified to OHD, a decision will be made regarding whether another resource is available to cover the cost (including parental payment), whether payment will be made directly to the vendor, or whether the facility will incur the expense and be reimbursed by OHD.

8. Administrative Costs.

A. Interest on current obligations and mortgage loans reasonably related to client care. The interest rate must not be in excess of what a prudent borrower would pay.

B. Allowance shall be permitted for a salary for an owner-administrator of a proprietary facility only if he/she is performing the duties of an administrator and would otherwise have to employ another individual to perform these duties. Allowance for a salary of an owner-administrator shall be limited to the national average of salaries for owner-administrators of similarly

sized, similarly staffed facilities. Operating cost of living quarters and automobiles provided an administrator for his/her convenience will be considered part of their compensation.

The administrators who are not owners are also limited to the national average of salaries for administrators of similarly sized, similarly staffed facilities.

C. Premiums for officer/owner's life insurance are allowable only if the beneficiary is the officer/owner's family. Premiums will be included as part of the officer/owner's compensation and subject to the limitations set forth in B.

D. With the following specific exceptions, taxes are an allowable cost: Federal income or excess profit tax; state income or excess profit tax; taxes relating to financing; special assessments (would be capitalized and amortized); taxes for which exemptions are available; taxes on property not related to direct client care; self-employment (FICA) taxes applicable to individual proprietors, partners, etc.; fines or penalties of any kind.

E. Cost for the following types of advertising are allowable: Classified newspaper advertising to recruit personnel or solicit bids; telephone yellow page advertising, except in the event that such advertisement is promotional in nature.

F. Membership costs and costs for conferences and meetings are allowable if related to client-care activities and efficient operation of the facility. Allowable costs include: dues, registration fees, travel, meals and lodging only for the period of a conference. Membership dues and other expenditures related to civic or social organizations are specifically disallowed.

G. Accident or hospitalization insurance for the clients. Insurance claim reimbursements should be credited to the respective expense account for health care.

H. Audit costs are allowable but certified audits are not required by Department of Health and Human Resources since this report will be audited.

I. Clerical salaries and costs related to general administration.

J. Attorneys' fees. Actual fees incurred for nonlitigation legal services which are directly related to child care will be allowed.

K. Bad debts, charity and courtesy allowances are deductions from revenue and are not includable as allowable costs.

9. Personnel and Salary Maximums.

Maximum limits on the number of direct care personnel employed will be based on individual facility requirements to be determined in conjunction with the facility and DHHR Licensing and Certification.

Louisiana State Civil Service salary schedules will be used in determining the maximums allowable. Facilities may maintain separate salary schedule, with the limitation being the above maximums.

10. In-Kind Contributions.

In-kind contributions represent the value of non-cost contributions provided by: the facility; other public agencies and institutions; and private organizations and individuals. In-kind contributions may consist of charges for real property and equipment and value of goods and services directly benefiting and specifically identifiable to all clients in the approved program.

Specific procedures for the facilities in placing the value on in-kind contributions from private organizations and individuals are set forth below:

A. Valuation of volunteer services. Volunteer services may be furnished by professional and technical personnel, consultants, and other skilled and unskilled labor. Each hour of volunteer service may be counted as a program cost if the service is an integral and necessary part of an approved program.

1. Rates for volunteer services. Rates for volunteers should be consistent with those regular rates paid for similar work in other activities. Rates used should be consistent with those paid for similar work in the labor market in which the facility competes for the kind of services involved.

2. Volunteers employed by other organizations. When an employer other than the facility furnishes the services of an

employee, these services shall be valued at the employee's regular rate of pay (exclusive of fringe benefits and overhead cost) provided these services are in the same skill for which the employee is normally paid.

B. Valuation of materials. Contributed materials include office supplies, maintenance supplies, or workshop and classroom supplies. Prices assessed to donated materials should be reasonable and should not exceed the cost of the materials to the donor or current market prices, whichever is less, at the time they are charged to the facility.

