

Emergency Rules

DECLARATION OF EMERGENCY

Department of Economic Development Economic Development Corporation

Small Business Linked Deposit Loan Program (LAC 19:VII.Chapter 73)

The Department of Economic Development, Economic Development Corporation, is exercising the emergency provision of the Administrative Procedure Act, R.S. 49:953(B), to implement the Rules of the Louisiana Small Business Linked Deposit Loan Program. This Rule outlines procedures for administering the Louisiana Small Business Linked Deposit Loan Program as authorized by R.S. 51:2312. The emergency Rule is effective December 20, 1998 and shall remain in effect for a period of 120 days or until a final Rule is promulgated, whichever occurs first.

This Rule is necessary because of a recognized immediate need to assist small- and medium-sized businesses with financial assistance in the form of low interest rate loans and loan guarantees. Without this Emergency Rule, the public welfare is likely to be harmed as a result of likely disruptions in the efficient operation of Louisiana's capital markets, particularly for economically disadvantaged business owners and entrepreneurs who are most at risk of exclusion from the capital markets. Such market disruption would likely result from regulation-imposed bank capital constraints, as well as from the inherent risk aversion of banks, both of which will result in reduced capital investment, lower capital productivity, diminished job creation and increased risk of higher unemployment.

This proposed Emergency Rule is intended to mitigate the disruptions described above.

Title 19

CORPORATIONS AND BUSINESS

Part VII. Economic Development Corporation

Subpart 7. Louisiana Small Business Linked Deposit Loan Program

Chapter 73. Procedures for Authorization and Administration

§7301. Definitions

'But For' Statement—a signed statement from the lending institution that 'but for' the additional cash flow from the Linked Deposit the lender would not have made this loan.

Certified Disadvantaged Business—any business which has received certification from the Division of Economically Disadvantage Business Enterprises.

Corporation—the Louisiana Economic Development Corporation of the Department of Economic Development.

Eligible Lending Institution—any bank located in this state and organized under the laws of this state and any national bank which is authorized to make commercial loans and which agrees to participate in the Linked Deposit program as defined herein.

Eligible Small Business—any business, that has all of the following characteristics:

1. is headquartered in this state;
2. maintains offices and operating facilities in this state and transacts business in this state;
3. employs fewer than 150 employees, the majority of whom are residents of this state;
4. is organized for profit;
5. is not a federally chartered or state chartered bank or savings and loan institution;
6. is not engaged in real estate purchasing, holding, renting, or leasing;
7. is not a professional business of doctors, dentists, chiropractors, certified public accountants, or attorneys.

High Unemployment Area—as defined to be in the upper quartile of the state by the latest semi-annual statistics from the Louisiana Department of Labor.

Linked Deposit—a certificate of deposit placed by the Treasurer (as defined herein) with an eligible lending institution at a percentage below existing investment rates, as determined and calculated by the Treasurer, provided the institution agrees to provide a loan to an eligible small business at an equal percentage below the existing borrowing rate applicable to each specific business at the time of the deposit of state funds in the lending institution.

Low Employment Area—as defined to be in the lower quartile of the state by the latest semi-annual statistics from the Louisiana Department of Labor.

Substantial Stockholders—any person who owns more than 20 percent of a business applying for or currently participating in the *Link Deposit* Loan Program as outlined in LAC 19.VII.Subpart 7.Chapter 73.

Treasurer—the Treasurer of the State of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with LA R.S. 51:2312.

HISTORICAL NOTE: Promulgated by Department of Economic Development, Economic Development Corporation, LR 25:

§7303. General Provisions

A. Priority for application approval and funding shall be given as follows.

1. An eligible Louisiana business located in a high unemployment area which creates one or more jobs shall receive a maximum of a 4 percent interest rate buy down.

2. An eligible Louisiana certified disadvantaged business which creates one or more jobs shall receive a maximum of a 3 percent interest rate buy down.

3. An eligible Louisiana business, in a low unemployment area that creates four or more jobs shall receive a maximum of a 3 percent interest rate buy down.

4. An eligible Louisiana business in a low unemployment area creating a minimum of one to three jobs shall receive a maximum of a 1 percent interest rate buy down.

B. At no time shall the total amount of the dollars in the linked deposits in low unemployment areas exceed 33 percent

of the total available for linked deposits, unless otherwise specified by the Treasurer.

C. Applications which provide a 'but for' statement shall be eligible for a 5 year term on the linked deposit. All others applications are eligible for 2 year terms only.

AUTHORITY NOTE: Promulgated in accordance with LA R.S. 51:2312.

HISTORICAL NOTE: Promulgated by Department of Economic Development, Economic Development Corporation, LR 25:

§7305. Linked Deposit Loan Program Authorization Lending Institution requirements; Applicants Requirements and Conditions for Approval

A. The Treasurer may invest in Linked Deposits, as provided and defined by LA R.S. 51:2312 and also defined herein, provided that at the time of placement of any Linked Deposit, the total amount of such investments at any one time shall not exceed, in the aggregate, \$30,000,000. When deciding whether to invest in Linked Deposits, the Treasurer shall give priority to the investment, liquidity, and cash flow needs of the state and a determination of the financial soundness of the eligible lending institution.

B. An eligible lending institution that desires to receive a Linked Deposit shall accept and review applications for loans from eligible small business. The eligible lending institution shall apply all usual lending standards to determine the creditworthiness of each eligible small business with the exception of a business the lending institution determines is eligible as a 'but for' application. The eligible lending institution shall not charge, levy or collect any loan application fee, processing fee, or other charges other than its normal loan application fee, processing fee, or other charges when handling a Link Deposit application.

C.1. Only one loan through the Linked Deposit program shall be made and shall be outstanding at any one time to any eligible small business, owner, or borrower.

2. The maximum amount of a Linked Deposit which may be made to any eligible small business at any one time shall be \$200,000.

3. No loan shall be made to any officer or director of the lending institution making the loan.

4. No loan shall be made for the sole purpose of refinancing previous debt held either by the lending institution or another lending institution. The maximum debt refinance allowed is 25 percent of the total loan amount for any eligible small business.

5. There shall be at least a one year moratorium from the time one Linked Deposit matures to time of application for any new Linked Deposit for any eligible small business.

6. The net jobs created by the linked deposit must be maintained by the business for a period of not less than the period of the linked deposit or the treasurer may, in his sole discretion, declare the deposit and interest earned thereon, or any part thereof, to become immediately due and payable, not withstanding any agreement or contract to the contrary.

D. An eligible small business shall certify on its loan application that the reduced rate loan will be used exclusively to create new jobs or preserve existing jobs and employment opportunities in the state. Job titles of all existing employees as well as job titles of new jobs to be created shall be

forwarded with each application and reapplication. Whoever, knowingly files a false statement concerning such application shall be guilty of the offense of filing false public records and shall be subject to the penalty provided for in LA R.S. 14:133.

E. In considering which eligible small business to include in the Linked Deposit loan package for reduced rate loans, the eligible lending institution shall give priority to the economic needs of the area of the state in which the business is located, the number of jobs to be created in the state by the receipt of such loans, and such other factors as the eligible lending institution considers appropriate to determine the relative financial need of the eligible small business.

F. The eligible lending institution applying for a 5 year linked deposit shall forward to the Corporation a complete loan package as prepared for and presented to the institutions loan committee which includes a statement 'but for the additional cash flow from this linked deposit, this loan will not be made under these terms and conditions'.

