

Emergency Rules

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences

Furadan 3G Restrictions (LAC 7:XXIII.143)

In accordance with the Administrative Procedure Act, R.S. 49:953(B) and R.S. 3:3203(A), the Commissioner of Agriculture and Forestry is exercising the emergency provisions in adopting the following rules for the implementation of regulations governing the use of the pesticide, Furadan 3G.

Furadan 3G is an essential pesticide in the control of rice pests. Without its use a substantial portion of the rice crop in Louisiana could be damaged by pests. Because of its effectiveness as a pesticide Furadan 3G poses a threat to the environment if it is misapplied. Because of its threat to the environment the Department has severely limited the use of Furadan 3G. The application of Furadan 3G in accordance with its label, but inconsistent with the Department's rules and regulations and the misuse of this pesticide could pose an imminent peril to the public health, safety and welfare and to the environment.

The Department has, therefore, determined that these emergency rules are necessary in order to implement a registration and permitting requirements program during the current crop year. Information will be gathered to determine whether the effectiveness of this chemical outweighs any potential risk to the public or the environment. The rule becomes effective upon signature and will remain in effect 120 days.

Title 7

AGRICULTURE AND FORESTRY

Part XXIII. Pesticide

Chapter 1. Advisory Commission on Pesticides

Subchapter I. Regulations Governing Application of Pesticides

§143. Restrictions on Application of Certain Pesticides

A. - M. ...

N. 1998 Regulations Governing Application of Furadan 3G

1. Requirements

a. The Commissioner hereby declares that the requirement of this emergency rule apply to the following parishes:

- i. Acadia;
- ii. Allen;
- iii. Avoyelles;
- iv. Beauregard;
- v. Calcasieu;
- vi. Cameron;
- vii. Evangeline;

- viii. Iberia;
- ix. Jefferson Davis;
- x. Lafayette;
- xi. Pointe Coupee;
- xii. Rapides;
- xiii. St. Landry;
- xiv. St. Martin; and
- xv. Vermilion.

b. The Commissioner hereby declares that prior to making any aerial application of Furadan 3G to rice, the aerial owner/operator must first register such intent by notifying the Division of Pesticides and Environmental Programs (DPEP) in writing.

c. The Commissioner hereby declares that prior to selling Furadan 3G to be applied on rice, the dealer must first register such intent by notifying the DPEP in writing.

d. The Commissioner hereby declares that prior to blending Furadan 3G with fertilizer to be applied on rice, the blender must first register such intent by notifying the DPEP in writing.

2. Grower/Applicators Liability

a. Growers of rice shall not force or coerce applicators to apply Furadan 3G to their crops when the applicators, conforming to the Louisiana Pesticide Laws and Rules and Regulations or to the pesticide label, deem it unsafe to make such applications. Growers found to be in violation of this section shall forfeit their right to use Furadan 3G on their crops, subject to appeal to the advisory Commission on Pesticides.

b. The DPEP shall immediately be informed of any adverse effects, including but not limited to bird mortality, or misuse resulting from the application of Furadan 3G in connection with these emergency regulations. LDAF will forward to EPA any notification of adverse effects it receives.

3. Furadan 3G Application Restriction

a. Application of Furadan 3G on rice is limited to one (1) application per season.

b. Furadan 3G total acreage shall not exceed 76,000 acres.

c. Do not apply by air within 150 feet of known bird roosting or nesting areas.

d. Permanent flood waters shall not be released until 42 days after application.

e. No Furadan 3G use shall take place until an agent of the LSU Agricultural Center certifies, in writing, that a rice water weevil infestation has reached the threshold level on a parish basis. A parish may be authorized for Furadan 3G use once 4 sites within the parish have been certified as meeting the threshold level.

f. All areas where Furadan 3G is applied under this emergency regulation are required to be posted with signs developed and distributed in accordance with the EPA's Worker Protection Standard (WPS). The signs shall be posted prior to treatment, during treatment, and remain in place for a minimum of 48 hours after treatment.

4. Procedures for Permitting Applications of Furadan 3G
a. Prior to any application of Furadan 3G in the above listed parishes, approval shall be obtained in writing from the Louisiana Department of Agriculture and Forestry (LDAF). Such approval is good for five (5) days from the date issued. Approval shall be obtained by a properly registered and certified aerial applicator from the DPEP.

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

- i. weather patterns and predictions;
- ii. quantity of acreage to be treated;
- iii. targeted pest must exceed established threshold of 5 water weevil larvae per 4 inch by 3 inch core samples;
- iv. treatment areas must be certified under C.5. as listed above; and
- v. any other relevant data.

5. Reporting of Post-application Furadan 3G. Certified applicators registered to apply Furadan 3G on rice shall maintain a daily record of Furadan 3G applications and provide a summary to the DPEP within 60 days of the end of the application season.

6. Determination of Appropriate Action. Upon determination by the Commissioner that a threat or reasonable expectation of a threat to human health or to the environment exists, he may consider:

- a. stop orders for use, sales, or application;
- b. label changes;
- c. remedial or protective orders;
- d. any other relevant remedies.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended LR 10:193 (March 1984), LR 11:219 (March 1985), LR 11:942 (October 1985), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:953 (September 1992), LR 19:791 (September 1993), LR 21:668 (July 1993), LR 21:668 (July 1995), LR 24:

Bob Odom
Commissioner

9806#085

DECLARATION OF EMERGENCY

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

"One Day to Make a Difference" Pest
Control Donation Program

The Commissioner of Agriculture and Forestry is exercising the emergency provision of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to his authority under R.S. 3:3203(A) adopts the rules set forth below.

The members of the Louisiana Pest Control Association (the "Association") have scheduled June 10, 1998 through July 10, 1998 for its "One Day to Make a Difference" activity. During this month members of the Association will work to

help individuals and organizations in need better their quality of life through improved pest management by donating pest control services at locations that are in need of, but unable to afford such services.