C. Valuation of donated equipment, buildings, and land, or use of space. The value of donated property will be determined as follows:

1. Equipment and buildings. The value of donated equipment or buildings should be based on the donor's cost less depreciation or the current market prices of similar property, whichever is less. The title of the donated equipment and building must be legally in the name of the facility.

2. Land or use of space. The value of donated land or its usage charge should be established by an independent appraiser, i.e., private realty firm.

D. Valuation of Other Charges. Other necessary charges incurred specifically for an indirect benefit to the program on behalf of all clients may be accepted as program costs provided they are adequately supported and permissible under the approved program. Such charges must be reasonable and properly documented.

The following requirements pertain to the facility's supporting records for in-kind contributions from private organizations and individuals:

A. The extent of volunteer services must be supported by the same methods used by the facilities for its employees.

B. The basis for determining the charges for personal services, material, equipment, and buildings must be documented.

Unallowable Costs for Services Provided

1. Fund raising; public relations.

2. No monies paid to an attorney or a law firm as a retainer, rather than as legal fees for services actually performed, will be allowed.

3. Payments made by the facility as gifts, assessments, or paybacks to parent organization.

4. Income producing expenses, including depreciation of equipment to secure self-generated revenue.

Limits of Reimbursement

1. Fiscal Limitation. The availability of state and federal funds may result in a uniform rateable reduction of fees. Adjustments will also be limited and considered separately.

2. Reasonable Cost Limits. Payments to facilities for client services shall be based on the lesser of the reasonable cost of services or the customary charges to the general public for such services.

3. Profit Limits. An allowance of a reasonable return on equity capital invested and used in the provision of client care is allowable as an element of the reasonable cost of covered services. The amount allowable on an annual basis will be determined by applying to the provider's equity capital a percentage basis equal to 1½ times the average of the rates of interest on special issues of public debt obligations issued by the Federal Hospital Insurance Trust Fund. A profit factor will be allowed only for proprietary facilities.

4. Occupancy Limits. Those facilities which operate at less than fifty percent capacity will be penalized by using the fifty percent occupancy level.

5. Other Limits. Costs which are unallowable for federal participation will be paid by the state up to the maximum allowable under the section entitled "Allowable Costs for Services Provided."

Payment procedures do not include a year-end settlement. Revised rates are effective July 1 of each year based upon the actual expenditures per cost reports received August 1 of the preceding year. Retroactive adjustment will not be made except

for over-payments which result from the inclusion of unallowable costs in the cost report. Therefore, management decisions which increase cost will not affect the current rate and will increase future rates only if justified.

Current economic indicators will be used to determine an inflation factor in calculating the per diem rate.

Definitions

1. Equity Capital. The net worth of a facility, excluding those assets and liabilities which do not relate to direct client care. Specifically, equity capital includes: (1) a facility's investment in plant, property, and equipment (net of depreciation) related to direct client care, plus funds deposited by a facility which leases plant, property, or equipment related to client care and is required by the lease to deposit such funds, and (2) net working capital maintained for necessary and proper operation of client-care activities.

2. Fiscal Year. The twelve-month period used by the facility for federal income tax purposes. This does not apply to state or federal fiscal year.

3. Net Working Capital. Working capital is the difference between current assets and current liabilities. Net working capital is working capital reduced by any amount determined to be excessive for the necessary and proper operation of client-care activities.

4. Plant, Property, and Equipment. Fixed assets related to client care are, for example, building, land, fixtures and equipment, goodwill, and other assets not part of current assets.

5. Proprietary Facilities. Facilities, whether sole proprietorships or corporations, organized and operated with the expectation of earning profit for the owners, as distinguished from facilities organized and operated on a nonprofit basis, as confirmed by the Internal Revenue Service.

6. Related Organization.

A. Related to facility. The facility, to a significant extent, is associated or affiliated with, or has control of, or is controlled by, the organization furnishing the services, facilities, or supplies.

B. Common ownership exists when an individual or individuals possess significant ownership or equity in the facility or organization serving the facility.

C. Control exists where an individual or an organization has the power, directly or indirectly, significantly to influence or direct the actions or policies of an organization or facility.