G.1. The eligible lending institution shall forward to the Corporation and the Treasurer for review, a Linked Deposit loan package in the form and manner prescribed by the Corporation. The package shall include such information as required by the Corporation including:

- a. the amount of the loan requested;
- b. the number of jobs to be created in the state by each eligible small business;
- c. the ratio of state funds requested to jobs created; and
- d. any reports, statements, or plans applicable to the business, the overall financial need of the business, and such other factors as the Corporation considers appropriate.

2. The eligible financial institution shall certify that each applicant is an eligible small business as defined herein and shall, for each eligible small business, certify the present borrowing rate applicable to each specific eligible small business. Within 45 days after receipt, the Corporation shall provide written recommendations to the Treasurer on each Linked Deposit loan package received from eligible financial institutions.

H.1. The Treasurer may accept or reject a Linked Deposit loan package or any portion thereof, based on:

- a. the Treasurer's review of the recommendations of the Corporation;
- b. the availability and amount of state funds to be deposited; and
- c. a determination of the financial soundness of the financial institution in which the deposit is to be made.

2. The Treasurer shall notify the Corporation and the eligible lending institution of acceptance or rejection of a Linked Deposit loan package within 15 days of receipt by the Treasurer of the recommendations of the Corporation.

I. Upon acceptance of the Linked Deposit loan package or any portion thereof, the Treasurer may place certificates of deposit with the eligible lending institution at a percentage below the current investment rates, as determined and calculated by the Treasurer.

J. The eligible lending institution shall enter into a deposit agreement with the Treasurer, which shall include the requirements necessary to carry out the purposes of LAC

19:VII.Chapter 73. The requirements shall reflect the market conditions prevailing in the eligible lending institution's lending area. The agreement shall specify the period of time in which the lending institution is to lend funds upon the placement of a Linked Deposit, and shall include provisions for the certificates of deposit to mature within a period not to exceed one year. The Treasurer may renew a certificate of deposit in one-year increments, but in no event shall the total period of time that a certificate of deposit is placed with any lending institution exceed five consecutive years. Interest shall be paid at the times determined by the Treasurer. However, upon placement of a Linked Deposit, the Treasurer will give priority to renewal of existing Linked Deposits prior to placement of new linked deposits. Prior to renewal of Linked Deposits, the Treasurer shall continue to give priority to the investment, liquidity cash flow needs of the state and a determination of the financial soundness of the eligible lending institution.

K. The period of time for which each certificate of deposit is placed with an eligible lending institution shall be neither longer nor shorter than the period of time for which the Linked Deposit shall be used to provide loans at reduced interest rates. The agreement shall further provide that the state shall receive investment interest rates on any certificate of deposit or any portion thereof for any period of time for which there shall be no corresponding Linked Deposit loan outstanding to an eligible small business.

L. Upon placement of a Linked Deposit with an eligible lending institution, the institution shall lend such funds to the approved eligible small business listed in the Linked Deposit loan package. Each loan shall be at a fixed or variable rate of interest for a period of one year which shall be a percentage below the current borrowing rate applicable to each eligible small business. All records and documents pertaining to the linked deposit program shall be segregated by each lending institution for ease of identification and examination. A certification of compliance with §7305 in the form and manner prescribed by the Treasurer shall be completed by the lending institution and filed with the Treasurer and the Corporation.

M. If it is discovered that there is a Linked Deposit made for any purpose not authorized, the certificate may be matured and/or rewritten, if appropriate, without penalty to the State Treasurer. If this situation occurs, the eligible lending institution will pay the State Treasury the same terms and interest rate as if the deposit were placed without benefit of a Linked Deposit. If the eligible lending institution fails to pledge securities to the Treasurer or if such securities shall be unsatisfactory to secure the Deposit, in his sole discretion, the Treasurer may declare the Deposit and interest earned thereon, or any part thereof, to become immediately due and payable, notwithstanding any agreement or contract to the contrary.

AUTHORITY NOTE: Promulgated in accordance with LA R.S. 51:2312.

HISTORICAL NOTE: Promulgated by Department of Economic Development, Economic Development Corporation, LR 25:

§7307. Liability

Neither the State, the Corporation, nor the Treasurer shall be liable to any lending institution in any manner for payment of the principal or interest on any loan to an eligible small

business under §730. Any delay in payments or default on the part of a small business shall not in any manner affect the deposit agreement between the eligible lending institution and the Treasurer.

AUTHORITY NOTE: Promulgated in accordance with LA R.S. 51:2312.

HISTORICAL NOTE: Promulgated by Department of Economic Development, Economic Development Corporation, LR 25:

Dennis A. Manshack
Executive Director

9812#039

DECLARATION OF EMERGENCY

Office of the Governor Commission on Law Enforcement and Administration of Criminal Justice

Peace Officers—Standards and Training (LAC 22:III.Chapter 47)

The following amendments are published in accordance with the emergency provision of R.S. 49:953(B), the Administrative Procedure Act, and R.S. 40:2401 et seq., the Peace Officer Standards and Training Act, which allows the Council on Peace Officer Standards and Training (POST) to promulgate rules necessary to carry out its business or the provision of Chapter 47.

These rules will replace the current rules and include the following changes:

1. the definition of standard terms;
2. an increase in the minimum hours for basic certification and the addition of two certification levels;
3. the procedures and policies for student retesting;
4. the qualifications for special guest instructors;
5. the procedures for pre-academy firearms training and qualification;
6. the rules regarding the revocation of peace officer certification; and
7. the monitoring requirements for the accredited training centers.

This emergency rule is to be effective on January 1, 1999 and will remain in effect for 120 days or until a final rule takes effect through the normal rulemaking process, whichever occurs first.

Emergency rulemaking is necessary to comply with the mandate of the Peace Officer Study Committee's recommendations under Act 108 of the First Extraordinary Session of 1998.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part III. Commission on Law Enforcement and Administration of Criminal Justice

Subpart 4. Peace Officers

Chapter 47. Standards and Training

§4701. Definitions

A. The following terms, as used in these regulations, shall have the following meanings:

Law Enforcement Training Course—a basic or advanced course of study certified by the Council on Peace Officer Standards and Training (POST), for the purpose of educating and training persons in the skills and techniques of a peace officer in the discharge of his duties.

Peace Officer—any full-time employee of the state, a municipality, a sheriff or other public agency, whose permanent duties actually include the making of arrests, the performing of searches and seizures, or the execution of criminal warrants, and is responsible for the prevention or detection of crime or for the enforcement of the penal, traffic, highway laws of this state, but not including any elected or appointed head of a law enforcement department. Peace officer also includes those sheriff's deputies whose duties include the care, custody and control of inmates.

Training Center—any POST accredited school, academy, institute, or any place of learning whatsoever, which offers or conducts a law enforcement or corrections training course.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 13:434 (August 1987), amended LR 25:

§4703. Basic Certification

A. All full-time peace officers, as defined in R.S. 40:2402, shall complete a basic training course as prescribed and certified by the Council on Peace Officers Standards and Training (POST Council). Reserve or part-time officers or military police officers stationed in Louisiana may be eligible for certification if they successfully complete a basic training course prescribed for full-time peace officers and pass the POST statewide examination. There are three levels of POST certification:

1. Level 1 Certification for Basic Law Enforcement Peace Officers

a. The student will complete a training course with a minimum of 320 hours for full certification. Level 1 certification requires that the student meet the POST requirements for firearm certification.