Recognizing that the "One Day to Make a Difference" program greatly benefits the public welfare, this emergency adoption is necessary in order that the Department may aid the implementation of this program by suspending regulations regarding the issuance of contracts and the requisite fees associated with such contracts.

The regulations described below are declared suspended and will not be enforced in connection with structural pest control work performed by members of the Louisiana Pest Control Association in connection with that association's "One Day to Make a Difference" program:

the fee for termite contracts required under LAC 7:XXV.117.M; and

the requirements of LAC 7:XXV.119 pertaining to contracts.

The regulations suspended above are suspended only in connection with structural pest control work performed on buildings and structures at the following specific locations:

1815 West Gary Street Shreveport	473 East 72nd Street Shreveport
1940 Hickory Street Shreveport	1411 Alston Street Shreveport
1539 Ford Street Shreveport	112 St. John Street Houma
3330 Prescott Road Alexandria	29 Bolton Street Alexandria
2185 Campfire Road Lake Charles	

The effective date of these rules is 12:01 o'clock a.m. June 10, 1998, and they shall remain in effect until 12:01 o'clock a.m. July 10, 1998.

Bob Odom
Commissioner

9806#045

DECLARATION OF EMERGENCY

**Department of Economic Development
Boxing and Wrestling Commission**

Boxing—Television Broadcasting; Ring Official; Judge; Referee; Hold Harmless Agreement; Judging Method; Fouls; Compensation (LAC 46:XI.Chapter 3)

Wrestling—Deposits; Booking Agent; and Promoter (LAC 46:XI.522, 523 and 525)

The Louisiana State Boxing and Wrestling Commission does hereby exercise the emergency provisions of the Administrative Procedure Act, R.S. 49:953 (B) and 49:967 (D) and adopts the following rules. The emergency rules are necessary to prevent the lost of tax revenues resulting from locations rebroadcasting television related events and

wrestling promoters/producers scheduling of events and to promote the safety and welfare of commission and ring officials and to repeal rules which are not in effect and to join with all sanctioning bodies that have now adopted the *Uniform Rules of Boxing* for championship bouts.

These emergency rules are effective May 14, 1998 and are to remain effective for a period of 120 days or until adoption of the final rule, whichever occurs first.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XI. Boxing and Wrestling

Chapter 3. Professional Boxing

§304. Deposits: Closed Circuit and Pay-Per-View Television Rebroadcasting

All locations rebroadcasting television related events, may be required to deposit a maximum of \$ 1,000.00, in advance for expenses and taxes. *Location* in this particular rule meaning any casino, public auditorium, hotel or civic center. Money, less taxes and expenses, will be refunded by the Commission to producer if taxes collected do not equal amount deposited. If taxes exceed the deposit, then the commission will proceed with collecting taxes as outlined in Revised Statute 4:67. Sports bars with a 250 person capacity or less will be required to purchase a permit for \$100.00; sports bars with a 400 person capacity or less will be required to purchase a permit for \$200.00; over 400 person capacity a promoters license is required. If sports bars are part of a location, as defined in this rule, then the same rule will apply as a location. Five percent taxes will apply as indicated in Revised Statute 4:67. Complimentary passes or tickets are taxable if ticket prices are outlined in the television contract or advertised and sold at a specified price. The capacity of a location will be determined by the state/local fire marshal's office. Locations are required to obtain a promoters license from the commission; sports bars with a capacity of less than 400 are exempt from purchasing a promoters license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61.D, R.S. 4:64 and R.S. 4:67.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Boxing and Wrestling Commission, LR 24:

§314. Prohibited Ring Official Assignments

A ring official domiciled in the State of Louisiana shall not accept an assignment in the United States or its possessions that is not sponsored, sanctioned, approved or supervised by the commission, another official state commission, or a member of the Association of Boxing Commissions. *Official State Commission*, in this rule, meaning a commission domiciled and coming under the jurisdiction and regulatory powers of their state or United States possession.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61.D and R.S. 4:64.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Boxing and Wrestling Commission, LR 24:

§315. Judges and Referees

A. - B.2. ...

C. The referee is the sole arbiter of a bout and is the only individual authorized to stop a contest.

AUTHORITY NOTE: Adopted in accordance with R.S. 4:61.D, R.S. 4:64 and R.S. 4:79.

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission 1967, amended 1974, amended by the Department of Economic Development, Boxing and Wrestling Commission, LR 22:697 (August 1996), LR 24:

§316. Hold Harmless and Indemnity Agreement

All individuals, except the members of the commission, acting in any official capacity for any event(s) sanctioned by the commission shall be required to execute the Hold Harmless and Indemnity Agreement of the commission, prior to receiving any assignment from the commission. This shall be in addition to the agreement as set forth in the license application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61.D, R.S. 4:64 and R.S. 4:79.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Boxing and Wrestling Commission, LR 24:

§317. Judging Methods and Procedures

A. Scoring

1.a. - d. ...

2. It is also noted that sportsmanship should be taken into consideration by the judges and the condition of the boxer at the end of the bout. The items listed do not have the same scoring value. Clearly, a man who hits his opponent and is aggressive throughout the contest, is entitled to more credit than the one who is merely defensive and shows ring generalship. If the referee or the commission shall decide, at any time, that either contestant did not enter into a contest in good faith, or if the commission or referee discovers, at any time, that either or both contestants are not performing their part in good faith, or is guilty of any foul tactic, or of faking, or of violating any rule of the commission, the referee or commission may stop the contest. The referee may stop the contest when either contestant shows marked superiority or is apparently outclassed. If a contestant is knocked down, or falls through weakness, he must get up unassisted within 10 seconds. The referee shall count off the seconds. If the contestant attempts to get up, and goes back down, the count shall be continued by the referee where he left off. During the count, the opponent shall go to the farthest neutral corner and remain there. Should the opponent refuse to do so, or leave the farthest neutral corner, the referee may stop counting. Upon compliance by the opponent, however, the referee shall continue counting where he left off. If a contestant, who has fallen out of the ring during a contest, fails to return immediately, the referee shall count him out as if he were "down" allowing 20 seconds. The boxer is to be unassisted by his seconds. In every round of a bout, should a boxer be down at the time the bell rings ending the round, the count shall continue until the boxer gets up or is counted out. The termination of the bout is at the discretion of the referee and/or the ring physician. Should a contestant leave the ring during the one-minute period between rounds, and fail to be in the ring when gong rings to resume boxing, the referee shall declare his opponent the winner. A contestant shall be deemed "down" when:

- a. any part of his body other than his feet is on the floor;
- b. or he is hanging helplessly over the ropes;
- c. or he is rising from a "down" position.