7. New Facility. Any facility not receiving funds from DHHR the entire preceding state fiscal year; or any facility closed for more than three months during its preceding fiscal year; or any facility which has a change in ownership; or any facility which has been certified by DHHR for a change in its level of care.

8. Client. Any person receiving services in the facility.

9. Level of Care. A facility's level of care shall be a determination made by DHHR Licensing and Certification based on the needs of the population served, the services offered, the direct care staff-to-patient ratio, and staff qualifications. A description of these levels is available from DHHR Licensing and Certification. A facility may be certified for more than one level of care if such is appropriate.

Any new facility desiring OHD participation and any facility requesting a change in their level of care must first reach an agreement with OHD regarding the need for the particular level of care desired, based on the population served, and the population needing to be served.

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

RULE

Board of Elementary and Secondary Education

Rule 3.01.70.u(10)

The Board approved for final adoption Requirements for Certification of Assessment Teacher as follows:

1. A minimum of master's degree in Elementary or Secondary Education, Special Education, Early Childhood or Child Development.

2. A minimum of a Type B teaching certificate with at least one year classroom teaching experience in a properly certified area of special education.

3. Certification in at least two areas of special education one of which is Learning Disabilities in accordance with the requirements of the State Board of Elementary and Secondary Education, or a generic certification with specialization in one area at the master's level.

4. Six semester hours in diagnosis and remediation of reading problems, three semester hours of which may be undergraduate coursework. (Secondary majors must have three semester hours in foundations of reading in addition to this requirement.)

5. A minimum of the following graduate level courses:

a. Three semester hours in applied learning theory.

b. Three semester hours in behavioral intervention strategies, including systematic behavioral assessment. (This course must include twenty-five child contact hours.)

c. Three semester hours in consulting teacher strategies.

d. Three semester hours in precision assessment and diagnostic/prescriptive strategies.

e. Three semester hours in test theory.

f. Six semester hours in educational diagnosis and a supervised internship to include one hundred child contact hours. (These courses must include the administration scoring and interpretation of norm-referenced and criterion-referenced individual educational tests and implications for educational intervention through the development of the individualized assessment/intervention plan.)

Becomes effective for all individuals applying for assessment teacher certification on or after September 1, 1980. An individual may function as an assessment teacher under a plan of professional development approved by the Division of Special Education Services until September 1, 1982.

Assessment teachers who are employed in approved Local Education Agency educational assessment programs, school year 1979-80, who participated in ongoing in-service development conducted by the State Department of Education, and who have certification as an educational consultant shall be awarded certification as an assessment teacher if applications are received prior to September 1, 1980.

Rule 4.03.40.i

The Board approved for final adoption the following statement regarding affirmative action for vocational-technical schools: Each state-operated vocational-technical school shall, upon request of an employer seeking an employee, afford all qualified applicants the opportunity of a job interview.

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

RULE

Department of Natural Resources Office of Conservation

Rule 14—Certificate of Public Convenience and Necessity to be Issued Pursuant to Provisions of Section 607 of the Act.

A. This regulation shall only apply to the requirements of R.S. 30:607.

B. The words, terms, and phrases defined herein shall have the following meanings when used in this regulation:

1. Producer-seller. The owner(s) of the mineral rights pursuant to which the gas is produced and that, as such owner(s) of the produced gas, makes the first transfer of the gas for value to another person. The term "producer-seller" is inclusive of the lessor's royalty and any overriding royalty that a producer-seller has the right to market under a lease or sublease.

2. Natural gas. All gas capable of being produced, or which is produced, within the State of Louisiana, which is not subject to federal jurisdiction under the Natural Gas Act, 15 U.S.C. §717, et seq., including natural gas transported through the use of interstate pipelines where such use of interstate pipelines is or may hereafter be exempt from the control of the Federal Energy Regulatory Commission under the Natural Gas Act, or rules and regulations promulgated by the Federal Energy Regulatory Commission thereunder; and gas, wherever produced, which is or may be transported into this state and delivered into an intrastate pipeline system in this state to be used or consumed wholly within this state.