2. Level 2 Certification for Basic Correctional Peace Officer

a. The student will complete a training course with a minimum of 218 hours and is limited to those peace officers whose duties are the care, custody, and control of inmates. The training course consists of the ACA core curriculum plus a sufficient number of hours to obtain POST certification. POST Firearm certification for Level 2 students is optional.

3. Level 3 Certification for Jailer Training Officers

a. The student will complete a training course with a minimum of 90 hours and is limited to those correctional officers whose duties are the care, custody, and control of inmates. This course consists of the ACA core correctional officer curriculum. POST Firearm certification for Level 3 students is not required.

B. Students shall adhere to all standards, rules and regulations established by the accredited training center. Certification will not be awarded to students who are physically unable to complete every aspect of the basic training course. A student may not be certified for successful completion if:

1. the student's excused absences exceed 10 percent of the total hours of instruction;
2. the student fails to achieve a passing grade of 70 percent or higher on each block of instruction;
3. the student fails to achieve a grade of 80 percent or higher on the requirements for firearm certification;
4. all aspects of the training course have not been successfully completed.

C. Students shall be required to pass the POST statewide written examination for peace officers as prescribed by state law. Seventy percent shall constitute a passing score. In the event a student fails the examination, one retest may be administered if the agency head so desires. The student must wait a minimum of fifteen working days before the retest can be administered with a maximum time limit of thirty working days. If said student fails the retest, the student shall be required to complete another basic training course and satisfy all POST requirements to obtain certification. Oral testing on the statewide examination is prohibited.

D. To maintain firearm certification, an officer shall be required to requalify yearly on the POST firearms qualification course, demonstrating at least 80 percent proficiency. Scores shall be computed and verified by a firearms instructor certified by the POST Council. If the period between qualifying exceeds 18 months for any reason, the officer will be required to complete a basic firearms course at an accredited training center, unless the officer had been in the military for more than three years and was exercising his veteran reemployment rights.

E. When a basic student injures themselves during a basic training course, the student must have the nature of the injury immediately documented. Should the injury later prevent the student from being tested on a basic training course requirement, then upon written request of the agency head, the student will have eight weeks from the time of the medical release to take and pass those course requirements, unless the time between the academy graduation and medical release exceeds a one year period. In that case, the student will be required to complete another basic training course.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 13:434 (August 1987), amended LR 25:

§4705. Registration of Officers

A. Registration may be granted in lieu of certification to those officers who were hired prior to January 1, 1986, who did not attend POST-certified basic training.

B. Officers hired prior to January 1, 1986, may be eligible to receive POST registration by completing the following requirements.

1. A letter from the agency head shall be submitted to the POST Council indicating a desire to have the officer registered with the state;

2. Documentation shall accompany the letter regarding initial employment date and continuous law enforcement service on a form prescribed by POST.

3. POST registration shall not apply to reserve/auxiliary officers.

4. Registration is granted in lieu of certification to

full-time officers, and shall not apply to reserve or part time officers. POST certification is only granted to those individuals who successfully meet all requirements of POST:

- a. completion of a basic training course, examination, etc.;
- b. registration simply means that the full-time officer is *registered* with POST and he/she is not required to comply with the mandates for basic POST certification;
- c. they are exempt from basic training course (i.e., *grandfathered in*), but must comply with all other POST mandates to maintain grandfathership;
- d. grandfathership/registration shall become invalid if officer experiences a three-year break in full-time law enforcement service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 13:434 (August 1987), amended LR 25:

§4707. Out-of-State Transfers

A. Out-of-state-transfers shall be eligible for certification by meeting the following criteria at an accredited training center:

1. present a currently valid out-of-state POST certificate. Training applicants transferring from out-of-state who are not certified will not be recognized by POST;
2. must be a full-time employed peace officer and not a part-time, reserve, or auxiliary officer;
3. successfully complete "Legal Aspects" Section of the *Louisiana Law Enforcement Basic Training Manual*, (40 minimum hours);
4. successfully complete "Firearms" Section of the *Louisiana Law Enforcement Training Manual*, (40 minimum hours);
5. pass the statewide examination for peace officers with a minimum score of 70 percent; if failed, the student must complete a full basic training course.

B. Out-of-state transfers with less than a 320 hour basic training course are required to complete an entire POST basic training course.

C. Out-of-state transfers who have attended "pre-service" training in another state shall be required to meet the same POST requirements as basic recruit officers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 13:434 (August 1987), amended LR 25:

§4709. Interruption of Full-Time Service

A. Any peace officer hired prior to January 1, 1986 who interrupts his full-time law enforcement service for a period in excess of three years and is thereafter rehired, shall be required to meet the basic training requirements for new peace officers. However, if such officer has already completed a POST certified basic training course, he shall be required to complete the Legal Aspects and firearms portion of the course, qualify on the POST firearms qualification course, and pass the statewide examination, all at an accredited training center. Proof of basic training will be required. If the student

fails the statewide examination, the student must complete a full basic training course.

B. Any officer hired after January, 1986 who interrupts his full-time law enforcement service for a period in excess of three years and is thereafter rehired, shall be required to meet the requirements outlined in §4709.A.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 13:434 (August 1987), amended LR 25:

§4715. Instructor Qualifications

A. Full-time academy instructors must meet the following qualifications:

1. shall possess two years college and/or practical experience in law enforcement or corrections;
2. each two years experience may be substituted for one year of college. Any combination of above will be acceptable;
3. shall have completed the instructor development course conducted by the Federal Bureau of Investigation . If the course is not available within Louisiana within one year, POST may waive this requirement until such time as a course becomes available.
4. shall have completed two years practical experience in law enforcement or corrections field.

B. Specialized instructors for defensive tactics, firearms, and corrections shall meet the following qualifications:

1. shall be a full-time employee of a public criminal justice agency with at least two years full-time continuous, practical law enforcement experience, and pertain to firearms, defensive tactics, and corrections instructors;
2. shall have recommendation of an academy director or agency head;
3. shall successfully complete all aspects of specialized instructor school as presented by POST and the Federal Bureau of Investigation (FBI) (except for Defensive Tactics Instructors);
4. shall attend POST-sponsored instructor retrainers as required by POST.

C. Special guest instructors shall meet the following qualifications:

1. shall have advanced knowledge or expertise in the area in which they are instructing;
2. shall not certify students in defensive tactics, firearms or corrections fields.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 13:434 (August 1987), amended LR 25:

§4721. Firearms Qualification

A. Pre-Academy Firearms Training

1. Any person employed or commissioned as a peace officer, or reserve or part-time peace officer must successfully complete a pre-academy firearms training program as prescribed by the council within 30 days from the date of initial employment if that person will be performing the duties of a peace officer before attending a basic law enforcement training course.

B. Pre-Academy and Basic Firearms Qualification

1. Students shall qualify with an approved service weapon on the POST-approved Firearms Qualification Course and all scoring will be computed and recorded by a firearms instructor certified by the POST Council.

a. During a pre-academy training program, a student who fails may be given retests. Any person who fails shall be prohibited from exercising the authority of a peace officer until they have successfully completed the course. However, such persons shall not be prohibited from performing administrative duties.

b. During a basic law enforcement training course, it shall be left to the discretion of the training center director whether a student who fails to qualify on the POST Qualification Course will be given retests. However, if retests are given, the scores will be averaged in accordance with POST regulations and must be completed before the academy class graduates.