3. Answering the Bell. Should a contestant finish any one round of a contest and fail to answer the bell for the succeeding round for any one of numerous reasons, such as cuts, injuries or admission of overwhelming superiority, the proper termination of the bout is by a technical knockout in the round for which he fails to answer the bell. For instance, both contestants have finished round 6. One of them fails to answer the bell for round 7, or indicates to the referee that he will not answer the bell. It is a "TKO-7." Indeed the man should be regarded as technically counted out while seated in his corner just as though the bell sounded for the seventh round. Certainly he completed round 6 and cannot, therefore, be charged with a loss in the sixth. Boxers suffering a knockout or a technical knockout will automatically be suspended for a minimum period of 30 days. Any violation of this rule jeopardizes the welfare of the boxer. No boxer will be reinstated in less than 30 days unless investigated and specifically authorized by the commission or commission physician.

B. In the event a boxer has been knocked down the referee shall order such boxer's opponent to a neutral corner and commence a count of eight and such mandatory eight count after knockdowns is standard procedure in all bouts. Upon completion of said eight count the referee shall determine whether such boxer is able to continue.

C. There is no standing eight count.

Existing C. - G. are renumbered to D. - H., respectively.

AUTHORITY NOTE: Adopted in accordance with R.S. 4:61.D, R.S.4:64, R.S. 4:76 and R.S. 4:79.

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission 1967, amended 1974, amended by the Department of Economic Development, Boxing and Wrestling Commission, LR 22:697 (August 1996), LR 24:

§318. Rounds, Duration and Intermission

A. - B. ...

C. Each championship contest will be scheduled for twelve (12) rounds, one hundred eighty (180) seconds long, and a sixty (60) second rest period.

AUTHORITY NOTE: Adopted in accordance with R.S. 4:61.D and R.S.4:64.

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission 1967, amended 1974, amended by the Department of Economic Development, Boxing and Wrestling Commission, LR 22:697 (August 1996), LR 24:

§321. Fouls, Deductions of Points Because of a Foul and Accidental Fouling

A.1. - 17. ...

B. If a contestant fouls his opponent during a contest or commits any other infraction, the referee may penalize him by deducting points from his score, whether or not the foul or infraction was intentional. The referee may determine the number of points to be deducted in each instance and shall base his determination on the severity of the foul or infraction and its effect upon the opponent. Point deductions for intentional fouls are mandatory.

C. If an intentional foul causes an injury, and the injury is severe enough to terminate the bout immediately, the boxer causing the injury shall lose by disqualification.

D. If an intentional foul causes an injury, and the injury results in the bout being stopped in a later round, the injured

boxer will win by a technical decision if he is ahead on the score cards or the bout will result in a technical draw if the injured boxer is behind or even on the score cards.

E. If a boxer injures himself while attempting to intentionally foul his opponent, the referee will not take any action in his favor, and this injury will be the same as one produced by a fair blow.

F. When the referee determines that it is necessary to deduct a point or points because of a foul or infraction, he shall warn the offender of the penalty to be assessed.

1. - 3. Repealed.

G. The referee shall, as soon as practical after the foul, notify the judges and both contestants of the number of points, if any, to be deducted from the score of the contestant.

H. Any point or points to be deducted for any foul or infraction must be deducted in the round in which the foul or infraction occurred, and may not be deducted from the score of any subsequent round.

I. Accidental Foul

1. If a bout is stopped because of an accidental foul, the referee shall determine whether the boxer who has been fouled can continue or not. If the boxer's chance of winning has not been seriously jeopardized as a result of a foul, the referee may order the bout continued after a reasonable interval. Before the bout begins again, the referee shall inform the commission's representative of his determination that the foul was accidental.

2. If the referee determines that the bout may not continue because of an injury suffered as the result of an accidental foul, the bout will result in a technical draw if stopped before four (4) completed rounds.

3. If an accidental foul renders a contestant unable to continue the bout after four (4) completed rounds have occurred the bout will result in a technical decision awarded to the boxer who is ahead on the score cards at the time the bout is stopped.

a. Partial or incomplete rounds will not be scored.

b. However, any point deduction(s) occurring during this partial round will be deducted from the score of the completed rounds.

G. If an injury inflicted by an accidental foul later becomes aggravated by fair blows and the referee orders the bout stopped because of the injury, the outcome must be determined by scoring the completed rounds and the round during which the referee stops the bout.

AUTHORITY NOTE: Adopted in accordance with R.S. 4:61.D and R.S.4:64.

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission 1967, amended 1974, amended by the Department of Economic Development, Boxing and Wrestling Commission, LR 22:697 (August 1996), LR 24:

§328. Event Approval

A. A member of the Louisiana Boxing and Wrestling Commission, including the Chairman, may not legally and/or officially authorize and/or give approval to any television network, corporation, limited liability company, promoter, match-maker or any other entity, private or corporate, for any major event date and site selection, without the prior approval of a majority of the commission members voting in favor. *Major Event* in this rule means any boxing, kick-boxing or

wrestling (WCW, WWF, etc.) contests that the State of Louisiana authorizes this commission to sanction. Minor local wrestling shows may be excluded from this rule. (Local area commissioners should coordinate these shows through the deputy commissioners and chairman, once they are made aware of such events.)