3. Intrastate natural gas pipeline. All facilities located within the State of Louisiana which may be or are utilized for the production, gathering or transportation of intrastate natural gas and which are not subject to federal jurisdiction under the Natural Gas Act, 15 U.S.C. §717, et seq., including, but not limited to, wellhead facilities, gathering facilities, pipeline facilities, and all facilities connected thereto or utilized therewith.

4. Intrastate natural gas transporter. A person as defined in R.S. 30:503(6).

5. Interested parties.

a. For an application for an exclusion

i. The interstate pipeline purchaser or the user that takes delivery of the gas in Louisiana and that causes the gas to be transported in interstate commerce to its plants or facilities for use; and

ii. Any other persons whose facilities are used in processing or transporting such natural gas.

b. For an application for a certificate of public convenience and necessity are the intrastate natural gas transporters who have indicated an interest in purchasing natural gas pursuant to a request for purchase of natural gas as provided herein, the proposed interstate purchaser, and any other persons whose facilities are to be used in processing or transporting such gas.

c. For a letter of objection pursuant to R.S. 30:607C(3), are the parties to the contract.

6. Gas committed or dedicated to interstate commerce.

a. Gas which is subject to federal jurisdiction under the Natural Gas Act, 15 U.S.C. §717, et seq.; or

b. All gas dedicated or contractually committed to interstate commerce before September 7, 1979; or

c. Such quantities of natural gas from specified sources that a producer-seller is required to deliver into interstate commerce pursuant to an order issued by the Federal Power Commission or the Federal Energy Regulatory Commission; provided, that said order and specified sources were in effect prior to September 7, 1979.

7. Bona fide offer. For purposes of R.S. 30:607C(2) and this regulation, a bona fide offer shall be deemed made by a producer-seller when he causes to be published in the Official Journal of the state, the *State Times* in Baton Rouge, Louisiana, for a period of three consecutive days of publication a notice that he will entertain bids for the purchase of natural gas from intrastate natural gas transporters. Such bids must be received by the producer-seller within thirty days of the date such notice first appears in the Official Journal of the state.

C. The public notice required for a bona fide offer shall contain the following information:

1. The exact legal name and principal place of business of the producer-seller and the name, title, mailing address and telephone number of the person to whom bids should be submitted.
2. The name of the well(s) and location by section, township, range and field or area; and, if applicable, a description of other mineral rights on which additional wells may be drilled.
3. The probable gas classification under the Natural Gas Policy Act.
4. The location of the proposed point of sale.
5. The anticipated daily volume of natural gas available.
6. Other information deemed appropriate by producer-seller.

A copy of the notice shall be mailed to the Commissioner concurrent with submission of notice to the Official Journal of the state.

D. No producer-seller, after September 7, 1979, shall dedicate natural gas to, or introduce said natural gas into interstate commerce or connect producer-seller's intrastate natural gas pipeline as defined herein with an interstate pipeline without first obtaining a certificate of public convenience and necessity issued by the Commissioner of Conservation. Said certificate may be issued by the Commissioner after public hearing, where required by law, upon an application submitted by the producer-seller. The application shall be made in writing, verified under oath by an individual having authority to execute same and contain the following information:

1. A letter of transmittal explaining the purpose of and authority and reasons for the application and a listing of supportive information.
2. The exact legal name of the applicant, its principal place of business, and the name, title, and mailing address of the person or persons to whom communications concerning the application should be addressed.
3. A copy of proposed or executed contract.
4. A completed Form PL5.
5. A general description and diagrammatic sketch of facilities required to effect the movement of contracted gas from the wellhead to the point of delivery into interstate commerce, including the names and addresses of any other persons whose facilities are used in the processing or transporting of such natural gas.
6. A statement that a bona fide offer was made pursuant to this regulation.

The Commissioner may request such additional information as in his opinion is reasonably necessary to properly evaluate the application.