2. On a twenty-five (25) yard range equipped with POST-approved P-1 targets, the student, given a pistol or revolver, holster and 240 rounds of ammunition, will fire the POST firearms qualification at least four (4) times. Scores must be averaged and the student must:

- a. fire all courses in the required stage time;
 - b. use the correct body position for each course of fire;
 - c. fire the entire course using double action only, except in the case of single action only semi-automatic pistols;
 - d. fire no more than the specified number of rounds per stage;
 - e. fire each course at a distance no appreciably less nor greater than that specified.
 - f. achieve an average score of not less than 96 out of a possible 120 which is 80 percent or above. The score shall be computed as follows: Score 1 + Score 2 + Score 3 + Score 4 = Qualifying Score (divided by) the number of attempts.
 - g. all stages of fire must be fired in the manner specified.
3. All targets will be graded and final scores computed by a POST-certified Firearms Instructor.

C. Annual Requalification

1. The POST firearms requirements for annual requalification are the same as for basic qualification with one exception. If the POST Fire-arms qualification course must be fired more than once, the scores shall be averaged as designated in basic firearms qualification.

2. All targets will be graded and final scores computed by a POST-certified Firearms Instructor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 13:343 (August 1987), amended LR 25:

§4723. POST Firearms Qualification Course

A. Stage One

1. At the 25-yard line, the student will fire six rounds strong hand barricade standing, six rounds, strong hand, barricade kneeling, and six rounds, strong hand or off hand barricade, standing, offside, barricade in ninety seconds.

Movement to the barricade is required to a maximum distance of 5 yards.

B. Stage Two

1. At the seven-yard line, the student will fire 12 rounds, standing in 25 seconds, with mandatory reloading for all weapons after first six rounds; 6 rounds kneeling in 10 seconds, and 6 rounds off-hand only in 8 seconds.

C. Stage Three

1. At the four-yard line, student will fire three rounds, one-or two-hands, instinct shooting position from holster, in three seconds, and three rounds, one-or two hands, instinct shooting position from ready-gun position, in three seconds. This is repeated once.

D. Stage Four

1. At the two-yard line, one or two hands close quarter shooting position from holster, the student will fire two rounds in two seconds. This is repeated twice. During the shooting, the student is required to move one step to the rear. E. The entire POST firearms qualification course is fired with a hot line, meaning the officer shall automatically reload as soon as his weapon is empty.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 13:434 (August 1987), amended LR 25:

§4731. Revocation of Certification

A. All law enforcement agencies and correctional agencies and institutions within the State of Louisiana shall immediately report the conviction of any POST certified full-time, reserve, or part-time peace officer to the council.

B. Any offense which results in the individual peace officer's restriction of his/her constitutional right to bear arms shall be grounds for immediate revocation. The revocation of any certification is effective immediately when the council receives a certified copy of a court's judgment and issues notice to the peace officer. Notice of the revocation shall be sent via certified US mail to the peace officer and the officer's employing agency.

C. All criminal convictions involving a peace officer shall be directed to the council's attention for potential revocation hearings. The council shall review each criminal conviction and conduct hearings on each reported conviction.

D. The chairman of the council shall designate a revocation committee to review potential peace officer revocations and report any findings to the next council meeting. The revocation committee shall consist of:

1. a police chief;
2. a sheriff;
3. a district attorney;
4. the Superintendent of State Police; and
5. the Attorney General or his designee.

E. Any hearings conducted by the council or the revocation committee shall be conducted according to guidelines established by the council.

F. Any peace officer whose certification has been revoked by the Council may file an appeal under the provisions of the Administrative Procedures Act under R.S. 49:964.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, amended LR 25:

§4741. Training Centers

A. Each training center will be subject to a comprehensive performance review by the council once every four years.

B. Each training center will be monitored at least annually to ensure compliance with the council's training standards. C

Each training center shall transmit to the POST Council a schedule of POST certifiable training being conducted. The training schedule shall be submitted no later than the Friday preceding the date on which the training is to be conducted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, amended LR 25:

Michael A. Ranatza
Executive Director

9812#033

DECLARATION OF EMERGENCY

**Office of the Governor
Division of Administration
Board of Trustees of the State Employees Group
Benefits Program**

Special Enrollment—Retirees

Pursuant to the authority granted by R.S. 42:871(C) and 874(B)(2), vesting the Board of Trustees with the 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 La R.S. 49:953(B) to adopt amendments to the Plan Document of Benefits.

The Board finds that it is necessary to amend the Plan Document to provide for special enrollment of retirees under certain circumstances in compliance with the Health Insurance Portability and Accountability Act of 1996 (U.S. Public Law 104-191), the rules and regulations promulgated pursuant thereto, and La. R.S. 22:250.1, et seq., in order to avoid sanctions or penalties.

Accordingly the Plan Document of Benefits for the State Employees Group Benefits Program is hereby amended in the following particulars.

Amendment Number 1

Amend Article 1, Section II, Subsection B, Paragraph 2, to read as follows:

2. Effective Date of Coverage. Retiree coverage will be effective on the first of the month following the date of retirement, provided the Employee and employer have agreed to make and are making the required contributions. *Retirees Shall Not Be Eligible for Coverage as Overdue Applicants.*

Amendment Number 2

Amend Article 1, Section II, Subsection E, to read as follows:

E. Special Enrollments

In accordance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191, and the regulations promulgated pursuant thereto, and La. R.S. 22:250.1, et seq., certain eligible persons for whom the option to enroll for coverage was previously declined, and who would otherwise be considered overdue applicants, may enroll under the following circumstances, terms, and conditions for special enrollments.

1. Loss of Other Coverage. Special enrollment will be permitted for employees or dependents for whom the option to enroll for coverage was previously declined because such employees or dependents had other coverage which has terminated due to:

a. loss of eligibility through separation, divorce, termination of employment, reduction in hours, or death of the plan participant; or

b. cessation of employer contributions for the other coverage, unless such employer contributions were ceased for cause or for failure of the individual participant; or

c. the employee or dependent having had COBRA continuation coverage under another plan, and the COBRA continuation coverage has been exhausted, as provided in HIPAA.

2. After Acquired Dependents. Special enrollment will be permitted for employees or dependents for whom the option to enroll for coverage was previously declined when the employee acquires a new dependent by marriage, birth, adoption, or placement for adoption.

3. Special enrollment application must be made within 30 days of the termination date of the prior coverage or the date the new dependent is acquired. Persons eligible for special enrollment for whom application is made more than 30 days after eligibility will be considered overdue applicants, subject to the provisions of Article 1, Section II, Subsection D above.

4. The effective date of coverage shall be:

a. for loss of other coverage or marriage, the first of the month following the date of the receipt by the State Employees Group Benefits Program of all required forms for enrollment;

b. for birth of a dependent, the date of birth;

c. for adoption, the date of adoption or placement for adoption;

5. The Program will require that all special enrollment applicants complete a Statement of Physical Condition form and sign an acknowledgment of pre-existing condition form.

6. Medical expenses incurred during the first 12 months that coverage for the special enrollee is in force under this contract will not be considered as covered medical expenses if they are in connection with a disease, illness, accident or injury for which medical advice, diagnosis, care, or treatment was recommended or received during the 6-month period immediately prior to the enrollment date. The provisions of this paragraph do not apply to pregnancy.