B. Once a commissioner is contacted by a promoter, he must advise the promoter that a typewritten request on official letterhead must be submitted to the chairman by mail or facsimile. In the request disclosure must be made regarding the venue (television contracts, promoter, matchmaker, number of bouts, bout contracts, arena contracts, sanctioning bodies, ticket information, etc.) After date and site selection is approved, full disclosure of all venue information must be submitted no later than two weeks prior to the event.

C. Once an official request is made, the chairman must call a meeting to approve or reject the request. A quorum, according to state statute, must be present to approve or reject such requests. An emergency meeting will not be necessary, if the time table is such, that the request may be discussed at the regular scheduled commission meeting.

D. The commission may demand that all monies relative to boxing venues be placed in escrow in the commission treasury. *Monies* in this rule means fighters purses and ring officials (referees, timekeepers, inspectors, physicians, judges, etc.) expenses. All ring officials pay will be predetermined and coordinated through the commission with the promoter. The ring officials will be paid by commission checks the same day or night before the start of the first bout. If the commission required fighters' purses to be placed in escrow then the fighters also will be paid by commission checks, less any expenses due the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61.D and R.S.4:64.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Boxing and Wrestling Commission, LR 24:

§335. Compensation of Officials

All officials, including ring doctors, that participate in an event sanctioned by the commission, shall be compensated by the promoters/producers. The amount compensated will be pre-determined, prior to the event, between the commission and the promoter/producer. Officials, in this rule, not to include the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61.D, R.S. 4:64 and R.S. 4:67.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Boxing and Wrestling Commission, LR 24:

§353. Penalties and Sanctions

Anyone licensed and/or subject to the authority of the commission, who violates any of the rules and regulations of the commission as set forth in title, parts and chapters, shall be subject to such sanctions as imposed by the commission which may result in fines, suspensions and revocations of licenses to be determined by the commission pursuant to the laws of the State of Louisiana and the authority of the commission vested to the commission by those laws.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61.D, R.S. 4:64 and R.S. 4:82.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Boxing and Wrestling Commission, LR 24:

Chapter 5. Professional Wrestling

§522. Wrestling Event Deposits

Wrestling promoters/producers will be required to deposit, in advance, with the commission \$250.00 to secure a date for their scheduled event. This amount will be applied to taxes and deputies expenses; any cancellation of the advanced booking, will result in the loss of the deposit and will be deposited in the commission's treasury. If taxes and expenses do not exceed the \$250.00 deposit, the commission will refund the excess to the promoter/producer. If expenses and taxes exceed the \$250.00 deposit, the commission will then collect taxes as outlined in Revised Statute 4:67.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61.D, R.S. 4:64 and R.S. 4:67.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Boxing and Wrestling Commission, LR 24:

§523. Wrestling Booking Agent

Repealed (Reserved).

AUTHORITY NOTE: Adopted in accordance with R.S. 4:61.D and R.S. 4:64.

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission, 1967, amended 1974, repealed by the Department of Economic Development, Boxing and Wrestling Commission, LR 24:

§525. Wrestling Promoters

Repealed (Reserved).

AUTHORITY NOTE: Adopted in accordance with R.S. 4:61.D and R.S. 4:64.

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission, 1967, amended 1974, repealed by the Department of Economic Development, Boxing and Wrestling Commission, LR 24:

Fielding Lewis
Chairman

9806#037

DECLARATION OF EMERGENCY

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

Medicaid Eligibility—Hemophilia Settlement

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following emergency rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This rule is in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure Act, or until adoption of the rule whichever occurs first.

Under a recent settlement, four manufacturers of blood plasma products will pay \$100,000 to each of 6,200 hemophilia patients who are infected with Human Immunodeficiency Virus (HIV). Approximately 1,000 of the HIV-infected patients are already eligible for Medicaid. Payment made under the settlement to these individuals would

in most instances cause them to exceed the income and/or resource limit for Medicaid eligibility. To avoid potential loss of Medicaid for these individuals, section 4735 of the Balanced Budget Act of 1997 (BBA) provides that, notwithstanding any other provision of law, payments made to class members under this settlement shall not be considered as income or resources in determining either eligibility for or the amount of benefits under the Medicaid program.

Regulation 42 CFR 435.122 require states to provide Medicaid to individuals who would be eligible for Supplemental Security Income (SSI) or an optional state supplement except for an eligibility requirement used in those programs that is specifically prohibited under Medicaid. The settlement payments are counted as income and resources under SSI, but cannot be counted under Medicaid. Thus, under 42 CFR 435.122 states must provide Medicaid to individuals who lose SSI eligibility because of receipt of the settlement, even if their sole basis for eligibility for Medicaid was receipt of SSI benefits. While the settlement payments themselves may not be counted as income or resources under Medicaid, Section 4735 does not similarly exempt any income that may be derived from those payments. Provisions governing transfers of assets and treatment of trusts under Section 1917 of the Social Security Act are not applicable, since the settlement payments are not counted as income or resources in determining eligibility.

This action is necessary to comply with the Balanced Budget Act of 1997. The fiscal impact for the implementation of this rule cannot be determined as the identity of settlement recipients has been sealed by the court and we cannot estimate the number of Louisiana citizens who are class members under this settlement.

Emergency Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the provisions of Section 4735 of the Balanced Budget Act of 1997 which state that notwithstanding any other provision of law, payments made from any fund established pursuant to a class settlement entitled, "Factor VIII or IX Concentrate Blood Products Litigation," MDL 986 (no. 93-C-7452, Northern District of Illinois) shall not be considered as income or resources in determining either eligibility for, or the amount of benefits under, the Medicaid program. While the settlement payments may not be counted as income or resource under Medicaid, Section 4735 does not similarly exempt any income that may be derived from those payments. Provisions governing transfers of assets and treatment of trusts under Section 1917 of the Social Security Act are not applicable, since the settlement payments are not counted as income or resources in determining eligibility.

Interested persons may submit written comments to the following address: Thomas D. Collins, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this emergency rule. A copy of this emergency rule

is available for review by interested parties at parish Medicaid offices.