E. No certificate of public convenience and necessity shall be issued to a producer-seller unless it is demonstrated at a public hearing, where required by law, that:

1. In the case of natural gas which is the subject of an intrastate sales contract that will expire subsequent to September 7, 1979, the producer-seller has first offered to sell such natural gas to the present purchaser at the same price at which the gas could be sold to any other person pursuant to arm's length negotiations, and under other terms, conditions and circumstances as favorable as those which could be obtained for the sale of such gas to any other user in the State of Louisiana, including intrastate natural gas transporters, no less than forty-five days prior to expiration of the contract;
2. In those cases where the offer provided for in paragraph (1) above has not been accepted by the present purchaser within the twenty-five day period ending twenty days prior to expiration of the contract; and the natural gas was not the subject of an intrastate sales contract; the producer-seller has made a bona-fide offer to sell such natural gas to intrastate natural gas transporters and no intrastate natural gas transporter capable of taking delivery within a reasonable time has submitted a bid at an equivalent or better price, with equivalent or

better terms, conditions, and circumstances, as the producer-seller could obtain by the sale of such gas in interstate commerce.

F. If a person who is a party to an intrastate natural gas sales contract subject to R.S. 30:607C(3) files a letter of objection with the Commissioner of Conservation before the expiration date of the contract alleging noncompliance with this regulation and Section 607C(3), the Commissioner shall proceed under Rule 5 of the Commissioner's Rules of Procedure to resolve all matters of controversy. The producer-seller shall bear the burden of establishing that he has made an offer to the present purchaser of said natural gas, to continue said sale at the same price, at which the gas could be sold to any other person pursuant to arm's length negotiations, except where otherwise provided by law and under other terms, conditions, and circumstances as favorable as those which could be obtained for the sale of such gas to any other user in the State of Louisiana, including intrastate natural gas transporters. All parties shall provide such additional information as the Commissioner in his opinion deems reasonably necessary to properly evaluate the matter.

G. A producer-seller may submit an application requesting a declaratory order excluding from the provisions of this Act, natural gas committed or dedicated to interstate commerce before September 7, 1979, where initial deliveries of gas have not commenced from such commitment or dedication, or where natural gas is sold under a contract effective before September 7, 1979, to a user that transports the gas to the place of use in an interstate pipeline. The Commissioner, after review of such application, may administratively issue an order excluding the producer-seller hereunder and authorizing the producer-seller to make such connection with or to introduce such natural gas into the applicable interstate pipeline. An application under this paragraph should include items d.(1) - (5) above. Any person subject to Article IX, Section 2 of the Louisiana Constitution, R.S. 30:555H and Rule 5, prior to September 7, 1979, and for which authorization to interconnect was required, shall not enjoy this exclusion.

H. If the Commissioner, in his judgment, determines that an emergency exists which requires waiver of the requirement of a producer-seller to make a bona fide offer or any other part of this regulation, he shall proceed under Rule 5 to hold a public hearing on an abbreviated notice, where such hearing is required by law, but not less than three days following the date of publication of notice of said hearing in the Official Journal of the State of Louisiana. Where a hearing is not required, he may administratively issue a certificate of public convenience and necessity. The Commissioner may limit the effective term of the certificate of public convenience and necessity after consideration of the nature of the emergency and the public interest.

In determining whether an emergency exists and what action would be appropriate, the Commissioner shall consider the public health, safety and welfare and may consider such other pertinent circumstances such as those surrounding the producer-seller, user, and transporter, giving due consideration to economics and lease obligations.

Every person contemplating a sale under this paragraph shall advise the Commissioner by telegram or letter stating briefly the circumstances of the emergency and within ten days following such notice, shall file with the Commissioner an original and two copies of an application in writing, verified under oath by an individual having authority to execute same, containing the following information:

1. The facts warranting invocation of this paragraph and anticipated period of stated emergency.
2. A copy of proposed contract, if available.
3. A completed copy of Form PL 5 containing the terms and conditions of proposed contract.
4. A general description and diagrammatic sketch of facilities required to effect the movement of gas from the wellhead to the point of delivery into interstate commerce, including the names