7. If the special enrollee was previously covered under a group health plan, health insurance coverage, Part A or B of Title XVII of the Social Security Act (Medicare), Title XIX of the Social Security Act (Medicaid) other than coverage consisting solely of benefits under section 1928 thereof, or

other creditable coverage as defined in the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191, and the rules and regulations promulgate pursuant thereto, the duration of the prior coverage will be credited against the initial 12-month period used by the Program to exclude benefits for a pre-existing condition provided, however, that termination under the prior coverage occurred within 63 days of the date of coverage under the Program.

8. *Retirees Shall Not Be Eligible for Special Enrollment*, except under the following conditions:

- a. retirement began on or after July 1, 1997;
- b. the retiree can document that creditable coverage was in force at the time of the election not to participate or continue participation in the Program;
- c. the retiree can demonstrate that creditable coverage was maintained continuously from the time of the election until the time of requesting special enrollment;
- d. the retiree has exhausted all COBRA and/or other continuation rights and has made a formal request to enroll within thirty (30) days of the loss of other coverage; and
- e. the retiree has lost eligibility to maintain other coverage through no fault of his/her own and has no other creditable coverage in effect.

These amendments shall become effective on December 30, 1998, and shall remain effective for a maximum of 120 days or until promulgation of the final Rule, whichever occurs first.

Jack W. Walker, Ph.D.
Chief Executive Officer

9812#052

DECLARATION OF EMERGENCY

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

Hospital Neurological Rehabilitation Program—Reimbursement Methodology

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing will adopt the following emergency rule in the Medical Assistance Program as authorized by LA R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This rule is 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 Act or until adoption of the rule whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing previously adopted a rule which established the prospective reimbursement methodology for Intensive Neurological Rehabilitation Care Program in the hospital setting (*Louisiana Register*, Volume 19, Number 7). The reimbursement methodology provided for the periodic increases to the rate paid. However, the Louisiana Legislature did not include a

budget allocation for Hospital Intensive Neurological Rehabilitation Care services in the 1998-99 Appropriations Bill. Therefore, the Department has determined that it is necessary to amend the reimbursement methodology for Hospital Intensive Neurological Rehabilitation Care services by reimbursing for these services at a prospective per diem rate based on audited statewide weighted average cost per day for cost reporting periods ending in state fiscal year 1993-1994 as a base year. The subsequent application of the inflationary adjustment for Hospital Intensive Neurological Rehabilitation Care services shall be contingent on the allocation of funds by the Legislature in the Appropriations Bill. Notwithstanding the elimination of the inflation adjustment for fiscal year 1999, the Department has carefully reviewed the current rates and is satisfied that they are consistent with efficiency, economy and quality of care, and are sufficient to enlist enough providers so that Hospital Intensive Neurological Rehabilitation care and services under the state plan are available; at least to the extent that they are available to the general population in the state.

This action is necessary to avoid a budget deficit because the Louisiana Legislature did not include a budget allocation for an inflationary adjustment to the reimbursement rates Hospital Intensive Neurological Rehabilitation Care services in the 1998-99 Appropriations Bill. Public notice of this action was provided by statewide newspaper publications prior to January 1, 1999. It is anticipated that the discontinuance of the application of inflationary adjustment to the reimbursement rate will reduce expenditures by approximately \$12,775 for state fiscal year 1998-1999.

Emergency Rule

Effective for dates of service on or after January 1, 1999, the Department of Health and Hospitals, Bureau of Health Services Financing amends the reimbursement methodology for Hospital Intensive Neurological Rehabilitation Care services contained in the July 20, 1993 rule which established a reimbursement methodology for Intensive Neurological Rehabilitation Care services at a prospective per diem rate based on audited statewide weighted average cost per day for cost reporting periods ending in state fiscal year 1993-1994 as a base year, inflated effective January 1 of each year by increasing the previous year's per diem rate by Health Care Financing Administration's target rate percentage for non-PPS hospitals/units for the applicable year. The subsequent application of the inflationary adjustment for Hospital Intensive Neurological Rehabilitation Care services shall be contingent upon the allocation of funds by the Legislature in the Appropriations Bill.

Interested persons may submit written comments to the following address: Thomas D. Collins, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to all 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

9812#047

DECLARATION OF EMERGENCY

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

Inpatient Psychiatric Services—Reimbursement

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing will adopt the following emergency rule in the Medical Assistance Program as authorized by LA R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This rule is 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 Act or until adoption of the rule whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule which established the prospective reimbursement methodology for inpatient psychiatric hospital and distinct part psychiatric unit services (*Louisiana Register*, Volume 19, Number 6). The reimbursement methodology for inpatient psychiatric hospital and distinct part psychiatric unit services provides for periodic increases to the rate paid. However, the Louisiana Legislature did not include a budget allocation for an inflationary adjustment to the reimbursement rates for inpatient psychiatric hospital and distinct part psychiatric unit services in the 1998-99 Appropriations Bill. Therefore, the Department has determined that it is necessary to amend the reimbursement methodology for inpatient psychiatric hospital and distinct part psychiatric unit services contained in the June 20, 1993 rule by reimbursing inpatient psychiatric hospital and distinct part psychiatric unit services at a prospective per diem rate based on statewide weighted average cost per day for cost reporting periods ending in calendar year 1991 as a base year, inflated effective January 1 of each year by increasing the previous year's per diem rate by Health Care Financing Administration's target rate percentage for non-PPS hospitals/units for the applicable year. The subsequent application of the inflationary adjustment for inpatient psychiatric hospital and distinct part psychiatric unit services shall be contingent on the allocation of funds by the Legislature in the Appropriations Bill. Notwithstanding the elimination of the inflation adjustment for fiscal year 1999, the Department has carefully reviewed the current rates and is satisfied that they are consistent with efficiency, economy and quality of care and are sufficient to enlist enough providers so that inpatient psychiatric hospital and distinct part psychiatric unit care and services under the state plan are available; at least to the extent that they are available to the general population in the state.

This action is necessary to avoid a budget deficit in the Medical Assistance Programs because the Legislature did not include a budget allocation for an inflationary adjustment to the reimbursement rates for inpatient psychiatric hospital and distinct part psychiatric unit services in the 1998-99 Appropriations Bill. It is anticipated that the discontinuance

of the application of inflationary adjustment to the reimbursement rate will reduce expenditures by approximately \$331,477 for state fiscal year 1998-1999.

Emergency Rule

Effective for dates of service on or after January 1, 1999, the Department of Health and Hospitals, Bureau of Health Services Financing amends the reimbursement methodology for inpatient psychiatric hospital and distinct part psychiatric unit services contained in the June 20, 1993 rule. Inpatient psychiatric hospital and distinct part psychiatric unit services are to be reimbursed at a prospective per diem rate based on statewide weighted average cost per day for cost reporting periods ending in calendar year 1991 as a base year, inflated effective January 1 of each year by increasing the previous year's per diem rate by Health Care Financing Administration's target rate percentage for non-PPS hospitals/units for the applicable year. The application of the inflationary adjustment for inpatient psychiatric hospital and distinct part psychiatric unit services shall be contingent on the allocation of funds by the Legislature in the Appropriations Bill.