David W. Hood
Secretary

9806#065

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Pharmacy Program—Erectile Dysfunction Drugs

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following emergency rule in the Medicaid Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing currently provides coverage for prescriptions drugs for treatment of erectile dysfunction without limitation through the Pharmacy Program under the Medicaid Program. The department has determined it is necessary to limit the number of units of these drugs that are reimbursed under the Medicaid Program to six units per month. This emergency rule is being adopted in an effort to prevent potential abuse of these prescriptions drugs. The estimated savings as a result of the implementation of this rule cannot be determined at this time.

Emergency Rule

Effective for dates of service on or after May 22, 1998, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing will limit the number of units of prescription drugs for the treatment of erectile dysfunction that are reimbursable by the Medicaid Program to six units per month per patient. Units include tablets, injectable, intraurethral pellets and any other dosage form which may become available. In addition, the following provisions will govern the reimbursement for these drugs.

1. Prescriptions issued for the treatment of erectile dysfunction must be hand written and shall include a medically accepted indication.
2. An ICD-9 diagnosis code must be written on the hard copy of the prescription or attached to the prescription which is signed and dated by the prescriber.
3. Recipient specific diagnosis information from the prescriber via the facsimile is acceptable when signed and dated by the prescriber.
4. Acceptable ICD-9 diagnosis codes for these drugs

include impotence of non-organic origin or impotence of organic origin.

5. No reimbursement for therapeutic duplication of drugs, early refills, or duplicate drug therapy within the therapeutic class of drugs used to treat erectile dysfunction is allowed.

Interested persons may submit written comments to Thomas D. Collins, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this emergency rule. A copy of this emergency rule is available for review by interested parties at parish Medicaid offices.

David W. Hood
Secretary

9806#012

DECLARATION OF EMERGENCY

Department of Revenue Office of Alcohol and Tobacco Control

Responsible Vendor Program (LAC 55:VII.501-509)

Under the authority of R.S. 26:931 et seq. and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Office of Alcohol and Tobacco Control, proposes to adopt LAC 55:VII.501-509, pertaining to the Responsible Vendor Program.

These emergency rules shall be effective on July 1, 1998, and shall remain in effect for 120 days or until adoption of the final rules, whichever occurs first. Failure to adopt these rules on an emergency basis will delay implementation of the Responsible Vendor Program resulting in imminent peril to the public's health and welfare.

Act 1054 of the 1997 Regular Session of the Louisiana Legislature enacted R.S. 26:931 et seq., to establish the Responsible Vendor Program to educate vendors, their employees, and customers about selling, serving, and consuming alcoholic beverages in a responsible manner. These emergency rules establish the program's purpose; define terms; prescribe requirements for responsible vendor certification, server permitting, training provider, and trainer approval, certification, and records' retention; and specify minimum course standards for server training classes.

Title 55

PUBLIC SAFETY

Part VII. Alcohol and Tobacco Control

Chapter 5. Responsible Vendor Program

§501. Purpose

The Responsible Vendor Program is intended to educate vendors and their employees and customers about selling, serving, and consuming beverage alcohol, tobacco, and tobacco products. Chapter 5 relates to the development, establishment, and maintenance of the Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:931 et seq.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 24:702 (April 1998), amended LR 24:

§503. Definitions

For purposes of this Chapter, the following terms are defined:

Approved Training Provider—an individual, unincorporated association, partnership, or corporation approved by the Program Administrator to provide server training courses.

Commissioner—the commissioner of the state Office of Alcohol and Tobacco Control.

Program Administrator—a committee or board of nine persons that shall develop and administer the Responsible Vendor Program.

Responsible Vendor—any vendor who qualifies and maintains certification in the Responsible Vendor Program.

Responsible Vendor Handbook—the handbook that is developed, published, and distributed by the Program Administrator and approved by the Commissioner.

Server—any employee of a vendor who is authorized to sell or serve beverage alcohol in the normal course of his or her employment or deals with customers who purchase or consume beverage alcohol.

Server Permit—the permit issued to a server upon completion of a server training course and all refresher courses.

Trainer—an individual employed or authorized by an approved training provider to conduct an alcohol server education course wherein the successful completion of the course by the student will result in the issuance of a server permit.

Vendor—any holder of a state Class A—General, Class A—Restaurant, or Class B—Retail permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:931 et seq.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 24:

§505. Vendors

A. Certification and Enrollment as a Responsible Vendor

1. The vendor shall review and understand the vendor handbook.

2. The vendor shall provide the Office of Alcohol and Tobacco Control with a completed "vendor affidavit" for enrollment in the program.

3. The vendor shall require all "servers" to attend an approved server training course within 45 days of the first day of employment.

4. The vendor shall pay an annual fee of \$35 per licensed establishment holding a Class A—General, Class A—Restaurant, or Class B—Retail permit for the purpose of funding development and administration of the Responsible Vendor Program.

a. The fee shall be assessed on all new and renewal applications for retail permits to engage in the business of dealing in alcoholic beverages.

b. The fee shall not be assessed to those parties seeking a Special Event Permit under the provisions of R.S. 26:793(A).

B. Maintaining Certification

1. The vendor shall keep the vendor handbook current with all updates and periodic amendments distributed by the Program Administrator.

2. The vendor shall provide new employees already licensed under the Responsible Vendor Program with the rules and regulations applicable in the Parish or Municipality of the establishment's location.

3. The vendor shall maintain server training records, which include the name, date of birth, social security number, and date of hire for all servers. The records shall be kept on the licensed premises at all times for inspection by agents of the Office of Alcohol and Tobacco Control or other peace officers.

4. The vendor shall post signs on the licensed premises informing customers of the vendor's policy against selling alcoholic beverages or tobacco products to underage persons if required by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:931 et seq.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 24:

§507. Servers

A. Server applicants with special needs, such as an inability to read or write in English, hearing impairment, etc., shall contact the approved training provider at least one week before the alcohol server training course to request specific assistance in completing the course. Notwithstanding any other provision of Chapter 5, the training provider and the Program Administrator shall attempt to provide reasonable accommodation when requested in compliance with state and federal law.