Interested persons may submit written comments to the following address: Thomas D. Collins, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to all 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

9812#053

DECLARATION OF EMERGENCY

Department of Insurance Office of the Commissioner

Regulation 33—Medicare Supplement Insurance Minimum Standards (LAC 37:XIII.Chapter 5)

In accordance with R.S. 49:953(B), the Louisiana Department of Insurance has adopted this emergency regulation in order to ensure that Medicare beneficiaries of this state are afforded the same protections under the newly enacted provisions of the federal Medicare statute, as set forth in 42 CFR Parts 400, 403, 410, 417 and 422 effective July 27, 1998. The purpose of this emergency regulation is to implement the specific requirements of the Social Security Act, mandated by the Balanced Budget Act of 1997, which established a new Medicare+Choice (M+C) program that significantly expands the health care options available to Medicare beneficiaries. Further, Congress has mandated that each state amend its laws to conform to the federal standards by April 29, 1998.

Failure to adopt this emergency regulation would result in imminent peril to Louisiana Medicare beneficiaries' health, safety, or welfare, in that it would endanger the eligibility,

enrollment, benefits and beneficiary protections, quality assurance, participating providers, payments to M+C organizations, premiums, appeals and grievances, and contracting rules. When the individuals of this state receiving state and federal medical assistance and/or enrolled in Medicare managed care plan, cannot access medical and health care services, their health is seriously threatened. Hence, it is paramount that this emergency regulation be adopted.

This emergency regulation was adopted on December 10, 1998 by the Louisiana Insurance Department.

The full text of this Emergency Rule may be obtained from the Department of Insurance, Office of the Commissioner, P.O. Box 94214, Baton Rouge, LA 70804, or from the Office of the State Register, 1051 North Third Street, Baton Rouge, LA 70802.

James H. "Jim" Brown
Commissioner

9812#070

DECLARATION OF EMERGENCY

Department of Insurance Office of the Commissioner

Regulation 62—Managed Care Contracting Requirements (LAC 37:XIII.Chapter 53)

In accordance with the provisions of La. R.S.49:953(B) of the Administrative Procedure Act, the Department of Insurance has adopted this Emergency Regulation in order that it might be implemented without delay and allow the statutory provisions of Acts 897 and 1485 of the 1997 Regular Session of the Louisiana Legislature and protect the general health and safety of residents of the state from imminent peril resulting from inappropriate medical care and lack of access to health insurance coverage.

Emergency rulemaking is necessary to establish reasonable requirements for inclusion of Rural Hospitals and their practicing physicians in managed care networks. The regulations are being adopted to assure compliance with Acts 897 and 1485 of the 1997 Regular Session of the Louisiana Legislature. This rule is necessary to provide for the required participation of qualified rural hospitals and their practicing physicians, through the establishment of reasonable contracting requirements for medical services, that do not jeopardize the health of enrollees or plan members. This emergency regulation is effective December 20, 1998 and shall remain in effect for the maximum period of time allowed by state law.

Title 37 INSURANCE

Part XIII. Regulations

Chapter 53. Regulation 62—Managed Care Contracting Requirements

§5301. Purpose

A. The purpose of this regulation is to establish the reasonable authority and obligation of managed care

organizations related to provider contracts under Acts 1485 and 897 of the 1997 Regular Session of the Louisiana Legislature. The provisions of LA R.S. §40:1300.115 establish the legislative intent for qualifying rural hospitals, and their practicing physicians, to be allowed to participate in the health care delivery systems of managed care organizations. These statutes also establish the intent of the legislature that managed care organizations provide reasonable reimbursement for the services provided by qualifying rural hospitals and the physicians who practice at these hospitals.

B. Act 897 of the 1997 Regular Session of the Louisiana Legislature amends Titles 40 and 22 of the Louisiana Revised Statutes to prohibit managed care organizations from using incentive arrangements that impede, impair, or otherwise diminish the ability of a plan member or enrollee to receive appropriate and necessary medical care and treatment. These statutes also establish the legislative intent that any prohibitions on the authority of an insurer to contract for delivery of health benefits through capitation or shared risk arrangements be limited to non-compliant incentive arrangements. To carry out the intent of the legislation and assure full compliance with the provisions of these Acts, this regulation establishes reasonable contracting requirements that are applicable to managed care organizations and assures uniformity in application of terms and conditions for participation.

AUTHORITY NOTE: Adopted in accordance with R.S. 22, R.S. §22:3, R.S. §§22:215.18, 2:2006, 22:2014, 22:2018, 22:2019, 22:2021 and 22:2022.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:

§5303. Definitions

Accreditation/Certification—a hospital that is accredited by the Joint Commission on Accreditation of Health Care Organizations (JCAHO) or Medicare certified for provision of acute care hospital services.

Community—the parish in which a qualifying rural hospital is located.

Discriminate—to apply a payment methodology that relies upon terms and conditions that are more restrictive than those terms and conditions applicable to non-rural hospitals or their practicing physicians in a region which result unreasonable payment to a qualifying rural hospital or physician practicing in such hospitals. A payment methodology that results in reimbursement to a qualifying rural hospital or practicing physician that is equal to or greater than the reimbursement to non-rural participating hospitals or physicians in the region, shall be considered non-discriminating.

Employee—a person employed directly by a managed care organization and does not include any contract, temporary, or other type of employment arrangement.

Geographic Area—a Parish.

Health Benefit Plan—any health insurance policy, plan, or health maintenance organization subscriber agreement, issued for delivery in this state under a valid certificate of authority by an entity authorized by law to bear risk for the payment of health care services.

Health Care Provider—a physician duly licensed to practice medicine by the Louisiana State Board of Medical Examiners,

or other health care professional duly licensed in Louisiana, or an acute care hospital licensed to provide medical care in this state. The term shall also mean any legal entity or organization formed for the primary purpose of providing medical or health care services and provides such services directly or through its participants.

Incentive Arrangement—any payment or contractual obligation included in a general payment plan, capitation contract, shared risk arrangement, or other agreement between a managed care organization and a health care provider that is tied to utilization of covered benefits.

Managed Care Organization—a health maintenance organization or other entity authorized by law to bear risk for the payment of health care services that holds a valid certificate of authority to issue for delivery in this state a health benefit plan.

Pass Through Payments—any funds or payments received by a managed care organization for the purpose of reimbursing the cost of services provided by a health care provider, that are not covered by the health care provider's contract, including but not limited to research grants, and federal payments for indigent care.

Payment Differential—a difference in the amount paid to a health care provider resulting from negotiations to establish a capitation, risk sharing, or other payment arrangement that is based on financial incentives necessary to establish medical services within a geographic area of the state.

Practicing—a physician licensed to practice medicine by the Louisiana State Board of Medical Examiners who has established his/her practice in the geographic area where the rural hospital is located, maintains active hospital staff privileges, and provides medical treatment in said hospital on a weekly basis. The term shall also include any physician whose participation is essential to provision of services covered under a rural hospital's contract with a managed care organization or treatment of enrollees admitted to the hospital, provided such services are appropriate and within the scope of the hospital's accreditation/certification. The term does not include physicians who are merely affiliated, or associated with a rural hospital or any physician whose participation is essential to treatment of enrollees admitted to the hospital based on the unreasonable refusal of a hospital to utilize another physician available through the managed care organization who is qualified to provide the needed medical services to the patient.