B. Server Permit

1. Server permits shall be valid for 2 years from the completion of an approved alcohol training course.

2. Whenever a server is employed in the service of alcohol, their permit and one legal form of picture identification shall be available on the premises for inspection by agents of the Office of Alcohol and Tobacco Control or other peace officers.

3. A server's refusal or failure to make their permit available on the premises for immediate inspection by authorized agents or peace officers shall be evidence of a violation of this section.

C. Server Permit Verification. The Office of Alcohol and Tobacco Control shall maintain a list of currently certified servers by name, permit number, and date of birth, so that vendors can verify the validity of the servers' permits.

D. Permit Expiration, Renewal, and Lost Permits

1. Every server permit shall expire on the last day of the month, 2 years after the month that the server successfully completed the alcohol server education course.

2. To be eligible for renewal of a server permit, the server shall again attend and successfully pass an alcohol server's education course and examination given by an approved training provider.

3. Lost permits shall be canceled and a replacement issued by the Office of Alcohol and Tobacco Control after the server submits an affidavit of lost permit and a \$5 fee.

E. Illegal Possession of a Permit. Any person who falsifies, keeps, or possesses a server permit contrary to the provisions of this Chapter shall be guilty of a violation of this Chapter.

F. Server Liability; Penalties, Fines, Suspension, or

Revocation of Server Permit. Notwithstanding any criminal actions taken, the Commissioner may issue administrative violation notices to any holder of a server permit for noncompliance with this Chapter or for any violation, attributable to the server, of Title 26 of the Louisiana Revised Statutes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:931 et seq.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 24:

§509. Training; Providers and Trainers

A. Trainer Certification. Approved providers shall only contract with trainers that have any combination of a minimum of two years of:

1. verified full-time employment in the fields of training, education, law, law enforcement, substance abuse rehabilitation, the hospitality or retail industry that involved the sale or service of alcohol; or

2. post-secondary education in the fields of training, education, law, law enforcement, substance abuse rehabilitation, or the hospitality or retail industry that involved the sale or service of alcohol.

B. Training Provider Certification

1. A person or business entity that applies to become an approved training provider for alcohol server education shall submit the following to the Program Administrator:

a. a completed application form provided by the Program Administrator;

b. a copy of the lesson plans, audio, visual, and printed materials provided as part of the alcohol server training course;

c. a copy of the examinations;

d. the names, dates of birth, social security numbers, addresses and phone numbers, and educational and employment backgrounds of all trainers to be used in teaching the course; and

e. notification of any changes within 30 days of hiring, contracting with, or termination of any trainers.

2. After the program content or method of presentation has been approved by the Program Administrator, the training provider shall notify and obtain approval of any changes from the Program Administrator.

C. The alcohol server permits issued by the Program Providers to students who successfully complete the server training programs shall be obtained from the Office of Alcohol and Tobacco Control.

D. Denial or Rescission of Program Approval

1. The Program Administrator may deny or rescind approval of any program if any of the following is found:

a. the program does not meet the minimum course standards set out in Chapter 5;

b. the Application for Program Certification is not correct or complete;

c. any trainer has been convicted of a felony or of a misdemeanor related to theft, fraud, or misrepresentation and it has been less than three years since the discharge of the sentence imposed as a result of the conviction; or

d. any trainer has been convicted of operating a vehicle while intoxicated at the time they were employed as a trainer and it has been less than one year since the discharge of

the sentence imposed as a result of the conviction.

2. Within 10 days after receipt of the notice that the program approval has been denied or rescinded, the applicant has the right to request a hearing before the Program Administrator.

3. If the applicant fails to request a hearing, the right to a hearing is waived and the Program Administrator's decision is final.

4. The notice that the program approval has been denied or rescinded shall be served by either certified mail or personal service at the applicant's main office to any adult agent or employee or to its registered agent.

E. Training Provider and Trainer Records—Rights of Inspection

1. Within 10 days of any training course, the training provider shall submit to the Office of Alcohol and Tobacco Control a copy of the server permit forms issued and a report of the server training that includes the following:

a. the name, social security number, permit number, address, telephone number, and date of birth of each student that completed the training course and passed the required examination;

b. the name of the trainer that conducted the course and the trainer's signature and verification that each student listed has successfully completed the approved course on the date indicated and any other facts as the Program Administrator or agents or employees of the Office of Alcohol and Tobacco Control may require.

2. Copies of the examinations and permits shall be kept for two years from the date of issue at the training provider's place of business available for inspection and copying by agents or employees of the Office of Alcohol and Tobacco Control.

3. The training provider shall maintain for two years from the date the class was conducted, the course information, which includes the class location, date, and time; trainer's name; and the student's names, social security number, and permit number. These records shall be maintained at the training provider's place of business available for inspection and copying by agents or employees of the Office of Alcohol and Tobacco Control.

F. Approved Training Provider Minimum Course Standards

1. To be certified to issue a server permit, the provider's course of instruction shall include the subject areas enumerated in R.S. 26:933(C), as well as the following:

a. introduction:

i. brief review of the law creating the Louisiana Responsible Vendor Program, which shall include when the program was enacted, who is required to participate and how, when it becomes mandatory, nature of permits issued to server, when server permits expire, obligation of server to attend a course every two years, and server renewal procedures;

ii. objectives of the Responsible Vendor Program, which shall include education of vendors, servers, and their customers about responsible sales, service, and consumption of alcohol and tobacco; and prevention of the misuse, illegal use, and abuse of alcohol;

b. classification of alcohol as a depressant and its effect on the human body, particularly on the ability to drive a motor vehicle:

i. alcohol is a depressant not a stimulant;

ii. how alcohol travels through the body, including how quickly it enters the bloodstream and reaches the brain;

iii. alcohol's effect on a person's ability to drive a motor vehicle, specifically reviewing alcohol's effect on a person's behavior, self-control, and judgment;