Region—a group of parishes designated by a managed care organization for establishing reimbursement amounts for payment of practicing health care providers. A managed care organization may follow congressional districts or such other reasonable grouping of contiguous parishes in establishing regions. In establishing regions, a managed care organization shall include all parishes of the state and limit the total number of regions to seven. In no event shall any regional configuration be established that acts to discriminate unfairly against qualifying rural hospitals or their practicing physicians.

Rural Hospital—a hospital qualifying to participate in a Health Maintenance Organization under the requirements of

Part L of Chapter 5 of Title 40 of the Louisiana Revised Statutes of 1950, comprised of LA R.S. §40:1300.115.

AUTHORITY NOTE: Adopted in accordance with R.S. 22, R.S. §22:3, R.S. §§22:215.18, 2:2006, 22:2014, 22:2018, 22:2019, 22:2021 and 22:2022.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:

§5305. Applicability and Scope

A. Except as otherwise specifically provided, the requirements of this regulation apply to all managed care organizations holding valid certificates of authority to issue for delivery in this state, an insurance policy, plan, or health maintenance organization subscriber agreement. This regulation addresses the requirements of LA R.S. 40:1300.115 regarding contracts with rural hospitals and their practicing physicians and establishes standards for participation in a managed care organization. The provisions of this regulation require managed care organizations to provide covered medical benefits either directly, or through contractual agreements with health care providers. A contractual agreement between a managed care organization and a health care provider shall require the health care provider to either:

1. provide covered medical services directly; or
2. in conjunction with other health care providers who are required, under contract or other arrangement, to meet the same statutory and regulatory requirements applicable to health maintenance organization contracts with health care providers.

AUTHORITY NOTE: Adopted in accordance with R.S. 22, R.S. §22:3, R.S. §§22:215.18, 2:2006, 22:2014, 22:2018, 22:2019, 22:2021 and 22:2022.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:

§5307. Provider Contracting Requirements

A. LA R.S. §40:1300.115 requires managed care organizations to accept qualifying rural hospitals, and their practicing physicians who meet specific statutory criteria, as providers of health care subject to the terms and conditions that are no more restrictive than applicable to other hospitals. This requirement applies in every parish where a managed care organization holding a valid certificate of authority issued by the Louisiana Department of Insurance, has policies, subscriber agreements, or contracts for delivery of benefits in effect. LA R.S. §22:2016E. requires all hospitals and health care providers utilized by health maintenance organizations to be licensed under applicable state law. LA R.S. §22:2021 prohibits health maintenance organizations from adopting or utilizing administrative treatment guidelines that fall below the appropriate standard of care. Additionally, LA R.S. §22:2019 prohibits the utilization of a certificate of authority by any person other than the organization or entity issued said certificate.

1. All contracts for delivery of covered medical services shall be between the managed care organization and a health care provider, except contracts with other insurers for provision of health coverage. A managed care organization is only authorized to contract for delivery of health care services with one or more health care providers. Contracts with brokers, agents, or any entity other than a health care

provider for the provision of covered medical services are prohibited. A managed care organization may allow health care providers to utilize other health care providers under contract with the managed care organization.

2. A managed care organization shall limit the medical services included under a health care provider contract to those for which the health care provider is qualified and reasonably capable of providing.

3. A managed care organization shall not adopt or utilize payment standards for health care providers that:

a. require or induce by incentive or payment, the delivery of inappropriate medical care or treatment services;

b. allow the provision of inappropriate or unnecessary medical procedures or treatment services;

c. allow health care providers to perform, for payment, medical or treatment services for which they are not qualified;

d. include an incentive or specific payment made directly or indirectly, in any form, to a health care provider as an inducement to deny, reduce, limit, or delay specific, medically necessary, and appropriate services provided with respect to a specific insured or groups of insureds with similar medical conditions.

4. In any review of the terms and conditions of a health care provider's contract conducted by the Department of Insurance, the contract shall not be subject to disclosure to any other health care provider without the expressed written consent of the parties to such contract, except as otherwise allowed by law.

AUTHORITY NOTE: Adopted in accordance with R.S. 22, R.S. §22:3, R.S. §§22:215.18, 2:2006, 22:2014, 22:2018, 22:2019, 22:2021 and 22:2022.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:

§5309. Requirements for Inclusion of Rural Hospitals

A. Managed Care Organizations Utilizing A Staff Model Approach.

1. Any managed care organization that directly provides health care services to insureds exclusively through its employees and wholly owned facilities that are duly licensed to provide such health care services, are not required to contract with qualifying rural hospitals except:

a. in any geographic area where the managed care organization has insufficient staff and/or facilities to provide the plan of benefits to insureds;

b. for health care services available in the insureds community that are not readily accessible through the managed care organization within a reasonable distance of the community.

c. for other covered services available in the insureds community that are not readily accessible through the managed care organization within a reasonable distance of the community;

d. in a geographic area where the managed care organization utilizes public or private staff or hospitals to furnish health care services.

B. General Managed Care Organization Requirements. A qualifying rural hospital shall be allowed to contract for provision of medical services to insureds or enrollees of a managed care organization who reside in the community where

the hospital is located, and can reasonably be expected to utilize the hospital for provision of one or more medical services included in the contract. A qualifying rural hospital shall also be allowed to contract for provision of medical services to other insureds or enrollees of a managed care organization, if the qualifying hospital is located in a parish that is serviced by such managed care organization. The terms and conditions for participation by a qualifying rural hospital shall be no more restrictive than those normally applied to other participating hospitals in the region of the state where the rural hospital is located. Where the managed care organization offers the majority of participating hospitals a choice in contracting on a capitated or non-capitated basis, the same choice shall be available to qualifying rural hospital. In no event shall a managed care organization be required to make any special, enhanced, or extraordinary payment to a qualifying rural hospital based on its rural designation other than pass through payments. Additionally, a managed care organization is expressly prohibited from applying any factor, weight, or other adjustment that acts to reduce payment for medical services provided by a qualifying rural hospital based on its designation as a rural hospital.

C. Capitation Contracting Requirements.

1. In establishment of capitation based pricing mechanisms or risk sharing arrangements, a managed care organization is authorized to use reasonable criteria that includes the scope of services available at the hospital and patient volume. A managed care organization may consider the amount and scope of services being included under such contractual arrangements in negotiating reimbursement amounts. However, in no instance shall a managed care organization base reimbursement on the exclusion of one or more qualifying rural hospitals or otherwise limiting enrollee access to appropriate medical care from such hospitals that are located in the community where the enrollee or plan member resides.

2. A managed care organization shall be authorized to use payment differentials to establish a network of providers in a geographic area. A managed care organization shall be authorized to exclude application of such payment differentials to a qualifying rural hospital unless such payment differentials are being offered to other hospitals in the same geographic area. In no instance shall a managed care organization be prohibited from offering payment differentials to a qualifying rural hospital to gain access to health care providers in a geographic area.

D. Other Contracting Requirements. Managed care organizations shall not discriminate against qualifying rural hospitals in establishing or utilizing pricing mechanisms. In no event shall a managed care organization establish payment rates or reimbursement systems that discriminate on the basis of a hospital's designation as a qualifying rural hospital. Modifiers, outliers, or weighting factors applicable to payments made to such qualifying rural hospitals on the basis of diagnosis, diagnosis for related groups (DRGs), procedure, procedure code, per diem, length of stay, or services rendered, shall not discriminate against qualifying rural hospitals, or be used to prevent participation by such hospitals or have this effect.