iv. outline of Louisiana's driving while intoxicated laws and penalties for violations;

c. effects of alcohol when taken with commonly used prescription and nonprescription drugs:

i. mixing alcohol with other drugs can produce dangerous side effects. It is especially dangerous to drive under the influence of alcohol and other drugs because of the increased impairment due to both;

ii. alcohol and other depressant drugs. Mixing alcohol with other depressants dangerously increases the depressant effect on the body;

iii. alcohol and stimulants. Stimulants do not cancel the intoxication and impairment due to alcohol;

iv. alone, many prescription and nonprescription drugs impair the ability to drive a motor vehicle;

v. the effects of commonly used prescription and nonprescription drugs;

vi. review of the effects of contemporary designer drugs such as GHB and Rohypnol;

d. absorption rate, as well as the rate at which the human body can dispose of alcohol and how food affects the absorption rate:

i. rate at which the human body absorbs alcohol;

ii. blood alcohol concentration (BAC) and how to estimate a person's BAC. Include drink equivalency guidelines;

iii. how the human body disposes of alcohol;

iv. the effect of food on the absorption rate;

v. time is the only real factor that reduces intoxication;

e. methods of identifying and dealing with underage and intoxicated persons, including strategies for delaying and denying sales and service to intoxicated and underage persons:

i. procedures and methods for detecting false identification;

ii. procedures and methods for denying service or entry to underage persons;

iii. procedures and methods for identifying intoxicated persons including behavioral warning signs and other signs of impairment;

iv. procedures and methods for preventing over intoxication;

v. procedures and methods for terminating service to intoxicated persons;

f. state laws and regulations regarding the sales and service of alcoholic beverages for consumption on or off premises:

i. legal forms of identification in Louisiana;

ii. legal age to purchase, possess, and consume

alcohol and penalties for violation;

iii. legal age to enter licensed premises and penalties for violation;

iv. legal age to be employed by a vendor and penalties for violation;

v. acts prohibited on licensed premises and penalties for violation;

g. parish and municipal ordinances and regulations that affect the sale and service of alcoholic beverages for consumption on or off the licensed premises. These provisions will depend on the jurisdiction of the servers attending the class and may vary according to the parish and municipality:

i. legal hours of operation and Sunday sales;

ii. noise, litter, and zoning;

iii. leaving premises with alcohol;

iv. preemption of parish and municipal server training courses;

v. parish or municipal server licensing requirements;

vi. other relevant regulations;

h. state and federal laws and regulations related to the lawful age to purchase tobacco products and age verification requirements:

i. state and federal legal purchasing age;

ii. federal age verification requirements;

iii. state and federal laws and regulations related to vending machines;

iv. state laws related to sign posting requirements;

v. state laws related to minimum packaging requirements.

2. Each approved server training course shall include at least two hours of classroom instruction, exclusive of breaks and examination time, and shall be presented in a continuous block of instruction. Classes shall be limited to no more than one 10-minute break per hour.

3. The approved server training course shall be presented in its entirety to each student in a language approved by the Program Administrator.

4. Each server training course must include an examination approved by the Program Administrator, which is administered by the trainer immediately following the course presentation. Students shall take the examination in writing, unless special circumstances require an oral examination. With the approval of the Program Administrator, the test may be offered in a language best understood by the student, or bilingual trainers may, in response to direct inquiries, clarify test questions using another language. Each student shall correctly answer at least 70 percent of the examination questions. Students who receive failing scores may be retested once at a time and place to be determined by the trainer. Otherwise, students must repeat the full course for an additional fee.

5. All training facilities shall meet the requirements of the Americans with Disabilities Act (ADA) and shall have adequate lighting, seating, easily accessible restrooms, and comfortable room temperature.

6. At the beginning of each server training course, the trainer shall give each student:

a. an enrollment agreement that clearly states the

obligations of the trainer and student, refund policies, and procedures to terminate enrollment;

b. a notice that a student must complete the course in order to take the examination;

c. a server training workbook, approved by the Program Administrator, that is current, complete, and accurate. The workbook shall include an outline of the minimum course curriculum, table of contents, titles, subheadings, and page numbers. Physical specifications must meet the following minimum standards:

i. minimum dimensions of paper size must be 8½ by 11 inches;

ii. paper stock, excluding front and back cover, shall be white or near white, and of a quality and weight suitable for reproduction and note-taking with no ink bleed through;

iii. type must be a minimum of 11-point in a type style commonly used for textbooks and periodicals;

iv. binding must firmly hold the pages together in correct order and be sufficient for use during the course and as a reference;

v. professional printing and typesetting are not required, but reproductions must be clear, readable, and letter quality;

vi. for ease of reading and adequate room for note-taking, white space must be a minimum of 30 percent per page with the print or copy to be no more than 70 percent of the page.

7. No server training class shall include more than 100 students and students that arrive more than 15 minutes after the class begins shall not be admitted.

8. The classroom presentation must be consistent with the approved program.

9. Discussions must be pertinent to responsible beverage alcohol or tobacco sales, service, and consumption.

10. The Program Administrator or their designee may attend any class to evaluate conformance with the program certified by the Program Administrator.

11. At least seven days in advance, the training provider or their authorized trainers shall give written notice to the Office of Alcohol and Tobacco Control of the date, time, and location of all courses scheduled. The Office of Alcohol and Tobacco Control shall be notified by phone or fax of course cancellations prior to the course date except when cancellation cannot be anticipated, in which case notification shall be within three business days of the scheduled course date.

G. Approved Server Training Course Fees. Approved providers may charge fees for the cost of conducting the approved server training courses. The fees shall be approved by the Program Administrator and the Commissioner and may not exceed \$25.

H. Sanctions Against Approved Training Providers and Trainers. Any approved training provider or trainer who violates any of the provisions of Title 26 of the Louisiana Revised Statutes or any of the requirements of Chapter 5 shall:

1. for a first offense receive a notice of intended suspension or revocation of the Program Administrator's certification or authorization, with 30 days allowed to correct

any violations. If the violation is rectified no further action will be taken;

2. if the violation is not rectified or a second violation by the training provider or their trainer occurs, the Program Administrator or their designee shall suspend approval and certification of the training provider or trainer for a period not to exceed six months. Before the suspension will be lifted, the training provider or trainer shall correct all violations;

3. the Program Administrator or their designee may increase sanctions based on successive violations within a two-year period. Numerous violations within a two-year period may indicate disregard for the law or failure to provide an acceptable alcohol server education program so as to warrant cancellation of the certification of either the training provider or their trainer;

I. Approved Training Provider Responsible for Acts of Trainers. The Program Administrator may hold a training provider responsible for any act or omission of the training provider's program, personnel, trainers, or representatives that violate any law or administrative rule pertaining to approved training providers' privileges.

J. Prohibited Conduct. No approved training provider or authorized trainer shall:

1. make any false or misleading statement to induce or prevent the Program Administrator's actions;

2. falsify, alter, or otherwise tamper with alcohol server permits or records;

3. permit a student to refer to any written material or have a discussion with another person during the exam unless the instructor authorizes the student to use an interpreter;

4. permit any student to drink alcoholic beverages or to be under the influence of intoxicants during the course presentation or examination, including breaks;

5. drink alcoholic beverages or be under the influence of intoxicants during the course presentation or examination, including breaks;

6. prohibit, interfere, or fail to assist the Program Administrator or their designee with scheduling or attendance of on-site observations.

K. Approved Training Provider and Trainer Advertising and Promotion Standards

1. Approved training provider and trainer advertising related to the alcohol server training courses shall include:

a. the approved provider's or trainer's telephone number and cancellation policy;

b. the total amount of course time that includes instruction, examination and breaks;

c. a statement that students shall attend the entire course before taking the examination.

2. Advertising shall not suggest that the state of Louisiana, the Program Administrator, or any state agency endorses or recommends the approved provider's program to the exclusion of any other program.

3. Upon request, the training provider or trainer shall give the Program Administrator copies of program publications, brochures, pamphlets, scripts, etc. or any other representation of advertising materials related to the program.

4. An approved training provider or trainer must have records available to support all advertising claims or representations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:931 et seq.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 24:

Murphy J. Painter
Commissioner

9806#029

DECLARATION OF EMERGENCY

Department of the Treasury Board of Trustees of the State Employees Group Benefits Program

Plan Document—Cancer Screening and Detection

Pursuant to the authority granted by R.S. 42:871(C) and 874(A)(2), vesting the Board of Trustees with the sole responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, the Board of Trustees hereby invokes the Emergency Rule provisions of R.S. 49:953(B) to adopt amendments to the Plan Document of Benefits.

This rule shall become effective on July 1, 1998, and shall remain effective for a maximum of 120 days or until promulgation of the final Rule, whichever occurs first.

The Board finds that it is necessary to amend the Plan Document to implement the provisions of Act Number 1439 of the 1997 Regular Session of the Louisiana Legislature (R.S. 22:215.11), regarding benefits for mammography, Pap tests, and prostate examination and testing. Accordingly, the Plan Document of Benefits for the State Employees Group Benefits Program is hereby amended in the following particulars:

Amend Article 3, Section I, Subsection F, Paragraph 29, to read as follows:

F. Eligible Expenses

The following shall be considered eligible expenses, subject to applicable limitations of the Fee Schedule and the Schedule of Benefits, under the Comprehensive Medical Benefits when prescribed by a Physician and Medically Necessary for the Treatment of a Covered Person:

* * *

29. Not subject to the annual deductible, one Pap test for cervical cancer per calendar year and screening mammographic examinations performed according to the following schedule:

a. One baseline mammogram during the five-year period a person is 35-39 years of age;

b. One mammogram every two calendar years for any person who is 40-49, or more frequently if recommended by a physician;

c. One mammogram every twelve months for any person who is 50 years of age or older;

* * *

Amend Article 3, Section I, Subsection F, by adding a new Paragraph, designated as Paragraph 37, to read as follows:

* * *

37. Not subject to the annual deductible, testing for detection of prostate cancer, including digital rectal examination and prostate-specific antigen testing, once every twelve months for men over the age of fifty years, and as medically necessary for men over the age of forty years;

* * *

Ann B. Davenport
Deputy Director

9806#024

DECLARATION OF EMERGENCY

**Department of the Treasury
Board of Trustees of the State Employees Group
Benefits Program**

Plan Document—Impotency Drugs

Pursuant to the authority granted by R.S. 42:871(C) and 874(A)(2), vesting the Board of Trustees with the sole responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, the Board of Trustees hereby invokes the Emergency Rule provisions of R.S. 49:953(B) to adopt amendments to the Plan Document of Benefits.

This rule shall become effective on June 1, 1998, and shall

remain effective for a maximum of 120 days or until promulgation of the final Rule, whichever occurs first.

The Board finds that it is necessary to amend the Plan Document to limit benefits for drugs prescribed for treatment of impotency. Failure to adopt this amendment on an emergency basis will result in a financial impact which will adversely affect the availability of services necessary to maintain the health and welfare of the covered employees and their dependents which are crucial to the delivery of vital services to the citizens of the state. Accordingly, the Plan Document of Benefits for the State Employees Group Benefits Program is hereby amended in the following particulars:

Amend Article 3, Section VIII, of the Plan Document by adding thereto a new subsection, designated as subsection PP, to read as follows:

VIII. Exceptions And Exclusions For All Medical Benefits
No benefits are provided under this contract for:

* * *

PP. Drugs prescribed for Treatment of impotence, except when prescribed for males over the age of thirty, in a quantity not greater than five (5) per month, and provided that no benefits are payable for Yohimbine oral tablets, Papaverine and Phentolamine self-injectables, or any other drugs prescribed or dispensed for Treatment of impotence unless such Treatment is indicated in the approval of the drug by the Food and Drug Administration;

* * *

Ann B. Davenport
Deputy Director

9806#025