AUTHORITY NOTE: Adopted in accordance with R.S. 22, R.S. §22:3, R.S. §§22:215.18, 2:2006, 22:2014, 22:2018, 22:2019, 22:2021 and 22:2022.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:

§5311. Requirements for Inclusion of Physicians Practicing in Qualifying Rural Hospitals

A. General Managed Care Organization Requirements. A physician licensed to practice medicine by the Louisiana Board of State Medical Examiners, practicing in a qualifying rural hospital that has a health care provider contract with a managed care organization for provision of hospital services included under its accreditation/certification, shall be allowed to enter into a health care provider contract for provision of medical services to insureds or enrollees of the plan, policy, or subscriber agreement. The terms of the health care provider contract shall be no more restrictive than the terms and conditions offered to other health care providers who deliver the same services or benefits to insureds or enrollees of the managed care organization in the state, or applicable region of the state where the physician participates in a qualifying rural hospital. Where the managed care organization offers the majority of participating physicians a choice in contracting on a capitated or non-capitated basis, the same choice shall be available to a physician practicing in qualifying rural hospital. In no event shall a managed care organization be required to make any special, enhanced, or extraordinary payment to a physician practicing in a qualifying rural hospital based on the rural designation of the physician's practice. Additionally, a managed care organization is expressly prohibited from applying any factor, weight, or other adjustment that acts to reduce payment for medical services provided by a physician practicing in a qualifying rural hospital based on the rural designation of the physician's practice.

B. Capitation Contracting Requirements.

1. In establishment of capitation based pricing mechanisms or risk sharing arrangements, a managed care organization is authorized to use reasonable criteria that includes the scope of services available from the physician and patient volume. A managed care organization may consider the amount and scope of services being included under such contractual arrangements in negotiating reimbursement amounts.

2. A managed care organization shall be authorized to use payment differentials to gain access to physicians in a geographic area. A managed care organization shall not be required to include in a health care provider contract, any amount that can be reasonably documented as resulting from application of a payment differential that is not applicable to the majority of participating physicians within a geographic area of the state who provide the same services to plan members.

C. Other Contracting Requirements. Managed care organizations shall not discriminate against physicians practicing in qualifying rural hospitals in establishing or utilizing pricing mechanisms. In no event shall a managed care organization establish payment rates or reimbursement systems that discriminate on the basis of a physician's designation as a practicing physician in a qualifying rural hospital or have that effect.

AUTHORITY NOTE: Adopted in accordance with R.S. 22, R.S. §22:3, R.S. §§22:215.18, 2:2006,22:2014, 22:2018, 22:2019, 22:2021 and 22:2022.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:

§5313. General Provisions

A. No health care provider contract entered into by a managed care organization shall include any provision or requirement that directly, or indirectly acts to transfer the organization's certificate of authority. A managed care organization shall not be relieved from performance of all required obligations under Title 22 of the Louisiana Revised Statutes of 1950 by any contract or agreement with a health care provider.

B. Managed care organizations shall assure that all contracts issued on or after July 1, 1998 are in full compliance with the requirements of this regulation. All other contracts shall be brought into compliance upon renewal, amendment, or revision, but in no event later than December 31, 1999.

C. Qualifying rural hospitals and their practicing physicians shall be subject to the same administrative procedures and remedies as any other complainant who files a valid complaint with the Department of Insurance. Managed care organizations found to be violating the requirements of this regulation shall be considered to be engaging in unfair trade practices as defined under LA R.S. §1214 (12). All administrative remedies for any aggrieved party shall be governed by the provisions of Part XXIX of Chapter 1, of Title 22 of the Louisiana Revised Statutes of 1950 comprised of §§1351 - 1367.

AUTHORITY NOTE: Adopted in accordance with R.S. 22, R.S. §22:3, R.S. §§22:215.18, 2:2006, 22:2014, 22:2018, 22:2019, 22:2021 and 22:2022.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:

James H. "Jim" Brown
Commissioner

9812#045

DECLARATION OF EMERGENCY

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

1999 Recreational Red Snapper Season

The red snapper fishery in the Gulf of Mexico is cooperatively managed by the Department of Wildlife and Fisheries (LDWF), the Wildlife and Fisheries Commission (LWFC) and the National Marine Fisheries Service (NMFS) with advice from the Gulf of Mexico Fishery Management Council (Gulf Council). Regulations promulgated by NMFS are applicable in waters of the Exclusive Economic Zone (EEZ) of the U.S., which in Louisiana is generally three miles offshore. Rules were recently established by NMFS to close recreational harvest season in the EEZ off of Louisiana effective 12:01 a.m., September 30, 1998 through December 31, 1998 by reducing the bag limit to zero, and NMFS requested that consistent regulations be established in

Louisiana waters. At the November meeting of the Gulf of Mexico Fishery Management Council, NMFS was requested by the Council to re-set the opening date of the 1999 recreational red snapper season to March 1, 1999. NMFS typically requests consistent regulations in order to enhance the effectiveness and enforceability of regulations for EEZ waters.

In order to enact regulations in a timely manner so as to have compatible regulations in place in Louisiana waters for the 1999 recreational red snapper season, it is necessary that emergency rules be enacted.

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, R.S. 49:967 which allows the Wildlife and Fisheries Commission to use emergency procedures to set finfish season, and R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish; the Wildlife and Fisheries Commission hereby sets the following seasons for recreational harvest of red snapper in Louisiana state waters:

The season for the recreational fishery for red snapper in Louisiana state waters will remain closed until 12:01 a. m., March 1, 1999 by reducing the bag limit to zero for that time period.

Thomas M. Gattle, Jr.
Chairman

9812#020

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Snow Goose Hunting Regulations

In accordance with the emergency provision of R.S. 49:953(B) of the Administrative Procedure Act, and under the authority of R.S. 56:115, the Secretary of the Department of

Wildlife and Fisheries and the Wildlife and Fisheries Commission hereby adopt the following emergency rule pending final action by the U.S. Fish and Wildlife Service (USFWS) on special regulations concerning the taking of snow geese. It is anticipated that USFWS final rules should be promulgated by February 1, 1999.

Effective February 1, 1999, the use of electronic calls and unplugged guns capable of holding more than 3 shells will be legal for taking of snow geese. These regulations will be in effect until February 21, 1999 or until superseded by the USFWS's "Conservation Order".

Pending approval by the USFWS, Louisiana will participate in the "Conservation Order" for the reduction of snow goose populations effective February 6, 1999. Under the "Conservation Order", the following rules shall be in effect for the taking of snow geese February 6, 1999 through March 14, 1999.

1. The use of electronic calls shall be legal for taking snow geese.

2. Unplugged shotguns holding more than 3 shells will be legal.

3. There will be no daily or possession limits on numbers of geese taken.

4. Shooting hours will be one-half hour before sunrise until one-half hour after sunset.

A Declaration of Emergency is necessary because the U.S. Fish and Wildlife Service has notified the States that they are in the process of developing a Rule with these stipulations in an attempt to alleviate problems associated with overabundant snow goose populations. This Declaration of Emergency is being promulgated now in order to alert the public of the pending action and allow Louisiana the opportunity to assist with management regimes designed to stem the continued expansion of snow goose populations.

Thomas M. Gattle, Jr.
Chairman

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